

SECURITIES COMMISSION OF THE BAHAMAS

PUBLIC NOTICE

No. 5 of 2012 28 August 2012

THE DEFINITION OF FINANCIAL SERVICES UNDER

THE FINANCIAL AND CORPORATE SERVICE PROVIDERS ACT, 2000

This **NOTICE** is issued by the Inspector of Financial and Corporate Services (“Inspector”) pursuant to its authority under Section 11(6) of the Financial and Corporate Service Providers Act, 2000 (“FCSPA, 2000 or the Act”), as amended by the Financial and Corporate Service Providers (Amendment) Act, 2008. The Securities Commission of The Bahamas (“the Commission”) was appointed as the Inspector on 1 January 2008 and is therefore responsible for ensuring that all persons operate in accordance with the FCSPA, 2000, which provides for the licensing and regulation of Financial and Corporate Service Providers. The purpose of this notice is to advise the public of the types of services that are covered within the definition of financial and corporate services under the FCSPA, 2000.

Further to Public Notice No. 6 of 2010, issued by the Commission on 10 September 2010, the term “financial services,” referred to in Section 2 of the Act, although not defined, has been interpreted using the definition issued by the World Trade Organization. Therefore, financial services, to the extent that they are relevant to the financial and corporate services sectors within this jurisdiction, include the following:

- Money Lending – the granting of loans, that are subject to interest payments, by non-bank companies or private individuals;
- Financial Leasing – the transfer of all risks and rewards incidental to ownership of an asset from a finance company or other lessor to a client or lessee. It is substantively similar to secured financing/lending transaction and is viewed on par with loan arrangements;
- Money Broking – bringing together suppliers of funds (lenders) and users of funds (borrowers) enabling them to enter into a contract for money transactions such as short term loans;
- Payday and Cash Advance – providing cash or payday advances that may be offered by non-bank companies or private individuals. Such advances are structured as loans which may be utilized to finance both private and commercial transactions;

- Credit Extension – the extension of credit to purchase goods and services when cash is not readily available. This extension of credit may take many forms, including installment loans, debt collection, bad credit loans and other kinds of time payment plans;
- Mortgage Broking –acting on behalf of borrowers in arranging mortgage financing and negotiating terms of the mortgage deed;
- Escrow Services – regulation is meant to apply to individuals who hold money for their clients in escrow accounts, but exclude attorneys, accountants and real estate agents who are already subject to legislation or oversight by a professional body;
- Financial Advisory/Consultancy Services – the provision of advisory support in financial situations involving private and commercial transactions and assisting with creating financial plans; and
- Financial Intermediation – the process by which a financial intermediary borrows money from a non-bank company or a private individual to give to another person that needs funding, investment or resources.

Corporate services include the following:

- Registration or management and administration of international business companies incorporated or existing under the International Business Companies Act;
- Registered agent and registered office services for international business companies;
- Provision of directors, officers and nominee shareholders for international business companies;
- Provision of partners for partnerships registered and existing under the Exempted Limited Partnership Act; and
- Provision of registered agent and registered office services for partnerships registered and existing under the Exempted Limited Partnership Act.

The public is hereby further advised that persons in the business of providing any of the above mentioned services require licensing and are to submit an application form, accompanied by the requisite application fee, in order to begin the registration process. Applications can be downloaded from the following link: <http://www.scb.gov.bs/applications.html>.

The public is reminded that operating without a licence carries a significant financial penalty of \$75,000 pursuant to Section 18(1) of the Act.

If you have any questions or concerns regarding the information set out in this Notice, you should contact the Authorizations Department of the Securities Commission of The Bahamas as follows:

The Authorizations Department
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3rd Floor, Charlotte House Shirley & Charlotte Streets
P.O. Box N-8347
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