



# INDUSTRY BRIEFING

## FINANCIAL AND CORPORATE SERVICE PROVIDERS

Thursday 3 March 2016  
British Colonial Hilton, New Providence



Securities Commission of The Bahamas –  
Inspector of Financial and Corporate Services



# DISCLAIMER

This document is the property of the Inspector of Financial and Corporate Services (the Inspector) and is intended for information purposes only. Note that the material contained herein or any personal views expressed during this presentation do not supersede or override any obligations or conditions outlined in the legislation specific to securities, investment funds and financial and corporate service providers. You may obtain the legislation from Government Publications and copies of these laws may also be viewed on the SCB's website ([www.scb.gov.bs](http://www.scb.gov.bs))



# WELCOME & OPENING REMARKS

MRS. TONYA BASTIAN GALANIS - CHAIRMAN  
SECURITIES COMMISSION OF THE BAHAMAS



Securities Commission of The Bahamas –  
Inspector of Financial and Corporate Services



# AUTHORISATION DEPARTMENT UPDATES

- Licensing Activities & Trends
- Expansion and Crossover of FCSPs into Securities and Investment Fund Activities



Presenter: Mrs. Omara Bingham  
Manager, Authorisations Department



# FCSP LICENSING ACTIVITY

## Total No. of FCSPs by Category and Year over Year Comparisons

	2013	2014	2015
New Licences as at 31 December	23	20	16
Total Licences as at 31 December	309	311	322



# FCSP LICENSING TREND

- ❑ Increase in Appointment/Change of Individuals Applications
  - Directors
  - COs and/or MLROs (In-House and Outsourced)
- ❑ Increase in Licences for Financial Services.
  - Money Lending
  - Debt Collection



# FCSPs AS OUTSOURCED COs & MLROs

- ❑ FCSPs may be appointed Outsourced CO/MLRO to SIA, IFA and FCSPA Firms
- ❑ Currently 6 FCSPs approved
- ❑ Only Individuals can be registered
- ❑ Must meet prescribed Education & Experience Requirements
- ❑ SLA must be executed and must contain all Duties and Obligations of the Outsourced CO/or MLRO



# FCSPs AS MANAGING REPRESENTATIVES TO SIA FIRMS

- FCSPs may be appointed Managing Representatives to SIA Firms
- Currently 1 approved and 1 pending application
- Only incorporated FCSPs can become a Managing Representatives to SIA Firms
- FCSP must satisfy all minimum requirements and ongoing obligations as prescribed in the Securities Industry (Physical Presence Rules), 2012





# FCSPs AS GOVERNING ADMINISTRATORS TO ICONs

- ❑ FCSPs **may** be appointed **Governing Administrators** to **ICONs**
- ❑ Currently **5** FCSPs are Governing Administrators
- ❑ **Only** FCSPs (providing Corporate Services ) can become a Governing Administrator to an ICON
- ❑ Power and Authority of a Governing Administrator:-
  - Acts **may** bind the ICON
  - Can engage service providers and contract generally in the name of the ICON



# CONTINUING OBLIGATIONS & CONCERNS

- Annual Renewal of License
- Material Change Reporting
- Compliance Measures



Presenter: Ms. Sandra Duncombe  
Manager, Market Surveillance Department



# CONTINUING OBLIGATIONS

## Renewal of License:

<ul style="list-style-type: none"><li>• Fees</li></ul>	Annually – by 31 January
<ul style="list-style-type: none"><li>• Annual Information Update Form</li></ul>	Annually
<ul style="list-style-type: none"><li>• Business License</li></ul>	Annually



# CONTINUING OBLIGATIONS

## Material Change Reporting:

<ul style="list-style-type: none"><li>Notification – Change in particulars of Licensee</li></ul>	Within 30 days of any change	Section 7
<ul style="list-style-type: none"><li>Approval – Issue, Transfer and Disposal of shares</li></ul>	Immediately	Section 10 (1)
<ul style="list-style-type: none"><li>Approval – Appointment of Directors</li></ul>	Immediately	Section 10 (2)
<ul style="list-style-type: none"><li>Notification – Change of Officers</li></ul>	Immediately	Section 10 (3)



# CONTINUING OBLIGATIONS

## Required Documents for Approval – Issue, Transfer and Disposal of shares:

- Due diligence on the transferee (if unknown to the Commission)
  - Certificate of Incorporation
  - Memorandum and Articles of Incorporation
  - Address of the Registered Office
  - Due diligence Information on all directors, officers and beneficial owners
- Register of Directors for the transferee (if a company)
- Share purchase agreement
- Statement on the Financial resources of the transferee
- Organizational structure before and after the share transfer (for Companies)
- Certificate of Incorporation (Company)
- Memorandum and Articles of Association (Company)
- Central Bank Approval (where necessary)



# CONTINUING OBLIGATIONS

## Required Information to be Submitted on Change of an Officer:

- Full name
- Home address
- Home telephone number
- Date of birth
- Copy of passport that show - photograph, full name, date of birth, nationality, signature and expiration date
- Work Permit (if applicable)
- Recent curriculum vitae
- Valid police certificate/s (not more than a year old)
- Affidavit
- Character reference (not more than a year old)
- Financial reference (not more than a year old) and
- Evidence of professional qualifications (e.g. – copies of certificates)



# CONTINUING OBLIGATIONS

## Compliance Measures for Licensees:

<ul style="list-style-type: none"><li>• FCSP License to be displayed</li></ul>	Section 8
<ul style="list-style-type: none"><li>• Duty to maintain professional conduct</li></ul>	Section 13
<ul style="list-style-type: none"><li>• Obligation of a licensee to clients</li></ul>	Section 14 (1), (2), (3) & (6)
<ul style="list-style-type: none"><li>• Keeping records of clients</li></ul>	Section 15



# MONITORING & SURVEILLANCE PROGRAMME

- Appointment of Agents
- The onsite Examination
- FCSP Common Deficiencies
- FCSP Risk Rating Exercise



Presenter: Mrs. Cira Davis  
Senior Officer, Inspections Department





# TYPES OF FCSP EXAMINATIONS

There are four types of examinations:

- ❑ Routine examinations, conducted by agents
- ❑ Follow up, conducted by the Inspector
- ❑ Random, conducted by Inspector and
- ❑ Special examinations conducted by  
Inspector



# APPOINTMENT OF AGENTS

- ❑ Inspector's legislative authority to appoint agents to conduct examinations of the FCSPs
  - Section 11(3)(b) of the Financial and Corporate Service Providers Act, 2000
- ❑ Licensees' are required to select an authorised agent to perform the routine on-site examination
- ❑ A list of approved Authorised Agents will be posted to the Commission's website



# FCSP EXAMINATION

- ❑ The on-site examination is a full scope exam.
- ❑ The examination reviews the following:
  - Appointment of Money Laundering Reporting Officer
  - Financial Statements
  - Bank Reconciliations
  - Current Business Licence
  - Qualifications of persons involved in the activities of the FCSP
  - Financial Transactions over \$15,000.00



# COMMON EXAMINATION DEFICIENCIES

Regulation 5 (a) of the FITRR, 2001	Failure to appoint a Money Laundering Reporting Officer (MLRO) and register the MLRO with the FIU.
Regulation 6 (2) of the FITRR, 2001	Failure to provide training to relevant employees on Anti-Money Laundering.



# FCSP RISK RATING

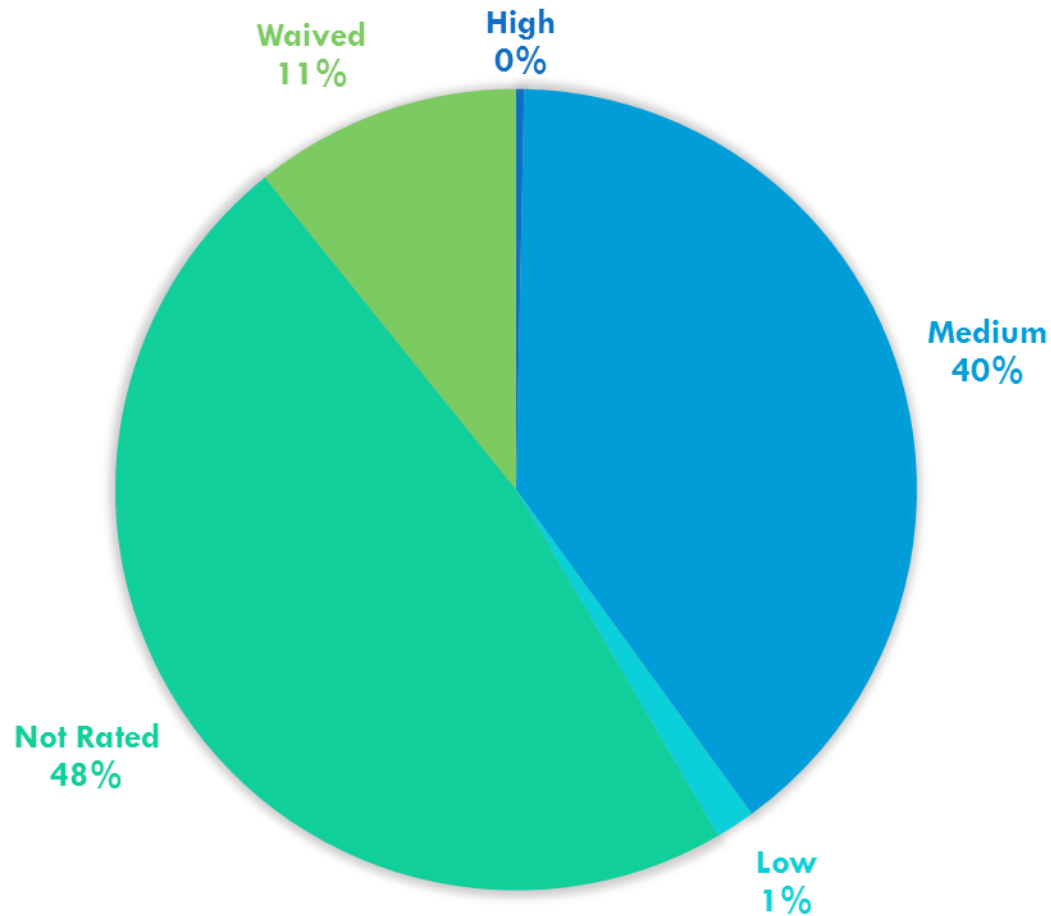
- Risk rating of FCSPs
- Frequency for submission of Routine Examination as of 31 December 2014:

<b>Overall Risk Rating</b>	<b>Frequency to Submit On-site Examination</b>	<b>Next Examination Period</b>	<b>Due Date</b>
High	Annual	2015	June 2016
Medium	Every 3 years	2017	June 2018
Low	Every 5 years	2019	June 2020
Not Rated	Annual	2015	June 2016



# FCSP RISK RATING RESULTS

## 31 DECEMBER 2014





# UPDATES ON LEGISLATIVE DEVELOPMENTS

- Background
- Intended Review and Repeal
- Areas to be Addressed



Presenter: Ms. Odecca Gibson

Deputy Legal Counsel, Office of Legal Counsel



# THE FCSP LEGISLATIVE REGIME

- Financial and Corporate Service Providers Act, Ch. 369
- Financial and Corporate Service Providers (General) Regulations, No. 41 of 2000
- Financial and Corporate Service Providers (Licence) Order, 2001
- Financial and Corporate Service Providers (Amendment) Act, 2008
- Financial and Corporate Service Providers (Licence) (Amendment) Order, 2001





# BRIEF FACTS

- ❑ “An Act to provide for the licensing and regulation of financial and corporate service providers and for connected purposes
- ❑ The FCSPA was enacted in 2000
- ❑ The FCSPR created in 2001
- ❑ Amended in 2008 and 2009
- ❑ The Securities Commission is the Inspector of Financial and Corporate Services



# WHO IS AN FSCP?

Section 2 FCSPA and Other Relevant Legislation:

Financial Leasing

Mortgage Brokers

Financial Intermediation

Payday and Cash Advances

Money Brokers

Money Lenders

Escrow Services

Credit extension

Financial Advisory/Consultancy Services





# WHO IS AN FSCP?

Public Notice No. 5 of 2012

**Corporate Services Providers, are persons, whether individuals or corporate entities which act as or provide:**

## **IBC Registered Agents/Office Services**

IBC Directors, Officers, Nominee Shareholders

Exempted Limited Partnership Partners

**Exempted Limited Partner Registered Agents/Office Services**

**IBC Registration or management and administration**



# WHO IS AN FSCP?

Public Notice No. 5 of 2012

**Corporate Services Providers, are persons, whether individuals or corporate entities which act as or provide:**

**Governing Administrator of Investment  
Condominium**

**Registered Representative of Private Trust Company**

**Executive Entity Agent**

**Segregated Accounts Representative**

**Trustee of Authorized Purpose  
Trust**

**Foundations Agent**

**Registered Representative of a firm managing or  
advising on securities**



# INDUSTRY CONSULTATION

## What Have We Heard?

- ❑ The Audit process needs review to ensure that it is more applicable to licensees based on the nature of their business activities
- ❑ Unregulated persons engaging in regulated activity
- ❑ Re-examine the requirement for a Compliance/MLRO based on the nature of a licensee's business activities
- ❑ Need for risk-classification to determine level of licensing
- ❑ Re-assess fees based on the nature of a licensee's business activities
- ❑ Need for categories of licensees
- ❑ Re-assess the need for frequency of verification
- ❑ Re-assess how fees are applied to joint CBOB and FCSP licensees



# CHALLENGES

- ❑ Danger of unregulated activity
  - Money Laundering
  
- ❑ Scrutiny of participants providing and engaging in financial and corporate services
  - Fit and Proper persons
  
- ❑ Risk to the reputational capital of The Bahamas



# AMENDING THE LEGISLATION

- ❑ The last time the legislation was amended was in 2009
- ❑ Creating a regime that reflects the industry
- ❑ Creating a framework that is user friendly
- ❑ Strengthening the Inspector's powers

# QUESTIONS & ANSWERS







# CLOSING REMARKS



Presenter: Ms. Christina R. Rolle  
Executive Director, Securities Commission of The Bahamas



# CONTACT INFORMATION

## The Inspector of Financial and Corporate Services

(Securities Commission of The Bahamas)

3rd Floor, Charlotte House

Shirley and Charlotte Streets

P.O. Box N-8347

Nassau, The Bahamas

Telephone	1-(242) 397-4100 (Nassau)
	1-(242)-225-8171 (Family Island toll free)
	1-(360)-450-0981 (International)
Fax	1-(242) 356-7530
Email	<a href="mailto:info@scb.gov.bs">info@scb.gov.bs</a>



# THANK YOU

