

SECURITIES COMMISSION OF THE BAHAMAS

PUBLIC NOTICE - OFFICIAL RELEASE

No. 2 of 2000

Date: August 8, 2000

[This Release is directed at self-employed individuals and companies (and employees of such persons) who trade in securities with or on behalf of others and give advice with respect to investments in securities. It is also of interest to persons (including lawyers and accountants) that provide advice to such self-employed individuals or companies.]

Re: Requirement to Apply for Registration Under The Securities Industry Act, 1999 and The Securities Industry Regulations, 2000

The Securities Industry Regulations, 2000 ("the Regulations") were signed into law by the Minister of Finance and Planning on July 5, 2000 after consultation with the Securities Commission of The Bahamas ("the Commission"). The Regulations were gazetted on July 17, 2000 and they are now in effect. By publishing this Official Release, the Commission is giving formal notice that the Securities Industry Act, 1999 ("the Act") requires companies and persons who are engaged in certain aspects of the securities business in or from The Bahamas to apply for registration with the Commission.

The Act envisions two categories of registration for firms: Securities Investment Advisor or Broker-Dealer.

1) Registration as a Securities Investment Advisor authorizes a self-employed individual, a partnership, or a company to provide:

- discretionary portfolio management services;
- investment advisory services.

2) Registration as a Broker-Dealer authorizes a company to provide similar services to a Securities Investment Advisor but also to:

- underwrite securities offerings;
- trade in securities with others (i.e. as a market maker or securities dealer);
- trade in securities on behalf of others (i.e. as a broker).

Broker-Dealers and Securities Investment Advisors are also required to apply to the Commission for registration of their key personnel as stockbrokers, dealers, traders, principals or associated persons.

The Act defines a Securities Investment Advisor as follows:

'Securities Investment Advisor' shall include any of the following, if the said services are performed for a fee or other reward -

(a 'investment advisor' that is, a person or persons who advises others as to the investing in or selling of securities or who are primarily engaged in giving advice regarding the investment of funds; 'portfolio manager' that is, a person or persons who manage securities

portfolios for clients on a discretionary or nondiscretionary basis with regard to investments therein;

As a consequence, an individual or company conducting securities business in or from The Bahamas, who is not entitled to the limited registration of Securities Investment Advisor is required to seek registration as a Broker-Dealer, pursuant to Section 21 of the Act.

For purposes of Sections 21(2) and 29(1) and (5) of the Act, "the public including institutions" is not restricted to persons or institutions in The Bahamas, but includes individuals, trusts, companies and financial institutions located or incorporated anywhere in the world to which services are marketed or service is rendered by the potential registrant.

Section 29 (6) provides for significant monetary penalties in the event that persons, who are required to register, fail to do so.

Section 29 (7) provides certain exemptions from registration under Section 29(5). These exemptions are strictly circumscribed. First, the exemptions from registration provided by Section 29 (7) apply **only** to the giving of investment advice. No organization engaged in dealing or trading in securities is exempt. Equally, involvement in discretionary portfolio management (except by mutual fund administrators already licensed or exempt under the Mutual Funds Act, 1995) requires registration with the Commission. Second, the exemption from registration as a Securities Investment Advisor, as provided in section 29 (7) can only be claimed if providing securities investment advice is merely "incidental to their principal occupation." That is, as long as providing investment advice is incidental to their principal occupation, the Act does not require bank and trust companies registered under the Bank & Trust Companies Regulation Act or insurance companies under the Insurance Act, newspapers, lawyers, or accountants to apply for registration.

The Commission has directed that individuals and companies apply for registration by September 30, 2000.

Copies of the Act and Regulations can be obtained from Government Publications, Lighthouse Building, Bay Street.

Information regarding registration can be obtained from the Manager, Securities Department, Securities Commission of The Bahamas, Charlotte House, P.O. Box N-8347, Nassau, Bahamas.

The Securities Commission of the Bahamas is the government agency mandated to regulate the securities industry in The Bahamas.