

Securities Commission of The Bahamas

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MEDIA RELEASE

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Securities Commission: Investment Funds Legislation Game-Changer for Industry

The tabling of the Investment Funds Bill, 2019 in the Houses of Parliament marks a new era in the Bahamian investment funds industry, according to the industry's regulator – the Securities Commission of The Bahamas (the "Commission").

The Investment Funds Bill, 2019 (IF Bill, 2019) tabled in the Houses of Parliament on 27 February 2019, will repeal and replace the existing 2003 legislation. According to the Commission's Chairman, Mr. Robert V. Lotmore, the legislation will introduce an investment funds regulatory framework significantly more in-line with international regulatory standards and best practices.

"The new legislation closes deficiencies identified in the previous framework, which fell short of the international standard in four of five areas, based on the International Monetary Fund's 2012 evaluation of the jurisdiction under its Financial Sector Assessment Programme" Mr. Lotmore said. "The Commission leveraged this opportunity to truly modernize the legislative framework—increasing provisions to protect investors and the markets, and making the jurisdiction more competitive simultaneously."

Executive Director of the Commission, Ms. Christina Rolle, thanked the Commission's project team and staff for their dedication to developing and recommending the legislation as well as the industry for its robust involvement in the various consultations and industry briefings.

"The tabling of this new legislation marks the culmination of more than two years of benchmarking, drafting, consultation and redrafting, so we are now looking forward to its passage and enactment in order to focus on implementation," Ms. Rolle said. "With its new provisions and potential to increase investor protection, we believe this legislation will provide opportunities for growth in the investment funds industry in The Bahamas."

The key changes in the Act include:

- the introduction of licensing requirements for fund managers and regulatory oversight of custodians;
- triggers for the licensing of investment funds;
- the definitions of Bahamas versus non-Bahamas based funds which, among other things, ensure compliance with the EU's substance requirements;

- introduction of provisions to allow the appointment of international administrators without requiring that they be licensed in The Bahamas; and
- the establishment of a regulatory regime that is compliant with the standards established by the European Union under the Alternative Investment Fund Managers Directive (AIFMD).

Meeting the AIFMD standard paves the way for the jurisdiction to qualify for an EU Passport, which would enable Bahamian investment funds to be offered in EU member countries, by EU investment fund managers. It would conversely enable EU or Bahamian investment fund managers to conduct fund management business in the EU and with EU based funds.

The Securities Commission of The Bahamas regulates securities, investment funds and the capital markets in The Bahamas. According to the Commission, as at 31 January 2019, there were 749 licensed investment funds and 62 licensed investment funds operators in the jurisdiction.



Mr. Robert V. Lotmore
Chairman
Securities Commission of The Bahamas



Ms. Christina Rolle
Executive Director
Securities Commission of The Bahamas

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Editor's Information:

1. **The Securities Commission of The Bahamas ("the Commission") is a statutory body established in 1995 pursuant to the Securities Board Act, 1995. That Act has since been repealed and replaced by new legislation.**
2. **The Commission's mandate is now defined in the Securities Industry Act, 2011 (SIA, 2011).**
3. **The Commission is responsible for the administration of the SIA, 2011 and the Investment Funds Act, 2003 (the IFA), which provides for the supervision and regulation of the activities of the investment funds, securities and capital markets.**

4. **The Commission, having been appointed Inspector of Financial and Corporate Services effective 1 January 2008, is also responsible for administering the Financial and Corporate Service Providers Act, 2000.**
5. **The functions of the Commission are to:**
 - **advise the Minister on all matters relating to the capital markets and its participants;**
 - **maintain surveillance over the capital markets and ensure orderly, fair and equitable dealings in securities;**
 - **foster timely, accurate, fair and efficient disclosure of information to the investing public and the capital markets;**
 - **protect the integrity of the capital markets against any abuses arising from financial crime, market misconduct and other unfair and improper practices;**
 - **promote an understanding by the public of the capital markets and its participants and the benefits, risks, and liabilities associated with investing;**
 - **create and promote conditions that facilitate the orderly development of the capital markets;**
 - **and perform any other function conferred or imposed on it by securities laws or Parliament (SIA, 2011, s.12).**