



Securities Commission of The Bahamas: Risk Analytics and Examinations Department 2020 Examination Priorities

The implementation of risk-based supervision at the Securities Commission of The Bahamas (“the Commission”) represents a distinct shift from a rules-based regulatory regime to a risk-based approach. This shift is an acceptance by the Commission that a pure compliance based approach has its limitations. The broad aims of the risk-based approach are to: 1) identify systemic risk in the financial system; 2) identify the activities of our licensees and registrants that exhibit the greatest amount of risk; and 3) focus the Commission’s resources on the mitigation and/or elimination of high risk concerns. The progression and augmentation of this implementation will serve to strengthen the Commission’s supervisory processes and enhance its overall regulatory effectiveness.

The Commission’s aim has been to create a regulatory framework that is capable of providing an enhanced level of regulation across all sectors within the Commission’s scope, including the monitoring of key risk indicators, as well as to significantly improve upon the data that is collected and reviewed by the Commission. In 2018, the Commission developed a risk framework that is comprised of key risk indications that can be quantified and measured using risk-based metrics that are consistent with the jurisdiction’s risk universe.

To provide insight into the risk-based approach and increase transparency of the examinations program, the Commission launched its Risk Analytics and Examinations Department comprising of a Risk Analytics Unit and an Examinations Unit. Both units have dedicated staff, which report to a senior manager for the entire department. This is a recognition by the Commission that the work of the Risk Analytics Unit will focus the Examinations Unit’s priorities. This Risk Analytics Unit is tasked with monitoring solvency, operational and conduct risks of the Commission’s licensees and registrants, including continuous Anti-Money Laundering, Countering the Financing of Terrorism and Proliferation Financing (AML/CFT/PF) monitoring. For each registrant and licensee, the Risk Analytics Unit has now commenced annual risk assessments, quarterly trend analyses of the financial position and solvency levels and group trend analyses by categories of registration. The audited financial statements analysis is conducted on an annual basis with focus on standard risk indicators.

In accordance with the Commission’s mandate to maintain surveillance over, as well as to formulate principles to regulate and govern investment funds, securities and the capital markets, to ensure orderly, fair and equitable dealings, and to protect investors, the Commission has now established its exam priorities for the 2020 calendar year. These priorities identify key areas of risk (existing and emerging) within the securities sector, which regulated entities may focus on to evaluate and improve their compliance programs and assist with investor protection.

On 25 March 2019, in accordance with Part II – Duty of Financial Institutions, Section 5 – Conduct of Risk Assessment of the Financial Transactions Reporting Act, 2018, the Securities Commission of The Bahamas

required that its licensees and registrants self-assess their identified risk, inclusive of money laundering, financing of terrorism and proliferation financing risk, and develop a comprehensive risk management system in order to take appropriate measures to manage and mitigate those risks. The risk assessment should have incorporated continuous identification, measurement, monitoring and control of those risks.

Additionally, every financial institution is to conduct a risk assessment –

- (a) prior to the launch of a new product or business practice;
- (b) prior to the use of new or developing technologies; or
- (c) when there is a major event or development in the management and operation of the group.

Annual self-risk assessments will be due by June 2020, with the expectation of full compliance within the specified time frame, and updates regarding any policy changes or new business that may affect the risk to a registrant.

The Bahamas as a jurisdiction is under enhanced monitoring following the 2017 results of The Bahamas' 4th round Caribbean Financial Action Task Force (CFATF) mutual evaluation report, which provided a summary of the Anti-Money Laundering/Counter Financing of Terrorism (AML/CFT) measures in place, an analysis of the country's level of compliance with the FATF 40 Recommendations, the level of effectiveness of the AML/CFT regime, and a list of recommendations on how the regime could be strengthened. In efforts to address the deficiencies raised, The Bahamas has committed to implement and maintain an appropriate and effective AML/CFT/PF regime inclusive of implementation of a vigorous AML/CFT legislative framework, a National Risk Assessment framework and AML/CFT Guidance Notes.

Along with the 2019 risk rating exercise conducted for all licensees and registrants, the highlighted initiatives have directed the Commission's focus for this year's examinations:

- (1) desk based thematic reviews/follow-up;
- (2) risk management including self risk-assessment and client risk-rating frameworks;
- (3) Common Reporting Standards (CRS) – proper tax filing (tax evasion/avoidance); and
- (4) disaster recovery.

- **Desk based thematic reviews and follow-up** – By the 2nd quarter of 2020, the Commission will introduce desk based thematic reviews as part of its supervisory toolkit. Based on the results of those thematic reviews, examiners will prioritise high risk licensees and registrants to ensure proper remediation especially in key areas for operational compliance with international standards and best practices.
- **Risk Management Including Self Risk-Assessment and Client Risk-Rating Framework** – the unit will assess the effective implementation of self-risk assessment and client risk-rating frameworks for SIA/IFA/FCSP registrants/licensees and ensure that risk mitigating efforts are effective and that new or emerging areas for concern are properly identified and controls sufficiently tested and reported.
- **CRS Reporting** – as tax evasion is now a predicate offence for money laundering in The Bahamas, examinations under this focus will include a review on whether entities potentially pose a risk to the jurisdiction due to improper, inadequate or non-existent tax reporting. Particular focus will

be given to complex structuring which may have the potential to confuse the reporting responsibilities of licensees and registrants.

- **Business Continuity/Disaster Recovery** – In the last decade, The Bahamas has endured several catastrophic hurricanes with the most recent being Hurricane Dorian in September 2019. Considering this, the Commission will test the robustness of the securities sector in the aftermath of a disaster scenario. All examination programs will include a review of disaster recovery plans in terms of testing/reporting, record retention with emphasis on wireless restoration and client access to data during the down time, data management and accessibility, data protection, as well as proper configuration of network storage devices.

These areas of priority are not exhaustive and are not the only areas of risk that will be addressed in examinations. It is important to note that the nature and scope of any on-site examination is determined by a risk-based approach that considers a licensee's operations, products offered, financial position, and other risk factors.

The Risk Analytics and Examinations Department is responsible for conducting examinations of entities registered under the Securities Industry Act, 2011, the Investment Funds Act, 2019 (the "IFA") and the Financial and Corporate Service Providers Act, 2000 (the "FCSPA"). This comprises of more than 160 registered firms (including a marketplace and clearing facility), nearly 700 investment funds/fund administrators and over 350 FCSPs. Overall, the examination results serve to enhance the Commission's risk monitoring process as well as improving industry standards, identifying and addressing areas of market misconduct.