

Securities Commission of The Bahamas

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MEDIA RELEASE

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FOR IMMEDIATE RELEASE

Updated Legislation Clearly Defines Financial and Corporate Service Providers

Nassau, The Bahamas, 29 January 2021 – The Financial and Corporate Service Providers Regulations gazetted in The Bahamas on 30 December 2020, along with the Financial and Corporate Service Providers Act (FCSP) approved on 4 November 2020, establish a modern, full regulatory, internationally compliant framework with the Securities Commission of The Bahamas as regulatory authority. The legislation updates the two-decades-old legal framework of the prevailing Act in three important areas:

- It provides legal clarity for both corporate and financial service providers;
- It provides much needed legal clarity to the non-bank financial services falling under its remit, in the process creating new entrepreneurial opportunities; and
- It has a significantly greater focus on customer protection and safeguarding the public than the previous Act.

Similar to the Digital Assets and Registered Exchanges Act, 2020 (DARE) which also received Parliamentary approval on 4 November, the SCB began its extensive engagement with the industry in 2016 to develop a modern framework for financial and corporate service providers that is in keeping with international best practices and standards. With 340 financial and corporate service provider licensees in The Bahamas, the legislation directly impacts Bahamian entrepreneurs, perhaps more than any other financial services legislation.

While the legislation covers corporate services activity, it also captures many of the non-bank financial services activities in which Bahamian entrepreneurs are engaged in but are not required to be licensed by the Central Bank of The Bahamas, nor registered under the Securities Industry Act, 2011, with the Commission.

The FCSP clearly defines the businesses and activities that require a person to be licensed as a financial or corporate service provider. Under the FCSP's activity-centric approach, each financial service will have specific rules tailored to the risks and other needs it represents.

Financial Services covered by the legislation include money lending, money broking, payday and cash advances, credit extension, bill paying services, debt collection, financial leasing, financial

and advisory or consultancy services, financial intermediation services, trading in commodities and other financial instruments, custody of digital assets and wallet services providers.

Christina Rolle, SCB's Executive Director pointed out the significance of the custody of digital assets and wallet service providers, dovetailing with DARE legislation. "The DARE Act establishes the legal framework for a new industry, and the FCSP expressly defines and captures these related services," she said.

"Together, they represent specific opportunities for entrepreneurial Bahamian fintech firms to enjoy the credibility of being licensed and functioning under a comprehensive regulatory regime and participate in the fintech industry that is being forged with DARE."

The Financial and Corporate Service Providers Regulations, 2020, (the Regulations) support the legislation, and place some of the highest standards of professional conduct on licensees, particularly with regard to client relations.

"Licensees will be required to take all reasonable steps to ensure that information provided to clients is presented fairly and clearly" said Ms. Rolle. "The Regulations also require that licensees protect clients' personal data in keeping with the provisions of the Data Protection (Privacy of Personal Information) Act. Further, the Regulations will require licensees to ensure their data protection measures adequately address the collection and storage of personal data, prevent unauthorized access to personal data, and allow for the correction or erasure of inaccurate data."

The FCSP requires licensees to comply with the Financial Transactions Reporting Act, 2018 and the Anti-Terrorism Act, 2018, protecting the industry and the reputation of the jurisdiction from the contagion of money laundering, or abuse of terrorism financing.

It also defines for the first time certain criminal financial schemes, making The Bahamas one of the leading jurisdictions to introduce legislation to expressly criminalize this type of activity.

"These may take the form of pyramid schemes, Ponzi schemes and advance-fee schemes, among others," said Ms. Rolle. "The FCSP criminalizes the promotion or marketing of these financial schemes and empowers the Commission to dissolve them where circumstances so warrant. It also empowers the Commission to investigate and enforce against persons engaged in promoting or perpetuating financial schemes."

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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 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, 2019 (the IFA), which provides for the supervision and regulation of the activities of the investment funds, securities and capital markets.**
4. **The Commission is also responsible for administering the Financial and Corporate Service Providers Act, 2020.**
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).**



