

A GUIDE TO THE BAHAMAS SMART FUND



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DISCLAIMER

The contents of this Guide are intended to be only an aid to understanding the Bahamas environment for Smart Funds. The contents do not in any way constitute legal advice to any person for payment or otherwise, and the Bahamas Financial Services Board, its members and its directors do not and will not in any way accept responsibility or liability for any loss or damage caused by or arising from reliance on the information contained herein. Persons reading this Guide are reminded that where a decision is to be made which depends for its correctness on the effect of the new legislative provisions discussed herein or on any other legislation or common law rules, professional advice should be sought from a firm of qualified legal professionals.

THE BAHAMAS SMART FUND

The Investment Funds Act 2003 positions The Bahamas at the cutting edge of modern investment fund administration and introduces a new style of collective investment scheme: The Bahamas SMART Fund.

Officially known as the Specific Mandate Alternative Regulatory Test Fund, the SMART fund is an innovative and dynamic asset management product designed to marry the flexibility needed by promoters with the regulatory responsibilities required by authorities within a risk-based supervisory environment.

Local Regulators have accepted that asset management arrangements which cater to a limited number of professional investors should enjoy a supervisory approach which is tailored to the limited risks associated with this type of private arrangement. To this end SMART funds have the following attractive features:

- No requirement for a traditional lengthy Offering Document, merely a Term Sheet.
- The licence may be issued by the Fund Administrator under a delegated authority of the Securities Commission of The Bahamas, allowing for a very short set up and licensing period.
- With the prior approval of all investors the fund may waive the requirement for an annual audit.

The unique aspect of the SMART fund program, however, is that the legislation does not predefine the requirements for licensing; therefore, promoters have the opportunity to approach the Securities Commission with innovative concepts for which the Commission will design a specific type of investment fund licence.

Currently five types of SMART funds have been approved (each defined by means of a Template issued by the Securities Commission) and the rest of this guide looks at two of these funds and gives some guidance as to their structure and use.

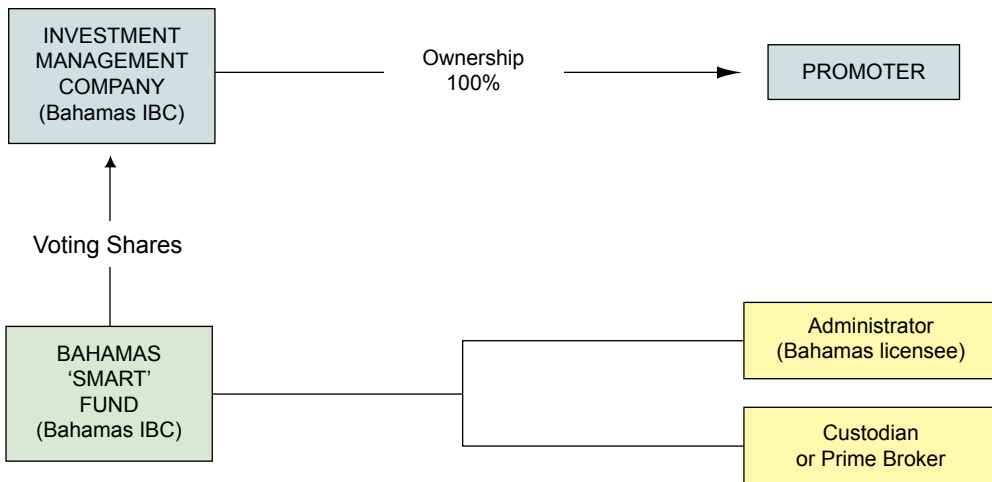
SMART funds have been created to provide industry participants with the means to offer clients innovative structuring options via a regulated vehicle, domiciled in a premier international financial centre.

EXAMPLE SMART FUND MODEL TWO

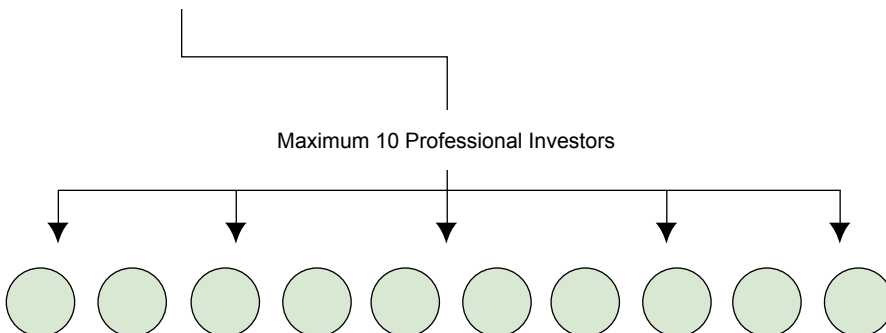
INCUBATOR HEDGE FUND

Scenario:

Client wishes to set up a Hedge fund but is not ready to solicit funds from the General Public and does not therefore want to incur the expense associated with setting up a Professional Fund. With a limit of ten investors, who qualify as 'Professional' and a majority of whom have the power to remove the Operators, the incubator fund allows a fast track, inexpensive licensing process.



Participating Redeemable Preference Shares
(With power to remove the Directors of the Fund)



EXAMPLE FEES:

Set up:

To include drafting Term Sheet, constitution of both companies, preparation of all agreements, opening bank and Broker account and preparation of licence and other regulatory formalities: (Payable in advance)

USD 15,000.00

Annual:

To include acting as Administrator, preparation of monthly NAV Calculations, processing of initial subscription, maintenance of investor records, provision of registered office and registered agent services for both Bahamas companies.

Investment Fund:	USD 18,000.00
Annual Government and Licensing Fee:	USD 2,450.00
Investment Management Company:	USD 1,500.00
Annual Government Fee:	USD 350.00

NOTES:

The main limitation to this structure is that there cannot be more than ten investors who must qualify as Professional. Moreover, a simple majority of the investors must have the power to remove the Directors of the Fund. This is not the same as having full voting control - as the voting shares are still issued into the name of the investment management company, which will be owned by the Promoter (the client) - but merely an additional power associated with the Investor shares. In reality, it is a power which is unlikely ever to be required.

The Fund does not require an Offering Document just a term sheet and subscription agreement. If all investors agree in advance, the Fund does not require an annual audit.

An Unrestricted Fund Administrator has the authority to issue the licence without prior reference to the Regulator.

The fund is designed to allow for an inexpensive and rapid set up. The Fund may operate for a number of years and accrue performance data, and at some point in the future the Promoter may decide to upgrade the licence to become a full Professional Fund. At this point, new and more extensive documentation is required as defined within the Act and Regulations; e.g. an auditor must be appointed. The fund, however, can continue to operate during the re-licensing process.

The promoter is under no obligation to ever convert to any other class of Fund.

This Fund may have a Telekurs number, ISIN Code and Bloomberg page.

EXAMPLE TERM SHEET

1) NAME:

The 'Example' Fund Ltd.

2) DATE ESTABLISHED:

'Date'

3) STRUCTURE OF FUND:

The Fund is set up as a Bahamas International Business Company with an authorised capital of USD 150,000,000. The Fund will operate as an Open Ended Investment Fund and register as a SMART Fund 002 as defined within the Investment Funds Act and Regulations 2003.

4) NAME AND ADDRESS OF OPERATORS:

Two directors have been appointed:

'Name'	'Address'
'Name'	'Address'

5) NATURE OF EQUITY INTERESTS:

The Authorised Share Capital is divided into two classes of shares: 1,000 Voting Non-Participating Shares of par value USD 1.00 each (The Management Shares) and 149,999,000 Participating Non-Voting Shares of par value USD 1.00 each (The Investor Shares). Only Investor Shares are being offered for sale at an Initial Offer Price of USD 100.00 per share. Minimum subscription: USD 'Any amount.'

6) INVESTMENT OBJECTIVE AND POLICY:

The Fund seeks to increase its Net Asset Value by investing primarily in stocks, and by reducing risk through lower volatility of results whilst increasing return over the typical rate from an investment with comparable risk. The Fund may also invest in bonds, options, commodities, futures contracts, money market instruments, other investment funds and structured products in order to achieve its objectives.

7) DEALING POLICY:

A Net Asset Value calculation will be made monthly and shares will be available for sale and repurchase on a monthly basis starting at the end of the Initial Offer period ending on 'Date,' and then monthly thereafter. The minimum initial subscription that will be accepted from a new investor will be USD 'any amount.' Additional subscriptions may be accepted with a minimum of USD 'any amount' per transaction. The minimum redemption will be USD 'any amount.'

8) **DISTRIBUTION POLICY:**

No income distributions will be made.

9) **RELATED PARTIES:**

Administrator: 'Name & Address'

Investment Manager: 'Name & Address'

Custodian: 'Name & Address'

10) **AUDIT FORMALITIES:**

It is not intended that audited financial statements will be prepared. Applicants for Investor shares will be asked to waive the annual audit requirement.

11) **FEES AND EXPENSES:**

Administration Fee: USD 'Amount' per annum calculated monthly and paid quarterly in arrears.

Investment Management: 1.0% Net Assets under management calculated monthly and paid quarterly in arrears.

Performance Fee: 20% of net profit calculated monthly and paid annually in arrears. A High Water Mark will be applied and no performance fee will be paid until the Net Asset Value price of the fund exceeds the price at which the previous performance fee was paid.

Directors Fees: USD 'Amount' per annum.

Set Up Fee: Set up fees totaling USD 'Amount' will be paid by the Fund, amortised over 36 months.

12) **TERMINATION:**

The Fund does not have a fixed termination date but the company may be wound up by the Management Shareholders or Directors per Section 'Number' of the Articles of Association.

The Fund will apply to be licensed as a SMART Fund 002 pursuant to the Investment Funds Act 2003, operating as a fund which:

- is limited to having no more than ten investors who hold equity interests in the fund,
- whose investors are persons to whom a professional fund may be offered, and
- where a majority of the investors who hold equity interests in the fund have the power to appoint and remove the operators of the fund.

Dated 'Date'

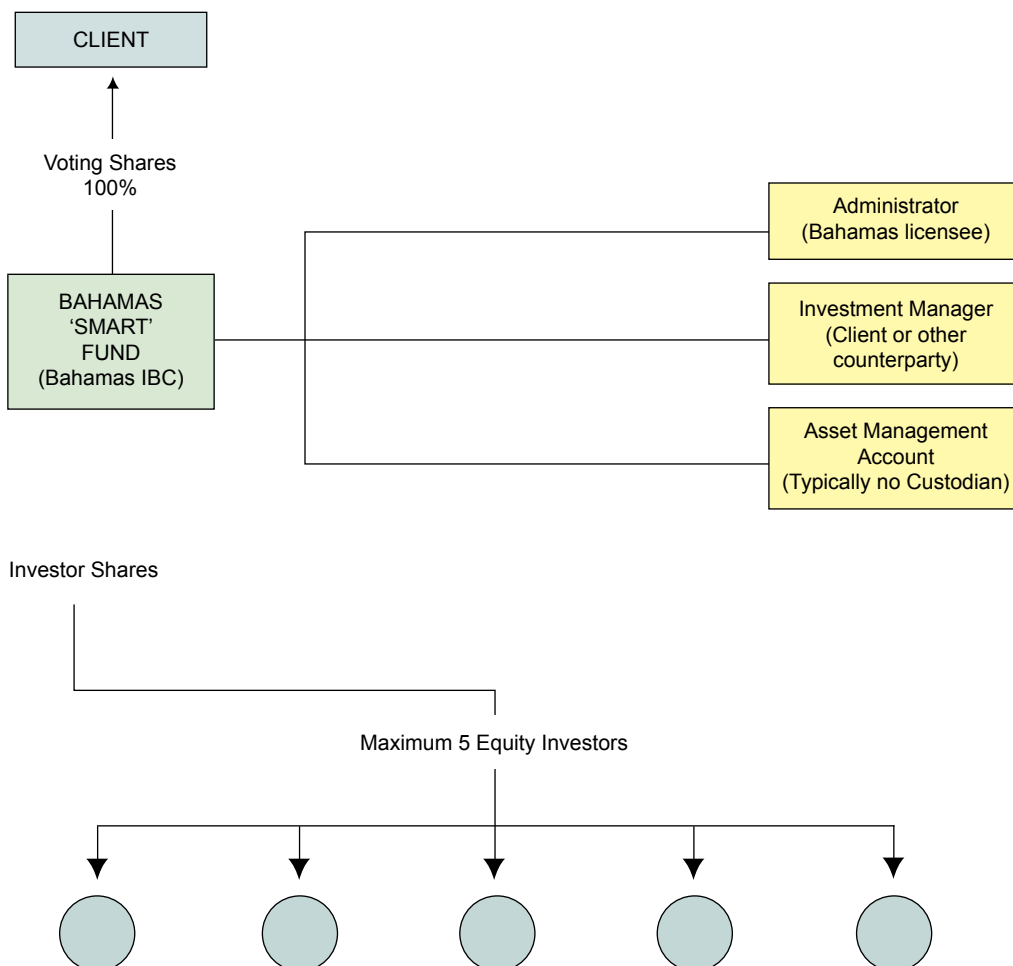
NOTES: *It will also be necessary to prepare a Subscription and Redemption agreement for completion by the subscriber, but the form of this document is not defined within the legislation or regulations. The Securities Commission, however, has provided guidelines regarding the due diligence obligations of administrators and the subscription agreement should be drafted to ensure compliance with these requirements.*

EXAMPLE SMART FUND MODEL FOUR

PRIVATE CLIENT FUND

Scenario:

Private clients, family members, and family offices require simple asset-holding vehicles with which to open a Broker or Bank account. A SMART Fund offers an excellent tool for the client and, often, the counterparties.



EXAMPLE FEES:

Set up:

To include drafting Term Sheet, constitution of the Bahamas company, preparation of all agreements, opening bank and Broker accounts and preparation of licence and other regulatory formalities: (Payable in advance)

USD 10,000.00

Annual:

To include acting as Administrator, preparation of 6 Monthly NAV Calculations, processing of initial subscription, maintenance of investor records, provision of registered office and registered agent services for the Bahamas company.

Investment Fund:

USD 9,000.00

Annual Government and Licensing Fee:

USD 2,450.00

NOTES:

The fund may have no more than five investors.

This structure is also useful should the client need a vehicle to enter into a third party transaction or to open a broker account. The Fund concept is well understood internationally and counterparties are typically more comfortable entering into a relationship with a Fund licensed by a recognized regulatory authority.

The Fund does not require an Offering Document just a term sheet and subscription agreement.

If all investors agree in advance the Fund does not require an annual audit.

An Unrestricted Fund Administrator has the authority to issue the license without prior reference to the Regulator.

This Fund may have a Telekurs number, ISIN Code and Bloomberg page.

EXAMPLE TERM SHEET

1) NAME:

The 'Example' Fund Ltd.

2) DATE ESTABLISHED:

'Date'

3) STRUCTURE OF FUND:

The Fund is set up as a Bahamas International Business Company with an authorised capital of USD 10,000,000. The Fund will operate as an Open Ended Investment Fund and register as a SMART Fund 004 as defined within the Investment Funds Act and Regulations 2003.

4) NAME AND ADDRESS OF OPERATORS:

Two directors have been appointed:

'Name'	'Address'
'Name'	'Address'

5) NATURE OF EQUITY INTERESTS:

The Authorised Share Capital is divided into two classes of shares; 1,000 Voting Non-Participating Shares of par value USD 1.00 each (The Management Shares) and 9,999,000 Participating Non-Voting Shares of par value USD 1.00 each (The Investor Shares). Only Investor Shares are being offered for sale.

6) INVESTMENT OBJECTIVE AND POLICY:

The Fund seeks to increase its Net Asset Value by investing in a broad selection of financial and investment products. No investment strategy is forbidden.

7) DEALING POLICY:

A Net Asset Value calculation will be made semi-annually at the 31st July and 31st December, and shares will be available for sale on a semi-annual basis. Shares may be redeemed semi-annually. There is no minimum or maximum subscription or redemption.

8) DISTRIBUTION POLICY:

No income distributions will be made.

9) RELATED PARTIES:

Administrator:	'Name & Address'
Investment Manager:	'Name & Address'
Other:	'Name & Address'

10) **AUDIT FORMALITIES:**

It is not intended that audited financial statements will be prepared. Applicants for Investor shares will be asked to waive the annual audit requirement.

11) **FEES AND EXPENSES:**

Administration : 'Amount'

Investment Management: Nil

Directors Fees: 'Amount'

Set Up Fee: Will be paid by the Investment Manager

12) **TERMINATION:**

The Fund does not have a fixed termination date but the company may be wound up by the Management Shareholders or Directors per Section 'Number' of the Articles of Association.

The Fund will apply to be licensed as a SMART Fund 004 pursuant to the Investment Funds Act 2003, operating as a fund which cannot have more than five holders of equity interests.

Dated 'Date'

NOTES: *It will also be necessary to prepare a Subscription and Redemption agreement for completion by the subscriber, but the form of this document is not defined within the legislation or regulations. The Securities Commission, however, has provided guidelines regarding the due diligence obligations of administrators and the subscription agreement should be drafted to ensure compliance with these requirements.*

SMART*fund*s



ABOUT BFSB

THE BAHAMAS FINANCIAL SERVICES BOARD (BFSB) REPRESENTS AN INNOVATIVE COMMITMENT BY THE GOVERNMENT AND THE FINANCIAL SERVICES INDUSTRY TO PROMOTE A GREATER AWARENESS OF THE BAHAMAS' STRENGTH AS AN INTERNATIONAL FINANCIAL CENTRE. THE STRENGTH OF BFSB IS FOUND IN THE EFFECTIVE PARTNERSHIP WITH THE GOVERNMENT OF THE BAHAMAS AND ITS MEMBER FIRMS. THIS PARTNERSHIP IS FOCUSED ON ENSURING THAT THE COUNTRY'S REGULATORY AND BUSINESS ENVIRONMENT IS SUITABLE FOR BOTH CLIENTS AND THE INTERNATIONAL STATURE OF THE BAHAMAS AS A MEMBER OF THE COMMUNITY OF NATIONS.

A BROADLY BASED AND HIGHLY SKILLED PRIVATE SECTOR CREATES A DYNAMIC MIX OF BANKING, TRUST, FUND, ADMINISTRATION, INVESTMENT ADVISORY AND INSURANCE SERVICES IN THE BAHAMAS. AUGMENTED BY PROFESSIONAL ADVISORS FROM LEGAL, ACCOUNTING, REALTY, INFORMATION AND COMMUNICATIONS FIRMS, THE BAHAMAS IS A COMPLETE INTERNATIONAL CENTRE.

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