

# The Bahamas Financial Services

*Commitment, Continuity and Consistency*



## **Sector Strategy**

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To be certain, The Bahamas continues to focus on being a high quality destination for owners of capital. In the midst of one of the most tumultuous years in the finance industry, the government and private sector jointly refined their shared vision for the way forward: “To be a globally competitive international business centre for private wealth management, capital investment in the Americas and emerging markets, and residency”. This vision brings to bear the unique strengths of The Bahamas:

1. Our history as a trusted partner for the international business community and families worldwide, due in large part to the outstanding record of political stability, progress and stewardship, status as an independent territory providing an efficient basis of common law, and the longstanding commitment and continuity of its people and government to the industry and their clients.
2. Our ideal location at the cross roads of the Americas in a time zone that is convenient for most of the major centres in the Americas.
3. Our physical resources of land, premises and fit-for-purpose infrastructure all located in one of the most idyllic settings in the world.

Arising from its longstanding investment in people, policies and the environment, The Bahamas will continue to be a leader in financial services and domiciliation/residency.

## **Compelling and Competitive Platform for Private Clients**

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The Bahamas remains strongly committed to the principle that persons have a right to privacy with respect to the conduct of their affairs. This right, set out in the United Nations Charter Article 17, provides for the right of every person to be protected against arbitrary or unlawful interference with his/her privacy, family, home or correspondence, as well as against unlawful attacks on his/her honour and reputation. The charter provides everyone with the right to the protection of the law against such interference or attacks. The Bahamas supports this legitimate right to confidentiality through its common law, Data Protection (Privacy of Personal Information) Act, 2003 and various legislative provisions.



## Compelling and Competitive Platform for Private Clients *(continued)*

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Moreover, respect for the rule of law always has been fundamental to the success and strength of the financial services industry in The Bahamas. As such, clients can be assured that The Bahamas will only exchange information on agreed and transparent protocols.

When the Organisation for Economic Cooperation and Development (“OECD”) launched an initiative in 1998 that sought to improve transparency and information exchange in tax matters, The Bahamas, as a sovereign nation, sought in 1999 and, again in 2002, to protect its economic interests and fiscal autonomy in all negotiations with the OECD. The Bahamas considered the establishment of a level playing field, where all OECD members and major finance centres agreed to implement the same standards, to be critical to its economic interests.

By mid-March 2009, a significant leveling of the playing field was achieved with the commitment by all OECD countries and major financial centres to the OECD standard for information exchange. The Bahamas Government, with the support of the private sector, agreed to begin to negotiate suitable arrangements that meet the OECD standard for information exchange on March 25th, 2009. (There are two mechanisms for agreeing to cooperate on tax matters: (1) the OECD approved Article 26 in Double Tax Treaties/Agreements or (2) Tax Information Exchange Agreements.)

All of the agreements signed by The Bahamas are in accordance with the OECD standard as reflected in its model TIEA and Double Taxation Agreement (“DTA”) Article 26. As such, the basis on which The Bahamas will cooperate with countries is no greater than those countries that adopted DTA Article 26. In fact, the OECD Global Forum has confirmed that TIEAs do not provide for spontaneous or automatic information exchange; whereas DTA protocols can provide for spontaneous and automatic information.

In particular, through its bilateral agreements, The Bahamas commits to cooperate only upon requests where specific information is provided. This requirement for specific information is critical in furtherance to The Bahamas’ stated position to prevent so called “fishing expeditions”.

Further, the well established confidentiality for those who live or conduct business in The Bahamas will continue. Most importantly, The Bahamas will retain a legislative and administrative system that respects both the privacy of its clients and preserves the banking confidentiality in its financial services sector.

In The Bahamas information on clients is maintained by the financial institution. Therefore any request for information is subject to two reviews. First, The Government of The Bahamas will undertake a focused review of the request in accordance with Bahamian law; consistent with the well established procedures that have existed under the Mutual Legal Assistance agreements since the 1980s. Second, should a financial institution receive a request for cooperation, the client will be fully informed. The financial institution and the client have full access to the courts of The Bahamas should they wish to challenge the request for cooperation. See Bahamas Tax Information Exchange Agreements Q & A.

The commitment to adopt the G20/OECD standard does not find The Bahamas unprepared. In the 2002 Bahamas United States of America TIEA similar arrangements which limit the exchange of information to specific requests that meet predefined criteria were agreed. These arrangements, which have been in place over the last six years, have been respected by the United States and The Bahamas. Likewise, legislation that gave effect to The Bahamas United States of America TIEA continued to preserve client confidentiality by denying any request (1) that is outside of agreed arrangements and procedures, (2) where insufficient evidence is provided to support the request for information, so called “fishing expeditions”, or (3) where conditions are not agreed for stipulated safeguards of the information. Moreover, the client has very clear rights under this agreement, including access to the courts of The Bahamas.



## **The Bahamas' Approach to G20/OECD**

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The insistence of the government on clarity and unequivocal language with respect to a level playing field, particularly as it relates to timelines and standards, was strongly supported by industry in 2002. Likewise the industry now supports the decision of the government, in conjunction with the governments of other major financial centres, to agree to endorse the OECD standards on transparency and effective exchange of information through defined and agreed protocols.

The Bahamas has demonstrated that as a sovereign nation it is an active contributor to the discussion on a range of global matters and that it is determined to act in a responsible manner. In particular, The Bahamas is an active participant in the international dialogue concerning the regulation of international financial services. Specific to the dialogue on cooperation in tax matters, The Bahamas has been an effective member in the Global Forum and its various sub-committees. Based on its energetic engagement, in September 2009, The Bahamas was elected to membership of the OECD Peer Review Group; a group comprising members of a re-vamped OECD Global Forum. The Peer Review Group is responsible for developing a programme of peer reviews to monitor progress of the implementation of the tax information exchange standards among the 90-plus members of the OECD Global Forum. The Group also monitors this progress in identified international financial centres that are not currently members of the Global Forum.

To be certain, the Government of The Bahamas is committed to safeguarding this important segment of the Bahamian economy by ensuring that The Bahamas remains a well regulated jurisdiction which meets evolving standards for offering international financial services. This decision will serve to reinforce the respect for personal privacy and the use of appropriate means for cooperation among countries. We believe this is in the best interest of clients and the international financial services industry of The Bahamas.

## **The Way Forward**

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Over a decade ago, the OECD sought to have The Bahamas implement its standard for transparency and tax cooperation. The Bahamas' response to the OECD standard was to insist that all countries implement the same standard at the same time as The Bahamas.

As the rules for global trade and financial services were transformed over the past 24 months, The Bahamas continued to fulfill its commitment to clients and the international community,

We expect 2010 and beyond to continue to be one of transition as the global economy and the financial services industry adjusts to the new paradigm. BFSB remains unequivocally engaged in the pursuit of an ever-improving platform for owners of capital to conduct their international business, to manage their private wealth and to make The Bahamas their home.