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ADDRESS BY

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DEPUTY PRIME MINISTER AND MINISTER OF FINANCE

MINISTRY OF FINANCE

WEDNESDAY 28TH NOVEMBER, 2018 AT 9:00 A.M.

HOUSE OF ASSEMBLY

PARLIAMENT STREET

NASSAU, THE BAHAMAS

MINISTERIAL DELEGATION TO THE EUROPEAN UNION, BRUSSELS, BELGIUM

& OECD, PARIS, FRANCE

MONDAY 5TH NOVEMBER, 2018 – FRIDAY 9TH NOVEMBER 2018

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**11TH PLENARY MEETING OF THE ORGANIZATION FOR ECONOMIC AND CO-
OPERATIVE DEVELOPMENT GLOBAL FORUM ON TRANSPARENCY AND
EXCHANGE OF INFORMATION FOR TAX PURPOSES**

HELD IN PUNTA DEL ESTE, URUGUAY

TUESDAY 20TH NOVEMBER, 2018 – THURSDAY 22ND NOVEMBER 2018

Mr. Speaker,

I would like give this House an update on The Bahamas' efforts to ensure compliance with the international initiatives promulgated by the Organization for Economic Co-operation and Development (OECD) and the European Union, with respect to tax governance and transparency and to ensure that we remain off the list of Non-Cooperative Jurisdictions for Tax Purposes, commonly called the black list.

Mr. Speaker, as the Members of this House are aware, on March 13th of this year, the European Union placed The Bahamas on its List of Non-Cooperative Jurisdictions for Tax Purposes.

While we were removed from the EU's list two months later, being placed on the EU's list was another blow to our struggling financial services sector. A sector still trying to rebound from the effects of de-risking and withdrawal of financial institutions as a direct consequence

of increased compliance costs and the compound effects of the global financial crisis.

The provision of financial services has been an integral part of our economic development strategy and the catalyst of increased employment opportunities, for the greater part of the past 50 years.

The Bahamas was the first jurisdiction in the western hemisphere to evolve into an offshore financial center and it is no secret that the development of our financial services industry was encouraged with the tacit approval of the United Kingdom, our then colonial overseers, and the United States.

In the 80's and 90's, financial services allowed us to enjoy a period of robust economic development as we diversified our economy away from farming, fishing (and to some extent tourism) to complex wealth management services that were in high demand in the international financial market.

The adoption of financial services also spurred the development of specialized skills in the labor force and stimulated the expansion of our middle class.

The spillover effects of the financial services sector, from higher wages, to the creation of new niche industries to support the financial services sector, to increased government revenue, can be seen in almost every sector of our economy. Indeed Bahamians are increasingly engaging in this lucrative sector directly through unique niche products and services.

Mr. Speaker, it is for these reasons that successive governments have vehemently defended the integrity and legitimacy of our financial services sector. The record will reflect that in 2000, the then FNM government enacted a suite of legislation designed to protect the industry against abuse in the form of money laundering and other financial crimes. This legislation became the benchmark used by

competitor jurisdictions in drafting their own anti-money laundering measures.

Not unlike the FATF Blacklist in 1999 that was the harbinger of the 2000 legislation, the inclusion of The Bahamas on the EU's list in March of this year, and the evolving standards from intergovernmental bodies like the G20 and the OECD, now once again necessitate that this FNM government take decisive action to safeguard the businesses and jobs that rely on a thriving and viable financial sector. In our discussions with various international partners, we committed to implement measures to combat Base Erosion and Profit Shifting, Tax Evasion and other harmful tax practices by December 31st 2018, as all well-regulated jurisdictions have done. These measures are now encapsulated in the compendium of bills that I will lay before this House today.

Mr. Speaker, my Ministry has spent the past year in extensive and often contentious dialogue with officials from both the EU and the OECD to

bring The Bahamas in line with the new global standards on tax governance and transparency.

We have consulted with key industry stakeholders and drafted what we believe are best in class laws and policies, benchmarked against complementary and competing jurisdictions that will once again place The Bahamas at the forefront in the fight against financial crime.

While we continue to demonstrate that we are partners in the fight against abuses of the financial system, we are also sending a resounding message to the international financial community that we will not be bullied or threatened into compliance to the detriment of our industry and our economy.

Earlier this month, I led a delegation, which included the Minister of Financial Services, Trade & Industry and Immigration, the Attorney General and a senior technical advisor from each of our ministries, to

Brussels and Paris for a series of high-level, frank discussions with the European Commission and the OECD.

In Brussels, we met with the EU's Code of Conduct Group and other representatives of the European Commission.

Our message was simple: The Bahamas' financial services sector is not designed to, nor does it, facilitate harmful tax practices.

Mr. Speaker, while we are implementing measures that will ensure compliance with the international standards on tax governance and transparency, we let it be known that we reserve our sovereign right to develop our legal, tax and regulatory framework in ways that we deem necessary for our economic development.

During discussions with the Deputy Secretary General of the OECD in Paris on November 8th, both the Minister of Financial Services, Trade &

Industry and Immigration and the Attorney General joined me in reinforcing that, collaborative engagement with jurisdictions, was the most effective way of fostering goodwill and promoting the adoption of global standards. Not the threat of blacklisting and other sanctions.

My Cabinet colleagues and I defended The Bahamas' Permanent Residency program against the OECD's criticism that the program potentially afforded nefarious actors with the vehicle through which they could assert a tax residency in The Bahamas and, in doing so, evade taxes in their original home countries. Mr. Speaker, the Bahamas' Permanent Residency program does NOT confer tax residency in and of itself.

Mr. Speaker, I have just returned from Punta del Este, Uruguay where I, along with two technical officers from my Ministry, attended the 11th Plenary Meeting of the OECD's Global Forum on Transparency and Exchange of Information for Tax.

Mr. Speaker, I was invited to participate in a high level panel discussion on the Role of Tax Transparency in Enhancing Domestic Resource Mobilization and Fighting Illicit Financial Flows. Other members of the panel included the Deputy Minister of Economy and Finance of Uruguay, the Deputy Minister on Taxation of Paraguay, the Public Revenue Secretary of Argentina, the Chair of the Global Forum and the Head of the OECD's Center for Tax Policy and Administration, who chaired the Panel.

The Bahamas used this opportunity to again call on the international community and bodies like the Global Forum to stop the inaccurate and unfair portrayal of small island international financial centers as the repository of the world's ill-gotten gains and the conduit by which the developed world is robbed of tax revenue.

I argued that small island international financial centers like The Bahamas neither encourages nor shields anyone engaging in illicit activity.

I emphasized that jurisdictions like The Bahamas have always ensured that there is widespread adherence to the constantly shifting goal post of the international financial regulatory compliance landscape, at great expense to them. This high degree of compliance and the quality of supervision is consistently affirmed by the standard monitors.

I also highlighted that standard setting organizations should be mindful of the tight time frames and the limited and already pressured resources of jurisdictions when demanding the adoption of often arbitrary rules that may best be addressed by taking a risk based approach to such compliance risks.

In most cases many small island financial centers are faced with a myriad of development challenges that do not confront larger nations, and that constantly being subjected to intense scrutiny, oversight and "correction" from the international standard setters produces additional constraints on development ambitions. Particularly considering that these economies are largely dependent on foreign direct investment.

Mr. Speaker, during another intervention, I challenged the Global Forum to view the political realities of nations and assess the political and financial impact of their work. Endorsing a view posited by the Turks and Caicos Island, I admonished the Global Forum to take a more measure approach and to be practical and considerate when enforcing compliance. I reminded them that when they talk of resource mobilization, particularly for those in small countries, it is difficult to persuade the populace of the need to allocate government financial resources to implementing compliance measures, that provide little direct benefit to the public when we have great financial challenges

meeting escalating health care, education, security, social safety net, debt financing and other domestic cost.

Mr. Speaker, we gathered some very important points from the Global Forum Plenary. Primarily:-

- Argentina's Presidency of the G20 ends within the next few days and Japan will assume the Presidency. Japan stated in its contribution to the Forum, that they will continue the focus on tax governance and transparency through the OECD's BEPS project and tax exchange of information;
- We also learned that there is formulating a push for a global minimum corporate tax among G20 nations;
- The EU Commission will continue to screen Jurisdictions to ensure that they deliver on the commitments taken to implement compliance measures with regard to the EU Criteria. For a Jurisdiction to be considered tax compliant they should satisfy 2 out of 3 of the following criteria:-

- i. have agreements in place to automatically exchange information with all EU Members States by September 2018;
- ii. have a Largely Compliant rating with the Global Forum on Exchange of Information on Request ("EOIR"); and
- iii. have ratified the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

It is important that I note that The Bahamas has meets all three criteria.

One interesting development was announced during the Plenary that could have some impact on The Bahamas, Mr. Speaker. While in Punta del Este, Latin American Ministers of Finance signed a Declaration calling for strengthened "action against tax evasion and corruption". I suspect, Mr. Speaker, that this is the latest in the string of attempts by political blocs to assert extraterritorial influence in tax matters.

Mr. Speaker, the responsibility that falls upon the Government's shoulders to promote economic growth through a stable financial system, is not one that we take lightly. It is one that I hope every member of this House also feels. We are in a battle to save an industry that is a significant contributor to our economy – and we are being attacked on multiple fronts. With this legislation that I will table today (and which I anticipate will proceed through the legislative process quickly in order to meet the December 31st deadline), I believe that we have deflected the threat of being reinstated to the EU's List of Non-Cooperative Jurisdictions when the EU Council of Finance Ministers meet in January.

I would like to thank the private sector, especially the financial services sector, for assisting the Government in drafting these Bills with the right balance of business, economic sustainability, and compliance with the international standards. We have a significant amount of policy reform work to yet to be done that will require similar commitment.

I am also happy that the members of Her Majesty's Loyal Opposition have pledged to fully support these Bills.

This united front send a clear signal to the international community that we believe that this is too big an issue to allow partisanship distractions to take our focus off of what is most important at this time: ensuring that every Bahamian is given an opportunity to attain a measure of wealth within their country.

Mr. Speaker, following my participation in meetings in Brussels and Paris, I had the honour of leading a delegation in conjunction with Minister of Transport & Local Government and Bahamas Maritime Authority Board and executive members to Tokyo, Japan for the official opening of the BMA's newest offices there and then to Hong Kong to visit with one of our most significant ship owners and to meet with the HK Ship owners

Association. These were very productive meetings resulting in new business and we anticipate growth of our Asian owned fleet.

While in Japan, the delegation made an official call on the Minister of Foreign Affairs, H.E. Mr. Taro Komo, to exchange Diplomatic Notes amending agreements on the Automatic Exchange of Tax Information.

We also had the opportunity to pay courtesy calls on the Deputy Prime Minister & Minister of Finance, and also the Vice-Minister for Ministry of Land, Infrastructure, Transportation & Tourism, to discuss bi-lateral matters and share expressions of support for various candidacies.

Mr. Speaker,

As I foreshadowed earlier in my communication, I will shortly lay a compendium of Bills related to ensuring that The Bahamas retains its competitive advantage as a premier financial services jurisdiction, in the face of widespread pressure from the international financial standard setting bodies.

These Bills are, namely, the Commercial Entities (Substance Requirements) Bill, 2018, the Removal of Preferential Exemptions Bill, 2018, the Register of Beneficial Ownership Bill, 2018, the Non-Profit Organizations Bill, 2018, and the Penal Code (Amendment) Bill, 2018, which together with the Multi National Enterprises Act, 2018 passed by this house earlier this year, puts the Bahamas in full compliance with the EU and the OECD Tax and BEPS standards. These Bills have been widely circulated, consulted and agreed by industry stakeholders after extensive private and public industry briefings and with the technical representatives of the EU and OECD.

Mr. Speaker,

The Commercial Entities (Substance Requirements) Bill, 2018 will require commercial entities that engage in specified activities to demonstrate economic substance through having substantial economic presence and real economic activity within The Bahamas.

This means, for example, that commercial entities will have to demonstrate that they have an adequate number of full time, qualified employees, that Directors are qualified to make strategic decisions on the operation of the entity and that the entity demonstrates a sufficient level of expenditure commensurate with the activities that it undertakes. This development while posing some risk to entities that do not require a physical presence in the ordinary course of business, also provides potential opportunities for qualified Bahamians to provide physical presence and services, creating employment and space requirements for international operations wishing to remain in our jurisdiction.

The Removal of Preferential Exemptions Bill, 2018 provides for the elimination of preferential tax advantages afforded to non-resident companies that are not afforded to the domestic companies. This Bill will have the effect of equalizing the tax treatment of domestic and international companies and eliminates the long complained about

perceived advantages offered to foreigners that Bahamians are not entitled to by virtue of their domicile.

The Non-Profit Organizations Bill, 2018 brings non-profit organizations under regulatory oversight. This will enhance the integrity of and mitigate abuse of these entities.

The Beneficial Ownership Register Bill, 2018 will create a non-public database for the collection and retention of demographic information of the beneficial owners of all incorporated entities. This is a part of a global push to eliminate opaque entities that could be used to hide corporations and individuals from tax obligations and aide in the fight against AML/CFT and corruption.

The Penal Code (Amendment) Bill, 2018 makes it a crime to intentionally defraud a person employed in the public service relating to the collection of money for the purposes of general revenue. This Bill brings tax evasion

within the lexicon of criminal acts in The Bahamas and is a landmark Bill whose time has come.

Mr. Speaker, I will provide more details on these bills when we proceed to debate them next week.

Thank you, Mr. Speaker. May God bless this Honorable House and may God continue to bless our beautiful Bahamaland.