



REGULATORS ROUNDTABLE DISCUSSION

Regulating the Future of Financial Services in The Bahamas

Senator the Hon Ryan Pinder K.C.
Attorney General and Minister of Legal Affairs

Ministry of Economic Development
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Good afternoon,

I would like to thank my colleague minister Halkitis and his team and the Ministry of Economic Development for hosting this Regulator Roundtable and industry Briefing. This is a continuation of our administration's commitment of open dialogue with the financial services industry. It comes at an important time as we constantly are seeing the world stage create new and evolving international best practices in regulation, something that from a regulatory point of view, and an industry point of view takes a lot of time and effort. We as a jurisdiction have strived to keep pace, and in certain instances ahead of the pace in regulation, having achieved certain major milestones in regulation and compliance over the years. Today we will address and analyze existing and emerging issues with financial services with the goal of positioning the jurisdiction for continued stability and success.

History of Regulatory Excellence

The Bahamas through multiple administrations has established itself as a country with a history of regulatory excellence and compliance. For example, years ago the Bahamas achieved A certification by International Organization of Securities Commissions (IOSCO), better known as IOSCO A certification, an accomplishment so significant that the Commonwealth of the Bahamas at that time became the sole sovereign and independent country in the Caribbean Region who has achieved IOSCO A status. This is a significant commitment to international best practices and transparency in securities regulation.

We have a history of adopting regulatory compliance to create business opportunities. For example, complying with AIFMD

allows Bahamas-based fund managers to continue to market or perform fund management activities for alternative investment funds (AIFs) in EU markets. The AIFMD MOUs entered into by the Securities Commission of the Bahamas set standards for co-operation and cross-border supervision, making the supervision of alternative funds more consistent globally and strengthening investor protection.

The Bahamas has placed tremendous efforts over the last seven (7) years (2015 – 2022) in addressing strategic AML/CFT/CFP deficiencies. Progress was made each year with introduction of enhanced legislation and attendant regulations (e.g. POCA, 2018, FTRA 2018, ATA, 2018), supervisory and enforcement AML/CFT/CFP regimes, and increased engagement with the professional stakeholders, etc. These efforts and supporting evidence were assessed by CFATF and FATF International Cooperation Review Group, leading to The Bahamas being

delisted from the FATF Grey List on 18 December, 2020. This was followed up with the significant achievement obtained on the 22 December 2022 with the publication of the Bahamas' CFATF Follow-up report announcing that the country had obtained compliant or largely compliant ratings with 40 of the 40 FATF Recommendations. The Bahamas became the 2nd jurisdiction in the Caribbean and the Americas to attain such a position and only the 6th in the FATF's Global Network of 206 jurisdictions. We continue to strive for regulatory excellence.

Regulators Involvement towards Compliance

It is important that regulatory compliance and a progressive approach not be left to Government or to private industries. Regulators must also be involved in leading the way. We see this in our regulators and they should be commended for their leadership.

On the global level, at fora where thought leaders contemplate the direction of digital assets regulation, you will find voices from The Bahamas present and leading, with the Securities Commission of The Bahamas, for example, actively participating and contributing to the work of the International Organization of Securities Commissions – IOSCO -- as it seeks to understand the regulatory risk the industry poses and develop suitable global regulatory standards to mitigate them.

Likewise, we have recently experienced the Central Bank hosted Fourth AML Research Conference where the President of the Financial Action Task Force, T. Raja Kumar and Vice President, Elisa de Anda Madrazo were present. This was an exciting opportunity in front of the highest level of leadership in the FATF to dialogue. But more than that, The Central Bank hosted AML Research Conference has developed a reputation

as being one of the preeminent research conferences in the world when it comes AML matters and is now an annual event attracting the preeminent scholars and researchers in the areas.

These are the types of activities and leadership that is required in order to differentiate The Bahamas in the regulatory space. We will differentiate ourselves, but its not always easy and for a small country like The Bahamas, as we all recognize, we are generally judged at a different standard, it is not an equal playing field. Therefore, in when it comes to regulation, and specifically regarding money laundering, it is vital that we demonstrate The Bahamas' full-throated commitment to the global fight against money laundering, terrorist financing and proliferation financing.

Foreshadowing Future Regulatory Efforts

I am sure the regulators today will speak to areas where they see regulation evolving and new areas where we will have to address. There are a few areas that I think are important to mention.

Digital Assets – I note that this will likely be a topic of conversation, but I think it important to mention that this industry, regardless of lessons learned from the FTX collapse, is an industry in constant evolution and regulatory laws and rules must likewise constantly evolve. I know the Securities Commission has already done work on legislative reforms and started to develop areas for attention in regulation. I commend them for their commitment to constant reform and look forward to enacting new pieces of regulatory legislation.

FATF and Legal Arrangements / Trusts – Given the importance of the trust industry to The Bahamas, it is important to note that

additional regulation on the beneficial ownership of legal arrangements and trusts may be forthcoming. Following the June 2022 plenary meeting of the global Financial Action Task Force (FATF), the anti-money laundering (AML) standards body has published a consultation paper on revisions to its Recommendation 25, regarding transparency and beneficial ownership of legal arrangements such as trusts.

Recommendation 25 currently requires trustees to obtain and hold information on beneficiaries or classes of beneficiaries. FATF is considering setting the nexus of such obligations to countries where the trustees reside or where the trusts are administered. FATF has asked consultation respondents whether it should create a separate, standalone definition of 'beneficial owner' in the context of legal arrangements, distinct from that for legal persons and also seeks suggestions on strengthening the requirement for countries to have access to

beneficial ownership information in respect of legal arrangements. These clearly will have material implications for our trust business in The Bahamas.

Tax Reform – In July 2021 The Government of The Bahamas expressed its support, for the proposals of the G20/OECD Inclusive Framework on Base Erosion and Profit Shifting to reform the global taxation system. This would have us impose a corporate income tax on businesses in The Bahamas with gross annual earnings of 750 Million Euros or greater. A corporate income tax is clearly a novel approach in The Bahamas and will have significant regulatory reform for the country in tax administration, affecting almost every area of the cross border economy.

The OECD/G20 Inclusive Framework on BEPS released just this week technical guidance to assist governments with

implementation of the landmark reform to the international tax system, which will ensure multinational enterprises (MNEs) will be subject to a 15% effective minimum tax rate. As continued guidance is released by the OECD we will have to advance our regulatory reform on taxation to ensure that we are compliant and have a new corporate tax regime.

Conclusion

We will continue to have regulatory challenges and implementation in current areas, new areas and evolving areas. We must continue to stay ahead in developing the regulation, but just if not more important, implementing the regulatory requirements and testing for effectiveness. These latter two areas should be of significant focus going forward as these are where the valuation of compliance will be focused.

In order for our jurisdiction to be a preeminent player in the financial services industry with a reputation of regulatory compliance there must be confidence of a nimble regulator, a regulatory regime that is respected worldwide and incorporates real time best practices, and a commitment of government policy to advance the growth of the industry, assuring the jurisdiction is a safe place to do business that will do what is necessary to keep the bad actors out. Despite challenges, I am proud to say The Bahamas is an example of the success of the model.

Thank you.