



Central Bank of The Bahamas

PUBLIC CONSULTATION

On

Proposals for:

(1) The Introduction of –

- (a) The Banks and Trust Companies (Private Trust Companies and Qualified Executive Entities) Regulations and**
- (b) The General Information and Application Guidelines for Private Trust Companies, Qualified Executive Entities and their Registered Representatives**

And

(2) Amendments to the -

- (a) The Banks and Trust Companies Regulation Act, 2000**
- (b) The Executive Entities Act, 2011**
- (c) The Business Licence Act, 2010, and**
- (d) The Guidelines for Licensees on the Prevention of Money Laundering and Countering the Financing of Terrorism**

21st December, 2017

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I. INTRODUCTION

1. The Central Bank of The Bahamas (“the Central Bank”) is proposing amendments to the Banks and Trust Companies Regulation Act, 2000 (“BTCRA”), the Executive Entities Act, 2011, the General Information and Application Guidelines for Private Trust Companies and their Registered Representatives, and the Guidelines for Licensees on the Prevention of Money Laundering and Countering the Financing of Terrorism, along with the introduction of the Banks and Trust Companies (Private Trust Companies and Qualified Executive Entities) Regulations to replace the Banks and Trust Companies (Private Trust Companies) Regulations (S.I. 1/2007). The proposed amendments to both the legislation and the Guidelines and the new Regulations are designed to bring Executive Entities that conduct trust activities under the regulatory oversight of the Central Bank, and to ensure compliance with certain Financial Action Task Force¹ (“FATF”) Recommendations on the International Standards for Combating Money Laundering and Financing of Terrorism and Proliferation.
2. The Central Bank is also proposing amendments to (i) the BTCRA to include services provided to foundations as licensed trust companies pursuant to the provisions of the Foundations Act, 2004, and (ii) the Business Licence Act, 2010 to expand the list of persons exempt from the requirement to pay annual business licence taxes to include Private Trust Companies (“PTCs”), Qualified Executive Entities (“QEE”) and non-bank money transmission service providers and their agents.

II. KEY PROVISIONS OF THE EXECUTIVE ENTITIES ACT, 2011 and the FOUNDATIONS ACT, 2004

3A. The Executive Entities Act, 2011

3. The enactment of the Executive Entities Act, 2011 (“EEA”) facilitated the creation, operation, management and termination of an innovative private wealth management structure called the Executive Entity. Among other things, it made provision for:
 - i. an Executive Entity to perform executive functions, including the exercise of the powers and duties of a trustee with power to own, manage and hold trust assets, provided that the purpose and executive functions of the executive entity comply with any relevant regulatory law. The EEA definition of “regulatory law” includes the BTCRA (see sections 2, 3 and 5 of the EEA);
 - ii. an Executive Entity to be subject to the oversight of the regulator that licensed the Executive Entity agent (see section 13(12) of the EEA); and
 - iii. a licensed trust company or a licensed financial and corporate service provider (“FCSPs”) to act as the Executive Entity agent of an Executive Entity (see section 13(1), (2)(a) and (4)(a) of the EEA).

¹ The FATF is an inter-governmental, standard setting body established to develop and promote policies and legislation to combat money laundering associated with organised crime, terrorism financing and, more recently, the proliferation of weapons of mass destruction. The FATF issues international standards to guide governments in their implementation of measures in these areas. The FATF reviewed and updated those international standards, now called the “Forty Recommendations”, in 2012.

3B. The Foundations Act, 2004

4. The enactment of the Foundations Act, 2004 (“FA”) made provision, among other things, for:
 - i. a foundation to carry on any lawful activity; for the main purposes or objects of the foundation to be the management of *its own assets*; and for any acts and activities of the foundation to be ancillary or incidental to those purposes or objects (see sections 4(1), (2) and (5)(b) of the FA); and
 - ii. a licensed trust company or a licensed financial and corporate service provider (“FCSPs”) to act as the foundation agent of a foundation (see sections 12(2), (3)(a) and (4) of the FA).

III. RATIONALE FOR THE PROPOSED LEGISLATIVE AMENDMENTS AND THE INTRODUCTION OF NEW REGULATIONS

5. Notwithstanding the requirements of the EEA and the FA set out at paragraphs 3A and B above, the BTCRA has no provisions that authorizes the Central Bank to regulate Executive Entities via Executive Entity agents or which address trust company licensees acting as Executive Entity agents or foundation agents. The proposed amendments and new Regulations are intended to correct this deficiency. Following consultations with industry stakeholders, it is proposed that Executive Entities be brought under the Central Bank’s PTC regulatory regime. Under that regime, PTCs are exempted from the licensing requirements of section 3(2) of the BTCRA. However, they are brought under the regulatory purview of the Central Bank through the requirement that they have a Registered Representative, which must be either licensed by or registered with the Central Bank.
6. The amendments to the BTCRA and the new Regulations are also intended to strengthen the Central Bank’s anti-money laundering and countering the financing of terrorism (“AML/CFT”) legislative framework by establishing clear know-your-customer requirements for Registered Representatives, in compliance with the FATF’s Recommendation 10, which requires financial institutions to, inter alia:
 - identify their customers and verify their customers’ identities;
 - identify the beneficial owners, and the ownership and control structures of customers that are legal persons (such as Executive Entities);
 - understand and obtain information on the purpose and intended use of the business relationship; and
 - conduct ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship.

IV. (1) INTRODUCTION OF THE GENERAL INFORMATION AND APPLICATION GUIDELINES FOR PRIVATE TRUST COMPANIES, QUALIFIED EXECUTIVE ENTITIES AND THEIR REGISTERED REPRESENTATIVES (2) AMENDMENTS TO THE GUIDELINES FOR LICENSEES ON THE PREVENTION OF MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM

7. The Central Bank proposes to replace the existing *General Information and Application Guidelines for Private Trust Companies and their Registered Representatives*, with new Guidelines for both PTCs and QEEs. The new guidelines outline the Central Bank’s policy with regard to the approval of Registered Representatives of both PTCs and QEEs and their ongoing regulation and supervision.

The proposed new *General Information and Application Guidelines for Private Trust Companies, Qualified Executive Entities and their Registered Representatives*, is set out at **Annex 5**.

8. The Central Bank is also proposing amendments to the *Guidelines for Licensees on the Prevention of Money Laundering and Countering the Financing of Terrorism* (“AML/CFT Guidelines”) to provide guidance on the matters set out above relative to Executive Entities by:
 - (a) inserting a new section J entitled “Executive Entities”, and
 - (b) making consequential amendments to paragraphs 81, 94, 108 and 164 so that these paragraphs are also applicable to Executive Entities.

A tracked version of the relevant paragraphs of the AML/CFT Guidelines is set out at **Annex 6**.

V. DETAILS OF THE DRAFT LEGISLATION

Draft Amendments to the Banks and Trust Companies Regulation Act, 2000

8. The draft Banks and Trust Companies Regulation (Amendment) Bill, 2017 (“the BTCRA Amendment Bill”) is set out at **Annex 1**.
9. The key provisions of the BTCRA Amendment Bill make amendments to the principal Act in relation to the following matters:
 - (a) Clause 2 –
 - (i) the insertion into section 2 of the definition of the terms “Executive Entity”, “Executive Entity Agent”, “Foundation”, “Foundation Agent” and “Qualified Executive Entity”. The first two terms have the meanings ascribed to them in the EEA. The terms “Foundation” and “Foundation Agent”, have the meanings ascribed to them in the FA. The term “Qualified Executive Entity” is restricted to an executive entity registered under the EEA which, by its Charter and Articles, acts as trustee for a trust(s) created or to be created by or at the direction of a Designated Person(s) or individual(s) who are related by consanguinity or other family relationship to the Designated Person(s) described within a Designating Instrument;
 - (ii) the amendment in section 2 of the definition of “Designating Instrument” to reference the Banks and Trust Companies (Private Trust Companies and Qualified Executive Entities) Regulations; and
 - (iii) the amendment in section 2 of the definition of “Registered Representative” to:

- clarify that only licensed trust companies or licensed financial and corporate service providers registered by the Central Bank may act as Registered Representatives, and
 - enable Registered Representatives to provide Executive Entity Agent services and Foundation Agent services;
- (b) Clause 3 –
- (i) the amendment of sections 3(2) and (5) to make those sections applicable to Executive Entities and Qualified Executive Entities respectively;
 - (ii) the amendment of section 3(4) to make it clear that Qualified Executive Entities are by Regulation exempt from the licensing requirements under the Act; and
 - (iii) the amendment of section 3(6) to empower the Central Bank to impose against a Qualified Executive Entity the specified sanctions set out in section 18; and
- (c) Clause 4 – the amendment of the Third Schedule of the principal Act to indicate the fees payable by Qualified Executive Entities.

Draft Amendments to the Executive Entities Act, 2011

10. The draft Executive Entities (Amendment) Bill, 2017 (“Bill”) is set out at **Annex 2**.
11. Clause 2 of the Bill makes a consequential amendment to section 13(12) of the principal Act by the insertion of the words “*or registered*” immediately after the word “licensed”. This amendment will require an Executive Entity to be subject to the regulatory oversight of the regulator that either licensed or registered the Executive Entity Agent. The change is necessitated by the fact that licensed FCSPs, who will be empowered to act as Registered Representatives pursuant to the amendments to the BTCRA described above, are required to be registered by the Central Bank.

Draft Amendments to the Business Licence Act, 2010

12. The Central Bank proposes consequential amendments to section 36 of the Business Licence Act 2010 which expand the list of persons exempted from the requirement to pay annual business licence tax to include:
- (a) a Private Trust Company or a Qualified Executive Entity which is exempt from the trust business licensing requirements of sections 3(2) and 4(1) of the Banks and Trust Companies Regulation Act, and
 - (b) a Money Transmission Service Provider licensed under the Banks and Trust Companies Regulation Act or a Money Transmission Agent registered under that Act.

13. The draft Business Licence (Amendment) Bill, 2017 (“Bill”) is set out at **Annex 3**.

Draft Banks and Trust Companies (Private Trust Companies and Qualified Executive Entities) Regulations

14. Given that substantive amendments to the Banks and Trust Companies (Private Trust Companies) Regulations would be required to include Qualified Executive Entities (“QEE”) into the legislative framework, the Central Bank proposes that the existing regulations be revoked and replaced. The proposed draft Banks and Trust Companies (Private Trust Companies and Qualified Executive Entities) Regulations is set out at **Annex 4**.
15. The new Regulations make provisions in relation to the following matters:
- (a) regulation 2 defines key terms used in the Regulations, including the terms “Executive Entity assets” “Special Officer” and “Special Council Member”;
 - (b) regulation 3 exempts PTCs and QEEs from the trust business licensing requirements of section 3(2) of the BTCRA and sets out the conditions of such exemption;
 - (c) regulation 4 empowers the Central Bank to register exempted PTCs and QEEs;
 - (d) regulation 5 establishes the regulatory requirements for PTCs and QEEs;
 - (e) regulation 6 stipulates that PTCs and QEEs pay fees prescribed in the Third Schedule of the BTCRA;
 - (f) regulation 7 restricts acting as Registered Representatives to trust company licensees and licensed FCSPs registered by the Central Bank, establishes the application requirements for licensed FCSPs that wish to act in such capacity, the procedures to be followed by the Central Bank in considering such applications and requires Registered Representatives to notify the Inspector of any change in its principal address and if it ceases to act as a Registered Representative;
 - (g) regulation 8 sets out annual reporting requirements for licensed FCSPs that act as Registered Representatives;
 - (h) regulation 9 stipulates that Registered Representatives pay fees prescribed in the Third Schedule of the BTCRA;
 - (i) regulation 10 establishes a minimum share capital for Registered Representatives;
 - (j) regulation 11 requires Registered Representatives to notify the Central Bank of any change in the particulars provided in their application, within thirty (30) days of such change;
 - (k) regulation 12 obliges Registered Representatives to prominently display on their premises the Central Bank’s Certificate of Registration for them to act as a Registered Representative;
 - (l) regulation 13 sets out additional criteria to be met by Registered Representatives relating to the conduct of trust activities by PTCs and QEEs;
 - (m) regulation 14 specifies the documents that Registered Representatives are required to maintain in The Bahamas and the information that they must obtain in relation to each PTC or QEE for which they act, including customer due diligence information;
 - (n) regulation 15 establishes offences and penalties for contravention of the provisions of the Regulations; and

- (o) regulation 16 repeals the Banks and Trust Companies (Private Trust Companies) Regulations (S.I. 1/2007).

VI. CONSULTATION PERIOD

16. The Bank invites your comments on the proposed legislation, which should be submitted no later than 29th January, 2018. Your comments and questions regarding the proposals should be directed to:

The Policy Unit
Bank Supervision Department
Central Bank of The Bahamas
Frederick & Market Streets
P.O. Box N 4868
Nassau, Bahamas
Tel (242) 302-2615
Fax (242) 356-3909
Email: Policy@centralbankbahamas.com

21st December, 2017

FOR CONSULTATION

ANNEX 1

**BANKS AND TRUST COMPANIES REGULATION (AMENDMENT)
BILL, 2017**

Arrangement of Sections

Section

- 1. Short title and commencement.....
 - 2. Amendment of section 2 of the principal Act.....
 - 3. Amendment of section 3 of the principal Act.....
 - 4. Amendment of the Third Schedule of the principal Act.....
- OBJECTS AND REASONS.....**
-

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ANNEX 1

BANKS AND TRUST COMPANIES (AMENDMENT) BILL, 2017

BANKS AND TRUST COMPANIES REGULATION (AMENDMENT) BILL, 2017

A BILL FOR AN ACT TO AMEND THE BANKS AND TRUST COMPANIES REGULATION ACT TO PROVIDE FOR THE REGULATION OF EXECUTIVE ENTITIES BY THE CENTRAL BANK OF THE BAHAMAS

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act, which amends the Banks and Trust Companies Regulation Act, may be cited as the Banks and Trust Companies Regulation (Amendment) Act, 2017.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice published in the Gazette.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended by —

- (a) the insertion in the appropriate alphabetical order of the following terms and their definitions —

“Executive Entity” has the meaning ascribed to the term by section 2 of the Executive Entities Act;

“Executive Entity Agent” has the meaning ascribed to the term by section 2 of the Executive Entities Act;

“Foundation” has the meaning ascribed to the term by section 2 of the Foundations Act;

“Foundation Agent” has the meaning ascribed to the term by section 2 of the Foundations Act;

“Qualified Executive Entity” means an Executive Entity registered in accordance with the provisions of the Executive Entities Act which by its Charter and Articles

- (a) acts as trustee for a trust or trusts created or to be created by or at the direction only of a Designated Person or Designated Persons or an individual or individuals who are related by consanguinity or other family relationships to the Designated Person described within the Designating Instrument or, if there is more than one Designated Person so described, to a Designated Person, which Designated Person or Designated Persons need not be named in such Executive Entity’s Charter and/or Articles except

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where the Designated Person or Designated Persons is also the Founder or Founders of the Executive Entity;

(b) owns, manages and holds trust assets;

(c) is required to have a Registered Representative; and

(d) is not the subject of a notice of withdrawal made under section 4(7).”;

(b) the deletion of the definition of “Designating Instrument” and its substitution with the following —

“**Designating Instrument**” means an instrument in the form specified in the First Schedule to the Banks and Trust Companies (Private Trust Companies and Qualified Executive Entities) Regulations;”;

(c) the deletion of the definition of “Registered Representative” and its substitution with the following —

“**Registered Representative**” means a person resident in The Bahamas that is licensed pursuant to section 3(2) or a licensed Financial and Corporate Service Provider registered by the Central Bank to provide to —

(a) a Private Trust Company, the services of a —

(i) secretary;

(ii) director;

(iii) Bahamas Agent,

(b) a Qualified Executive Entity, the services of an Executive Entity Agent; and

(c) a Foundation, the services of a Foundation Agent;”

3. Amendment of section 3 of the principal Act.

Section 3 of the principal Act is amended by —

(a) the insertion in subsection (2) immediately after the words “trust company” of the words “or Executive Entity”;

(b) the deletion in subsection (4) of the words “subsections (1) and (2) of section 3” and the substitution therefor of the following words, numbers and symbols: “sections 3(1), 3(2) and 4(1)”;

(c) the insertion in subsection (5) immediately after the words “Private Trust Companies” of the words and symbol “, Qualified Executive Entities”; and

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(d) the insertion in subsection (6) immediately after the words “Private Trust Company” wherever they appear in the chapeau of the words and symbol “, Qualified Executive Entity”.

4. Amendment of the Third Schedule of the principal Act.

The principal Act is amended in the Third Schedule by the insertion of the following subparagraphs in the appropriate alphabetical order in paragraph 2 –

(y) Grant of approval to act as a Registered Representative of a Private Trust Company or Qualified Executive Entity	2,500
(z) Continuance in being on the first day of January in any year as a Registered Representative as mentioned in sub-paragraph (y) of this paragraph.	2,500
(za) On commencement of the business of a Qualified Executive Entity.	7,500
(zb) Continuance in being on the first day of January in any year as a Qualified Executive Entity mentioned in paragraph (za).	7,500”

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ANNEX 1

OBJECTS AND REASONS

The amendments will permit the Central Bank of The Bahamas to regulate Executive Entities registered under the provisions of the Executive Entities Act that exercise the powers and duties of trustees.

Clause 1 of the Bill empowers the Minister to appoint a commencement date for its enforcement.

Clause 2 of the Bill amends section 2 of the principal Act to insert new definitions for the terms “Executive Entity”, “Executive Entity agent”, “foundation”, “foundation agent” and “Qualified Executive Entity” and re-defines the term “Registered Representative”.

Clause 3 of the Bill amends section 3 of the principal Act to make the provisions of the principal Act applicable to Qualified Executive Entities and to make it clear that: (1) the Central Bank may impose any of the sanctions set out in section 18(1)(b), (c), (d), (e), (f), (g), (h) or (i) of the principal Act against a Qualified Executive Entity and a Registered Representative that provides Executive Entity agent services to a Qualified Executive Entity, and (2) any specified person or class of persons, or any specified class or part of any class of banking or trust business which is by Regulation exempt from the provisions of sections 3(1) and (2) of the principal Act, are also exempt from the requirement to make application for the grant of a licence under subsection 4(1).

Clause 4 of the Bill amends the Third Schedule of the principal Act to make provision for the payment of fees by Qualified Executive Entities and by Registered Representatives of Qualified Executive Entities.

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ANNEX 2

EXECUTIVE ENTITIES (AMENDMENT) BILL, 2017

Arrangement of Sections

Section

- 1. Short title and commencement.....
- 2. Amendment of section 13 of the principal Act.....

OBJECTS AND REASONS.....

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ANNEX 2

EXECUTIVE ENTITIES (AMENDMENT) BILL, 2017

EXECUTIVE ENTITIES (AMENDMENT) BILL, 2017

**A BILL FOR AN ACT TO AMEND THE EXECUTIVE ENTITIES ACT TO
PROVIDE FOR THE REGULATION OF CERTAIN EXECUTIVE ENTITIES BY
THE CENTRAL BANK OF THE BAHAMAS**

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act, which amends the Executive Entities Act, may be cited as the Executive Entities (Amendment) Act, 2017.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice published in the Gazette.

2. Amendment of section 13 of the principal Act.

Section 13 of the principal Act is amended by the insertion in subsection (12) of the words “or registered” immediately after the word “licensed”.

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ANNEX 2

OBJECTS AND REASONS

The purpose of the amendment is to provide for the Central Bank of The Bahamas to regulate certain Executive Entities, which are registered under the provisions of the Executive Entities Act.

Clause 1 of the Bill empowers the Minister to appoint a commencement date for its enforcement.

Clause 2 of the Bill amends section 13(12) of the principal Act to provide for an Executive Entity established under the Act to be subject to the regulatory oversight of the regulator that either licenses or registers the Executive Entity's agent.

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ANNEX 3

BUSINESS LICENCE (AMENDMENT) BILL, 2017

Arrangement of Sections

Section

- 1. Short title and commencement.....
- 2. Amendment of section 36 of the principal Act.....

OBJECTS AND REASONS.....

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ANNEX 3

BUSINESS LICENCE (AMENDMENT) BILL, 2017

BUSINESS LICENCE (AMENDMENT) BILL, 2017

**A BILL FOR AN ACT TO AMEND THE BUSINESS LICENCE ACT TO PROVIDE
FOR CERTAIN EXEMPTIONS**

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act, which amends the Business Licence Act², may be cited as the Business Licence (Amendment) Act, 2017.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice published in the Gazette.

2. Amendment of section 36 of the principal Act.

Section 36 of the principal Act is amended –

- (a) by inserting, immediately after paragraph (i), the following as paragraphs (j) and (k)-

“(j) by any Private Trust Company or Qualified Executive Entity which is exempt from the licensing requirements of the Banks and Trust Companies Regulation Act (Ch. 316), pursuant to section 3(4) of that Act and has satisfied the Secretary for Revenue that they have paid the requisite fee under the Banks and Trust Companies Regulation Act (Ch. 316); and

(k) by any Money Transmission Service Provider licensed under the Banks and Trust Companies Regulation Act (Ch. 316) or Money Transmission Service Agent registered under that Act which has satisfied the Secretary for Revenue that they have paid the requisite fee under the Banks and Trust Companies Regulation Act (Ch. 316).”

² (No. 25 of 2010)

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OBJECTS AND REASONS

The amendments expand the list of persons exempted from the requirement to pay annual business licence tax under the Business Licence Act 2010.

Clause 1 of the Bill empowers the Minister to appoint a commencement date for its enforcement.

Clause 2 of the Bill amends section 36 of the principal Act to provide for an exemption from the requirement to pay annual business licence tax for certain trust companies and Executive Entities which are exempt from the licensing requirements under the provisions of the Banks and Trust Companies Regulation Act and Money Transmission Service Providers and Money Transmission Service Agents which are either licensed or registered under the Banks and Trust Companies Regulation Act.

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ANNEX 4

BANKS AND TRUST COMPANIES (PRIVATE TRUST COMPANIES AND QUALIFIED EXECUTIVE ENTITIES) REGULATIONS

BANKS AND TRUST COMPANIES REGULATION ACT (CHAPTER 316)

BANKS AND TRUST COMPANIES (PRIVATE TRUST COMPANIES AND QUALIFIED EXECUTIVE ENTITIES) REGULATIONS

The Governor of the Central Bank of The Bahamas, in exercise of the powers conferred by section 24 of the Banks and Trust Companies Regulation Act makes the following Regulations —

1. Citation

These Regulations may be cited as the Banks and Trust Companies (Private Trust Companies and Qualified Executive Entities) Regulations.

2. Interpretation

(1) In these Regulations —

“**Executive Entity assets**” has the meaning ascribed to the term in the Executive Entities Act;

“**Financial and Corporate Service Provider**” means a licensee under the Financial and Corporate Service Providers Act;

“**Registrar**” means the Registrar General;

“**Special Director**” means a person of good reputation (who need not be resident in The Bahamas), who also possesses at least five years’ experience in a discipline relevant to the administration of trusts, which, in this context, shall include one or more of law, finance, commerce, investment management or accountancy;

“**Special Officer**” and “**Special Council Member**” means a person of good reputation (who need not be resident in The Bahamas) appointed in accordance with section 11 and 17 respectively of the Executive Entities Act, who also possesses at least five years’ experience in a discipline relevant to the administration of trusts, which, in this context, shall include one or more of law, finance, commerce, investment management or accountancy;

“**the Act**” means the Banks and Trust Companies Regulation Act;

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“**transaction**” has the same meaning as in section 2 of the Financial Transactions Reporting Act.

(2) Any terms used in these regulations without definitions shall, unless the context indicates otherwise, have the same meaning ascribed to those terms in the Act.

3. Exemption of Private Trust Companies and Qualified Executive Entities

- (1) A trust company or an Executive Entity is exempt from the requirements of section 3(2) of the Act if —
 - (a) it complies with the definition of “Private Trust Company” or “Qualified Executive Entity”, as the case may be, in section 2 of the Act;
 - (b) it has a single Designating Instrument in the form specified in the First Schedule which designates the individual or individuals who shall be the Designated Person or Designated Persons in relation to that company or Executive Entity; and
 - (c) it does not solicit trust business.
- (2) A trust company or an executive entity, which is exempt pursuant to sub-regulation 3(1), shall, for the purposes of these Regulations, be referred to respectively as a “Private Trust Company” and a “Qualified Executive Entity” and such company or Executive Entity shall also be exempt from the requirements of sections 5, 8, 12, 14, 15 and 20 of the Act.
- (3) A Registered Representative shall certify to the Central Bank in Form A prescribed in the Second Schedule that a trust company qualifies for an exemption by virtue of the restrictions specified in paragraph (1) —
 - (a) within three months of the date of appointment as a Registered Representative, where the trust company has been incorporated —
 - (i) under the Companies Act (Ch. 308); or
 - (ii) under the International Business Companies Act (Ch. 309),before the date of coming into force of these Regulations.
 - (b) within three months of the date of the trust company's incorporation, where the trust company has been incorporated —
 - (i) under the Companies Act (Ch. 308);
 - (ii) under the International Business Companies Act (Ch. 309);after the date of coming into force of these Regulations

Provided that the Central Bank may extend the time for such certification for such further period as the Central Bank deems necessary.

- (4) A Registered Representative shall certify to the Central Bank in the Form B prescribed in the Second Schedule that an executive entity qualifies for an exemption by virtue of the restrictions specified in paragraph (1) —
 - (a) within three months of the date of the Executive Entity's registration pursuant to the Executive Entities Act, where the Executive Entity has been registered after the 31st day of December 2011; and

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- (b) within three months of the date of appointment as a Registered Representative, where the Executive Entity has been registered under the Executive Entities Act, before the date of coming into force of these Regulations,

Provided that the Central Bank may extend the time for such certification for such further period as the Central Bank deems necessary.

- (5) A Registered Representative of a Private Trust Company or a Qualified Executive Entity which at any time ceases to meet the requirements of paragraph (1) shall, within five business days of the Private Trust Company or a Qualified Executive Entity ceasing to meet such requirements –
 - (a) notify the Inspector in writing of such change; and
 - (b) provide the Inspector with information and documents in respect of such change as the Inspector may require.

4. Registration of Private Trust Companies and Qualified Executive Entities

- (1) The Central Bank may, upon receipt of the certificate referred to in regulation 3(3) or 3(4) and subject to such terms and conditions as it may require register:
 - (a) the trust company as a Private Trust Company; or
 - (b) the Executive Entity as a Qualified Executive Entity.
- (2) A Registered Representative shall continue to submit the Registered Representative Certification to the Central Bank by 31st January of each year.

5. Requirements for Private Trust Companies and Qualified Executive Entities

- (1) A Private Trust Company or a Qualified Executive Entity shall, at all times:
 - (a) have a Registered Representative in The Bahamas;
 - (b) have at least one –
 - (i) Special Director, in the case of a Private Trust Company; and
 - (ii) Special Officer or Special Council Member, in the case of a Qualified Executive Entity,except where an officer of a licensee serves as the company's or Executive Entity's Registered Representative;
 - (c) maintain, at the offices of the Registered Representative, a copy of the Designating Instrument pertaining to the Private Trust Company or Qualified Executive Entity; and
 - (d) where possible, be in possession of a settlor's acknowledgement in respect of each trust for which the Private Trust Company or Qualified Executive Entity serves as trustee, in the form appearing in the Third Schedule in the case of a Private Trust Company, or the Fourth Schedule in the case of a Qualified Executive Entity.
- (2) A Private Trust Company or Qualified Executive Entity shall, within ten days, or such shorter period of being requested by its Registered Representative, provide to it all information, which such Registered Representative requires in order to enable that Registered Representative to discharge its obligations under these Regulations.

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- (3) A Private Trust Company or Qualified Executive Entity shall not —
- (a) amend, in any manner that would cause them to be or become inconsistent with the definitions of “Private Trust Company” or “Qualified Executive Entity”, as the case may be, in section 2 of the Act –
 - (i) the Memorandum or Articles of Association of the Private Trust Company; or
 - (ii) the Charter or Articles of the Qualified Executive Entity; or
 - (b) conduct its operations in any manner inconsistent with these Regulations.
- (4) A Qualified Executive Entity shall forthwith notify the Inspector in writing of –
- (a) any change in its principal address;
 - (b) the appointment of a special auditor pursuant to section 45(1) of the Executive Entities Act;
 - (c) the revocation or amendment of a Qualified Executive Entity’s Charter pursuant to section 46 of the Executive Entities Act;
 - (d) the service of any notice by the Registrar relating to the suspension, revocation or restoration of the registration of a Qualified Executive Entity pursuant to sections 50 and 51 of the Executive Entities Act; and
 - (e) the winding up and dissolution of a Qualified Executive Entity pursuant to section 47 of the Executive Entities Act.
- (5) A Private Trust Company shall be a company –
- (a) either limited by shares and at all times having a minimum paid up share capital of five thousand dollars; or
 - (b) limited by guarantee in the minimum sum of five thousand dollars.
- (6) A Qualified Executive Entity shall at all times maintain executive entity assets, excluding trust assets, of not less than five thousand dollars.

6. Private Trust Companies and Qualified Executive Entities Fees

A Private Trust Company or Qualified Executive Entity, as the case may be, shall pay such fees as may be prescribed in the Third Schedule to the Act.

7. Application to act as Registered Representative

- (1) No person, other than a person licensed pursuant to section 3(2) of the Act, may act as a Registered Representative of a Private Trust Company or Qualified Executive Entity unless that person’s business is limited to acting as a Registered Representative only and, that person —
- (a) holds a valid Financial and Corporate Service Provider’s licence issued pursuant to the Financial and Corporate Service Providers Act; and
 - (b) has been registered by the Central Bank as a Registered Representative.
- (2) A Financial and Corporate Service Provider who desires to act as a Registered Representative for a Private Trust Company or Qualified Executive Entity shall before proceeding to act as such Registered Representative, apply to be registered by the Central

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Bank to perform the functions of a Registered Representative and shall provide the following information to the Central Bank:

- (a) a certified copy of the applicant's current Financial and Corporate Service Providers licence;
 - (b) evidence, such as the Central Bank may require, of the nature and sufficiency of the financial resources of the applicant, which are to be used to fund the business of acting as a Registered Representative; and
 - (c) such other particulars as the Central Bank may require.
- (3) In determining whether or not to register an applicant, the Central Bank shall consider the following factors —
- (a) whether the Financial and Corporate Service Provider is a fit and proper person to act as a Registered Representative for Private Trust Companies or Qualified Executive Entities;
 - (b) whether the Financial and Corporate Service Provider has sufficient human and physical resources to discharge its duties as Registered Representative of a Private Trust Company or a Qualified Executive Entity;
 - (c) the business record and relevant experience of the applicant or of the beneficial owner(s) of the applicant; and
 - (d) the best interests of the financial system in The Bahamas,

and, if satisfied, may register the Financial and Corporate Service Provider as a Registered Representative, subject to such terms and conditions, if any, as the Central Bank may deem necessary.

- (4) Whenever the Central Bank considers it to be in the public interest, the Central Bank may refuse to grant approval for a Financial and Corporate Service Provider to act as a Registered Representative and shall not be required to give reasons for such refusal.
- (5) In respect of any registration granted under paragraph (3), the Central Bank may at any time —
- (a) make the approval subject to such conditions or limitations as the Central Bank considers necessary;
 - (b) revoke any condition or limitation to which the registration is subject; or
 - (c) cancel the registration:

Provided that before taking any action under sub-paragraphs (a), (b) or (c), the Central Bank shall provide the Financial and Corporate Service Provider with an opportunity to make representations regarding any proposed action.

- (6) A Registered Representative shall inform the Inspector in writing —
- (a) of any change in its principal address; and
 - (b) if it ceases to act as Registered Representative for a Private Trust Company or Qualified Executive Entity,

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within five business days of the occurrence of an event described in sub-paragraphs (a) or (b).

- (7) A Registered Representative shall be exempt from the requirements of section 4(5) of the Act.

8. Registered Representative Annual Reporting Requirements

A Registered Representative shall provide the following information with respect to its operations to the Central Bank –

- (a) a copy of the Annual Statement prepared in accordance with section 58(1) of the Companies Act and a copy of the Annual Return prepared in accordance with section 59(1) of the Companies Act, each of which should clearly show the stamped filing date of the Registrar General's Department;
- (b) audited financial statements, which should be –
 - (i) submitted to the Central Bank within four months of the end of the Registered Representative's financial year, unless prior written approval for an extension has been granted by the Central Bank; and
 - (ii) prepared in accordance with International Financial Reporting Standards;
- (c) quarterly unaudited financial accounts showing the balance sheet and profit and loss reports, which should be submitted to the Central Bank within twenty-one days of the quarter-end of the company; and
- (d) a certification signed by all directors, which should –
 - (i) confirm that the Registered Representative continues to meet the prescribed minimum share capital requirement of \$50,000.00;
 - (ii) confirm that the Registered Representative has complied with the terms and conditions of its registration for the year; and
 - (iii) be filed with the Central Bank within 30 days of the end of each calendar year.

9. Registered Representative Fees

A Registered Representative shall pay such fees as are prescribed in the Third Schedule of the Act.

10. Minimum share capital for Registered Representative

A Registered Representative shall have and maintain a minimum paid up share capital of not less than fifty thousand dollars.

11. Notification of change

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Subject to regulation 7(6)(a), where any of the particulars provided in the application of a Registered Representative change, such Registered Representative shall within thirty days of such change notify the Central Bank in writing of the change.

12. Certificate of Registration to be displayed

Certificates of Registration granted by the Central Bank pursuant to regulation 7(3) shall be prominently displayed on the premises where the Registered Representative conducts its business.

13. Requirements for providing trust services

No Registered Representative shall act for a Private Trust Company or Qualified Executive Entity unless such Registered Representative —

- (a) is in possession of a Designating Instrument identifying the Designated Person or Designated Persons in respect of the Private Trust Company or Qualified Executive Entity;
- (b) has been reasonably satisfied by the Private Trust Company or Qualified Executive Entity that the Private Trust Company or Qualified Executive Entity, as the case may be, is being established for lawful purposes; and
- (c) has been reasonably satisfied that the company or Executive Entity shall operate as a Private Trust Company or Qualified Executive Entity, as the case may be, as defined in section 2 of the Act.

14. Documents to be kept in The Bahamas

- (1) A Registered Representative shall, except in relation to sub-paragraph (e) where it may, at all times maintain in The Bahamas copies of the following documents in relation to each Private Trust Company or Qualified Executive Entity for which it provides private trust services or Executive Entity agent services, as the case may be —
 - (a) Memorandum and Articles of Association of the Private Trust Company or the Charter or Articles of the Qualified Executive Entity, as the case may be;
 - (b) Designating Instrument;
 - (c) *curriculum vitae* of the Special Director of each Private Trust Company or the Special Officer or Special Council Member of each Qualified Executive Entity, if any, from time to time acting in such capacity;
 - (d) trust instruments for each trust (including any sub-trusts or appointed trusts) administered by the Private Trust Company or Qualified Executive Entity;
 - (e) an acknowledgement in the form set out in the Third or Fourth Schedule; and
 - (f) a list of all Private Trust Companies or Qualified Executive Entities for which it acts as Registered Representative.
- (2) Every Registered Representative shall, on or before 31st January of each year, obtain from the directors of each Private Trust Company for which it provides private trust services or the officers or council of each Qualified Executive Entity for which it provides Executive Entity agent services, a duly completed Compliance Certificate in the form set out in the Fifth Schedule.

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- (3) Where a Registered Representative acts as a Bahamas Agent of a Private Trust Company, it shall enter into a service agreement with the company to provide administrative services to the company including —
- (a) if requested, the preparation of the resolutions and minutes of the company's Board of Directors' meetings; and
 - (b) maintenance of the resolutions and minutes of the company's Board of Directors' meetings.
- (4) A Registered Representative is required in relation to each Private Trust Company or Qualified Executive Entity for which it acts as Registered Representative:
- (a) to verify the identities of the following persons in accordance with the Financial Transactions Reporting Act and the Financial Transactions Reporting Regulations and to maintain in The Bahamas information and documents relating to such verification:
 - (i) the settlor or Founder, as the case may be, and any person who endows or provides the funds or assets which are subject to the trust or trusts administered by the Private Trust Company or Qualified Executive Entity;
 - (ii) a Designated Person;
 - (iii) the protector of any trusts of which the Private Trust Company or Qualified Executive Entity is trustee;
 - (iv) a person who has a vested interest under any trust of which the Private Trust Company or Qualified Executive Entity is trustee;
 - (v) any person or persons to whom the Founder of a Qualified Executive Entity assigns any or all of his rights, powers and obligations pursuant to section 9(2) of the Executive Entities Act;
 - (vi) the Officers of the Qualified Executive Entity, if any;
 - (vii) the Council Members of the Qualified Executive Entity, if any;
 - (viii) any person to whom an Officer delegates any of his powers as provided for by the Qualified Executive Entity's Charter and Articles pursuant to section 12(4) of the Executive Entities Act;
 - (ix) any person to whom a Council Member delegates any of his powers as provided for by the Qualified Executive Entity's Charter and Articles pursuant to section 18(4) of the Executive Entities Act; and
 - (x) any person or persons specified in the Qualified Executive Entity's Charter as having standing (as a right and not as a duty) to enforce any or all of the duties of any or all Officers, Council Members or the Executive Entity Agent pursuant to section 7(2)(j) of the Executive Entities Act; and
 - (b) to report to the Financial Intelligence Unit any transaction or proposed transaction which the Registered Representative knows, suspects or has reasonable grounds to suspect involves proceeds of criminal conduct as defined in the Proceeds of Crime Act, or any offence under the Proceeds of Crime Act or an attempt to avoid the enforcement of any provision of the Proceeds of Crime Act.

15. Offences

- (1) Any person who —

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- (a) with intent to deceive, by any act or omission contravenes any provision of these Regulations, commits an offence and is liable on summary conviction to a fine not exceeding \$25,000; or
 - (b) with intent to deceive, for any purposes of these Regulations, makes any representation that he knows to be false or does not believe to be true, commits an offence and is liable on summary conviction to a fine not exceeding \$25,000.
- (2) Where a Registered Representative, Private Trust Company or Qualified Executive Entity, as the case may be, is convicted of an offence under paragraph (1), every director, officer or council member, as the case may be, concerned with the management of the Registered Representative, Private Trust Company or Qualified Executive Entity is also liable to be convicted for that offence unless he satisfies the court that the offence was committed without his knowledge or consent or that he took all reasonable steps to prevent the commission of the offence.

16. Repeal

The Banks and Trust Companies (Private Trust Companies) Regulations (S.I. 1/2007) is hereby repealed.

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FIRST SCHEDULE
(Regulation 3(1))

DESIGNATING INSTRUMENT

[INSERT PRIVATE TRUST COMPANY/QUALIFIED EXECUTIVE ENTITY NAME]

I, [INSERT DIRECTOR/OFFICER/COUNCIL MEMBER NAME], hereby confirm that in relation to [INSERT PRIVATE TRUST COMPANY NAME], a Company (incorporated/to be incorporated)/[NAME OF QUALIFIED EXECUTIVE ENTITY, an Executive Entity (registered/to be registered)] under the laws of the Commonwealth of The Bahamas, the Designated Person or Designated Persons for the purposes of Section 2 of the Act shall be: [INSERT NAME(S) OF INDIVIDUAL(S)].

Signed:

.....
DIRECTOR/OFFICER/COUNCIL MEMBER

Acknowledged

by:.....
[INSERT PRIVATE TRUST COMPANY/QUALIFIED EXECUTIVE ENTITY NAME]

Date:.....

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SECOND SCHEDULE
(Regulation 3(3))

**REGISTERED REPRESENTATIVE
CERTIFICATION**

FORM A – For use with Private Trust Companies

We the directors of [COMPANY NAME], a Registered Representative of [NAME OF PRIVATE TRUST COMPANY] established under the laws of the Commonwealth of The Bahamas pursuant to the [Companies Act 1992 / International Business Companies Act 2000] hereby declare that [NAME OF PRIVATE TRUST COMPANY] qualifies for an exemption by virtue of the restriction specified in Regulation 3(1) of the Banks and Trust Companies (Private Trust Companies and Qualified Executive Entities) Regulations, 2018.

We declare that the liability of the members of [NAME OF PRIVATE TRUST COMPANY] are limited by [SHARES/GUARANTEE] and the authorized share capital is [INSERT AMOUNT] in the currency of [INSERT CURRENCY]/the aggregate liability of all current members is limited to a total guarantee of [INSERT AMOUNT].

FOR AND ON BEHALF OF
[COMPANY NAME: Registered Representative]

Signed:

Name (PLEASE PRINT)

Name (PLEASE PRINT)

Date

Date

Acknowledged by: [INSERT PRIVATE TRUST COMPANY NAME]

Signature

Name of Signatory (PLEASE PRINT)

Title of Signatory

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FORM B – For use with QUALIFIED EXECUTIVE ENTITIES

We the directors of [COMPANY NAME], a Registered Representative of [NAME OF QUALIFIED EXECUTIVE ENTITY] established under the laws of the Commonwealth of The Bahamas pursuant to the Executive Entities Act, 2011 hereby declare that [NAME OF QUALIFIED EXECUTIVE ENTITY] qualifies for an exemption by virtue of the restriction specified in Regulation 3(1) of the Banks and Trust Companies (Private Trust Companies and Qualified Executive Entities) Regulations, 2018.

We declare that the executive entity assets, excluding trust assets, of [NAME OF QUALIFIED EXECUTIVE ENTITY] is [INSERT AMOUNT] in the currency of [INSERT CURRENCY].

FOR AND ON BEHALF OF
[COMPANY NAME: Registered Representative]

Signed:

Name (PLEASE PRINT)

Name (PLEASE PRINT)

Date

Date

Acknowledged by: [INSERT QUALIFIED EXECUTIVE ENTITY NAME]

Signature

Name of Signatory (PLEASE PRINT)

Title of Signatory

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THIRD SCHEDULE

(Regulation 5(1))

**FORM OF ACKNOWLEDGEMENT TO BE EXECUTED BY SETTLOR OF TRUST
(PRIVATE TRUST COMPANY)**

I, [INSERT SETTLOR’S NAME], hereby acknowledge that in relation to [INSERT COMPANY NAME] (the “Company”) a company [incorporated/to be incorporated] under the laws of the Commonwealth of The Bahamas:

(i) that the Company's directors are not required by law to possess or exhibit expertise in trust administration and, therefore, said directors may, in fact, not be possessed of or exhibit such skill,

(ii) that Company is not required by law to provide any fidelity bond;

(iii) that the capital of the Company is not required by law to exceed Five Thousand Dollars and may, therefore, be minimal; and

(iv) that Company is not required by law to perform an annual audit.

Accordingly, accepting the foregoing and fully understanding the legal implications hereof, I hereby waive any and all rights of complaint in respect of these matters.

Signed:

.....
Settlor

Acknowledged

by:.....
[INSERT COMPANY NAME]

Date:.....

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FOURTH SCHEDULE

(Regulation 5(1))

**FORM OF ACKNOWLEDGEMENT TO BE EXECUTED BY SETTLOR OF TRUST
(QUALIFIED EXECUTIVE ENTITY)**

I, [INSERT SETTLOR’S NAME], hereby acknowledge that in relation to [INSERT QUALIFIED EXECUTIVE ENTITY NAME] an executive entity [registered/to be registered] under the laws of the Commonwealth of The Bahamas (the “Qualified Executive Entity”) the:

- (i) Qualified Executive Entity's Officers and Council Members, with the exception of any Special Officer or Special Council Member, are not required by law to possess or exhibit expertise in trust administration and, therefore, said Officers and Council Members may, in fact, not be possessed of or exhibit such skill;
- (ii) Qualified Executive Entity is not required by law to provide any fidelity bond;
- (iii) capital of the Qualified Executive Entity is not required by law to exceed Five Thousand Dollars and may, therefore, be minimal; and
- (iv) Qualified Executive Entity is not required by law to perform an annual audit.

Accordingly, accepting the foregoing and fully understanding the legal implications hereof, I hereby waive any and all rights of complaint in respect of these matters.

Signed:

.....

Settlor

Acknowledged

by:.....
[INSERT QUALIFIED EXECUTIVE ENTITY NAME]

Date:.....

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FIFTH SCHEDULE

(Regulation 14(2))

FORM OF COMPLIANCE CERTIFICATE TO BE EXECUTED BY DIRECTORS OF PRIVATE TRUST COMPANY/OFFICERS OR COUNCIL MEMBERS OF QUALIFIED EXECUTIVE ENTITY

[INSERT PRIVATE TRUST COMPANY/QUALIFIED EXECUTIVE ENTITY NAME]

We, the undersigned [directors (the “Directors”) of (INSERT COMPANY NAME), a Company]/[officers/council members of (INSERT QUALIFIED EXECUTIVE ENTITY NAME), an Executive Entity] established under the laws of the Commonwealth of The Bahamas (the “Company”/“Executive Entity”) hereby declare that between [DATE] and [DATE]:

1. The [Company/Executive Entity] has served only as trustee of a trust or trusts for a Designated Person or Designated Persons or an individual or individuals who are related by consanguinity or other family relationships to the Designated Person or Designated Persons and has not carried on any business or activity which was prohibited;
2. The [Directors/Officers/Council Members] have acted honestly and in good faith with a view to the best interest of the [Company/Executive Entity]; and
3. The [Company/Executive Entity] continues to meet the requirements of regulation [3(1)] and to comply with all applicable requirements.

And we each make this solemn declaration conscientiously believing it to be true.

.....
Director/Officer/Council Member
[INSERT COMPANY/EXECUTIVE
ENTITY NAME]

.....
Director/Officer/Council Member
[INSERTCOMPANY EXECUTIVE/
ENTITY NAME]

Date:.....

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The Central Bank of The Bahamas



GENERAL INFORMATION AND APPLICATION GUIDELINES FOR PRIVATE TRUST COMPANIES, QUALIFIED EXECUTIVE ENTITIES AND THEIR REGISTERED REPRESENTATIVES

Issued: January 10, 2007

Last Revised (Version 8): xxxxx, 2018

Disclaimer: These Guidelines do not constitute financial or other professional advice. You should consult your professional adviser if you require financial advice. These Guidelines are subject to periodic review and amendment by The Central Bank of The Bahamas.

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1. INTRODUCTION & APPLICABILITY

- 1.1 The Central Bank of The Bahamas (“the Central Bank”) is responsible for the licensing, regulation and supervision of banks and trust companies operating in and from within The Bahamas. The Banks and Trust Companies Regulation Act (“the BTCRA”) as amended³, and the Banks and Trust Companies (Private Trust Companies and Qualified Executive Entities) Regulations, 20xx, (“the Regulations”) provide for the regulation of Private Trust Companies (“PTCs”) and Qualified Executive Entities (“QEEs”).
- 1.2 These Guidelines outline the Central Bank’s policy with regard to the approval of Registered Representatives of PTCs and QEEs and their ongoing regulation and supervision. They also provide general information on PTCs and QEEs and necessary requirements for their establishment.

2. DEFINITIONS

- 2.1 **Bahamas Agent** is a Registered Representative who provides administrative services to a PTC under a service agreement.
- 2.2 **Council** means the council of a QEE provided for in section 17 of the Executive Entities Act.
- 2.3 **Designated Person** is the individual or individuals (whether living or deceased) described as such within a Designating Instrument provided that if more than one Designated Person is described as such, each Designated Person must be related to a Designated Person so described by consanguinity or some other family relationship. Settlers of assets administered by a PTC must be related to a Designated Person(s). A Designated Person may also be a settlor of such assets.
- 2.4 A **Designating Instrument** is an instrument in the form specified in the First Schedule to the Regulations.
- 2.5 **Executive Entity, Executive Entity Agent** and **Executive Entity assets**, all have the meanings ascribed to the terms by section 2 of the Executive Entities Act.
- 2.6 **Financial and Corporate Service Provider** means a licensee under the Financial and Corporate Service Providers Act.
- 2.7 **Foundation** and **Foundation Agent**, each have the meanings ascribed to the terms by section 2 of the Foundations Act.
- 2.8 **Private Trust Company** is a company incorporated under the provisions of the Companies Act or the International Business Companies Act, which by its Memorandum and Articles of Association
- i. acts as a trustee only for a trust or trusts created or to be created by or at the direction of a Designated Person(s) or an individual or individuals who are related by consanguinity or other family relationships to the Designated Person described within the Designating

³ See the Banks and Trust Companies (Amendment) Act, 20xx.

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Instrument or, if there is more than one Designated Person so described, to a Designated Person, which Designated Person or Designated Persons need not be named in such company's Memorandum and/or Articles of Association;

- ii. is required to have a Registered Representative; and
- iii. is not the subject of a notice of withdrawal made under section 4(7) of the BTCRA.

2.9 **Qualified Executive Entity** means an Executive Entity registered in accordance with the provisions of the Executive Entities Act which by its Charter and Articles —

- (a) acts as trustee for a trust or trusts created or to be created by or at the direction only of a Designated Person or Designated Persons or an individual or individuals who are related by consanguinity or other family relationships to the Designated Person described within the Designating Instrument or, if there is more than one Designated Person so described, to a Designated Person, which Designated Person or Designated Persons need not be named in such Executive Entity's Charter and/or Articles except where the Designated Person or Designated Persons is also the Founder or Founders of the Executive Entity;
- (b) owns, manages and holds trust assets;
- (c) is required to have a Registered Representative; and
- (d) is not the subject of a notice of withdrawal made under section 4(7).

2.10 A **Registered Representative** means a person resident in The Bahamas that is licensed pursuant to section 3(2) or a licensed Financial and Corporate Service Provider registered by the Central Bank to provide to —

- (a) a Private Trust Company, the services of a —
 - (i) secretary;
 - (ii) director;
 - (iii) Bahamas Agent,
- (b) a Qualified Executive Entity, the services of an Executive Entity Agent; and
- (c) a Foundation, the services of a Foundation Agent.

2.11 **Registrar** means the Registrar General.

2.12 **Special director** means a person (who need not necessarily be resident in The Bahamas) of good reputation who also possesses at least five years' experience in a discipline relevant to the administration of trusts which, in this context, shall include one or more of law, finance, commerce, investment management or accountancy.

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2.13 Special Officer and Special Council Member means a person of good reputation (who need not be resident in The Bahamas) appointed in accordance with section 11 and 17 respectively of the Executive Entities Act, who also possesses at least five years' experience in a discipline relevant to the administration of trusts, which, in this context, shall include one or more of law, finance, commerce, investment management or accountancy.

3. PURPOSE

3.1 Under the BTCRA, the Central Bank issues public trust company, restricted trust company and nominee trust company licences. The BTCRA and the Regulations, create a unique type of trust company known as a PTC, which is exempt from the licensing requirements of the BTCRA otherwise applicable to the preceding list of trust companies. The legislation also brings Executive Entities which conduct trust activities under the regulatory oversight of the Central Bank and allows for the exemption of the QEE from the licensing requirements of the BTCRA. The regulatory regime for PTCs and QEEs is designed to ensure high standards of business conduct, professionalism and competence for PTCs and QEEs, while offering an appropriate level of regulatory oversight consistent with the limited activities of such entities. PTCs and QEEs are, by their nature, often formed for acting as trustee of a single trust, or a group of related trusts.

4. REGULATORY FRAMEWORK FOR PRIVATE TRUST COMPANIES AND QUALIFIED EXECUTIVE ENTITIES

4.1 PTCs and QEEs are exempted pursuant to section 3(4) of the BTCRA and regulation 3(1) of the Regulations from the licensing requirements for trust companies. PTCs are also exempted under section 6 (1) of the BTCRA from seeking the Central Bank's prior approval for the transfer or disposal of shares of the company, provided that the Registered Representative shall at all times maintain a current share register of all shareholders of the PTC.

4.2 Under section 7 of the BTCRA, a PTC may not use or continue to use the words "trust", "trust company", or "trust corporation" or any of their derivatives in its name, unless approved by the Central Bank. The Central Bank has issued a guidance note (see copy on the Central Bank's website in the Bank Supervision Section under "Notes and Notices") on the use of "prohibited words", which outlines the Central Bank's current policy on the granting of specific consents for the use of prohibited words by any company, other than a licensee of the Central Bank. Notwithstanding the foregoing, the Central Bank will have no objection to the use of the initials ("P.T.C") at the end of the name of a Private Trust Company.

4.3 Registered Representatives are the main points of contact for the Central Bank in relation to PTCs and QEEs. A Registered Representative is required to have and maintain a minimum paid up **share capital** of not less than fifty thousand dollars (\$50,000) and, if a non-licensee of the Central Bank, to pay an annual fee of \$2,500. Pursuant to sections 13 and 18 of the BTCRA, the Central Bank in carrying out its regulatory and supervisory oversight of Registered Representatives, can, inter alia:

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- a) issue directions for the adherence of PTCs, QEEs and their Registered Representatives;
- b) take remedial action where necessary;
- c) require the provision of information and documents;
- d) conduct onsite examinations, and investigations, where necessary; and

4.4 A Registered Representative may act as a Bahamas Agent for a PTC by entering into a service agreement with the company to provide administrative services to the company.

5. PROCEDURES AND DOCUMENTATION FOR APPLICATIONS

5.1 All applications for approval to act as a Registered Representative must be made in writing to the Bank Supervision Department of the Central Bank in the manner prescribed in this guideline. The Central Bank may require an applicant to provide such further information as it considers necessary to enable the Central Bank to determine the merits of the application.

A. Registered Representative (Non-Central Bank Licensee)

5.2 A company other than a licensee of the Central Bank, that is seeking approval to act as a Registered Representative shall, in addition to completing the application fact sheet (see Appendix II), provide the following information as applicable to the Central Bank:

- a) Shareholders' Resolution authorizing the submission of an application to the Central Bank for the registration of a Registered Representative;
- b) Certified copy of the Certificate of Incorporation as a regular company under the Companies Act 1992;
- c) Certified copies of the applicant's Memorandum and Articles of Association. The Memorandum should limit the objects or purpose of the company to act only as a Registered Representative for private trust companies pursuant to regulation 7(1) of the Regulations;
- d) Current Certificate of Good Standing from the Registrar (with respect to an applicant that was incorporated more than twelve (12) months prior to the submission date of the application);
- e) Names, addresses, email contact, telephone and fax numbers of its shareholders, directors, corporate officers (e.g. Chairman/Vice Chairman, President/Vice President, Secretary or Treasurer, as applicable) and senior officials and its Registered Office in The Bahamas;
- f) A certified copy of the applicant's current Financial and Corporate Service Providers licence;
- g) Most recent audited financial statements of the applicant (if applicable);
- h) Net worth statement(s) of assets and liabilities, as certified by a public accountant, and prepared as at a date no earlier than six (6) months prior to the date of submission of the application (for each individual beneficial shareholder of the applicant);
- i) Certified copy of a current Certificate of Good Standing, Memorandum of Association and Articles of Association (for corporate shareholders of the applicant).

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- j) Audited financial statements of corporate shareholder(s) for the three consecutive years immediately preceding the date of application (if applicable);
- k) One bank and two character references in original form from sources satisfactory to the Central Bank, a current and detailed curriculum vitae, a police certificate and copies of the first four pages of passport - which must include the page with photo identification (with respect to the shareholders, directors, corporate officers and senior officials of the applicant) and a notarized confidential statement (signed on each page by the applicant) for the directors, corporate officers and senior officials of the applicant;
- l) Job descriptions for the two proposed senior officials of the applicant;
- m) A current and detailed curriculum vitae, two character references, a police certificate, copies of the first four pages of passport, notarized confidential statement, organizational chart showing the reporting relationship, certified copies of relevant diploma(s) and other certificate evidencing AML/KYC/CFT training in support of the qualifications (with respect to the Money Laundering Reporting Officer of the applicant). Please also refer to the Central Bank's Guidelines for Assessing the Fitness and Propriety of MLROs in The Bahamas;
- n) History, activity, current structure and organization of the company. The organizational chart should show the full ownership structure of the applicant, including corporate/individual shareholders, related/affiliated group companies;
- o) Business Plan for the first three years of operations, including three-year financial projections showing assets, liabilities, capital, revenues, expenses, profit and loss;
- p) Details of corporate governance and internal organization including arrangements for the compliance programme procedures relating to anti money laundering, know-your-customer, countering the financing of terrorism etc., logistics, information technology, management information systems and a chart detailing the proposed staffing reporting lines and responsibilities;
- q) Draft copies of proposed operational agreements with respect to services to be provided by other parties (if applicable);
- r) External auditors' letter of acceptance of the appointment;
- s) Written confirmation from the external auditor that the share capital has been issued and fully paid in cash. The auditor should also confirm the manner in which the shares have been issued; and
- t) Such other particulars as the Central Bank may require.

5.3 Only applications where all of the relevant supporting documents have been submitted will be reviewed by the Central Bank for approval determination. The Central Bank will then advise the applicant of the determination and where approved, any conditions of the approval. Any approval granted in this regard should be prominently displayed on the premises where the Registered Representative conducts its business.

5.4 Where an application is approved, the Central Bank will issue, to the Registered Representative, a registration certificate and a fee invoice for payment of the applicable fees to the Public Treasury and the Registrar General. The Registered Representative should present to the Public Treasury and the Registrar General a copy of the fee invoice together

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with the registration certificate. Copies of the receipts evidencing payments should be submitted to the Central Bank for its records.

B. Registered Representative (Central Bank Licensee)

5.5 Pursuant to section 3(3) (a) of the BTCRA, any person wishing to act as a Registered Representative must be in possession of a valid trust license granted by the Central Bank and is required to:

a.) for the purpose of providing the services of a –

(i) secretary, director or Bahamas Agent, to a PTC,

(ii) an Executive Entity Agent to a Qualified Executive Entity; and

(iii) a Foundation Agent to a Foundation,

notify the Central Bank in writing prior to engaging in such activity; and

b.) submit the name of two senior contacts overseeing this line of business, with whom the Central Bank can liaise in respect of the administrative, filing and verification of identity requirements at sections VII and VIII below.

5.6 Licensees should note that should they choose to incorporate subsidiary companies to act as Registered Representatives, such subsidiaries must be licensed or approved in accordance with section 3(3) of the BTCRA.

6. FIT AND PROPER REQUIREMENTS

6.1 PTCs and QEEs are required under Regulation 5(1)(b) of the Regulations to have at all times, at least one Special Director in the case of a PTC, and one Special Officer or Special Council Member, in the case of a QEE. This is not required however, where a licensee of the Central Bank is providing the services of a secretary, director or Bahamas Agent to a PTC or officer or council member to a QEE, as the case may be.

6.2 PTCs, QEEs, and their Registered Representatives should also ensure that all persons associated with the company or Executive Entity are fit and proper. In assessing the fitness and propriety of these persons, PTCs, QEEs, and their Registered Representatives should have regard to the Central Bank's Fit and Proper Guidelines. These Guidelines may be accessed on the Central Bank's website at <http://www.centralbankbahamas.com>.

7. ADMINISTRATIVE AND FILING REQUIREMENTS

Registered Representative Certification

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- 7.1 Within three (3) months of incorporation of a PTC, the Registered Representative should certify to the Central Bank that the PTC qualifies for an exemption by virtue of the restrictions specified in Regulation 3(1) of the Regulations (see Form A, Appendix III). A certified copy of the certificate of incorporation of the PTC should be submitted along with the initial certification. A PTC shall be pursuant to regulation 5(5)(a) of the Regulations, a company either limited by shares or limited by guarantee. In this regard, the Registered Representative shall be required to submit confirmation of the authorized capital of the PTC and whether it is limited by shares or limited by guarantee.

In the case of a QEE, the Registered Representative should certify to the Central Bank that an Executive Entity qualifies for an exemption by virtue of the restrictions specified in Regulation 3(1) of the Regulations (see Form B, Appendix III). A certified copy of the certificate of registration of the QEE given by the Registrar should be submitted along with the initial certification.

- 7.2 The Registered Representative should continue to submit the Registered Representative Certification to the Central Bank by 31st January of each year.
- 7.3 Subsequent to certification and receipt of a copy of the certificate of incorporation of a PTC or certificate of registration of a QEE, the Central Bank will issue to the Registered Representative a fee invoice for the PTC or QEE for payment of the applicable fees to the Registrar General's Department ("RGD") and to the Central Bank on behalf of the Public Treasury. Copies of the receipts evidencing payments to the RGD should be submitted by the Registered Representative to the Central Bank for its records.
- 7.4 Under the legislative framework for PTCs and QEEs, an approval granted by the Central Bank for the recognition of a PTC or QEE incurs a licence fee in the first year and for the ensuing years, as stipulated under the Third Schedule of the Banks and Trust Companies Regulation Act. In the case of PTCs these amounts include registration fees assessed under the Third Schedule of the Companies Act and the First Schedule of the IBC Act.

PTCs and QEEs Annual Certification

- 7.5 The directors of a PTC and the officers or council members of a QEE are required to submit an annual certification to their Registered Representative, which stipulates that the company or Executive Entity continues to qualify as a PTC or QEE, as the case may be. Registered Representatives should obtain from the directors, officers or council members a duly completed Compliance Certificate (see Appendix IV) on or before 31st January of each year. The Compliance Certificate should indicate that:
- a) the company or Executive Entity continues to qualify as a PTC or QEE;
 - b) all officers, directors and council members associated with the company or Executive Entity continue to be fit and proper persons; and
 - c) the company or Executive Entity continues to comply with all applicable requirements.

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- 7.6 On an annual basis, the Central Bank will issue an appropriate fee invoice to the Registered Representative for continuation of a PTC(s) or QEE(s). Such fees should be paid directly to the Public Treasury and Registrar General. A copy of the receipt(s) evidencing payment should be submitted by the Registered Representative to the Central Bank for its records.

Record Keeping

- 7.7 Registered Representatives are required to maintain in The Bahamas, in relation to each PTC or QEE for which it provides private trust services or executive entity agent services, the following documents and information:
- a) Memorandum and Articles of Association of the PTC or the Charter or Articles of the QEE, as the case may be;
 - b) Designating Instrument (see Appendix V);
 - c) Curriculum vitae of the Special Director of each PTC or the Special Officer or Special Council Member of each QEE, if any, from time to time acting in such capacity;
 - d) Trust instruments for each trust (including sub-trusts or appointed trusts) administered by the PTC or QEE;
 - e) An acknowledgement in the form set out in Appendix VI (Forms A and B);
 - f) A list of all PTCs or QEEs for which it acts as Registered Representatives;
 - g) Verification information on the persons listed in section 8.1 below; and
 - h) Current shares register of all shareholders in the PTC.
- 7.8 Where a PTC or QEE acts as trustee for a trust that has a nominee settlor, the Registered Representative must, in addition to obtaining and keeping the verification information and documents set out in (a) – (h) above, obtain and keep verification information and documents on the ultimate source of the funds or assets provided by the nominee.
- 7.9 In addition to the information listed above, a Registered Representative is entitled to receive, on transactions conducted in the company's or Executive Entity's capacity as trustee:
- (a) the nature of the transaction;
 - (b) the amount of the transaction and the currency in which it was denominated;
 - (c) the date on which the transaction was conducted;
 - (d) the parties to the transaction; and
 - (e) where applicable, the person or entity through which the transaction was conducted and any other persons or entities directly involved in the transaction.

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- 7.10 Where a PTC or QEE fails to comply with a Registered Representative's request regarding the information stated above, such Registered Representative should within ten days from the date of the request, notify such non-compliance to the Central Bank.

8. VERIFICATION OF IDENTITY

- 8.1 A Registered Representative is required, in relation to each PTC or QEE for which it acts as Registered Representative, to verify the identities of the following persons in accordance with relevant provisions under the BTCRA and underlying regulations, the Financial Transactions Reporting Act, 2000 (*“the FTRA”*) (as amended) and the Financial Transactions Reporting Regulations, 2000 (as amended), and maintain in The Bahamas, information and documents relating to such verification:

- a) The settlor or Founder (including any nominees) and the ultimate beneficial owner of the funds or assets subject to the trust or trusts administered by the PTC or QEE.
- b) The Designated Person(s);
- c) The protector of any trusts of which the PTC or QEE is trustee;
- d) A person who has a vested interest under any trust of which the PTC or QEE is trustee;
- e) Any person to whom the Founder of a QEE assigns any or all of his rights, powers and obligations pursuant to section 9(2) of the Executive Entities Act;
- f) The officers and council members of the QEE and their delegates, if any; and
- g) Any person or persons specified in the QEE's Charter as having standing (as a right and not as a duty) to enforce any of the duties of an officer, council member or the executive entity agent pursuant to section 7(2)(j) of the Executive Entities Act.

9. SUSPICIOUS TRANSACTIONS REPORTING

- 9.1 Registered Representatives are subject to Suspicious Transactions Reporting obligations under the FTRA, the Proceeds of Crime Act, 2000 (*“the POCA”*) and the Anti-Terrorism Act, 2004. A Registered Representative is therefore required to report to the Financial Intelligence Unit any transaction or proposed transaction that the Registered Representative knows, suspects or has reasonable grounds to suspect involves proceeds of criminal conduct as defined in the POCA.

10. ONSITE EXAMINATIONS

- 10.1 Pursuant to section 13(2) of the BTCRA, Registered Representatives are subject to on-site examinations by the Central Bank to check processes and systems for AML/CFT, Customer

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Due Diligence, Corporate Governance and overall Safety and Soundness. These will be carried out using a risk-based approach. If warranted, PTCs and QEEs will also be examined to verify the veracity of information pertaining to their operations.

11. NOTIFICATION REQUIREMENTS

Change of Registered Representative of a PTC or QEE

- 11.1 A Registered Representative is required to notify the Inspector in writing if it ceases to act as Registered Representative for a PTC or QEE. Notice should be provided to the Inspector within five (5) business days of such change. The Registered Representative shall also be required to provide to the Central Bank, a certified copy of the written resolution of the board of directors of the PTC or the resolution of the officers or council of the QEE as the case may be, authorizing the change in Registered Representative and a copy of the formal notification of the PTC's or QEE's change in Registered Office as filed/stamped by the Registrar General's Department.

Change of Principal Address of the Registered Representative

- 11.2 A Registered Representative is required to notify the Inspector in writing, of any change in its principal address. Notice should be provided to the Inspector within five (5) business days of such change.

Closure of a PTC or QEE and Removal from the Register

- 11.3 Where it is intended that a PTC or QEE cease to carry on trust business from within The Bahamas, the Registered Representative is required to submit a certified copy of the written resolution of the board of directors of the PTC or the written resolution of the officers or council of the QEE as the case may be, authorizing the closure of the QEE or in the case of the PTC, the closure or liquidation.

The certified copy of the resolution required above, should be submitted to the Central Bank within five (5) business days of the *date of the resolution*, but not less than ten (10) days prior to the intended *date of closure or the commencement of the liquidation*, as the case may be. In addition, the Registered Representative is required to collect and maintain documentation relating to the PTC or QEE as follows:

I. Dissolution of the Company

The Registered Representative should maintain the following documentation at its offices:

A. Company incorporated under the International Business Companies Act, 2000

- (a) Evidence of the decision to wind up and dissolve the company including the Directors' resolution, a copy of the Plan of Dissolution, Articles of dissolution and a tear sheet from the Gazette of the notice of dissolution of the company; and

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- (b) Evidence of the dissolution of the company including the notice from the liquidator advising that the winding-up and dissolution of the company is complete, Certificate of dissolution certifying that the company is dissolved and a tear sheet from the Gazette of the notice that the company has been dissolved and struck off the Register

B. Company incorporated under the Companies Act

- (a) Evidence of the decision to wind up and dissolve the company including the Directors' Resolution, tear sheet from the Gazette of Notice of winding up and dissolution, and copies of periodic statements of receipts and disbursements; and
- (b) Evidence of the dissolution of the company including a copy of the liquidator's account of the winding up, the return of the Liquidator's meeting and tear sheet from the Gazette of Notice to the general public that the company has been dissolved and struck off the Register.

II. Continuation of the Company or Executive Entity

If the company, as an International Business Company or a regular company in The Bahamas, or the Executive Entity, will continue with its activities falling outside the scope of a PTC or a QEE, the Registered Representative is required to maintain certified amended copies of the Articles and Memorandum of Association of the company, or the Articles and Charter of the Executive Entity, evidencing that the corporate documents have been adjusted to remove any references to trust business.

The aforementioned documentation will be reviewed during the on-site examination of the Registered Representative to ensure that the proper documentation has been collected.

When a PTC or QEE Ceases to Qualify for an Exemption from the Licensing Requirements

- 11.4 A Registered Representative is required to notify the Inspector in writing, within five (5) days, if a PTC or a QEE ceases to meet the requirements to qualify for an exemption from the licensing requirements for trust companies (see Regulations 3(1) and (5) of the Regulations) and provide the Inspector with information and documents relating to such change.

12. **Non-licensee Registered Representative Annual Reporting Requirements**

A non-licensee Registered Representative shall provide the following information with respect to its operations to the Central Bank:

- 12.1 Annual Statement showing a list of members, capital composition, directors and senior corporate executive officers as provided under Section 58(1) of the Companies Act, together with the Annual Return of the beneficial ownership Section 59(1) of the Companies Act. The stamped filing date of the Registrar General Department should be appended to both documents that are submitted for Central Bank records.

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- 12.2 Audited financial statements should be submitted to the Central Bank within four (4) months of the financial year of the Registered Representative, unless prior written approval for an extension has been granted by the Central Bank. Such statements are to be prepared in accordance with International Financial Reporting Standards.
- 12.3 Quarterly unaudited financial accounts showing the balance sheet and profit and loss reports should be submitted to the Central Bank within 21 days of the quarter-end of the company.
- 12.4 A certification signed by all directors confirming that the Registered Representative continued to meet the prescribed minimum share capital requirement of \$50,000.00 and that the company has complied with the terms and conditions of its registration for the year. The certification should be filed with the Central Bank within 30 days of the end of each calendar year.
- 12.5 Copies of receipts from the Public Treasury and Registrar General evidencing payment of annual fees.

13 Changes in Regulated Activities of Non-licensee Registered Representatives

- 13.1 In the event of changes of any information or particulars as originally provided by a Registered Representative in its application, the Registered Representative should notify the Central Bank in writing within thirty (30) days of such change(s). Registered Representatives are required to seek the approval of the Central Bank for the implementation of any material changes to the operations including, but not limited to:-
- a) new appointments of senior management, directors, corporate executive officers and money laundering reporting officer;
 - b) changes in authorized and issued capital, shareholders or shareholdings;
 - c) change of existing business location;
 - d) change of name;
 - e) change of financial year-end;
 - f) extension to filing deadline of audited accounts;
 - g) outsourcing of material functions; and,
 - h) mergers or acquisitions.
- 13.2 Written notification should be submitted to the Inspector for a change of an external auditor or the Compliance Officer and the resignations of senior management, directors, corporate executive officers and money laundering reporting officer.

END

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APPENDIX I

Banking and Related Financial Legislation of The Bahamas

Applicants may find the following legislation useful in the application process.

Banks and Trust Companies Regulation Act, 2000 Chapter 316
Banks and Trust Companies(Private Trust Companies and Qualified Executive Entities) Regulations, 20xx
Banks and Trust Companies (Restriction on Use of Banking Names and Descriptions) Regulations, 2002
Central Bank of The Bahamas Act, 2000 Chapter 351
Exchange Control Regulations Act, 1952 Chapter 360
Exchange Control Regulations, 1956
Companies Act, 1992 Chapter 308
Proceeds of Crime Act, 2000 Chapter 93
Proceeds of Crime (Designated Countries and Territories) Order, 2001
Financial Transactions Reporting Act, 2000 Chapter 368
Financial Transactions Reporting Regulations, 2000
Financial and Corporate Service Providers Act, 2000 Chapter 369
Financial Intelligence Unit Act, 2000 Chapter 367
Financial Intelligence (Transactions Reporting) Regulations, 2001
International Business Companies Act, 2004 Chapter 309
Anti-Terrorism Act, 2004

These pieces of legislation may be accessed electronically at <http://laws.bahamas.gov.bs> or obtained in hard copy form by contacting:

GOVERNMENT PUBLICATIONS OFFICE
P. O. Box N-7147

Nassau, Bahamas

Phone (242) 322-2410

Fax (242) 328-8294

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APPENDIX II



**REGISTERED REPRESENTATIVE
(NON-CENTRAL BANK LICENSEE)**

Application Fact Sheet

Please complete and submit this page along with all supporting documents outlined in Section V of this Guideline:

Name of Applicant:			
Address of Applicant: (including mailing address)			
Address of Registered Office:			
Name, Address, Telephone, Fax & Email of Senior Official 1:		Name, Address, Telephone, Fax & Email of Senior Official 2:	
Names of Proposed Directors:		Name(s) of Proposed Compliance Officer and Money Laundering Reporting Officer:	
Names of Proposed Shareholders:		Number of Shares to be issued to each shareholder:	
External Auditors:		Financial Year End:	Exchange Control Designation: Resident or Non-Resident
Minimum Share Capital Required: \$50,000	Proposed Share Capital: \$	Number of Shares (Authorized): Number of Shares (Issued):	Share Denomination: Share Par Value:

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<p>Names of Proposed Corporate Officers (i.e. President/Vice President, Secretary/Assistant Secretary, Chairman/Vice Chairman etc.): Signature of Presenter: _____ Date _____</p> <p>Name of Presenter: _____</p>
<p>For Official Use Only</p> <p>Application Received by: _____</p> <p>Date: _____</p> <p>Application Reviewed by: _____</p> <p>Date: _____</p> <p>Comments:</p>

We, the directors of [COMPANY NAME], certify that the information contained in this application is correct and accurate to the best of our knowledge. We understand that any untrue, misleading or incomplete information may affect the success of this application. We also authorise the sharing of information between the Central Bank of The Bahamas and the Inspector of Financial and Corporate Service Providers where and when both regulators deem it fit to do so.

On behalf of [COMPANY NAME: Registered Representative] _____
Date

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APPENDIX III



**REGISTERED REPRESENTATIVE
CERTIFICATION**

FORM A – For use with Private Trust Companies

We the directors of [COMPANY NAME], a Registered Representative of [NAME OF PRIVATE TRUST COMPANY] established under the laws of the Commonwealth of The Bahamas pursuant to the [Companies Act 1992 / International Business Companies Act 2000] hereby declare that [NAME OF PRIVATE TRUST COMPANY] qualifies for an exemption by virtue of the restriction specified in Regulation 3(1) of the Banks and Trust Companies (Private Trust Companies and Qualified Executive Entities) Regulations, 20xx.

We declare that the liability of the members of [NAME OF PRIVATE TRUST COMPANY] are limited by [SHARES/GUARANTEE] and the authorized share capital is [INSERT AMOUNT] in the currency of [INSERT CURRENCY]/the aggregate liability of all current members is limited to a total guarantee of [INSERT AMOUNT].

FOR AND ON BEHALF OF
[COMPANY NAME: Registered Representative]

Signed:

Name (PLEASE PRINT)

Name (PLEASE PRINT)

Date:

Acknowledged by: [INSERT PRIVATE TRUST COMPANY NAME]

Signature

Name of Signatory (PLEASE PRINT)

Title of Signatory

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**REGISTERED REPRESENTATIVE
CERTIFICATION**

FORM B – For use with QUALIFIED EXECUTIVE ENTITIES

We the directors of [COMPANY NAME], a Registered Representative of [NAME OF QUALIFIED EXECUTIVE ENTITY] established under the laws of the Commonwealth of The Bahamas pursuant to the Executive Entities Act, 2011 hereby declare that [NAME OF QUALIFIED EXECUTIVE ENTITY] qualifies for an exemption by virtue of the restriction specified in Regulation 3(1) of the Banks and Trust Companies (Private Trust Companies and Qualified Executive Entities) Regulations, 20xx.

We declare that the executive entity assets, excluding trust assets, of [NAME OF QUALIFIED EXECUTIVE ENTITY] is [INSERT AMOUNT] in the currency of [INSERT CURRENCY].

FOR AND ON BEHALF OF
[COMPANY NAME: Registered Representative]

Signed:

Name (PLEASE PRINT)

Name (PLEASE PRINT)

Date

Date

Acknowledged by: [INSERT QUALIFIED EXECUTIVE ENTITY NAME]

Signature

Name of Signatory (PLEASE PRINT)

Title of Signatory

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APPENDIX IV



**FORM OF COMPLIANCE CERTIFICATE TO BE
EXECUTED BY DIRECTORS OF PRIVATE TRUST COMPANY/OFFICERS OR
COUNCIL MEMBERS OF QUALIFIED EXECUTIVE ENTITY**

[INSERT PRIVATE TRUST COMPANY/QUALIFIED EXECUTIVE ENTITY NAME]

We, the undersigned [directors (the “Directors”) of (INSERT COMPANY NAME), a Company]/[officers/council members of (INSERT QUALIFIED EXECUTIVE ENTITY NAME), an Executive Entity] established under the laws of the Commonwealth of The Bahamas (the “Company”/“Executive Entity”) hereby declare that between [DATE] and [DATE]:

1. The [Company/Executive Entity] has served only as trustee of a trust or trusts for a Designated Person or Designated Persons or an individual or individuals who are related by consanguinity or other family relationships to the Designated Person or Designated Persons and has not carried on any business or activity which was prohibited;
2. The [Directors/Officers/Council Members] have acted honestly and in good faith with a view to the best interest of the [Company/Executive Entity]; and
3. The [Company/Executive Entity] continues to meet the requirements of sub-regulation [3(1)] and to comply with all applicable requirements.

And we each make this solemn declaration conscientiously believing it to be true.

.....
Director/Officer/Council Member
[INSERT COMPANY/EXECUTIVE
ENTITY NAME]

.....
Director/Officer/Council Member
[INSERTCOMPANY EXECUTIVE/
ENTITY NAME]

Date:.....

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APPENDIX V

DESIGNATING INSTRUMENT

[INSERT PRIVATE TRUST COMPANY/QUALIFIED EXECUTIVE ENTITY NAME]

I, [INSERT DIRECTOR/OFFICER/COUNCIL MEMBER NAME], hereby confirm that in relation to [INSERT PRIVATE TRUST COMPANY NAME], a Company (incorporated/to be incorporated)/[NAME OF QUALIFIED EXECUTIVE ENTITY, an Executive Entity (registered/to be registered)] under the laws of the Commonwealth of The Bahamas, the Designated Person or Designated Persons for the purposes of Section 2 of the Act shall be: [INSERT NAME(S) OF INDIVIDUAL(S)].

Signed:

.....

DIRECTOR/OFFICER/COUNCIL MEMBER

Acknowledged

by:.....

[INSERT PRIVATE TRUST COMPANY/QUALIFIED EXECUTIVE ENTITY NAME]

Date:.....

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APPENDIX VI



**FORM OF ACKNOWLEDGEMENT TO BE EXECUTED BY SETTLOR
OR DONOR OF TRUST**

FORM A – For use with PRIVATE TRUST COMPANIES

I, [INSERT SETTLOR/DONOR’S NAME], hereby acknowledge that in relation to [INSERT COMPANY NAME] (the “Company”) a company [incorporated/to be incorporated] under the laws of the Commonwealth of The Bahamas:

- (i) that Company’s directors are not required by law to possess or exhibit expertise in trust administration and, therefore, said directors may, in fact, not be possessed of or exhibit such skill,
- (ii) that Company is not required by law to provide any fidelity bond,
- (iii) that the capital of the Company is not required to by law to exceed Five Thousand Dollars and may, therefore, be minimal; and
- (iv) that Company is not required by law to perform an annual audit.

Accordingly, accepting the foregoing and fully understanding the legal implications hereof, I hereby waive any and all rights of complaint in respect of these matters.

Signed:

Settlor

Acknowledged by:

[INSERT COMPANY NAME]

Date:

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FORM OF ACKNOWLEDGEMENT TO BE EXECUTED BY SETTLOR OF TRUST

FORM B – For use with QUALIFIED EXECUTIVE ENTITIES

I, [INSERT SETTLOR’S NAME], hereby acknowledge that in relation to [INSERT QUALIFIED EXECUTIVE ENTITY NAME] an executive entity [registered/to be registered] under the laws of the Commonwealth of The Bahamas (the “Qualified Executive Entity”) the:

- (i) Qualified Executive Entity's Officers and Council Members, with the exception of any Special Officer or Special Council Member, are not required by law to possess or exhibit expertise in trust administration and, therefore, said Officers and Council Members may, in fact, not be possessed of or exhibit such skill;
- (ii) Qualified Executive Entity is not required by law to provide any fidelity bond;
- (iii) capital of the Qualified Executive Entity is not required by law to exceed Five Thousand Dollars and may, therefore, be minimal; and
- (iv) Qualified Executive Entity is not required by law to perform an annual audit.

Accordingly, accepting the foregoing and fully understanding the legal implications hereof, I hereby waive any and all rights of complaint in respect of these matters.

Signed:

.....

Settlor

Acknowledged

by:.....

[INSERT QUALIFIED EXECUTIVE ENTITY NAME]

Date:

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ANNEX 6

DRAFT AMENDMENTS TO THE GUIDELINES FOR LICENSEES ON THE PREVENTION OF MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM

B. Corporate Clients

81 Trading companies may sometimes form part of complex organisational structures which also involve trusts, Executive Entities and foundations. Particular care should be taken to verify the ~~legal~~ existence of ~~the corporate~~ any legal entity and to ensure that any person purporting to act on its behalf ~~of the corporate entity~~ is authorised to do so. The principal requirement is to look behind a ~~corporate~~ legal entity to identify those who have ultimate control over the business and the ~~company's entity's~~ assets, with particular attention being paid to any shareholders or others who exercise a significant influence over the affairs of the ~~company~~ entity. Enquiries should be made to confirm that the ~~company~~ legal entity exists for a legitimate trading or economic purpose, for example Licensees may, where appropriate visit the business/company to ensure that there is an actual physical presence.

G. Other Legal Structures and Fiduciary Arrangements

94 Legal structures such as trusts, Executive Entities and foundations, and nominee and fiduciary accounts can be used by criminals who wish to mask the origin of funds derived from crime if the trustee or fiduciary does not carry out adequate procedures. Particular care is needed on the part of the Licensee when the facility holder is a trustee or fiduciary who is not an Exempted Client (see paragraph 137) or an Eligible Introducer (see paragraphs 128 and 129). The principal means of preventing money laundering and terrorist financing through the use of legal structures, nominee companies, and fiduciaries is to verify the identity of the provider of funds, such as the settlor and also those who have control over the funds, that is to say, the trustees, advisors, and any controllers who have the power to remove the trustees/advisors etc. It should be borne in mind that the settlor may also be a sole trustee or a co-trustee of the trust, in which case, identification documentation should be obtained in relation to him.

108 Where the entity is a corporate entity the account opening procedures should be in accordance with the procedures for corporate clients set out in paragraphs 77 to 85, in the case of ~~T~~ trusts the procedures in paragraphs 94 to 102; ~~and~~ in the case of foundations the procedures in paragraphs 103 and 104; ~~and in the case of~~ Executive Entities the ~~procedures in paragraphs~~ 105.1 to 105.4 should be followed.

164 In particular, detailed due diligence should include:

- (i) close scrutiny of any complex structures (for example, involving legal structures such as corporate entities, trusts, Executive Entities ~~and~~ foundations and multiple jurisdictions);

J. Executive Entities

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ANNEX 6

105.1 It will normally be necessary to obtain the following documented information concerning Executive Entities:

- (i) certified copies of the Executive Entity's Charter and Articles (if any);
- (ii) the Registrar General's Certificate of Registration and Certificate of Good Standing should be obtained in order to confirm the existence of the Executive Entity and to confirm that it has not been, or is not in the process of being, dissolved, struck off the register, wound-up or terminated;
- (iii) a copy of the officers' or council's Resolution authorizing the opening of the account or other facility and the signatories authorized to sign on the account;
- (iv) satisfactory evidence of the identity of:
 - (a) the founder(s), any other person who endows or provides funds or assets to the Executive Entity, and any person to whom the founder(s) assigns any of his rights, powers and obligations, pursuant to section 9(2) of the Executive Entities Act;
 - (b) all account signatories and details of their relationship with the Executive Entity and, if they are not the founder(s), officers, council members or employees of the Executive Entity, an explanation of their relationship with the Executive Entity;
 - (c) the officers of the Executive Entity, if any, and any person to whom an officer delegates any of his powers as provided for by the Executive Entity's Charter and Articles, pursuant to section 12(4) of the Executive Entities Act;
 - (d) the council members of the Executive Entity, if any, and any person to whom a council member delegates any of his powers as provided for by the Executive Entity's Charter and Articles, pursuant to section 18(4) of the Executive Entities Act;
 - (e) any person or persons specified in the Executive Entity's Charter as having standing (as a right and not as a duty) to enforce any or all of the duties of any or all officers, council members or the Executive Entity Agent, pursuant to section 7(2)(j) of the Executive Entities Act;
 - (f) any vested beneficiary of trust assets owned and managed by the Executive Entity;

105.2 With respect to paragraphs 105.1 (a) – (f), where the relevant person is a natural person, identity must be verified in accordance with paragraphs 49(i) – (iii) and 50(i) and (ii) of these Guidelines. Where the relevant person is a company, foundation or another Executive Entity, Licensees should have regard to the guidance contained in paragraphs 77 to 85, paragraphs 103 and 104 and paragraph 105.1 of this section, as appropriate.

105.3 With respect to paragraph 105.1 (f), it is recognized that it may not be possible to identify the beneficiaries of trusts precisely at the outset. For example, some beneficiaries may be unborn children and some may only become vested on the occurrence of specific events. Where the beneficiary has a vested interest in the assets of the Executive Entity, verification must be carried out by the Licensee providing the facility.

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ANNEX 6

105.4 Licensees should also make appropriate enquiry and, where necessary, obtain satisfactory documentary evidence as to:

- (i) the source of funding for the Executive Entity and in cases where a person other than the founder provides funds for the foundation, Licensees should have regard to paragraph 105.1(iv)(a) above;
- (ii) the general nature and the purpose of the Executive Entity;
- (iii) the reason for establishing the business relationship and the potential parameters of the account, including:
 - (a) size in the case of investment and custody accounts;
 - (b) balance ranges, in the case of current and deposit accounts;
 - (c) an indication of the expected transaction volume of the account;
 - (d) the source of wealth in circumstances where the Licensee's customer is considered a high risk client; and
 - (e) a copy of the last available financial statements, where appropriate; and
- (iv) any Powers of Attorney, or any other authority, affecting the operation of the account given by the directors in relation to the entity and supported by a copy of the respective officers' or council's Resolution.