

## **Overview: Outward Direct Investments By Residents**

### **Outward Direct Investments**

*What are outward direct investments?*

Outward direct investments (“ODIs”) are investments made by residents<sup>1</sup> into the economies of countries other than The Bahamas that result in the acquisition by residents of foreign currency denominated assets (i.e. ownership in and/or legal control of foreign enterprises and/or the acquisition of real property, or other capital assets).

*Do residents need ECD approval to make ODIs?*

All ODIs by residents require the prior approval of the Exchange Control Department of the Central Bank of The Bahamas (“ECD” or “Central Bank”). Applications are considered in light of the probable impact the investments may have on The Bahamas’ balance of payments<sup>2</sup> (i.e. business activities that promote the receipt of foreign currency, e.g. exports to countries outside The Bahamas and repatriation to The Bahamas of interest, dividends and profits, royalties, license fees, management fees and other payments for technical expertise, etc.).

### **Investment Currency Market Arrangement**

*Where do residents buy foreign currency to make investments abroad?*

The Central Bank, as a matter of policy, does not generally permit residents to purchase foreign currency at the official exchange rate<sup>3</sup> to make ODIs. Instead, foreign currency for this purpose is normally required to be purchased at a premium through the Investment

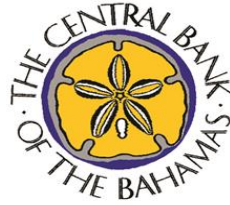
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<sup>1</sup> The following persons and entities are regarded as “residents” for exchange control purposes.

- (i) Bahamians and naturalized Bahamians residing in The Bahamas or temporarily residing abroad;
- (ii) Permanent residents with no restriction their right to reside and work in The Bahamas;
- (iii) Local companies (established under the Companies Act and International Business Companies Act) operating in The Bahamas and partly or wholly owned by Bahamians, naturalized Bahamians and/or permanent residents of The Bahamas;
- (iv) Local companies (established under the Companies Act and International Business Companies Act) operating in The Bahamas and partly or wholly owned by non-residents and/or temporary residents of The Bahamas;
- (v) Foreign companies (registered under the Companies Act) operating in The Bahamas; and
- (vi) Any other person or entity designated as “resident” for exchange control purposes.

<sup>2</sup> The balance of payments is a systematic record of all financial transactions made between the residents of one country (including the Government) and those of the rest of the world over a defined period of time, such as a quarter or a year.

<sup>3</sup> That is, purchase foreign currency from Authorised Dealers at the prevailing rate of exchange.



Currency Market (“ICM”), which is conducted by the Banking Department of the Central Bank.

As at **1<sup>st</sup> February 2018**, the ICM bid and offer rates are 5% and 2.5%, respectively (reduced from 12.5% and 10%, respectively). The bid rate refers to the premium payable by the applicant for the purchase of investment currency. The offer rate refers to the premium payable to the applicant on the initial investment amount approved by ECD in connection with the purchase of particular foreign asset(s) once the asset(s) is sold and the proceeds of sale repatriated to The Bahamas.

*What if I purchased investment currency at the 12.5% bid rate?*

Residents who acquired investment currency at the higher 12.5% bid rate will have a window of one (1) year within which to sell the initial investment amount approved by the ECD to the ICM at the 10% offer rate.

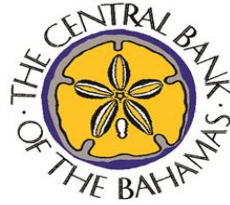
*Is there any requirement for the repatriation of capital and profits?*

In the event of the foreign investment being disposed of, the net sale proceeds must be repatriated to The Bahamas and converted into Bahamian Dollars. Whether the net proceeds would be converted at the official rate of exchange or through the ICM would depend on how the funds were initially invested,

*Are there any exceptions to the requirement for residents to use the ICM?*

Over the years ECD has undertaken a number of liberalisation measures that have created exceptions to the requirement that residents obtain investment currency for ODI through the ICM. These exceptions are identified below.

### **Categories of Outward Direct Investment**



### *Six (6) categories of ODIs*

ODIs by residents generally fall under one of the following six (6) categories:

- Employee Stock Option/share Purchase Plans
- Foreign Portfolio Investments
- Special Criterion Investments
- Investments in Real Property, timeshares, etc.
- Investments in Bahamian Depository Receipts
- Other Investments

A brief description of each category and relevant considerations are set out below.

#### **1. Employee Stock Option / Share Purchase Plans**

Offshore and foreign-based institutions in The Bahamas may make application on behalf of their resident employees to acquire privately held and publicly traded shares in the employer company by way of employee stock option grants, employee share purchase plans and employee stock option plans. Such plans allow resident employees to participate in company benefits and to hold foreign currency denominated assets.

Employees require ECD's prior approval to participate in employee stock option or share purchase plans and foreign currency to fund these investments is generally required to be obtained through the ICM.

#### *Liberalisation measures: exception to use of ICM*

For contributory plans, participating employees may purchase foreign currency equivalent of up to B\$25,000 per individual per year at the official exchange rate. This facility is non-cumulative and non-transferable. Employees wishing to invest amounts in excess of B\$25,000 per year must purchase the additional investment currency through the ICM.

#### **2. Foreign Portfolio Investments**

Residents wishing to purchase stocks/shares in publicly traded and private non-resident businesses and to acquire foreign government bonds, etc. require ECD's prior approval and must purchase the needed investment currency through the ICM. This facility also enables residents to, inter alia, fund and maintain trading portfolios of securities with licensed trust companies<sup>4</sup> and online or other financial service providers.

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<sup>4</sup> Such trust companies are designated as Authorised Agents and resident for exchange control purposes.



It is customary for ECD approvals to be granted subject to the following standard conditions:

- (a) Submission to ECD of documentary evidence to confirm that securities are held to the order of an Authorized Agent; and
- (b) Profits received from the sale of the securities must be repatriated to The Bahamas and sold to the ICM or evidence of conversion of same to Bahamian Dollars provided to ECD.

### **3. Special Criterion Investments**

While investment currency for outward direct investments by residents is generally required to be purchased through the ICM, the ECD may determine that a proposed investment would impact directly and positively on The Bahamas' balance of payments, e.g. through export promotion, repatriation to The Bahamas of interest income, dividend or profit income, or royalties income, etc. Investments featuring this exceptional factor are considered "special criterion" investments.

As indicated earlier, residents require the *prior approval* of ECD for all investments abroad. It should be noted that it is in the ECD's sole discretion to determine whether a proposed investment warrants treatment as a special criterion case.

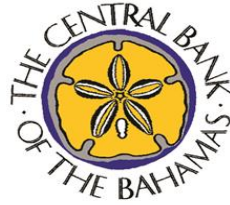
#### *Liberalisation measures: exception to use of ICM*

The purchase of foreign currency for special criterion investments would be permitted, within prescribed limits, at the official exchange rate. Costs associated with such investments are therefore reduced, since the premium payable on investment currency purchases is avoided.

The maximum amount of foreign currency which resident individuals or entities may purchase for special criterion cases through the official market is \$2 million per person or entity per transaction, subject to an overall limit of \$10 million per investor group. This facility is accessible once every three years.

#### *How it works*

For example, should a group of eleven (11) residents wish to invest \$1 million each into a foreign enterprise, the ECD would determine whether the foreign currency earning potential of the proposed investment qualifies it as a special criterion case. However, given the established limit of \$10 million per investor group per transaction, accessible every three years, the investors would have to review the number of persons allowed to participate in the investment, or reduce individual investments such that the limit of \$10 million is not exceeded, or acquire the additional \$1 million through the ICM. After three years have



passed, the investors would be able to apply for approval of further capital of up to \$10 million.

#### **4. Investments in Real Estate, Timeshares etc.**

Residents are prohibited by the Exchange Control Regulations (regulation 7) from making payments to non-residents for the purchase of foreign real estate, without the specific approval of the ECD. Applications are considered on their merits and purchases must be funded through the ICM, unless otherwise permitted by the ECD. Approvals are granted subject to the following standard conditions:

- (a) Submission to the ECD of documentary evidence to confirm the purchase; and
- (b) Profits received from the sale of the asset must be repatriated to The Bahamas and sold to the ICM or evidence of conversion of same to Bahamian Dollars provided to ECD.

#### *Liberalisation measures: exception to use of ICM*

Effective **1<sup>st</sup> February 2018**, residents may invest up to the equivalent of B\$500,000<sup>5</sup> per family unit, every ten (10) years at the official exchange rate to purchase a residence or timeshare abroad. To be approved by ECD to make such investment, applicants must establish that the property will be personally occupied or used by the applicant or his/her family (e.g. as a vacation home or the residence of a dependent who is enrolled in an educational institution abroad, etc.). The facility is not intended to finance the purchase of commercial/investment property. Any amount required in excess of the \$500,000 limit or to purchase additional properties (prior to the expiration of the ten (10) years period) must be purchased through the ICM.

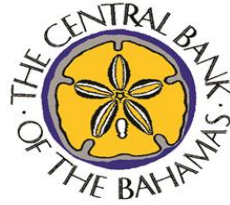
#### **5. Bahamian Depository Receipts (“BDRs”)**

##### *Structure of BDRs under the Exchange Control liberalisation programme*

The Bahamian depository receipts (“BDRs”) programme allows residents (including local pension funds and other local institutional investors) and, to a lesser extent, temporary residents to purchase stocks in foreign companies traded on overseas exchanges through local broker dealers in a convenient and less expensive manner than purchasing stocks in foreign markets. BDRs are foreign currency denominated securities structured and marketed in Bahamian Dollars by local broker dealers. They are "unsponsored" issues, meaning that they are issued by a local depository agent without formal agreement with the foreign share issuer whose stock underlies the depository receipt.

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<sup>5</sup> Increased from up to the equivalent of B\$25,000.



Since BDRs are structured and marketed in Bahamian Dollars, residents do not require the Central Bank's approval to invest in these investment instruments.

### *Level of Participation/Funding*

The Central Bank allocates up to 5% of the external reserves for the preceding year, but no more than \$35 million dollars, to fund the BDR program. Applications are received from participating broker dealers on a quarterly basis to convert funds required to purchase foreign denominated securities to add to their portfolios.

### *Scope of Participation*

Currently, five (5) licensed broker-dealers participate in the unsponsored BDR programme:

- Colina Financial Advisors Limited (CFAL),
- Royal Fidelity Capital Markets Limited (Royal Fidelity)
- SG Hambros Bank & Trust (Bahamas) Limited (SG Hambros)
- FG Capital Markets Limited (Family Guardian)
- Colonial Pension Services Bahamas Limited (Colonial).

## **6. Other Investments**

These are investments that do not fall within any of the other five (5) categories and do not qualify to be financed with official exchange. Such investments may, subject to the permission of the Central Bank being obtained, be financed in any combination of any of the following ways:

- (a) The use of foreign currency purchased in the Investment Currency Market.
- (b) The export, free of payment, of capital equipment and stock-in-trade of Bahamian manufacture forming an integral part of the investment.
- (c) Use of borrowed foreign currency.
- (d) The issue or transfer of shares to non-residents on appropriate terms.
- (e) Capitalization of an overseas subsidiary's current account indebtedness to The Bahamas' parent company.