



QUARTERLY LETTER TO ALL
SENIOR OFFICIALS

03/10

25th October 2010

Dear Senior Official,

Our plans for two industry seminars, which we indicated in our last letter that we will be holding, to introduce the **risk-based supervision framework (RBF)** and to explain the changes that are planned in the supervisory process for all licensees have now been finalised. We will be holding two sessions – now set for October 27th and 29th – so that we can accommodate all firms. We have written to you separately on the details of the seminars.

As we have previously indicated, in rolling-out the RBF, we will be focusing first on those firms that we believe would potentially have the highest impact in terms of harm or detriment to the financial sector if regulatory risk issues were to crystallize. We have undertaken some systematic analysis, based on objective measures such as employee numbers, levels of fiduciary assets under management or administration, Bahamian dollar deposits and total expenditure. Using these measures, we have identified firms with a higher impact and these firms will be targeted for the initial phase of the rollout.

Subsequent to the industry seminars, we will be meeting with those high-impact firms to discuss their risk profile, as well as current developments in their operations to enable us to develop our risk assessment. We anticipate that the first of such meetings will occur from the beginning of November 2010, which will be followed by meetings with firms assessed as having a lower impact in 2011. Going forward, the frequency of our risk assessments will be determined by the results of the initial analysis.

In our last letter, we also informed you of planned improvements in our reporting platform. We are pleased to say that we have completed the first phase of this project, with the consolidation of the Research Department's **Excel Diskette Reporting System (EDRS)** and the Bank Supervision Department's **Quarterly Reporting System (QRS)**. The revised reporting requirements, which will be called the **Excel Reporting System (ERS)**, comprises the complete suite of forms and schedules of the EDRS, modified to include relevant series from the QRS and other report forms. The immediate benefit of the ERS, once fully implemented, is that firms (i.e., firms designated as Authorised Dealers and Agents) now subject to a varying degree of dual reporting requirements to both the Research and Bank Supervision Departments will, going forward, only have to submit a single report. However, the ERS will represent an extension of reporting requirements for the

domestic commercial banks. The ERS is being introduced in time for submission of the month-end October 2010 reports, which are due in November 2010. In the meantime, we are preparing comprehensive guidance notes to assist with the completion of the ERS. The second phase of this project will involve the introduction of the ERS to remaining firms next year. We will of course communicate with affected firms as developments occur.

We have reported before on the passage through Parliament of the **Banks and Trust Companies Regulation (Amendment) Act, 2010 (BCTRA)** and the **Central Bank of the Bahamas (Amendment) Act, 2010 (CBA)**. The amendments contained in these Acts have been gazetted and were brought into force on September 1, 2010. We are reviewing a number of our Guidelines and operational procedures to ensure that they reflect and are consistent with these legislative changes and we will, as is customary, post any revisions to our Guidelines on our website.

Notwithstanding this review, you should note a few amendments that immediately affect your operations. The first relates to the appointment of external auditors of firms. Effective immediately, the appointment of the external auditor of firms is no longer subject to the approval of the Central Bank. However, you are required to inform us, within fourteen days, of the appointment of an external auditor or audit firm. The Central Bank of course retains the right to require a firm to replace an auditor or audit firm. In selecting an external auditor or audit firm, licensees should be guided by the criteria set out in **Section IV** of the *Guidelines on the Appointment of External Auditors of Licensees and Relationship between the Central Bank and the External Auditors of Licensees*.

A second change that you should note relates to the annual publication of financial statements. The amendment to **Section 8 of the BCTRA** removes the requirement for firms to publish their financial statements in the Gazette and gives the Central Bank the discretion to specify the form and manner of publication. The practical effect of this amendment, as we previously noted, means that we can permit, for example, a firm to publish its financial statements on its website—a change no doubt many of you welcome. We intend to issue, before the next round of annual publications, comprehensive guidance on our requirements in this area. However, this change does not affect our ongoing discussions with the industry regarding the publication of firms' profit and loss statements, which we intend to bring to conclusion before the end of the upcoming quarter.

A third change is the insertion of new **Sections 18A and 18D** into the BCTRA. Section 18A allows a firm to make an application to the Central Bank to surrender its licence to the Bank voluntarily, as opposed to having its licence revoked, in instances where a firm is being voluntarily wound-up or has ceased to carry on the business for which the licence was granted. Where the Bank approves such an application, the Bank may pursuant to section 18D, publish a Notice of Surrender of Licence.

Turning next to the *Guidelines for Assessing the Fitness and Propriety of Money Laundering Reporting Officers (MLRO) in The Bahamas*, we can now report that **these**

Guidelines will be issued on November 1, 2010. As agreed by the Group of Financial Sector Regulators (GFSR), the Guidelines will be applicable to all prudentially regulated financial institutions, i.e., those financial institutions regulated by the Central Bank, the Insurance Commission, the Securities Commission, and the Director of Cooperatives Development. Each of these regulators will issue the Guidelines to its constituents simultaneously on that date. In addition, as previously indicated, **only MLROs appointed on or after November 1st will have to be approved by the Central Bank.** However, you will be required to self-assess your existing MLRO against the guidance and ensure that any deficiencies identified are corrected within one year from that date. You should also be aware that we will check for compliance, i.e., that a self-assessment has taken place and that deficiencies have been rectified, during an on-site examination. If we find non-compliance, we can and may require replacement of the MLRO.

We issued one consultation paper on additional revisions to the *Guidelines on the Prevention of Money Laundering & Countering the Financing of Terrorism* (the AML/CFT Guidelines), which reflect comments received during the last Caribbean Financial Action Task Force (CFATF) mutual evaluation of The Bahamas. We will be reviewing and considering the comments received and thank those of you who sent comments in. While the formal comment period for these proposed revisions has now passed, any further comments, even at this late stage, will be taken on board if received in the very near future.

We turn next to a few compliance issues that have been the focus of discussions with a number of firms and which we think warrant reinforcing. The first issue deals with compliance with our *Guidelines for the Minimum Physical Presence for Banks and Trust Companies Licensed in The Bahamas*. We wish to remind firms that in order to qualify as being “physically present” in The Bahamas, they are required to comply in all respects with the minimum standards outlined in this guidance, particularly with the requirements set out in the **Records and Record Keeping Arrangements** section of the guidelines.

We also wish to remind firms of the requirement that, in addition to informing us, via the **Annual Corporate Governance Certificate**, of the names of the independent non-executive directors (INEDS), the Board must also certify that these individuals continue to meet the requirements of independence as set out in **Section VII** of the *Corporate Governance Guidelines*. The Board must also be required to explain if a director does not continue to meet those requirements, in addition to regularly re-evaluating the mix of skills that it needs to be effective and be willing to change its composition accordingly over time. In this respect, INEDS should be rigorously reviewed after six or more years of board membership, in order to be considered for reappointment or re-election to a board.

It has come to our attention, through a number of queries/complaints from the public, that there may be the need for firms to ensure that customer service staff are clear as to what is deemed to be a “**dormant account**” for purposes of Central Bank

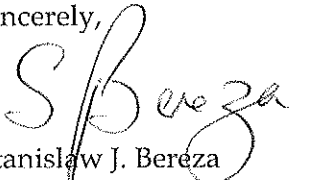
reporting. While the Bank recognises that each firm has its own internal policy governing the period of inactivity after which a customer's account is designated as "inactive" or "dormant", Section 20(1) of the Banks and Trust Companies Regulation Act, 2000 (BCTRA) is quite clear as to the circumstance under which an account is deemed dormant (i.e., unclaimed account balances having no activity for seven (7) consecutive years) and as such, is to be transferred to the Central Bank. To avoid confusion among the public, banks may wish to ensure that this distinction is observed, perhaps by use of the word 'inactive' for all those accounts without any movement or instructions being received by the institution, before the expiration of the stipulated period in the legislation. Furthermore, all charges [and any revisions] connected with the 'inactive' status should be clearly displayed for customers' notification and acceptance, in accordance with the provisions of Section 21 of the BCTRA.

Finally, on a related matter we wish to remind banks that—unless you have received an exemption—you are required to submit annual dormant accounts reports to the Central Bank via the Central Bank's Dormant Account Reporting System ("DARS")—this includes nil returns—in accordance with the reporting arrangements. The information required to be submitted includes: (1) the account type (checking, savings or fixed), (2) the account number, (3) the currency the account is denominated in, (4) the account balance (include interest to date), (5) the branch code for the branch at which the account is held, and (6) the date of the last customer-initiated activity on the account. Please refer to the *Guidelines for the Administration and Ultimate Transfer of Dormant Accounts to the Central Bank of The Bahamas* and the *Guidelines on the Dormant Web Reporting System* for additional detail. Both documents are available on our website.

Any questions regarding this letter should be directed to:

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Sincerely,


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