



QUARTERLY LETTER TO ALL
SENIOR OFFICIALS

01/09
25 May 2009

Dear Senior Official,

We apologize for the delay in sending out our first letter for the year. The first set of issues that we wish to cover deals with reminders. We continue to emphasise our requirement that, given the current economic climate, you immediately inform us, via the Policy Unit, of any exposures and developments (direct or indirect) that are likely to have a material impact on your operations here in The Bahamas. Secondly, we would like to remind those of you acting as Registered Representatives that the Registered Representative Certification for Private Trust Companies is an annual filing requirement, which we expect to receive within the established timeframe. These certifications must have the signatures of two Directors of the Registered Representative.

On the Guidelines front, after full consultation with licensees, industry organisations and other stakeholders we have issued revised Guidelines on the Prevention of Money Laundering and Countering the Financing of Terrorism. We thank all of you for the very useful comments sent during the public comment period. These revised Guidelines replace the original AML/KYC/CFT Guidelines issued in October 2005. By now, you have also received a separate notice, which outlines the major changes in the revised Guidelines.

While we are on money-laundering issues, we want to thank those of you who attended our KYC/AML/CFT Roundtable held at the Hilton in February 2009. We found this exchange very useful and, as we indicated, we will be inviting you, in due course, to meet with us separately on some of the firm specific issues that came out of our special review last year.

In terms of revisions to existing guidelines, you will recall that in our June 2008 letter we indicated that we had undertaken a review of Guidelines for the Minimum Physical Presence of Banks and Trust Companies Licensed in The Bahamas (PPG). The review has been completed and the most important changes for you to note are contained in the Record and Record Keeping Arrangements section of the PPG (Section B). We have clarified, in keeping with changes in the technological and legislative landscape, that where we require that licensees keep certain records/documents at their premises in The Bahamas, those records/documents may be kept as "originals or certified copies in paper or electronic form or on microfilm". However, if you keep certified copies (paper, electronic or on microfilm) of records/documents, the certifier must be a senior member of management. Where we give some discretion on the location of records (Section B 5), we continue to emphasise that licensees' staff here in The Bahamas, locally appointed external auditors and Central Bank personnel must have direct access on an "immediate, real-time basis" to these records. Reviewing compliance with our physical presence requirements will form a part of our programme of on-site examination work over the next few months. The revised Guidelines will be available on our website shortly.

Related to the previous issue is the **Minimum Standards for the Outsourcing of Material Functions** guidance, which has also been under review. That review is also now complete; however, the changes contemplated are more extensive and we will therefore issue a separate communication in the next few days.

You may recall that, a few months ago, we foreshadowed the enactment of the **Banks and Trust Companies (Temporary Business Continuity) Regulations**, which came into force on 18 February 2009. The Regulations exempt foreign banks and trust companies from the licensing requirements of the Banks and Trust Companies Regulation Act, 2000 (BTCRA) and allow them to establish temporary operations in The Bahamas where a natural disaster or other serious event in their home country disrupts their business operations. To avail itself of this exemption, a foreign bank or trust company must, inter alia, enter into a written agreement with a licensee of the Central Bank for the use of the licensee's equipment (by or on behalf of the foreign licensee) while operating temporarily in The Bahamas, and must be registered with the Central Bank.

With the coming into force of these Regulations, our **Guidance to Financial Service Licensees on Hurricane Related Disruptions** issued on 21 June 2007 is hereby withdrawn. These Regulations should now guide you in your preparations for temporary relocation should it become necessary. We urge you to familiarise yourself with them—a copy of which can be viewed on our website. Since we are on the topic of hurricane related disruptions, we would also like to strongly encourage you, as the start of the hurricane season will soon be upon us, to ensure that your business continuity plans are in place, have been tested and updated, where appropriate.

Another long-awaited piece of legislation—the **Financial Transactions Reporting (Wire Transfers) Regulations, 2009**—also entered into force since our last letter. These Regulations implement the Financial Action Task Force's (FATF) Special Recommendation VII (SR VII) on wire transfers and require originator information (name, address and account number) to accompany and remain with funds transfers and related messages through the payment chain. A copy of these Regulations can also be viewed on our website.

You should also be aware and familiarise yourselves with a number of other pieces of legislation relevant to the financial services sector, which have been Gazetted since our last letter. These are the:

- Financial and Corporate Service Providers (Amendment) Act, 2008;
- Financial Transactions Reporting (Amendment) Act, 2008;
- Financial Unit (Amendment) Act, 2008;
- Securities Industry (Amendment) Act, 2008
- International Business Companies (Amendment) Act, 2008;
- Financial and Corporate Service Providers (Licence) (Amendment) Order, 2009;
- and
- Financial Intelligence (Transactions Reporting) (Amendment) Regulations, 2009.

Copies, if required, may be obtained from Government Publications in the usual way.

Turning next to the approval for new branches within The Bahamas, we wish to emphasise that you are required to advise us formally of new branch openings prior to

commencing operations to obtain our no objection. In seeking our approval, your request should include information on the location of the branch along with written confirmation that necessary arrangements (security, staffing etc.) for the safe and prudent operations of the branch have been made.

At the end of the first quarter, supervision staff held their second round of meetings with the commercial banks to discuss developments in credit markets. We will be communicating separately, in due course, with the relevant firms on some of the more salient thematic observations coming out of these meetings. Going forward we will be seeking to incorporate a forward-looking perspective in considering the capital adequacy requirements of firms in our jurisdiction. We also continue to urge firms at this time of uncertainty to incorporate a realistic forward-looking perspective in their capital planning and dividend policy.

Over the first quarter of 2009, the risk based framework project team has continued to develop and pilot the framework, with the completion of initial risk assessments and supervisory programmes for a number of commercial bank licensees. The key features of the framework have been determined and the mapping of existing on-site and offsite processes into the framework has been completed and tested. Over the next quarter, further piloting will be undertaken with both the commercial and offshore banking sectors, with full implementation beginning in Q4 2009. We should be able to provide more details of the framework and the implementation plan in our next quarterly letter, and will be issuing a paper on the framework to the industry later in the year.

As part of our programme for the implementation of the risk-based framework, we held supervisory meetings over the last month with a number of international firms, in line with our requirement to have annual meetings with each of our licensees. In each case, we informed the firms in advance that the agenda for the meeting would include a discussion of the impact of the global market disruption and domestic economic downturn on their operations and their effects on business strategy and projections going forward. The meetings are intended to encompass all material issues arising from both off-site monitoring of prudential indicators and our on-site examinations. In addition, we asked the firms to submit, in advance of the meetings, relevant recent internal risk reports for their operations in The Bahamas, as well as internal audit reviews and the external auditor's management letter. The meetings, chaired by senior supervisory management, and including, on occasion, myself and the Manager, Bank Supervision, provided an essential stock-taking of the range of risk issues and planned mitigating actions to prepare to ground and support the full implementation of the risk based assessment and supervisory programme that is being planned (as indicated above). We will be arranging meetings with all licensees on the basis described above in the coming year.

Based on our supervisory meetings with firms, we wish to reinforce the importance of and requirement for firms to communicate relevant material internal audit findings to the Central Bank in a timely fashion. Given the complex business models of a number of the international banks licensed in The Bahamas, and our focus on reputation risk, we place considerable reliance on communication from internal audit and other risk functions in ensuring that there are no surprises. Consequently, we expect full disclosure of all material audit findings, particularly in the areas of AML/KYC controls, when they come to the attention of the licensee. This matter should be signalled to the appropriate group management at the Head Offices of international firms.

Along the lines of heightened monitoring of the banking sector and the enhanced reporting that this is likely to entail, we indicated in our last letter that we would be seeking to gather additional and precise data on **discretionary assets under management, non-discretionary assets management and other private banking activities**. Our thinking on this has advanced and we have developed a draft template of the data to be collected, which was shared with industry representatives, via the Association of International Banks and Trust Companies (AIBT) and the Bahamas Financial Services Board (BFSB), for comments. We anticipate that the first reporting of this additional data will commence with the quarter ending September 2009, and the template eventually will be included as an additional schedule in our existing Quarterly Reporting System (QRS).

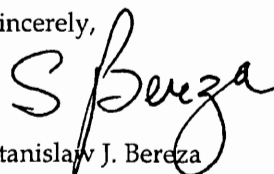
We also wish to notify you that we are in the process of enhancing the range of enforcement tools, to include fines, available to us as supervisors, as a means of addressing, inter alia, violations in prudential and regulatory norms, timeliness in statutory reporting and in taking corrective action, when required. The availability of these tools would fully align The Bahamas with Principle 23 of the Basel Core Principles for Effective Banking Supervision.

Our final topic is really an appeal to the commercial banks—it is for you to be mindful of deadline for submission of the Monthly Reporting System (MRS) and Quarterly Sector Reports (QSR) returns, which are due respectively within twenty-one days after the month-end and thirty days of the reporting quarter-end. Timely submission of this data is important in helping us to identify any emerging difficulties in material firms thereby enabling quick and proportionate mitigation actions to be taken by supervisors and firms' management working together.

Any questions regarding this letter should be directed to:

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Sincerely,



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Inspector