



BRIEFING DOCUMENT
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BAHAMAS MAKES SIGNIFICANT STRIDES IN FIGHT AGAINST FINANCIAL CRIME: UPDATE ON THE BAHAMAS' NATIONAL IDENTIFIED RISK FRAMEWORK

Executive Summary

INTRODUCTION

There have been tremendous efforts made to address all concerns of the CFATF and the FATF Regarding The Bahamas' Anti Money laundering, counter financing of terrorism and counter proliferation (AML/CFT/CFP) framework - legislative, regulatory and enforcement landscapes have been thoroughly reviewed and strengthened. The Bahamas is committed to ensuring that it maintains a high level of readiness in addressing regulatory and best practice challenges in the AML/CFT/CFP space on an ongoing basis.

To assist in this effort and to ensure that there is much vigilance over the primary financial sector – banks and trust companies, The Central Bank of The Bahamas established an AML Analytical Unit in 2018, whose sole function is that of continuous monitoring of AML/CFT/CFP requirements by these institutions, credit unions, non-bank money transmission service providers and registered representatives. The Securities Commission of The Bahamas and the Insurance Commission of The Bahamas also established AML Analytical Units in 2019 to maintain ongoing vigilance regarding AML/CFT/CFP compliance of the securities and insurance licensees and registrants, respectively.

The onsite review by the Financial Action Task Force's International Cooperation Review Group (ICRG) of the Americas was slated to take place before mid-September 2020 and would have been a deciding factor at the October 2020 FATF Plenary, on whether FATF deems The Bahamas as having addressed action

items on its agreed Action Plan to resolve identified strategic AML/CFT/CFP deficiencies identified in the Caribbean Financial Action Task Force Mutual Evaluation Report (CFATF MER) published in July 2017. Unfortunately, the onsite review is yet to occur due to COVID19 travel restrictions. The work has been done and it is our belief and expectation that the country should be released from the FATF's 'Compliance Document' or 'Grey List' which is published three times per year following the FATF plenaries of February, June, and October.

The Hon. Carl W. Bethel, Attorney General is poised to assume the Chairmanship of the CFATF in November 2020. This strategic posting comes at a time when CFATF membership is the recipient of tremendous competitive and political pressures from the EU, international agencies and organizations. The Identified Risk Framework (IRF) Steering Committee will be focused on its support of this Chairmanship.

CONTEXT

In December 2015, The Caribbean Financial Action Task Force (CFATF) conducted a mutual evaluation of The Bahamas' technical and effectiveness compliance with the Financial Action Task Force (FATF) 40 Recommendations. The MER of The Bahamas was published in July 2017. The Bahamas was rated as "Compliant or Largely Compliant" with 18 FATF Recommendations, "Partially Compliant" with 21 FATF Recommendations and "Non-Compliant" with 1 FATF Recommendation. Accordingly, the country satisfied the criteria for being placed into the 'CFATF Enhanced Follow-up Process'.

Within 10 months after the publication of its CFATF MER, The Bahamas applied to the CFATF in May 2018 for technical compliance re-rating of 21 FATF Recommendations. The Bahamas, at the CFATF November 2018 Plenary and meetings, was successful in obtaining 13 upgraded ratings of 'Compliant or Largely Compliant' in 12 FATF Recommendations and a 'Partially Compliant' for the 1 'Non-Compliant' Recommendation of the 2017 Mutual Evaluation. The Bahamas became the first CFATF Member country to achieve such a feat. The Bahamas' current standings vis-à-vis FATF Recommendations are - 30 Compliant and Largely Compliant ratings and 10 Partially Compliant ratings -which places The Bahamas firmly on par with the top FATF member states (i.e. USA, Switzerland, Ireland, etc.).

The results of the 2017 CFATF MER also attracted the monitoring of the FATF ICRG. The FATF gave The Bahamas a 12-month observation period June 2017 – June 2018 to remedy the effectiveness deficiencies. In February 2020, following submission of its fourth progress report in December 2019 to the FATF and the ICRG's desktop review of the same with supporting documentation by the ICRG, the FATF deemed that The Bahamas had made sustainable progress towards addressing the 'Action Plan' items and approved an onsite review to verify the actions taken. The agreed date for the onsite review at that time was the week of the 28th April 2020.

IMPACT OF THE COVID19 PANDEMIC

The COVID19 Pandemic and the travel restrictions made it impossible for the onsite examination to occur as per FATF requirements. The Bahamas has since approached the FATF directly and via CFATF and regional organizations, seeking a virtual onsite review but to-date has not been successful in securing the same. This state of affairs has led to The Bahamas being disadvantaged as the onsite review results are required to support the country's release from the FATF's Compliance Document (Grey-list). This has been exacerbated by the fact that in May 2020, the Bahamas was warned that it would be placed on the

European Union's 'AML Blacklist' as a result of the country's listing on the FATF Grey-List. The Bahamas re-iterates that we remain ready to accommodate an FATF onsite or virtual review. The work has been done as evidenced from the FATF's February 2020 published Compliance Document and it is our strong belief that The Bahamas has materially addressed all agreed FATF 'Action Plan' items and anticipate being released from the FATF 'Grey List'. In short, we expect a favourable outcome from such an onsite examination (on-site or virtual) if given the opportunity to accommodate such a review.

SIGNIFICANT MEASURES TAKEN BY THE BAHAMAS

Significant measures have been taken to implement the agreed action plan and the key achievements are as follows –

1. Completion and approval of the National AML/CFT Risk Assessment in 2017
2. Completion and approval of the National Identified Risk Framework Strategy in 2018
3. Enactment of a compendium of financial sector legislation in 2018 and 2019 including but not limited to:
 - a. The Proceeds of Crime Act which includes our anti-money laundering provisions and proportionate penalties for violations.
 - b. Financial Transactions Reporting Act and related Regulations which embodies our customer due diligence requirements with an effective sanctions' regime.
 - c. The Anti-Terrorism Act which allows the country to comply with United Nations Security Council resolutions and provides for dissuasive sanctions for offences.
 - d. The Register of Beneficial Ownership Register Act, 2018 which provides for the establishment of a secure search system to facilitate searches of beneficial ownership by the Competent Authority (Attorney General), and government agencies stated in the Act.

The full list of legislation enacted can be seen in The Bahamas Overview Document.

4. Strengthening of the regulatory regime by issuing revised AML/CFT/CFP guidelines to financial and non-financial sector service providers; development and issuance of an AML/CFT/CFP coordinated penalty regime; development and implementation of risk based supervisory frameworks for credit unions, money transmission service providers, securities industry licensees and registrants, gaming houses, and Designated Non-Financial Businesses and Professions.
5. Strengthening of the oversight powers of the Registrar General by way of enactment of the Companies (Amendment) Act, 2019, which included requirements for a declaration of nominee shareholders to be held at companies' registered offices, and a strengthened enforcement toolkit. Of note was the re-establishment of the Compliance Unit which is mandated to ensure companies' compliance with statutory requirements, as well as monitoring Non-Profit organizations.
6. The strengthening of law enforcement resources, and the refocusing in mid-2017 of law enforcement on investigating all types of money laundering including those with foreign predicates. To further empower our law enforcement agencies The Government of The Bahamas codified and issued its National Confiscation Policy in 2019.
7. Improved the International Cooperation case management capabilities
8. Overhaul of Information Technology infrastructure of the Financial Intelligence Unit.
9. Increased focus on training regulatory, legal and enforcement personnel to strengthen and increase capacity to supervise financial institutions and DNFBPs; respond to improve international cooperation; and, to investigate and prosecute money laundering and terrorist financing cases. We have had 120 professionals successfully trained by the UNODC, FATF, IMPACS, CFATF, ACAMS, ICA, and several academic institutions.

The foregoing outlines the tremendous efforts made to address all concerns of the CFATF and the FATF. The IRF Steering Committee is committed to ensuring that the country maintains a high level of readiness in addressing regulatory and best practice challenges in the AML/CFT/CFP space. In addition, as noted previously, The Central Bank of The Bahamas established an AML Analytical Unit in 2018. The Securities Commission of The Bahamas and the Insurance Commission of The Bahamas also established AML Analytical Units in 2019. Enhanced coordination and cooperation arrangements avoids silo-regulating, and ensures information sharing between the 13 regulatory and enforcement agencies.

Conclusion

The work of The National Identified Risk Framework Coordinator and the IRF Steering Committee is supported at the highest policy levels of Government of The Bahamas. The Bahamas has strengthened its AML/CFT/CFP framework and has addressed the FATF's 'Action Plan'. The Bahamas is fully committed to maintaining the highest AML/CFT/CFP standards in the global fight against financial crime. We are ready to accommodate a review by the FATF (virtual or in-person) to validate these efforts.