



Exuma Cays

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Bahamas charts a clear path

International financial centre remains versatile and resilient

By Christel Sands-Feaste

In today's world, there is the flexibility to manage our affairs from anywhere. While flexibility is essential, selecting a credible jurisdiction as the centre of mind and management is also critical to the success of a business.

Despite the strong headwinds that the

In an era of enhanced regulation, substantial technological advances, increased global competition and international standards for transparency and the exchange of information, The Bahamas remains a leading offshore international financial services centre.

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international financial services industry has faced from time to time, and more particularly in recent years, The Bahamas continues to demonstrate its resilience, diversity and status as a well-regulated and attractive jurisdiction.

Robust regulatory framework

All three sectors of the financial services industry (banking, securities and insurance) operate within a comprehensive legal and regulatory framework consisting of acts, regulations, guidelines and rules. Industry participants are subject to licensing or registration requirements and assessments of fitness and properness; licensees and registrants are required to



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provide their services in accordance with prescribed operating rules and guidelines in accordance with international best practices; and a wide range of sanctions are provided for in the event of non-compliance.

All of the current legislation is modern, having been implemented, in its current form, within the past 20 years and is constantly being refined and amended as necessary to align with international best practices.

Responsive to international trends

The Bahamas is compliant with international best practices with respect to transparency and the exchange of information for tax purposes. For example, The Bahamas passed the necessary legislation in 2015 to implement the US Foreign Account Tax Compliance Act (FATCA), recently passed the Automatic Exchange of Financial Account Information Act, 2016 and regulations to facilitate the implementation and enforcement of the Common Reporting Standard (CRS) and has entered into over 30 tax information exchange agreements to date.

The industry is comprehensively supervised by The Central Bank of The Bahamas, the Insurance Commission of The Bahamas, the Securities Commission of The Bahamas (SCB), which also serves as the Inspector of Financial and Corporate Services, and the Compliance Commission, all of which are independent regulatory bodies established by statute.

Furthermore, The Bahamas has a wide array of products and services available for wealth management purposes, including private banking, investment funds and insurance products. Where appropriate, these products have been carefully developed to address differing client profiles. For example, for investment funds that are licensed as a Specific Mandate Alternative Regulatory Test Fund (better known as a SMART Fund) a term sheet may be used, while a full offering memorandum must be utilized for investment funds that are licensed as professional funds (offered to accredited investors only) or standard (retail) funds. In contrast, all licensed banks, irrespective of client base, are supervised in accordance with the Core Principles for Effective

Banking Supervision issued by the Basel Committee on Banking Supervision.

The vehicles and structures currently available to hold and/or manage assets, or for operating businesses, include companies (with or without segregated cell protection), trusts, foundations, partnerships and investment condominiums (for use with investment funds). The establishment of all of these structures and vehicles must be conducted through a licensed service provider, bank or trust company in The Bahamas. They will be subject to initial and ongoing Know Your Client and verification of identity checks in accordance with international best practices with respect to the prevention and detection of money laundering and countering terrorist financing.

Moreover, reliable accounting records must be kept in relation to receipts, expenditure, assets and liabilities of all Bahamian legal vehicles and trusts, with the sole exception being very small “domestic” companies incorporated under the Companies Act, 1992, with an annual turnover of less than \$50,000.

Ongoing refinement and development

The Bahamas continues to upgrade its toolkit of products and services; recent innovations include the adoption of amendments to the Trustee Act to among other things, codify the court’s ability to assist trustees in difficult situations, clarify the scope of the releases available to outgoing and

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continuing trustees, the introduction of the Investment Condominium to facilitate the structuring of Bahamian investment funds using a vehicle that is familiar to clients in Brazil and other countries with similar concepts and the proposed overhaul of the Investment Funds Act and regulations recently announced by the SCB.

To achieve an optimal balance of regulation and industry experience, legislative drafting projects are often spearheaded by industry associations such as the Bahamas Financial Services Board and the Association of Banks and Trust Companies, or adopted after consultation with stakeholders. In order to enable regulatory refinements to be made by subsidiary legislation as opposed to amendments to primary legislation, which requires the approval of the House of Assembly and the Senate, authority is delegated to either the Minister or the relevant regulatory body, such as the governor of the Central Bank under the Banks and Trust Companies Regulation Act or the SCB under the Securities Industry Act, 2011 to make rules or regulations relating to their respective functions and responsibilities.

World-class professionals

The industry is well resourced by world-class service providers, intermediaries

and professionals. Many licensees and registrants are branches, subsidiaries or affiliates of global financial institutions. To date, there are approximately 250 licensed banks and trust companies, 64 licensed administrators and 160 registered securities intermediaries. These institutions are supported by highly experienced and trained industry professionals, accountants and legal

advisors, many of whom have been recognized by international associations as leaders in their field.

There are many factors that make

it a favourable environment for the establishment of family offices and asset management entities. For clients considering the establishment of a single or multifamily office, The Bahamas is ideal. From a legal perspective, forming and registering an entity with the SCB to carry out discretionary management and advisory services will enable the conduct of investment management and/or advisory activities through a regulated entity with a physical presence in The Bahamas. The services necessary to support the operations, including banking, accounting, legal, compliance and information technology, can all be obtained locally and the necessary infrastructure is in place to allow the utilization of the latest technological devices and resources.

For clients wishing to engage in investment management or advisory activities within a regulated framework, while achieving some economies from an operational perspective, the physical presence requirement can be satisfied by utilizing a managing representative.

Bahamas hospitality

The extensive hospitality related infrastructure that exists to support The Bahamas’ tourism product provides a unique value-add to the financial services industry. As an archipelago,

with differing levels of development, the islands of The Bahamas offer a universe of amenities and experiences for clients travelling to The Bahamas for business purposes or considering establishing a business. For example, in New Providence the residential options range from condominiums, apartments or homes in iconic megaresorts, private residential communities, marina villages and low-density boutique resorts to smaller stand-alone privately owned and operated properties.

At the same time, a client can opt to travel to one of the Family Islands to engage in breathtaking eco-friendly activities such as bonefishing in Andros, sailing or swimming with the pigs in the Exuma Cays, bird watching in Inagua or deep-sea fishing in Eleuthera, whilst remaining connected to their business.

The Bahamas remains a tier 1 international financial centre with the resilience and versatility to respond to, as well as chart a clear and steady path in, an ever-changing global economy. 🇧🇸



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