

BULLETIN

CHANGES TO PRIVATE TRUST COMPANY REGIME

In 2007 the Banks and Trust Companies (Private Trust Companies) Regulations ("the Act") introduced a light touch regulatory regime for private trust companies in The Bahamas. Effective December, 17th 2012, the regulations to the Act were amended by the **Banks and Trust Companies (Private Trust Companies) (Amendment) Regulations 2012**. The changes are discussed below ("The Regulation Amendments"):

- The Regulation Amendments allow for private trust companies to be limited by shares **OR** by guarantee, with a minimum share capital or guarantee of five thousand dollars. Previously, only companies limited by shares could qualify as private trust companies. This change can obviate the need for a holding structure for the shares of a private trust company such as a purpose trust or a foundation, potentially simplifying trust structures and reducing costs.
- Private Trust Companies are exempt from many of the requirements of an ordinary trust company. For example, under the Act, a private trust company would be exempt from the requirement to obtain a business licence provided that the criteria to qualify as a private trust company are met. These criteria include a requirement that a designated person has to be identified; that the company complies with the definition of a private trust company under the Act; and that the private trust company does not solicit trust business. The previous regulations made provisions for the Registered Representative of the private trust company which no longer met the requirements for exemption, to notify the Inspector in writing within seven days. The Regulation Amendments now also provide that the Inspector of the Central Bank of The Bahamas must be provided with any additional information and documents to evidence such change as the Inspector may subsequently require.
- Furthermore, in accordance with the Regulation Amendments, the Registered Representative will now have the responsibility to notify the Inspector if it ceases to act as the Registered Representative of the private trust company or of any change in the Registered Representatives' principal address. Previously, the responsibility for notifying the Inspector of a change in Registered Representative lay with the private trust company
- Finally, the Regulation Amendments remove the requirement for a Registered Representative to obtain the annual approval of Central Bank in order to continue the provision of Registered Representative services. This is accomplished by the elimination of Regulation 9 of the Act which stated that the validity of an approval to act as a Registered Representative had to be renewed on an annual basis by application to the Governor of Central Bank.

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