

**THE SECURITIES INDUSTRY
REGULATIONS, 2000**

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THE SECURITIES INDUSTRY ACT, 1999

(NO. 1 OF 1999)

THE SECURITIES INDUSTRY REGULATIONS, 2000

The Minister, after consultation with the Securities Commission of The Bahamas, in exercise of the powers conferred upon him by section 93 of the Securities Industry Act, 1999 makes the following Regulations -

PART I

PRELIMINARY

- Citation. 1. These Regulations may be cited as the Securities Industry Regulations, 2000.
- Interpre- 2. In these Regulations -
tation. "Act" means the Securities Industry Act, 1999;
1 of 1999. "approved auditor" means any individual or entity
8 of 1991. licensed under the Public Accountants Act, 1991 and
approved by the Commission pursuant to regulation
77;
"disciplinary committee" means the committee established
under regulation 120;
"registered firm" means a company registered by the
Commission as a broker-dealer or securities
investment advisor.

PART II

**REGISTRATION OF A
SECURITIES EXCHANGE**

- Securities 3. Any entity operating as a Securities Exchange
Exchange. in The Bahamas shall be registered and regulated by the
Commission.
- Require- 4. The Securities Exchange -
ments. (a) shall be a company incorporated under the
18 of 1992. Companies Act, 1992;
(b) shall have at least two hundred and fifty
thousand dollars in paid-up capital;
(c) shall have at least five shareholders
approved by the Commission as fit and
proper persons;

(d) may issue multiple classes of shares, with broker-dealers as defined in regulation 55, solely having a distinct voting class of shares.

Appli-
cation.
Fifth
Schedule.
Form A.

5. (1) Application by a company for registration as a Securities Exchange pursuant to section 17(2) of the Act shall be made to the Commission in Form A in the Fifth Schedule accompanied by the prescribed application fee, registration fee, annual fee and the following documents -

- (a) a certified copy of the company's memorandum and articles of association;
- (b) a list of the company's current or proposed shareholders;
- (c) a list of the company's board of directors, their addresses, backgrounds and affiliations;
- (d) a list of the company's management and associated persons' positions;
- (e) information on the proposed Securities Exchange's facilities and operations, including the physical premises, the trading system, clearing and settlement facilities, security, communications and market surveillance systems;
- (f) the proposed Securities Exchange's regulations regarding membership, listing, business conduct, trading and settlement;
- (g) a three-year business plan, which shall include financial and operational projections, staffing requirements and listing projections;
- (h) a schedule of the proposed Securities Exchange's fees for membership, execution of trades, listing and any other charges;
- (i) a compensation fund pursuant to section 17(5) of the Act;
- (j) declaration by the chief executive officer and the treasurer signing the application that the company is in compliance with all the requirements of the Act and these regulations;

and such other documentation as the Commission deems necessary.

(2) A securities exchange shall give notice in writing to the Commission of any material change in its application for registration.

(3) On receipt of a notice pursuant to subsection (2) the Commission shall review the application and may revoke it or impose conditions upon it after giving the applicant a hearing.

Regis-
tration.

6. (1) The Commission shall decide whether the applicant has met all the requirements of the Act and these regulations and if it approves the application, it shall register the company as a Securities Exchange.

(2) Where the Commission refuses the application, it shall notify the applicant in writing stating the reasons for refusal.

(3) A Securities Exchange may renew its registration by making application to the commission accompanied by the prescribed annual registration fee on or before January 31.

Amend-
ments.

7. (1) A Securities Exchange shall apply to the Commission for permission to make any amendment to its memorandum or articles of association, regulations, procedures, fees or operations.

(2) The Commission may, if it thinks fit, permit the amendment to be made in the Securities Exchange's memorandum or articles of association, regulations, procedures, fees or operations.

Share-
holders.

8. The following may be direct or indirect shareholders of any class of shares of a Securities Exchange -

(a) broker-dealers;

(b) any other persons approved by the Commission.

Transfer
of shares.

9. Shares of a Securities Exchange may be transferred by one shareholder to another person only after receiving approval from the Commission.

Reporting.

10. A Securities Exchange shall file a report with the Commission by the tenth day of each month or at such other time as may be specified by the Commission, specifying for the previous month -

(a) its income statement, cash flows and tangible net worth;

(b) its trading statistics,
and such other information as the Commission deems necessary.

Annual
audit. 11. A Securities Exchange shall file with the
Commission a copy of its annual audited financial statements
certified by an approved auditor not later than four months
following the end of its fiscal year.

Voluntary
liqui-
dation. 12. No Securities Exchange shall go into voluntary
liquidation without the prior approval of the Commission.

PART III
REGISTERED FIRMS

Broker-
dealer
and
securities
investment
advisor
regis-
tration.

Ch. 287. 13. (1) Any company may be registered by the
Commission as a broker-dealer or as a securities investment
advisor, as the case may be, if it engages in any of the
following businesses -

(a) recommending, soliciting or effecting
transactions in securities for the
account of others;

(b) buying and selling securities but shall
not include a bank licensed under the
Banks and Trust Companies Regulation
Act or any person buying or selling
securities, either individually or in a
fiduciary capacity, not as part of a
regular business;

(c) underwriting or distributing issues of
securities, or purchasing securities and
offering such securities for sale as a
dealer or purchasing and selling
securities upon the order and for the
account of others:

Provided that a securities investment
advisor shall not engage in any of the
businesses specified in this paragraph;

(d) managing securities portfolios for others
on a discretionary or non-discretionary
basis with regard to investments therein;
or

(e) advising others as to the purchasing,
selling or exchanging of securities, or

primarily giving advice regarding the investment of funds.

Broker-dealer requirements.
18 of 1992.

14. A broker-dealer shall be a company incorporated or registered under the Companies Act, 1992 and shall at all times maintain the financial requirements pursuant to Part VIII.

Classes of broker-dealers.

15. (1) Any company registered as a class 1 broker-dealer shall be entitled to engage in any or all of the businesses specified in regulation 13 and shall be eligible for membership as a shareholder in any registered Securities Exchange.

(2) Any company registered as a class 11 broker-dealer shall be entitled to engage in any or all of the businesses specified in regulation 13 other than the business specified in regulation 13(c) and such company shall be eligible for membership as a shareholder in any registered Securities Exchange.

(3) Any company registered as a class 111 broker-dealer shall be entitled to engage only in the businesses specified in regulation 13(d) and (e) and such company shall be eligible for membership as a shareholder in any registered Securities Exchange.

Class IV broker-dealer.

16. Any company registered as a class IV broker-dealer shall be entitled to engage only in the business specified in regulation 13(e) and shall be regulated by the Commission.

Securities investment advisor requirements.

17. Any securities investment advisor may take the form of a sole-proprietorship, a partnership or may be incorporated or registered under the Companies Act, 1992 and shall at all times maintain the financial requirements pursuant to Part VIII.

Application for registration as a broker-dealer.
Fifth Schedule.
Form B.

18. (1) Application for registration by a company as a class I, II or III broker-dealer pursuant to section 22(1) of the Act shall be made to the Commission in Form B in the Fifth Schedule accompanied by the prescribed application fee, registration fee, annual fee and the required documents.
(2) Application for registration by a company as a class IV broker-dealer pursuant to section 22(1) of the Act shall be made to the Commission in Form B in the Fifth Schedule accompanied by the prescribed application fee, registration fee and annual fee and shall contain the

information required therein and such other information and materials as the Commission may require.

Appli-
cation for
regis-
tration as
a securities
investment
advisor.
Fifth
Schedule.
Form B.
Review of
appli-
cation.

19. Application for registration and licensing as a securities investment advisor pursuant to section 29(5) of the Act shall be made to the Commission in Form B in the Fifth Schedule accompanied by the prescribed application fee, registration fee and annual fee and shall contain the information required therein and such other information and materials as the commission may require.

20. (1) The Commission shall review any application submitted for registration as a broker-dealer or as a securities investment advisor and may approve or deny the application.

(2) Where the Commission approves the application, the applicant shall be registered as either a class I, II, III or IV broker-dealer or a securities investment advisor, as the case may be.

(3) A registered broker-dealer or securities investment advisor may renew his registration by making application to the Commission accompanied by the prescribed annual registration fee on or before January 31.

Name of
regis-
tered
firm.

21. No applicant shall be registered as a broker-dealer or securities investment advisor who has a name identical or similar to the name of another firm in existence which may be misleading or may cause confusion.

Require-
ments
for broker-
dealer.

22. A broker-dealer shall -
(a) designate an officer as the compliance director of the broker-dealer who shall be licensed as a principal and such principal shall have the authority and responsibility for the supervision of the broker-dealer's securities business which requirement shall not be delegated to any nominee;
(b) have a chief executive officer or managing officer in The Bahamas licensed as a principal and this requirement shall not be delegated to any nominee;

(c) establish and maintain a supervisory procedure manual, specifying the internal oversight procedures to supervise the securities business in which the company engages, including the supervision of the activities of its licensed individuals and other non-associated personnel and these procedures shall be reasonably designed and periodically updated to achieve compliance with these regulations and rules of the Commission;

(d) secure and maintain a bond on all its employees in the amount prescribed by the Commission.

Commis-
sion may
revoke
etc.
firm's
regis-
tration.

23. The registration of any registered firm may

be -

(a) revoked, suspended, limited or subject to remedial actions by an order of the Commission pursuant to disciplinary proceedings; or

(b) suspended, limited, or subject to remedial actions if the Commission deems that the firm has failed to submit required filings, submitted incorrect or false filings or failed to meet its obligations under the Act or these regulations.

Voluntary
surrender
of regis-
tration.

24. A registered firm may voluntarily surrender its registration by making application to the Commission and the surrender of such registration shall not take effect until twenty-one days after the receipt thereof by the Commission and until all debts owed the Commission, the firm's customers, or other securities industry participants have been satisfied, all Commission orders have been complied with and all outstanding disciplinary actions have been concluded.

Continued
juris-
diction.

25. A registered firm which has voluntarily surrendered its registration or whose registration has been revoked by the Commission shall continue to be subject to the jurisdiction of the Commission for its actions which commenced prior to the effective date of the surrender or revocation and any such regulatory action shall be filed within one year after the effective date of the surrender or revocation.

PART IV
REGISTRATION AND LICENSING
OF INDIVIDUALS

Require-
ments for
regist-
ration as
a stock-
broker
or broker
etc.

26. Subject to the provisions of these regulations, every applicant for registration as a stockbroker or broker or securities investment advisor shall -

- (a) be at least eighteen years of age;
- (b) be of good character;
- (c) not have other interests direct or indirect which may conflict with the conduct and integrity of his employment as a stockbroker or broker;
- (d) not have been barred or have been the subject of regulatory action by any regulatory organization, domestic or foreign;
- (e) not have had a receiving or bankruptcy order made against him within the past five years;
- (f) comply with regulation 35; and
- (g) have any other qualifications which the Commission may deem appropriate.

Application
for regist-
ration as a
stockbroker
or broker
etc.
Schedule
Form C.

27. Application for registration as a stockbroker or broker or securities investment advisor pursuant to sections 29(1) and (5) of the Act shall be made to the Commission in Form C in the Fifth Schedule accompanied by the prescribed application fee, registration fee and annual fee and shall contain the information required therein and such other information and materials as the Commission may require.

Require-
ments for
regist-
ration as
an associ-
ated person.

28. Subject to the provisions of these regulations, every applicant for registration as an associated person shall -

- (a) be at least eighteen years of age;
- (b) be of good character;
- (c) have graduated from a secondary school or

its equivalent;

(d) not have other interests direct or indirect which may conflict with the conduct and integrity of his employment;

(e) not have been barred or have been the subject of regulatory action by any regulatory organization, domestic or foreign;

(f) comply with regulation 35;

and shall comply with such other requirements as the Commission may deem necessary.

Appli-
cation for
regist-
ration as
an associ-
ated
person.
Fifth
Schedule.
Form D.

29. Application for registration as an associated person pursuant to section 29(2) of the Act shall be made to the Commission in Form D in the Fifth Schedule accompanied by the prescribed application fee, registration fee and annual fee and shall contain the information required therein and such other information and materials as the Commission may require.

Principal.

30. Where the regulations require the employment of a principal, the individual shall be licensed as a "principal" by the Commission.

Require-
ments
for
licensing
as a
principal.

31. (1) Subject to the provisions of these regulations, every applicant for licensing as a principal shall -

(a) be at least twenty-five years of age;

(b) be a registered stockbroker or broker in good standing;

(c) not have other interests direct or indirect which may conflict with the conduct and integrity of his employment as principal; and

(d) have had experience befitting his position with his employment.

(2) Notwithstanding paragraph (1), the Commission may in its discretion approve any individual as a principal.

Appli-
cation
for

32. An application for licensing as a principal shall be submitted to the Commission in Form E in the Fifth Schedule accompanied by the prescribed application fee,

licensing
as a
principal.
Fifth
Schedule.
Form E.

registration fee and annual fee and shall contain the information required therein and such other information and materials as the Commission may require.

Review of
appli-
cation.

33. (1) The Commission shall review any application submitted for registration or licensing as a stockbroker or broker, securities investment advisor, associated person or principal and may request from the applicant any additional materials or information the Commission deems necessary.

(2) The Commission may refuse to consider an application if the applicant has been refused registration within a period of twelve months immediately preceding the application.

(3) Upon approval, the applicant shall be registered or licensed as a stockbroker or broker, securities investment advisor, associated person or principal, as the case may be.

(4) Where the Commission refuses the application, the Commission shall notify the applicant in writing stating the reasons for refusal.

Renewal
of regis-
tration
or licence.

34. Subject to the provisions of these regulations, a registered stockbroker or broker, securities investment advisor, associated person or principal may renew his registration or licence by making application to the Commission accompanied by the prescribed annual registration or licence fee on or before January 31.

Material
change.

35. (1) An individual shall give notice in writing to the Commission of any material change in his application for registration or licensing.

(2) On receipt of such notice, the Commission shall review the application and may revoke it or impose conditions upon it after giving the individual a hearing.

Voluntary
surrender
of regis-
tration or
licence.

36. (1) An individual may voluntarily surrender his registration or licence by making application to the Commission and the surrender of such registration or licence shall not take effect until twenty-one days after the receipt thereof by the Commission and until all debts owed the Commission and other securities industry participants have

been satisfied, all Commission orders have been complied with and all outstanding disciplinary actions have been concluded.

(2) An individual may surrender his licence as principal without surrendering his stockbroker's or broker's registration but a surrender of his registration as a stockbroker or broker shall cause his principal's licence to become invalid.

Continued
juris-
diction.

37. An individual who has voluntarily surrendered his registration or licence or whose registration or licence has been revoked by the Commission shall continue to be subject to the jurisdiction of the Commission for his actions which commenced prior to the effective date of the surrender or revocation and any such regulatory action shall be filed within one year after the effective date of the surrender or revocation.

PART V

REGISTERED FACILITIES

Appli-
cation.

38. (1) Every registered facility -
(a) shall be a company incorporated under the Companies Act, 1992;
(b) shall have such paid-up capital solely in that company as the Commission shall require;
(c) may have multiple classes of stock,
and shall be subject to any other requirement as the Commission deems necessary.

Fifth
Schedule.
Form B.

(2) Application by a company for registration as a facility pursuant to section 20(2) of the Act shall be made to the Commission in Form B in the Fifth Schedule accompanied by the prescribed application fee, registration fee, annual fee and the following documents -

- (a) a certified copy of the company's memorandum and articles of association;
- (b) the list of the company's current or proposed shareholders;
- (c) the list of the company's board of directors, their full names, addresses, backgrounds and affiliations;
- (d) the list of the company's management and

staff positions;

- (e) information on the company's facilities and operations, including the physical plant, the operational systems, security, communications and risk management systems;
- (f) the rules and regulations regarding membership and operations;
- (g) a two-year business plan, which shall include financial and operational projections, staffing requirements and transaction projections;
- (h) a schedule of fees for membership, operational transactions and any other charges;
- (i) declaration by the chief executive officer and the treasurer signing the application that the company is in compliance with all the requirements of the Act and these regulations;

and such other information as the Commission deems necessary.

Regis-
tration.

39. (1) The Commission shall decide whether the applicant has met all the requirements of the Act and these regulations and if it approves the application, it shall register the company as a facility.

(2) A registered facility may renew its registration by making application to the Commission accompanied by the prescribed annual registration fee on or before January 31.

Permitted
share-
holders.

40. Only the following persons may be direct or indirect shareholders in a registered facility -

- (a) a Securities Exchange;
- (b) a broker-dealer;
- (c) a bank licensed under the Banks and Trust Companies Regulation Act;
- (d) any person approved by the Commission.

Ch. 287.

Amend-
ments.

41. (1) A registered facility shall apply to the Commission for permission to make amendments to its memorandum or articles of association, regulations, procedures, fees and operations.

(2) The Commission may, if it thinks fit, permit

the amendment to be made in the facility's memorandum or articles of association, regulations, procedures, fees or operations.

Transfer of shares. 42. Shares of a registered facility may be transferred by one shareholder only to another shareholder specified in regulation 40 and only with the permission of the Commission.

Reporting. 43. A registered facility shall file a report with the Commission by the fifth business day of each month or at such other times as may be specified by the Commission, specifying for the previous month -

(a) its profit and loss statement, cash flow and tangible net worth;

(b) its trading statistics,

and such other information as the Commission deems necessary.

Annual audit. 44. A registered facility shall file with the Commission a copy of its annual financial statements certified by an approved auditor not later than four months following the end of its fiscal year.

Voluntary liquidation. 45. No registered facility shall go into voluntary liquidation without the prior approval of the Commission.

PART VI

FILING AND REPORTING REQUIREMENTS OF REGISTERED FIRMS

Employment. 46. A registered firm shall file with the Commission in Form F in the Fifth Schedule accompanied by the prescribed fee, the following information -

Fifth Schedule. (a) the employment of any registered stockbroker or broker or securities investment advisor or associated person, and

Form F. (b) the employment of any individual who will be applying to the Commission for registration as a stockbroker or broker or securities investment advisor or

associated person.

Termination of employment. Fifth Schedule. Form G.

47. A registered firm shall file with the Commission in Form G in the Fifth Schedule, accompanied by the prescribed fee, information relating to the termination, resignation or retirement of any registered or licensed individual employed with the firm and concurrently, a copy of such filing shall be provided to the registered or licensed individual.

Disciplinary, legal, criminal or material events.

48. (1) A registered firm shall report to the Commission not later than five business days after the event whenever such firm or any of its employees -

- (a) is the subject of any written customer complaint involving allegations of forgery, fraud, theft or misappropriation of funds or securities;
- (b) is named as a defendant or respondent in any criminal or regulatory proceeding or any civil proceeding exceeding twenty-five thousand dollars, either domestic or foreign;
- (c) is associated in any business or financial activity with any individual who has been convicted of an indictable offence under Bahamian law or an offence punishable by one year or more in prison under any foreign law, or barred or suspended in excess of three months by any regulatory authority, either domestic or foreign;
- (d) is a director, substantial shareholder, partner, officer or sole proprietor or in any way associated with any entity which has been convicted of an indictable offence under Bahamian law or an offence punishable by one year or more in prison under any foreign law, or barred or suspended by any regulatory authority, either domestic or foreign.

(2) Any employee of a registered firm shall promptly report to the firm the existence of any of the information specified in paragraph (1);

Financial

49. A registered firm shall file by fax or

and other electronic means by the tenth day of each month (or operational at such other times as may be specified by the Commission) reports. in Form H in the Fifth Schedule accompanied by the prescribed Fifth fee, the calculations and evidence of the firm's -

- Schedule. (a) tangible net worth, regulatory capital as
Form H. of the last business day of the previous month and an income statement for the previous month;
(b) the number, volume, value and all trades executed,

and such other information as the Commission deems necessary.

Annual 50. (1) A registered firm shall file with the
audit. Commission a copy of its annual financial statements certified by an approved auditor not later than four months following the end of its fiscal year.

(2) The Commission may conduct an investigation of the registered firm or its transactions as a result of any adverse findings in the audit or qualifications of the financial statements.

PART VII

RECORD KEEPING REQUIREMENTS

Record 51. A registered firm and facility shall keep and
keeping. preserve correct books, accounts, records, memoranda and correspondence in conformity with all relevant laws of The Bahamas and these regulations.

Types of 52. (1) A registered firm shall maintain the
records to following documents -

- be kept and (a) customer account form pursuant to
preserved. regulation 59;
(b) records relating to the trading of securities either on a principal or agency basis including, but not limited to, purchase and sale ledgers, order tickets and customer account statements;
(c) receipts, records, bank statements and other materials necessary for the compilation of the firm's financial requirements;
(d) copies of all approved advertisements,

sales literature and other public communications pursuant to regulation 76;

(e) employment and licensing information of every employee of the firm;

(f) customer complaints received by the firm involving the firm or its employees;

(g) all of the firm's correspondence, and any other information, records or materials that the Commission deems necessary.

(2) A registered facility shall maintain where applicable the documents specified in paragraph (1).

Maintenance of books and records.

53. All books and records required under these regulations to be maintained shall be maintained in The Bahamas, in English, in an organized manner, in a readable and easily reproducible form for a minimum period of seven years from the date of any transaction and any such books and records shall be readily accessible to the Commission.

PART VIII
FINANCIAL REQUIREMENTS FOR REGISTERED FIRMS

Financial requirements.

54. A registered firm shall maintain at all times during its business operations the requisite financial requirements as prescribed by these regulations.

Capital requirements.

55. A registered firm shall maintain the following capital -

- (a) class I broker-dealer - at least three hundred thousand dollars of regulatory capital;
- (b) class II broker-dealer - at least one hundred and twenty thousand dollars of regulatory capital;
- (c) class III broker-dealer - sixty thousand dollars of regulatory capital;
- (d) class IV broker-dealer - twenty-five thousand dollars of regulatory capital
- (e) securities investment advisor - twenty-five thousand dollars of regulatory capital.

Regulatory Capital.

56. "Regulatory capital" means -
(a) cash and cash equivalents;

- (b) money market funds in either Bahamian or US dollar accounts held in The Bahamas;
- (c) the market value of securities of the Government of The Bahamas less ten percent;
- (d) the market value of securities listed on a securities exchange registered under the Act or a foreign securities exchange specified by the Commission pursuant to section 18(1) of the Act less a percentage established by the Commission from time to time.

PART IX

BUSINESS CONDUCT

Duty to
comply.

57. A registered firm or a registered licensed individual shall comply with the provisions of the Act, these regulations, rules, orders and directives of the Commission.

Unregis-
tered, un-
licensed,
suspended
or barred
indivi-
duals.

58. No registered firm shall permit -
(a) any individual associated with such firm to engage in the securities business unless he is registered or licensed to engage in such business by the Commission;
(b) any individual who is barred or suspended by the Commission to be physically on or occupy any of the firm's premises from which it conducts any securities business.

Customer
account
form.

59. (1) No registered firm or its stockbroker or broker shall execute any transaction for a customer until it has in its possession a "customer account form" executed by the customer and approved by a licensed principal of the firm.

(2) The form shall contain information concerning the customer's financial status, employment, education, investment objectives, ability to incur risk and any other information that may be considered reasonable by the firm or the stockbroker or broker in making an investment recommendation to the customer.

Suitable
recomm-
dations. 60. A registered firm or such firm's stock-
broker or broker shall not recommend any purchase, sale or
exchange of any security to a customer unless the firm's
stockbroker or broker has reasonable cause to believe that the
transaction is suitable for the customer.

Excessive
trading. 61. A registered firm or such firm's stockbroker
or broker shall not encourage excessive trading in a
customer's account for the purpose of increasing the firm's or
stockbroker's or broker's commission or other revenue
generated by such trading.

Unautho-
rized
trades. 62. (1) A registered firm is prohibited from
executing any transaction for which it has not had the
customer's prior written authorization.

(2) A registered firm is prohibited from
exercising its investment discretion over a customer's account
without prior written authorization from the customer and such
authorization must have been signed and approved by a
principal of the firm prior to any transaction.

Fraudulent
activities. 63. (1) A registered firm shall not engage in any
transaction or induce the purchase, sale or exchange of any
security by means of any manipulative, deceptive or
fraudulent practice or activity.

(2) It shall be considered a deceptive and
fraudulent activity for any registered firm or any licensed
individual to affix on any document a customer's signature,
with or without that customer's authorization, to falsify any
records mandated by the Act, the regulations or the Commission
or forge or falsify any document or instrument used in the
conduct of such firm's or individual's business.

False
statements
or ommis-
sions. 64. No applicant for registration or licensing
shall make false statements, on or omit material information
from, the respective applications or, in the case of an
individual, cheat on any examination required by the
Commission.

Improper
use of
securities
funds. 65. No registered firm or any registered or
licensed individual shall make improper use of a customer's
securities or funds, such as but not limited to, cases
of theft or borrowing, lending or pledging of funds or
securities without the customer's written authorization.

Segregated
accounts. 66. A registered firm shall identify and maintain
all of its customers' funds and securities in a segregated
account distinct from any account containing its own funds and

securities.

Prompt
delivery.

67. A registered firm shall promptly deliver funds or securities to its customers and to other firms in accordance with such rules as may be made by the Commission or by a clearance and settlement facility registered by the Commission.

Disclosure
of control.

68. A registered firm controlling or controlled by an issuer of any security recommended to a customer shall disclose to the customer the existence of such relationship prior to the execution of any transaction.

Charges
for
services.

69. All charges for services performed by registered firms in connection with securities' transactions shall be fully disclosed to customers and shall not be discriminatory between customers.

Outside
business
activity.

70. No registered or licensed individual of a registered firm shall be engaged in any other employment, outside business activity or accept compensation from any other person or legal entity (other than as a passive investor), outside the scope of his relationship with the firm, unless the individual has prior written authorization from the firm approving the specific employment, business activity or relationship.

Super-
vision.

71. (1) A registered firm shall be responsible for the conduct and actions of its stockbrokers or brokers, associated persons and other unregistered or unlicensed personnel in its employ.

(2) A registered firm shall be responsible for supervising its registered or licensed and unregistered or unlicensed staff, maintaining and updating the supervisory procedures manual and maintaining adequate supervisory personnel in keeping with the number of its branch offices and registered and licensed employees.

Unautho-
rized
securities
trans-
action.

72. (1) No registered or licensed individual associated with a registered firm, without written authorization from that firm, shall participate in any manner in -

- (a) transactions involving securities not endorsed by the firm; or
- (b) securities' transactions outside the regular course or scope of his employment with the registered firm.

(2) Paragraph (1) shall not apply to the

registered or licensed individual's personal or fiduciary transactions.

PART X

ADVERTISING AND PUBLIC COMMUNICATIONS STANDARDS

General standards.

73. A registered firm, its agent or representative -

- (a) shall adhere to the principle that communications with the public that are intended to solicit securities business must be based on fair dealing and good faith and all such communications must provide a sound basis for evaluating the facts conveyed regarding any particular security, class of securities or investment recommendation or trading strategy;
- (b) is prohibited from publishing, circulating or otherwise distributing any public communication which is intended to solicit business that they know, or should know, contains any untrue statement and no material fact or qualification may be omitted if such omission would cause the communication to be misleading;
- (c) is prohibited from using exaggerated, unwarranted or misleading statements in public communications and in preparing advertising scripts and sales literature and must acknowledge the risks inherent in investing in securities; such risks include, without limitation, fluctuating market prices, the uncertainty of dividends, rates of return, yields and corporate profits and currency fluctuations;
- (d) shall comply with these advertising standards when sponsoring or

participating in any seminar, public forum, radio or television interview, on the internet or other like circumstances; and

- (e) is responsible for complying with these general standards and is not relieved from such responsibility by the employment of an outside organization or agent to prepare promotions, advertisements, sales literature or scripts on its behalf.

Specific standards.

74. In addition to the general standards specified in regulation 73, a registered firm, its agent or representative must adhere to the following specific standards regarding communications with the public that are designed to solicit securities' business -

- (a) all advertisements and sales literature must clearly identify the responsible registered firm and contain current and accurate information;
- (b) in making a specific investment recommendation, a registered firm must have a reasonable basis for the recommendation, disclose the security's price or price range at the time the recommendation is made and disclose the existence of any of the following situations -
 - (i) that it makes a market in the recommended security,
 - (ii) that it and its directors, officers or principal shareholders have a current or contingent financial interest in the recommended security, unless the extent of the financial interest is nominal,
 - (iii) that it participated in a public offering of the recommended security within the last two years, and
 - (iv) any other conflict of

interest between it and the recommended security;

(c) a registered firm may publish or circulate material that does not make any specific recommendations but offers to supply a list of its past recommendations and the list shall contain the following elements -

- (i) the name of each security recommended,
- (ii) the date and type of recommendation made,
- (iii) the price or price range at the time the recommendation was made, and
- (iv) the price or price range within which the recommendation was intended to be followed;

(d) with regard to any particular investment or investment strategy, a registered firm's public communication must not contain promises of specific results, guarantees, exaggerated or unwarranted claims, or projections or forecasts of results for which no reasonable basis currently exists and all forecasts or projections must be clearly identified as such;

(e) to the extent that a registered firm makes use of endorsements, quotations, tables, charts, graphs, statistics and other similar devices in its public communications, the source of such information must be disclosed and cited in the communication.

Compliance.

75. A registered firm, to ensure compliance, must establish advertising review procedures and include them in its supervisory procedures manual as required by regulation 22(c) and such procedures shall include the following -

- (a) designation by the firm of the compliance director to be responsible for the review

of each piece of public communication (including scripts of information to be broadcast by radio or television) prior to its initial publication or distribution; and

- (b) if the communication satisfies the requirements of these regulations, the compliance director must approve and certify by initialing each sample piece of communication and maintain such sample as a record available for inspection by the Commission; or
- (c) if the compliance director cannot approve or certify the piece of communication, it shall not be published, broadcast or distributed until it is in compliance with these regulations.

Commis-
sion's
authority
regarding
public
communi-
cations.

76.

- The Commission shall have the authority to -
- (a) require the registered firm to furnish it with any materials or information in support of any of its recommendations or any other public communications;
 - (b) require the registered firm to file a copy of all or any proposed public communication with and obtain approval from the Commission prior to its dissemination;
 - (c) place conditions or limitations on any or all of the registered firm's public communication or take any reasonable measure to prevent the dissemination of false or misleading public communication.

PART XI

APPROVED AUDITORS

Approved
auditor.

77. (1) Any auditor associated in any way with any registered firm or public company shall be required to be approved by the Commission.

(2) Application for approval shall be made by the registered firm or public company in writing to the Commission.

Require-
ments for
approval.

78. In order for an auditor to be considered approved by the Commission, he shall -

- (a) be a member of the Bahamas Institute of Chartered Accountants in good standing;
- (b) not be barred or suspended by the Commission from being associated with any registered firm or public company in The Bahamas;
- (c) be licensed under the Public Accountants Act, 1991.

Duties
of the
approved
auditor.

79. An approved auditor shall -

- (a) comply with all relevant laws of The Bahamas;
- (b) comply with all regulations and standards mandated by the Bahamas Institute of Chartered Accountants;
- (c) not cause, assist or abet others from complying with the above requirements.

Contra-
ventions
by approved
auditor.

80. (1) Where it is alleged that the approved auditor has contravened any of these regulations, the Commission may investigate such allegation and if necessary subject the approved auditor to the disciplinary process pursuant to Part XVII.

(2) For the purposes of Part XVII, the approved auditor shall be considered a licensee.

PART XII

PUBLIC OFFERINGS

Regist-
ration.

81. (1) Pursuant to section 54(1) of the Act, it is unlawful to sell, purchase or offer any security through a public offering unless a prospectus in respect of such security is registered with the Commission.

(2) A prospectus registered with the Commission shall be valid for the period of the subscription as notified to the Commission or sixty days from the date of registration, whichever is the later.

(3) The term "offer" shall be given a broad interpretation by the Commission and may include any publication or statements which would stimulate interest in the company or induce reasonable persons to invest in the company.

Delivery
of a
registered
prospectus.

82. Any sale or subscription of any security shall be accompanied by a copy of the issuing company's registered prospectus and delivered to the investor and this obligation shall be necessary for at least sixty days following the registration date of the prospectus or until the end of the subscription period, whichever is sooner.

Conduct
of company
during
regist-
ration of
securities.

83. (1) Notwithstanding paragraph (1) of regulation 81, a company in the process of registering its prospectus with the Commission may continue -

- (a) providing factual information and keeping its shareholders and customers informed of the company and its products and services;
- (b) advertising its products or services;
- (c) sending out periodic financial information, annual reports, proxies, dividend notices and other information;
- (d) holding annual meetings; and
- (e) making announcements with respect to factual business and financial developments.

(2) The company may announce to the public prior to filing the registration application with the Commission its intention to make a public offering of its securities and that such offering will be made only by means of an effective prospectus.

(3) The company may conduct negotiations and execute agreements with potential underwriters regarding the public offering.

(4) Persons under contract with the company or engaged in the distribution, directly or indirectly, may effect transactions in the shares of the company.

Prospectus.

84. (1) Any company intending to make a public offering of its securities shall file three copies of the prospectus with the Commission, accompanied by the required attachments and the prescribed fee.

First
Schedule.

(2) The requirements for and contents of the prospectus shall be those specified in the First Schedule.

(3) The prospectus to be filed with the Commission shall be executed pursuant to section 54(2) of the Act.

Review of

85. (1) The Commission shall review the prospectus

prospectus. to ensure compliance with all legal requirements and to ensure that the company has made full and proper disclosure regarding its business and finances.

(2) The Commission shall have the authority to request as it sees fit additional information, testimony, materials or attachments from the company and may also require that the prospectus contain additional information or attachments which are not specified in the First Schedule.

(3) Any change by the company to the original filed prospectus, either on its own initiative or at the request of the Commission, shall take the form of an amendment to the prospectus.

Contents of prospectus.

86. The prospectus shall consist of the following -

- (a) the front page shall contain the information in paragraphs 1 to 6 of the First Schedule along with the respective headings;
- (b) pursuant to section 54(3) of the Act, the front cover of the prospectus shall contain the following legend in bold and distinctive type:

"This prospectus and the securities offered herein have been registered with the Securities Commission of The Bahamas effective _____. However, neither the Securities Commission of The Bahamas nor the Government of The Commonwealth of The Bahamas passes judgment on the merits of the offering and is therefore not liable for any statements or omissions contained herein.";

- (c) on either the inside front cover or the following page, the prospectus shall contain a reasonably detailed table of contents and it shall show the page number of the various sections or subdivisions of the prospectus including a specific listing of all the risk factors;

- (d) immediately following the table of contents, the prospectus shall contain a brief summary of the securities to be offered, the company's business, the risk factors, and the financial information;
- (e) in addition to the matters required in paragraphs (a) to (d), the prospectus shall contain all the matters specified in the First Schedule except for the exhibits required in paragraph 39.

Post-effective amendments.

87. (1) After the registration of the prospectus is declared effective, it shall be the responsibility of the company to keep the information in the prospectus correct and not misleading.

(2) If prior or subsequent events have made the prospectus materially misleading, then the company shall immediately amend the prospectus, with the permission of the Commission, by affixing a sticker containing the new information on to the prospectus.

(3) If prior or subsequent events have made the prospectus fundamentally misleading or incorrect, then the company must amend the prospectus and wait for the Commission to approve the amended prospectus; during the time from discovery of the misleading or incorrect prospectus to the effective date of the amendment, the offering shall cease and shall be suspended and it shall be the responsibility of the company to inform the public of the suspension of the offering.

Stop order.

88. (1) The Commission shall have the authority to issue an order (called a "stop order") suspending a company's securities offering even though the prospectus had been declared effective and registered.

(2) A stop order issued under paragraph (1) may be for an indefinite period of time or until the Commission cancels the order and it may also contain any additional requirements, undertakings or conditions placed upon the company by the Commission.

(3) Any company affected by such a stop order shall not sell, subscribe or offer any securities in such offering for the duration of the stop order and it shall be the responsibility of the company to inform the public of the stop order and the suspension of the offering.

Escrow.

89. (1) Any underwriter which is offering a company's securities or any company which itself is offering its securities through any public offering other than on a firm commitment basis shall escrow any proceeds from such offering with a financial institution which has been approved by the Commission.

(2) In the case of an underwriter, it may escrow such proceeds in a separate bank account in trust for the company which securities are being offered.

(3) The proceeds in any case, shall remain in the escrow or trust accounts until the subscription period ends or until the offering goals have been satisfied.

PART XIII

EXEMPT OFFERINGS

Defini-
tions for
Part XIII.

90. (1) In this Part -
"accredited investor" means any person who comes within any of the following categories, or whom the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person -

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- (a) any bank licensed under the Banks and Trust Companies Regulation Act, whether acting in its individual or fiduciary capacity;
- (b) any firm registered under the Act and acting for its own account;
- (c) any insurance company registered under the Insurance Act;
- (d) any mutual fund company licensed under the Mutual Funds Act, 1995;
- (e) any employee benefit plan if the investment decision is made by a plan fiduciary, which is either a bank or trust company licensed under the Banks and Trust Companies Regulation Act, an insurance company registered under the Insurance Act, or registered firm, or if

6 of 1995.

the employee benefit plan has total assets in excess of five million dollars;

- (f) any director, executive officer or general partner of the issuer of the securities being offered or sold, or any director, executive officer or general partner of a general partner of that issuer;
- (g) any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds one million dollars;
- (h) any natural person who had an individual income in excess of two hundred thousand dollars in each of the two most recent years or joint income with that person's spouse in excess of three hundred thousand dollars in each of those years and has a reasonable expectation of reaching the same income level in the current year;
- (i) any trust, with total assets in excess of five million dollars, not formed for the specific purpose of acquiring the securities offered; and
- (j) any entity in which all of the equity owners are accredited investors;

an "affiliate" of, or person "affiliated" with, a specified person means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified;

Exemption from registration. 91. Pursuant to section 54(7)(d) of the Act, securities designated and listed in this Part which are offered, purchased or sold shall be exempt from the registration requirement of section 54(1) of the Act.

Exemption of offering not exceeding one million 92. Offers and sales of securities by any company issuing shares to the public not exceeding one million dollars in any twelve-month period shall be exempt from the registration requirement of section 54(1) of the Act, if it satisfies the following conditions -

dollars.

6 of 1995.

- (a) the issuer shall be a public company, as defined in the Act, with an operating business, and the issuer shall not be a mutual fund as defined in the Mutual Funds Act, 1995;
- (b) the investor shall be an "accredited" investor as defined in regulation 90 and any accredited investor, together with his immediate family or any affiliated company, shall not purchase in excess of one hundred thousand dollars of the exempt offering in any twelve-month period;
- (c) a disclosure document, in English, must be furnished to every investor at the time of the offer and shall consist of -
 - (i) a description of the company's business, risk factors and use of proceeds,
 - (ii) the latest audited financial statements, and
 - (iii) the latest unaudited financial statements, if the audited financials are more than nine months old from the date of the offer;
- (d) every accredited investor purchasing securities under this regulation shall execute an affidavit attesting to the following -
 - (i) his status as an accredited investor, and
 - (ii) being in receipt of the requisite disclosure document, and such affidavit shall be maintained by the issuer;
- (e) any advertisement or general public solicitation by either the company, its agents or any registered firm is prohibited.

Exemption

93.

Offers and sales of securities by any company

of offering
not ex-
ceeding
five
million
dollars.

issuing shares to the public not exceeding five million dollars in any twelve-month period shall be exempt from the registration requirement of section 54(1) of the Act, if it satisfies the following conditions -

6 of 1995.

- (a) the issuer shall be a public company, as defined in the Act, with an operating business, and the issuer shall not be a mutual fund as defined in the Mutual Funds Act, 1995;
- (b) the investor shall be an "accredited" investor as defined in regulation 90 and a participating accredited investor shall purchase at least one half million dollars of securities in a single transaction;
- (c) a disclosure document, in English, must be furnished to every investor at the time of the offer and shall consist of -
 - (i) a description of the company's business, risk factors and use of proceeds,
 - (ii) the latest audited financial statements, and
 - (iii) the latest unaudited financial statements, if the audited financials are more than nine months old from the date of the offer;
- (d) every accredited investor purchasing securities under this regulation shall execute an affidavit attesting to the following -
 - (i) his status as an accredited investor,
 - (ii) acknowledgment of purchasing securities not registered under the Act and therefore subject to restrictions on resale,and such affidavit shall be maintained by the issuer; and
- (e) any advertisement or general public solicitation by either the company, its

agents or any registered firm is prohibited.

Criminal or regulatory history.

94. (1) No exemption under regulation 92 or 93 shall be available for any company issuing shares to the public if such company, any of its predecessors, affiliates, directors, senior management or substantial shareholders have been convicted of any indictable offence or have been the subject of any regulatory action either in The Bahamas or any foreign jurisdiction.

(2) Notwithstanding paragraph (1), the Commission shall have the authority to grant an exemption in any such case as it sees fit.

Filing with the Commission. Fifth Schedule. Form J.

95. (1) No later than five days prior to the first sale of securities using the exemption provisions of regulations 92 and 93, the issuer shall file in Form J in the Fifth Schedule, accompanied by the prescribed fee, a statement with the Commission detailing the nature of the exempt transaction.

(2) The issuer shall file a report with the Commission within five days after any subsequent sale of exempt securities.

**PART XIV
PROXIES**

Definitions for Part XIV.

96. In this Part -
"dissenters" means beneficial shareholders who, individually or as an organized group, represent at least ten per cent of any class of a company's voting shares and who either oppose some of the items to be voted upon at the meeting of shareholders or who themselves propose any new items to be voted upon;

"proponent" means any substantial shareholder of any class of the company's voting shares, who proposes in keeping with these regulations any new item to be voted upon at the meeting of shareholders;

"proxy" includes every proxy, consent or authorization within the meaning of section 91 of the Act and the consent or authorization may take the form of failure to object or to dissent;

"proxy statement" means the statement required by the

Second Schedule whether or not contained in a single document;

"solicit" and "solicitation" include -

- (a) any request for a proxy whether or not accompanied by or included in a form of proxy;
- (b) any request to execute or not to execute, or to revoke, a proxy; or
- (c) the furnishing of a form of proxy or other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy;

but does not include -

- (i) the furnishing of a form of proxy to a security holder upon the unsolicited request of such security holder;
- (ii) the performance by any person of ministerial acts on behalf of a person soliciting a proxy; or
- (iii) a communication by a security holder who does not otherwise engage in a proxy solicitation, made in public or in response to a question, stating how the security holder intends to vote and the reasons therefor, provided in the communication.

Notice and proxy requirements.

97. (1) Pursuant to section 92 of the Act, every public company prior to any meeting of its shareholders, shall send to all its beneficial holders of record, a notice of the meeting, and a proxy statement containing the information specified in the Second Schedule.

Second Schedule.

(2) No solicitation subject to this rule shall be made unless each person solicited is concurrently furnished or has previously been furnished with a preliminary proxy statement which has been filed with the Commission and sent after the time for review by the Commission has expired.

Filing requirement. Second Schedule.

98. (1) A public company shall file three copies of any proposed notices and proxy materials in the form of the Second Schedule, accompanied by the prescribed fee, with the Commission for its review at least ten days prior to any mailing of such materials to its shareholders.

(2) Where no action is taken by the Commission within ten days following the filing of the proposed notice and proxy materials, such notice and proxy may be mailed by the company or its agent to its beneficial shareholders.

(3) The Commission may accelerate the ten day review period to a shorter period, in a case by case basis.

Authority
of the
Commission.

99. The Commission may -
- (a) review any proposed notices, proxies, communications and other related materials, and -
 - (i) request amendments to the documents,
 - (ii) defer mailing of the materials and hence delay the meeting of shareholders,
 - (iii) request additional information, materials and testimony regarding the documents;
 - (b) issue an order requiring a company from either holding the scheduled meeting of shareholders or transacting any business thereon even after the mailing of the notices or proxies;
 - (c) exempt in whole or in part any company from the requirements of any or all of the requirements of this regulation.

Dissenter
rights.

100. (1) Subject to a vote of the shareholders, dissenters to any action by a company may challenge and send opposing information to the company and the Commission shall

be the final arbiter as to whether the opposing shareholders should be classified as "dissenters" for the purpose of this Part.

(2) The dissenters shall file with the Commission and with the company a statement of their opposition to any particular matter to be voted upon at the meeting of shareholders at least fourteen days before such meeting and such statement shall contain similar information as required of the company in the Second Schedule; the statement in opposition must be filed with the Commission for its review prior to sending it to the company and if not disapproved by

the Commission, the company shall address these matters at its schedule meeting.

(3) The dissenters may communicate with, and solicit proxies of, the shareholders by sending a statement of opposition and proxy materials directly to the shareholders and if approved by the Commission the company shall supply the complete list of the names of the shareholders to any dissenters, which have been classified by the Commission for this purpose.

Communi-
cation
with share-
holders.
Require-
ments as
to proxy.

101. The company, proponents or dissenters shall not communicate with shareholders prior to the meeting of shareholders other than through the proxy process or any exceptions listed herein.

102. (1) The form of proxy -

- (a) shall indicate in bold-face type whether or not the proxy is solicited on behalf of the company's board of directors or, if provided other than by a majority of the board of directors, shall indicate in bold-face type on whose behalf the solicitation is made;
- (b) shall provide a specifically designated blank space for dating the proxy card;
- (c) shall identify clearly and impartially each separate matter intended to be acted upon, whether or not related to or conditioned on the approval of other matters, and whether proposed by the company or by security holders;
- (d) shall provide a means whereby the person solicited is afforded an opportunity to specify by boxes a choice between approval or disapproval of, or abstention with respect to each separate matter referred to therein as intended to be acted upon, other than elections to office and a proxy may confer discretionary authority with respect to matters as to which a choice is not specified by the security holder provided that the form of proxy states in bold-face type how it is intended to vote the

shares represented by the proxy in each such case.

(2) A form of proxy which provides for the election of directors shall specify the names of persons nominated for election as directors and such form of proxy shall clearly provide any of the following means for security holders to withhold authority to vote for each nominee -

- (a) a box opposite the name of each nominee which may be marked to indicate that authority to vote for such nominee is withheld;
- (b) an instruction in bold-face type which indicates that the security holder may withhold authority to vote for any nominee by lining through or otherwise striking out the name of any nominee;
- (c) designated blank spaces in which the security holder may enter the names of nominees with respect to whom the security holder chooses to withhold authority to vote;
- (d) any other similar means, provided that clear instructions are furnished indicating how the security holder may withhold authority to vote for any nominee;

and such form of proxy may also provide a means for the security holder to grant authority to vote for the nominees set forth, as a group, provided that there is a similar means for the security holder to withhold authority to vote for such group of nominees and any such form of proxy which is executed by the security holder in such manner as not to withhold authority to vote for the election of any nominee shall be deemed to grant such authority, provided that the form of proxy so states in bold-face type.

(3) No proxy shall confer the following authority -

- (a) to vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement;
- (b) to vote at any annual meeting other than the next annual meeting (or any

adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to security holders;

- (c) to vote with respect to more than one meeting (and any adjournment thereof) or more than one consent solicitation; or
- (d) to consent to or authorize any action other than the action proposed to be taken in the proxy statement and a person shall not be deemed to be a bona fide nominee and he shall not be named as such unless he has consented to being named in the proxy statement and to serve if elected.

(4) The proxy statement shall provide, that the shares represented by the proxy will be voted and that where the person solicited specifies by means of a ballot provided pursuant to paragraph (2) a choice with respect to any matter to be acted upon, the shares will be voted in accordance with the specifications so made.

(5) No person conducting a solicitation subject to this regulation shall deliver a form of proxy, consent or authorization to any security holder unless the security holder concurrently receives, or has previously received, a definitive proxy statement that has been filed with the Commission.

Exclusion
from
filing.

103. (1) A company, shall not be required to file with the Commission any preliminary proxy statement, form of proxy or other soliciting material to be furnished to security holders concurrently therewith if the solicitation relates to an annual meeting (or special meeting in lieu of the annual meeting) of security holders if at which the only matters to be acted upon are -

- (a) the election of directors;
- (b) the election, approval or ratification of an auditor; and
- (c) a proposal from a substantial shareholder.

(2) The exclusion in paragraph (1) from filing preliminary proxy material shall not apply if -

- (a) the company comments upon, or refers to a

solicitation in opposition to, the meeting in its proxy material or any of the proposals;

- (b) any dissenters oppose any items on the agenda.

Proposals.

104. (1) The company shall specify any proposal in its proxy statement if any proponent or dissenter of a company notifies it of his intention to present such proposal for action at a forthcoming meeting of shareholders and -

- (a) the proponent is a beneficial shareholder of the company of at least ten per cent of the outstanding voting class of securities and affirms such in a sworn affidavit;
- (b) the proposal is in writing and limited to not more than five hundred words and has been submitted to the company and to the Commission no later than forty days prior to any delivery of proxy materials;
- (c) limited to only one proposal for each proponent.

(2) If the company rejects the proposal, the Commission shall review the submission and decide whether it is relevant, proper and appropriate for a shareholder's vote and the commission shall be liberal in its interpretation.

Delivery of proxy.

105. It is the company's duty to ascertain all the shareholders eligible to vote at the meeting of shareholders and shall either directly or through the shareholder's representatives deliver to the shareholders their notices and proxy materials.

PART XV

COMMISSION'S OFFICIAL REGISTER

Commis-
sion's
Official
Register.

106. The Commission shall maintain a complete computerized database of current and former registered firms, registered and licensed individuals, approved auditors and any other persons associated with the securities industry which

the Commission deems necessary and such database shall be referred to as the "Commission's Official Register".

Contents
of Commis-
sion's
Official
Register.

107. The Commission's Official Register shall contain the following information on registered firms and licensees -

- (a) information which they are required to furnish the Commission;
- (b) final decisions of any disciplinary or criminal proceedings by any regulatory or judicial authority, domestic or foreign;
- (c) orders arising from any bankruptcy filings, domestic or foreign;

and any other information that the Commission deems necessary.

Other
entities.

108. The Commission's Official Register may also contain information concerning any other entities or individuals associated with the securities industry or securities market of The Bahamas.

Infor-
mation to
be kept
current.

109. (1) A registered firm or licensee shall keep the information required in the Commission's Official Register current and updated.

(2) Any changes and updates to the Commission's Official Register shall be made by notifying the Secretary of the Commission, in writing.

PART XVI

RECOGNITION OF FOREIGN SECURITIES EXCHANGES AND PRESCRIBED JURISDICTIONS

Authority.

110. (1) The Commission shall have the authority to -

- (a) recognize and specify foreign securities exchanges for the purposes of section 18(1) of the Act;
- (b) prescribe jurisdictions other than The Bahamas for the purposes of section 18(2) of the Act.

Third
Schedule.
Fourth
Schedule.

(2) Foreign securities exchanges recognized by the Commission are those specified in the Third Schedule.

(3) Jurisdictions prescribed by the Commission are those specified in the Fourth Schedule.

(4) The Commission may at any time withdraw its recognition of any foreign securities exchange or prescribed

jurisdiction.

PART XVII
INVESTIGATIVE AND DISCIPLINARY PROCEDURES

Appli-
cability.

111. The procedures in this Part shall apply to -
(a) all proceedings relating to disciplinary matters pursuant to the Act and these regulations against any entities or individuals regulated thereunder; and
(b) other proceedings the Commission deems appropriate.

Confiden-
tiality.

112. All disciplinary investigations and proceedings conducted by the Commission and any materials or testimony associated therewith shall be considered privileged and confidential.

Filing of
grievances.

113. (1) Any customer, registered firm, facility or licensee may file with the Commission a letter of grievance against any other registered firm, facility or licensee which relates to any contravention of these regulations.

(2) Letters of complaint shall be in writing signed by the party making the complaint and shall identify the registered firm, facility or licensee against whom the grievance is lodged and shall specify the facts surrounding the complaint.

(3) The letter together with any attachments shall be submitted to the Commission and such letter and attachments shall be filed with the Secretary of the Commission.

Time limitations.

114. No proceeding against any registered firm, facility or licensee for any offence under these regulations may be commenced after the expiration of four years after the day upon which the alleged contravention is or ought to have been discovered.

Investigation report.

115. (1) Pursuant to section 34(4) of the Act, the Executive Director, upon the conclusion of the investigation, shall submit a report regarding the case to an impaneled Disciplinary Committee.

(2) The Disciplinary Committee shall have the authority to -

- (a) dismiss the matter;
- (b) issue a letter of caution or some other informal remedial action;
- (c) authorize the issuance of a formal complaint; or
- (d) refer the matter to the Attorney-General.

(3) Should the grievance be dismissed or the matter referred to the Attorney-General by the Disciplinary Committee, a letter noting the decision shall be sent to the complainant.

(4) In the course of any investigation being conducted by the Commission, every registered firm, facility or licensee shall cooperate with the investigation.

(5) The party accused in the complaint shall be referred to as the defendant.

Complaint.

116. (1) Any authorized formal complaint shall be executed by the Executive Director and it shall be made in writing and shall specify in detail the nature of the charges and the regulation allegedly contravened; if the complaint consists of several allegations, each allegation shall be separately stated and additionally, the complaint may set a date, time and place for a hearing regarding the alleged contraventions.

(2) The complaint shall be sent to the defendant by registered mail to the current address which is listed in the Commission's Official Register or alternatively, notice may be effected by personal service; in the event that there are multiple defendants in the action, each individual defendant shall be mailed a separate complaint or served personally and a copy of the complaint shall also be sent to the registered firm with whom any defendant is currently associated.

(3) At any time prior to the commencement of the hearing, the Executive Director with the concurrence of the Disciplinary Committee, may withdraw or amend, in whole or in part, any complaint as to all or any of the defendants.

(4) In the case of a complaint's withdrawal, a formal letter of withdrawal shall be sent by the Executive Director to the defendant along with a copy to the registered firm with whom the defendant is associated.

(5) Any amendments, including additions of new defendants shall be included in an amended complaint which shall be sent by registered mail to or served personally upon all the defendants in the action along with a copy to each of their respective registered firms.

Answer
to
complaint.

117. (1) The defendant shall provide an answer to the complaint or any amendment thereto and answers shall be in writing, properly signed by the defendant or his counsel and attorney and submitted to the Commission within fourteen days from the date of receipt of the complaint or the amendment; the answer shall contain the defendant's admission or denial, in whole or in part, and may contain any defence to each allegation.

(2) If no answer is received within the time required, the Executive Director shall send a second complaint to the defendant by registered mail or serve him personally, requiring an answer within ten days of the receipt of the second notice by the defendant.

(3) If no answer is received within the time required by the second notice, the Executive Director may consider the allegations in the complaint or the amendment as admitted by the defendant and the Executive Director in such an instance shall enter the case as a "default" and refer it to the Commission for final adjudication.

Notice of
hearing.

118. (1) The defendant shall be notified of the date, time and place of the hearing in the complaint.

(2) If the defendant was not notified pursuant to paragraph (1), then a notice of hearing stating the date, time and place shall be sent to the defendant by registered mail to the current address which is listed in the Commission's Official Register or alternatively, notice may be effected by personal service.

(3) If the defendant objects to the scheduled date, time or place of the hearing, he shall file the objection, either by letter or fax, with the chairman of the hearing panel of the Commission no later than fourteen days from initial receipt of the notice of hearing; such objections shall be specific and shall specify alternative dates, times or places for the hearing and the chairman of the hearing panel shall respond within five days from the receipt of the initial objection.

(4) A receipt for registered postage or an affidavit of service by process service shall be prima facie evidence of service of the complaint.

Hearing
waived.

119. (1) The defendant may waive the hearing and elect not to avail himself of the hearing process; the waiver shall be in writing, properly signed by the defendant, and submitted to the chairman of the hearing panel no later than ten days prior to the hearing date, if one was already set.

(2) If the defendant waives the hearing, the matter shall be decided by the hearing panel of the Commission; the hearing panel may reject the defendant's waiver and order him to appear and participate at the hearing.

(3) Where the defendant waives the hearing, the hearing panel may consider the matter only on the written submissions of the defendant and the Executive Director and the parties shall have the opportunity to submit additional materials.

Discip-
linary
Committee.

120. (1) Pursuant to section 34(3) of the Act, the Disciplinary Committee shall be a standing body comprised of five individuals which may include not more than two persons who are members of the Commission, appointed by the Commission to serve for terms of two or three years.

(2) The non-Commission members of the Disciplinary

Committee shall be citizens of The Bahamas, who are of the highest reputation and character and who have a background in law, banking, government, accountancy or economics and they shall not be connected directly with the securities industry in The Bahamas.

(3) Two or three members of the Disciplinary Committee may be appointed by the chairman of the Commission for any investigation being conducted by the Executive Director; the chairman or the deputy chairman of the Commission shall serve as the chairman of the Disciplinary Committee.

Commis-
sion
hearing.

121. (1) Any hearing in a disciplinary matter shall be presided over by a hearing panel of the Commission which shall be comprised of any number of members of the Commission who are not already on the Disciplinary Committee, but not less than three, who have been appointed by the chairman; the chairman shall also appoint a member to serve as the chairman of the hearing panel.

(2) The hearing shall be scheduled on any business day, not less than twenty-one days from receipt of the initial mailing of the notice of hearing and it shall be conducted at the offices of the Commission.

(3) The defendant may be represented or assisted in the disciplinary matter by a counsel and attorney or any other representative of his choosing.

(4) Any hearing may be rescheduled, as to the time, date or location upon agreement of all the parties to the proceedings.

(5) All matters relating to the hearing shall be confidential and the hearing shall be an informal proceeding and shall not be conducted in accordance with the strict formalities of judicial procedure of The Bahamas.

(6) Generally, the hearing may be conducted as follows -

- (a) after each party has made its opening statement, the Executive Director would present his case, followed by the defendant presenting his;
- (b) both sides may submit exhibits and call witnesses, including experts, to testify;
- (c) they shall not be bound by the formal rules of evidence;

- (d) each party may cross-examine the others' witnesses;
- (e) the commission hearing panel may question either party at any time during the proceedings;
- (f) the Executive Director shall have the burden of proof.

Commis-
sion
hearing
panel's
decision.

122. (1) Following the conclusion of the hearing, the Commission hearing panel shall decide by a majority vote, whether or not the defendant contravened the Act or regulations as charged in the complaint and if the defendant is found guilty, the Commission hearing panel shall recommend sanctions to the Commission.

(2) Regardless of the outcome, the Commission shall issue a written decision which shall include -

- (a) the names of the presiding Commission hearing panel members;
- (b) the pertinent facts;
- (c) the section or regulation allegedly contravened by each defendant in the complaint;
- (d) the panel's ruling and the basis upon which its findings were made;
- (e) the sanctions imposed, if applicable; and
- (f) any minority or dissenting opinions, if applicable.

(3) If the Commission hearing panel determines that no contravention occurred, it shall dismiss the charges.

Default by
the defend-
ant.

123. (1) In the case where the defendant has chosen not to answer the complaint or fails to appear at the hearing a "default" may be entered by the Executive Director, and the Commission hearing panel may review the case and either affirm or dismiss the default based on the Executive Director's evidence.

(2) If the Commission hearing panel affirms the default it must then decide on the appropriate sanctions in the matter.

(3) Regardless of whether the default is affirmed or dismissed, the Commission hearing panel shall issue a written decision.

Final
decision.

124. (1) All decisions rendered by the Commission hearing panel shall be considered final decisions of the

entire Commission.

(2) All final decisions shall promptly be sent by the Secretary by registered mail or by personal service to the defendant and his registered firm.

(3) Copies of all final decisions shall also be promptly forwarded to the party filing the original grievance, if applicable.

(4) All final decisions of the Commission are public documents.

Appeal of
the final
decision.

125. (1) A defendant may appeal any final decision of the Commission in accordance with the appellate procedures pursuant to section 42 of the Act.

(2) An appeal to a final decision does not stay or suspend any sanctions contained therein.

Double
jeopardy.

126. In the event that the final decision finds that the defendant had not contravened the provisions of the Act or regulations as specifically charged in the original complaint, that defendant cannot at a later date be retried or charged again for those same specific facts in another action by the Commission.

Offer of
settlement.

127. (1) Any defendant may propose in writing an offer of settlement of the charges contained in the complaint at any time prior to the issuance of a decision by the Commission hearing panel.

(2) An offer of settlement shall be submitted by the Executive Director to the Commission for approval and if approved, it shall be considered a final decision of the Commission.

(3) If the offer of settlement is rejected by the Commission, it shall be considered cancelled and the matter shall proceed to a hearing.

(4) Where the offer of settlement is approved by the Commission it shall set out the terms of settlement and signed by the defendant and the Commission.

(5) The complaint in the matter settled shall be marked settled by the Executive Director and dated on the day of approval by the Commission.

(6) A copy of the complaint marked settled shall be sent to the defendant or each defendant, as the case may be, and the original complaint marked settled shall remain with the Commission.

Sanctions.

128. (1) The sanctions in a final decision, if any,

shall be effective from the date stated therein.

(2) In any disciplinary proceeding the Commission may impose, on a defendant having been found to have contravened any of the provisions of these regulations, any or a combination of the sanctions pursuant to section 33 (b) and (c) of the Act.

Compliance with the final decision.

129. (1) All the terms and requirements of the final decision shall be complied with by the defendant within ten days of the effective date, unless otherwise specifically stated therein.

(2) All fines and other monetary sanctions, other than restitution to specified parties, shall be paid to the Treasurer.

Summary suspension.

130. The Commission may summarily suspend the registration of any registered firm or individual or suspend the licence of any licensee who has failed to comply with all the terms and requirements of the final decision within the time required.

Expulsion or suspension of

131. In the event that the final decision imposes on a registered firm the sanction of expulsion or suspension of its registration, the registered firm and all its employees shall cease engaging in any aspect of the securities business,

registered firm.

permanently, in the case of an expulsion or for the specified time period, in the case of a suspension.

Revocation or suspension of individual.

132. In the event that the final decision imposes the sanction of revocation or suspension upon an individual's registration or licence -

(a) he shall not engage in any activities listed in section 29(1) or (5) of the Act, as the case may be; and

(b) the registered firm shall not allow him to be associated with that firm in any capacity whatsoever, including clerical or non-professional functions or being present on its premises, permanently, in the case of an expulsion or for the specified time period, in the case of a suspension.

PART XVIII

REQUEST FOR INFORMATION AND COOPERATION

Request for information and co-operation.

133. (1) Pursuant to any request from the Commission in connection with an investigation or a disciplinary or administrative hearing, a registered firm or registered or licensed individual shall be required to -

- (a) truthfully and fully report any information requested;
- (b) produce complete and correct books, records, memoranda, data and other materials requested; or
- (c) provide testimony, cooperate, or appear for an interview or as a witness, as the case may be.

(2) The requirements of paragraph (1) shall also apply to former registered firms and registered or licensed individuals subject to the Commission's jurisdiction pursuant to regulations 25 and 37.

Requests for financial information.

134. Any request by the Commission upon a registered firm or registered or licensed individual for reports, testimony or production of documents regarding bank accounts of the firm or of the individual shall be pursuant to a court order.

Impeding requests.

135. No registered firm or registered or licensed individual, shall impede or permit others to impede any request, the inspection of records or the investigation by the Commission.

Failure to comply with a request from the Commission.

136. Where a registered firm or registered or licensed individual fails to comply, in whole or in part, with an official request by the Commission, the Commission shall issue a complaint against the non-compliant party, charging such party with contravention of these regulations.

Failure to comply with a Commission request during proceeding.

137. Where a registered firm or registered or licensed individual fails to comply, in whole or in part, with an official request by the Commission during its proceedings, the Commission shall issue a summary order of suspension of either the registration or the licence, as the case may be, and the order shall be effective until the party fully complies with the terms of the request or additionally, the party may be subject to further disciplinary proceedings regarding the contravention of these regulations.

Forms.

138. The forms required under these regulations are

Fifth Schedule. those set out in the Fifth Schedule.

Fees. 139. The fees payable to the Commission for the Sixth Schedule. various matters under the Act are those specified in the Sixth Schedule.

FIRST SCHEDULE

(Regulation 84)

PROSPECTUS

The issuer shall include the following information in its prospectus in English -

1. Name

The issuer's name, registration number, country of incorporation, statute under which it is incorporated and business address, telephone, facsimile and e-mail contact information.

2. Responsibility statement

- (1) A statement that "This prospectus is issued in compliance with the provisions of the Securities Industry Act, 1999 for the purpose of giving information to the public with regard to the issuer. The Directors collectively and individually accept full responsibility for the accuracy of the information given and confirm, having made all reasonable inquiries and that to the best of their knowledge and belief there are no other facts, the omission of which would make any statement in the prospectus misleading."
- (2) Where the applicant is an issuer of certificates representing debt securities, a statement that "The issuer [full name] accepts responsibility for the information given and to the best of its knowledge and belief this information is in accordance with the facts and does not omit anything likely to affect the import of such information. The information set out in this prospectus with regard to [name of the issuer of underlying debt securities], its subsidiary undertakings and the [description of those underlying securities] consists of extracts from or summaries of information contained in financial and other information released publicly by [name of the issuer of underlying debt securities] and provisions of the laws governing such issues. The issuer accepts responsibility for accurately reproducing such extracts or summaries but does

not accept responsibility in respect of such information.”

3. Statement as to filing

A statement that “A copy of this prospectus has been registered with the Securities Commission of The Bahamas under the Securities Industry Act, 1999. The commission has not checked and will not check the accuracy of the statements made and accepts no responsibility therefor or for the financial soundness of the issuer or the value of the securities concerned.”

4. Listing on a Securities Exchange

A statement as to whether or not an application has been or is being made to a securities exchange for listing of the securities which are the subject of the prospectus and stating -

- (a) if so, the name of the securities exchange; or
- (b) if not, whether or not there will be a market for the securities and its location.

5. Disclaimer by the Exchange

A statement that -

“The (Name of Securities Exchange) accepts no responsibility for the contents of this prospectus, makes no representations as to its accuracy or completeness and expressly disclaims any liability whatever for any loss howsoever arising from or in reliance upon the whole or any part of the contents of this prospectus.”

6. Title and amount of securities

The title and amount of each class of securities offered. State the amount of securities offered by the issuer and other selling security holders, if any. If the underwriter has any arrangement with the issuer, such as an over-allotment option, under which the underwriter may purchase additional shares in connection with the offering, indicate that this arrangement

exists and state the amount of additional shares that the underwriter may purchase under the arrangement. Give a brief description of the securities.

7. Position if the issuer in a group

Where the issuer is a member of a group of companies, its position within that group, the names of its principal subsidiary undertakings and its ultimate holding company.

8. Offering price of the securities

The price to the public of the securities, the amounts of any discounts and commissions, payable to the underwriters and any other person who shall be named, the net proceeds expected to be received, and any selling shareholder's net proceeds. State this information on a per share or unit basis and for the total amount of the offering. If the offering is made on a minimum or maximum basis, whether as to price or number of shares or other securities show this information based on the total minimum and total maximum amount of the offering. Present the information clearly in a table, term sheet format, or other presentation.

9. Determination of offering price

- (1) Where any class of common equity or shares is being offered for which there is no established public trading market or where there is a material disparity between the offering price of the common equity being offered and the market price of outstanding shares of the same class, describe the various factors considered in determining such offering price.
- (2) Where warrants, rights or convertible securities exercisable for common equity exist for which there is no established public trading market, describe the various factors considered in determining their exercise or conversion price.

10. Market for the securities

The amounts of each class of securities which are the subject of this prospectus, for which application for listing is being made, or that are already listed identifying the trading symbol(s) for those securities already listed, if any.

11. Finders and promoters

Identify any finder and if applicable, describe the nature of any material relationship between such finder and the company, its officers, directors, principal stockholders, finders or promoters or the principal underwriter(s), or if there is a managing underwriter(s), the managing underwriter(s), (including, in each case, affiliates or associates thereof).

12. Plan of distribution and underwriting

- (1) Describe briefly the plan of distribution of any securities to be offered. Where the offer is to be underwritten, identify the parties to any other commitment to realise the object of the offer, including the issuer itself pursuant to a dividend or interest reinvestment plan or employees' share scheme, through other parties or that are offered otherwise than for cash.
- (2) Name(s) of the lead or managing underwriter(s) and an identification of the

nature of the underwriting arrangements stating the respective amounts underwritten.

- (3) Set out the nature of the underwriters' or dealers' compensation and the amount of discounts and commissions to be paid to the underwriter or dealers for each security and in total. If the underwriting agreement provides for indemnification by the company of the underwriters or their controlling persons against liability arising under the Act, describe such indemnification provisions.
- (4) Describe any transaction that any of the underwriters intend to conduct during the offer period that stabilizes, maintains, or otherwise affects the market price of the offered securities.
- (5) If the securities are offered on a best efforts or best efforts minimum or maximum basis, state the date the offering will end, any minimum requirements, and any arrangements to place the funds in an escrow, trust or similar account.
- (6) Identify each underwriter having a material relationship with the company and state the nature of the relationship. State briefly the nature of the obligation of the underwriter(s) to take the securities and describe any arrangement whereby the underwriter has the right to designate or nominate a member or members of the board of directors of the company. The company shall disclose the identity of any director so designated or nominated, and indicate whether or not a person so designated or nominated, or allowed to be designated or nominated by the underwriter is or may be a director, officer, partner, employee or affiliate of the underwriter.

13. Date of effectiveness of the prospectus

- (1) Date on which the prospectus was approved and signed by the directors.
- (2) Date of effectiveness (approval by the Commission).

14. Business

- (1) Details of the issuer's business including the names and activities of its principal subsidiaries and other entities in which the issuer holds twenty-five per cent or more in that companies capital, their interrelationships, the nature and economics of the principal industries involved, and how the business of each of the principal companies, its products and services has developed.
- (2) A description of the issuer's assets including, fixed assets and principal properties including their location, area, tenure and use to which they are put by the issuer.
- (3) The number of employees of the company in The Bahamas and elsewhere,

and describe the issuer's principal intellectual property and any amounts of goodwill attributed thereto in the issuer's annual accounts.

- (4) Any litigation or claims pending or threatened against the issuer and any other legal proceedings involving the company.
- (5) In the case of an issue consisting only of debt securities, a summary of the information required by this paragraph shall suffice.

15. Securities of the company

- (1) The issuers authorized and issued share and loan capital, giving the number of shares or stock units or other transferable units of each class, their nominal value, if any, the number in each class and the amounts of the shares of each class into which loan capital or other securities has rights of conversion or subscription.
- (2) A summary of the terms and conditions of issue and the rights attaching to each class of securities issued or proposed to be issued, including their respective rights as to dividend or interest and dates from which payable, voting, conversion, redemption and drawing for redemption or sinking fund and currency of debt.
- (3) The amount of transferable units of each class, arrangements for transfer, and that the securities are freely transferable.
- (4) Summarize the consents necessary for variation of the rights attaching to each class of security.
- (5) In the case of an overseas issuer, the impact of taxation on the results of the issuer's operations and any effects of withholding tax on dividend or interest payments to holders of the issuer's securities.
- (6) The market prices of any of the issuer's securities that are publicly traded, stating the price at the end of each calendar month and aggregate volume traded during the six months prior to the filing of the prospectus.

16. Guarantor of debt securities

The nature and scope of any guarantees, sureties and commitments intended to ensure that the loan will be duly serviced in respect of both the debt and the payment of interest.

17. Financial information

- (1) Present in comparative statements selected financial data for the issuer and any subsidiaries in consolidated form over the previous three years in respect of -
 - (a) the main categories of fixed, intangible and

- current assets and liabilities summarized as net assets;
 - (b) share capital, reserves and profit and loss unappropriated balances;
 - (c) turnover, earnings and income, the nature and source thereof, distinguishing between operating income and investment income, gross profit, principal headings of expenses, depreciation, depletion, and maintenance charges and other fixed charges, specifying the nature and amount of any extraordinary or non recurring credits or charges and net profit before taxation, if any, and profit after taxation, dividends and unappropriated profit and loss;
 - (d) earnings per share;
 - (e) dividend history of the issuer stating the amounts paid during each of the three years prior to registration of the prospectus;
 - (f) cash flow showing cash derived from the operating activities and other sources and cash expended in financing operational activity and investment, distribution to holders of securities and other outgoings;
 - (g) state the accounting policies applied to the issuer when preparing its last three years audited annual accounts; and
 - (h) market capitalization of the issuer's shares, selected financial ratios and other data which is considered standard in the industry.
- (2) The information set out in comparative statements shall be supplemented by the same data for such period as will bring them up to date within the three calendar months prior to registration of the issuer's prospectus. If the issuer is a company that has been in actual business for less than three years, then the comparative financial information shall be stated for such financial periods as the company has been in business, year by year.

18. Acquisition since the date to which the last annual accounts were prepared and audited

- (1) If the proceeds, or any part of the proceeds, of the security to be issued is to be applied directly or indirectly to the purchase of a business that is expected to contribute at least fifteen per cent to either the net assets or profit before taxation and extraordinary items of the company prior to the acquisition, then a profit and loss statement of such business certified by an independent public or certified accountant, meeting the requirements of sub-paragraph (2), for the three preceding fiscal years, together with a balance sheet, similarly certified, of such business, meeting the requirements of this sub-paragraph of a date not more than ninety days prior to the filing of the prospectus or at the date such business was acquired by the issuer more than ninety days prior to the filing of the prospectus.

- (2) In the case of a smaller addition by means of acquisition of a business or assets, state brief details of the consideration paid or payable and how satisfied, the assets and liabilities and profits and losses for the last complete financial period of at least twelve months of the entity acquired.

19. Audited financial statements

The statements of assets and liabilities, profits and losses and cash flow required to be stated in the prospectus shall be prepared and drawn up in accordance with International Accounting Standards issued by the International Accounting Standards Committee and be the subject of a report by the company's auditor or an independent reporting accountant in accordance with the international standards on auditing.

20. Management's discussion and analysis of financial condition and results of operations

Describe the issuer's financial condition, changes in financial condition and results of operations. The description shall relate to financial information supplied in the prospectus with respect to liquidity, capital resources and results of operations and such other information necessary for an understanding of its financial condition, including outstanding debt, mortgages, charges on the issuer's assets, guarantees, hire-purchase commitments and contingent liabilities, changes in financial condition and results of operations. Where applicable, a segmental analysis by activity and geographical information of the issuer's business should be stated.

21. Financial forecast

- (1) Where a forecast is to be included in the prospectus, it shall be reported upon by the issuer's auditors or independent reporting accounts who shall report on the assumptions on which the forecast is based, and for which the directors alone are responsible, the calculations and any other aspect which in the opinion of the auditors or accountants is relevant to investors.
- (2) Such report shall be set out in the prospectus.
- (3) In the case of a company, for these purposes a forecast is any statement that quantifies the company's future result or can be understood to place a floor under or a ceiling over the anticipated amount of profit or loss of the company for the present financial reporting period or any such future period.
- (4) Describe the future dividend policy.

22. Accounting matters

Describe any changes in and disagreements with accountants on accounting and financial disclosure. In the event that an independent auditor resigned or was dismissed over accounting or financial policies, or had offered an adverse, disclaimed, modified or qualified opinion, the company must set out details of the same. The information set out in compliance with paragraphs 20 and 21 shall be such as will enable investors to assess the company's assets, liabilities, profits and losses and prospectus.

23. Directors

List full names and ages of all directors of the issuer, indicating all positions and offices with the company held by each person and other business experience; state his term of office as director and any period(s) during which he has served as such.

24. Senior management and key employees

- (1) List full names and ages of the secretary and senior management of the issuer and all persons chosen to become executive officers, indicate all positions and offices with the company held by each such person; his term of office as officer and the period during which he has served as such.
- (2) Where the company employs key personnel who are not senior management but who make or are expected to make significant contributions to the business of the company, such persons shall be identified and their background disclosed to the same extent as in the case of senior managers.

25. Compensation

- (1) Disclose the remuneration (including cash or non-cash, direct or indirect) paid by the issuer in the aggregate during the past two years, the current year and any future commitments of the company to the directors, the senior management and key personnel.
- (2) Segregating the cash and non-cash remuneration.
- (3) Identify the positions and number of individuals for which the remuneration is being disclosed.
- (4) Remuneration shall include, without limitations, cash, bonuses, securities, options, insurance, pensions, the payment of any expenses including housing, automobiles, lodging, relocation etc., reimbursements of any kind, non-cash gifts, forgiveness of debts and extension of loans.
- (5) Aggregate amounts of remuneration waived or deferred for each of the previous two years and the current year.

26. Loans to a director of affiliate or the issuer

The names and relevant particulars of any loan in excess of ten thousand dollars to any officer, director, stockholder, or person directly or indirectly controlling or controlled by the issuer.

27. Disclosure of shareholdings

Set out the number of shares issued carrying full voting rights beneficially owned by -

- (a) each director, his spouse, children under eighteen years of age, companies in which he is able to exercise effective control, twenty-five per cent or more voting rights and trusts of which he is the settlor and trustee and from which he, his spouse or his minor children benefit;
- (b) any shareholder, either alone or in conjunction with any other party whom a concerted course of action is intended or in practice, who holds five per cent or more of the shares, so far as is known by the issuer,

identifying the beneficial holder and the amount each holds.

28. Directors' powers

Set out a summary of the provisions in its memorandum and articles of association with regard to -

- (a) powers enabling a director to vote on a proposal, arrangement or contract in which he is materially interested;
- (b) powers enabling the directors, in the absence of an independent quorum, to vote remuneration, including pension or other benefits, to themselves or any members of their body; and
- (c) retirement or non-retirement of directors under an age limit.

29. Borrowing powers

Set out how the borrowing powers of directors can be varied.

30. Advisors

Set out the full names, addresses and professional qualification of the issuer's counsel and attorney, auditors, bankers, registrars and payment agents, and trustees of loan capital.

31. Risk factors

Where appropriate describe the most significant factors that make the offering speculative or risky. Explain how the risk affects the issuer or the securities being offered. Set out each risk factor under a sub-caption that adequately describes the risk. The risk factors may

include, without limitations, the following -

- (a) a lack of an operating history;
- (b) a lack of profitable operations in recent periods;
- (c) financial position;
- (d) the industry in which the issuer operates;
- (e) competition in that industry;
- (f) product development by the issuer or its principal competitors;
- (g) dependence on one or more key customers or suppliers;
- (h) dependence on key personnel;
- (i) need for additional financing;
- (j) the lack of a market for the issuer's securities;
- (k) political and economic factors that have affected or are likely to affect the future of the business.

32. Ratio of earnings to fixed charges

Where debt securities are being offered, state the ratio of net earnings before charging fixed charges to the total charges for interest and other charges arising on repayment or redemption of securities, or provision of sinking fund. Where the issuer offers preference shares, show the ratio of combined fixed charges and preference dividends to earnings. Present these ratios for each of the last five financial years and the latest interim period for which financial statements are presented in the document. If the issuer proposes to apply the proceeds from the sale of debt preference shares or other securities to repay any of its outstanding debts or to retire any of its issued securities and the change in the ratio would be ten per cent or greater, the issuer must include a ratio showing the effect of such application of the proceeds, commonly referred to as the pro forma ratio.

33. Use of proceeds

The principal purposes for which the net proceeds receivable by the issuer from the securities to be offered are intended to be used and the approximate amount intended to be used for each such purpose. Where the issuer has no current specific plan for the proceeds, or a significant portion thereof, this shall be stated giving the principal reasons for the offering.

34. Dilution

Where common equity securities or shares are being offered and there is substantial disparity between the public offering price and the effective cash cost to officers, directors, promoters and other affiliated persons of common equity acquired by them in transactions during the past two years, or which they have the right to acquire, there shall be included a comparison of the prices paid or payable by members of the public under the proposed public offering and the effective cash contribution of all such affiliated persons. In such cases, and in other

instances where common equity securities are being offered by an issuer that has had losses in each of its last three fiscal years and as a consequence there is a material dilution of the purchasers' equity interest, the following shall be disclosed -

- (a) the net tangible book value per share before and after the public offering;
- (b) the amount of the increase in such net tangible book value per share attributable to the cash payments made by purchasers of the shares being offered; and
- (c) the amount of the immediate dilution from the public offering price which will be absorbed by such purchasers.

35. Selling security holders

If any of the securities to be offered by or on behalf of existing security holders, name each such security holder, indicate the nature of any position, office, or other material relationship which the selling security holder has had within the past three years with the company or any of its predecessors or affiliates, and state the amount of securities of the class owned by such security holder prior to the offering, the amount to be offered for the security holder's account, the amount and (if one per cent or more) the percentage of the class to be owned by such security holder after completion of the offering.

36. Interests of named experts

A statement that any expert whose report or opinion has been included or referred to in the prospectus has given his written consent to the inclusion of such report or opinion therein and has not withdrawn his consent.

37. Other expenses of issuance and distribution.

Summarize the principal categories of expenses connected with the issue and distribution of the securities to be offered, including underwriting discounts and commissions. If any of the securities to be offered are for the account of security holders, indicate the portion of such expenses to be borne by such security holder.

38. Material contracts, not in the ordinary course of business

Set out the dates of, parties to, and a summary of, every material contract made not in the ordinary course of business, which contract is to be executed in whole or in part at or after the filing of the prospectus or which contract has been made not more than two years before such filing. Any management contract or contract providing for special bonuses or profit-sharing arrangements, shall be deemed a material contract.

39. Public inspection of documents

Copies of the following documents must be attached to the prospectus registered with the Commission and must be made available for public inspection during normal business hours at the registered office of the issuer if it is registered in The Bahamas for at least fourteen days to following publication -

- (a) a copy of any agreement made with an underwriter, including all contracts and agreements referred to in paragraphs 12(1) and (3);
- (b) a copy of the opinion or opinions of counsel and attorney in respect to the legality of the issue;
- (c) a copy of all the relevant opinions of experts contained in this Schedule;
- (d) a copy of all material contracts referred to in paragraph 38, but no disclosure shall be required of any portion of any such contract if the Commission determines that disclosure of such portion would impair the value of the contract and would not be necessary for the protection of investors;
- (e) a certified copy of the company's memorandum and articles of association;
- (f) a copy of underlying agreements or indentures affecting any stock, bonds or debentures offered or to be offered;
- (g) copies of any other documents the Commission deems necessary.

40. Dating of the Prospectus

The prospectus must be dated after the entire content has been completed and the directors of the company are ready to sign the document before it is registered with the commission.

SECOND SCHEDULE (Regulation 98) PROXY STATEMENT

The company must furnish the following information in plain English, properly indexed and in a manner prescribed by the Commission.

1. Name

State the company's name, domicile and business address.

2. Date, time and place information

- (1) State the date, time and place of the meeting of security holders, and the complete mailing address of the principal executive offices of the company.
- (2) On the first page of the proxy statement, as delivered to security holders, state the approximate date on which the proxy statement and form of proxy are first sent or given to security holders.

3. Revocability of proxy

State whether or not the person giving the proxy has the power to revoke it. If the right of revocation before the proxy is exercised is limited or is subject to compliance with any formal procedure, briefly describe such limitation or procedure.

4. Dissenters' right of appraisal

Outline briefly the rights of appraisal or similar rights of dissenters with respect to any matter to be acted upon and indicate any statutory procedure required to be followed by dissenting security holders in order to perfect such rights.

5. Solicitation

- (1) State if the solicitation is made by the company. Give the name of any director of the company who has informed the company in writing that he intends to oppose any action intended to be taken by the company and indicate the action which he intends to oppose.
- (2) If the solicitation is made otherwise than by the company, so state and give the names of the participants in the solicitation.
- (3) State by whom the solicitation is made and describe the methods employed and to be employed to solicit security holders.
- (4) State the names of the persons by whom the cost of solicitation has been or will be borne, directly or indirectly and the total amount estimated to be spent and the total expenditure to date in connection with the solicitation of security holders.
- (5) If specially engaged employees, representatives or other persons have been or are to be employed to solicit security holders, state -
 - (a) the material features of any contract or arrangement for such solicitation and the identity of the parties;
 - (b) the cost or anticipated cost thereof; and
 - (c) the approximate number of such employees or any other person (naming such other person) who will solicit security holders.

6. Voting securities

As to each class of voting securities of the company entitled to be voted at the meeting (or by written consents or authorizations if no meeting is held), state the number of shares outstanding and the number of votes to which each class is entitled and the record date, if any, with respect to this solicitation.

7. Items to be voted upon

- (1) List separately all items to be considered and voted upon by the shareholders, such as, election of directors, compensation issues, corporate matters including amendments to articles or bye-laws, mergers, consolidations, acquisitions and similar matters, property issues, election of independent accountants, capitalization matters and other corporate items.
- (2) List separately any substantial shareholder or dissenters proposals.
- (3) Along with the above items listed, the company may provide additional information about each item and may express its recommendations as to whether the shareholder should approve, reject or abstain from the proposal.
- (4) If there is any challenge to any of the items on the agenda, any contrary or additional proposal by any substantial shareholder or dissenters, the company shall include and provide their information and recommendations regarding such items or proposals.

8. Financial Information

The company shall include in its proxy materials certified financial statements for its most recently completed fiscal year.

9. Other Pertinent Information

- (1) The company shall file specific information and materials concerning each item on the agenda to be voted upon at the meeting of shareholders. The standard as to the amount, nature, and detail of the information to be submitted shall be one which would allow any reasonable shareholder to make an informed decision about the item to be voted upon.
- (2) The Commission shall make the final decision as to the amount, nature and detail of the information to be submitted in the proxy materials.
- (3) The requirements of this paragraph shall also apply to any proposals offered by proponents or dissenters.

THIRD SCHEDULE
RECOGNISED FOREIGN SECURITIES
EXCHANGES (Regulation 110(2))

All securities exchanges in countries which are members in good standing with the International Organisation of Securities Commissions.

FOURTH SCHEDULE
PRESCRIBED JURISDICTIONS (Regulation 110(3))

All jurisdictions which are members in good standing with the International Organisation of Securities Commissions.

FIFTH SCHEDULE (Regulation 138)
FORMS

FORM A (Regulation 18)

APPLICATION FOR REGISTRATION AS A
SECURITIES EXCHANGE

- (1) Applicant's full name, address, telephone and fax numbers.
- (2) Full names, addresses, nationalities and backgrounds of shareholders.
- (3) Full names, addresses, nationalities and backgrounds of directors and officers.
- (4) Detailed description of the applicant's operational capabilities.
- (5) Applicant's written supervisory procedures.
- (6) Evidence of the company's good standing with the Registrar of Companies.
- (7) Certified copy of the company's Memorandum and Articles of Association.
- (8) Applicable financial statements pursuant to section 17(1) of the Act.
- (9) Attestation by the chief executive officer and the treasurer that the applicant

is currently in compliance with all the applicable provisions of the Act and these Regulations.

- (10) Details of applicant's registration with any other regulatory authority e.g. date, registration number, status, etc.
- (11) The Rules of the Securities Exchange.
- (12) A copy of the applicant's business plan.
- (13) Prescribed fee.

Note - The chief executive officer and treasurer of the applicant must sign this application.

FORM B (Regulations 19 and 20)

**APPLICATION FOR REGISTRATION AS
A FACILITY, BROKER-DEALER OR
SECURITIES INVESTMENT ADVISOR**

- (1) Applicant's full name, address, telephone and fax numbers.
- (2) Full names, addresses, nationalities and backgrounds of the partners or substantial shareholders if applicable.
- (3) Full names, addresses, nationalities and backgrounds of directors and officers.
- (4) Full names and addresses of all registered brokers, securities investment advisors and associated persons employed by the applicant at each location.
- (5) Details of registration with any other regulatory authority, if applicable.
- (6) Detailed description of the applicant's business plans and operational capabilities.
- (7) Evidence of the company's good standing with the Registrar of companies.
- (8) Certified copy of the applicant's Memorandum and Articles of Association or Partnership Agreement.
- (9) Applicable financial statements for the past two years of broker-dealers pursuant to section 22(1)(d) of the Act and of securities investment advisors.
- (10) Attestation that the applicant is currently in compliance with all the applicable provisions of the Act and these Regulations.
- (11) The prescribed fee.

Note- In the case of an application by a company the chief executive officer and the

treasurer of the company must sign this application.

FORM C (Regulation 27)

**APPLICATION BY AN INDIVIDUAL
FOR REGISTRATION AND LICENSING AS A
STOCKBROKER OR BROKER OR
SECURITIES INVESTMENT ADVISOR**

- (1) Applicant's personal information including, full name, address, telephone number, date of birth, family data, educational background, and employment history.
- (2) A copy of the first three pages of the applicant's passport, along with three recent photographs individually signed on the back by the applicant.
- (3) Applicant's police certificate.
- (4) Details of registration with any other regulatory authority, if applicable.
- (5) Evidence of successfully passing any examination required by the Commission.
- (6) Evidence of employment and sponsorship by a firm.
- (7) Attestation by the applicant that he is currently in compliance and will comply with all applicable provisions of the Act and the Regulations.
- (8) The prescribed fee.

Note - This application must also be duly executed by a Principal of the sponsoring firm evidencing the applicant's employment.

FORM D (Regulation 29)

**APPLICATION FOR REGISTRATION AS
AN ASSOCIATED PERSON**

- (1) Applicant's personal information, including full name, address, telephone number, date of birth, nationality, family data, educational background, and employment history.
- (2) A copy of the first three pages of the applicant's passport, along with three recent photographs individually signed on the back by the applicant.
- (3) Applicant's police certificate.

- (4) Evidence of employment and sponsorship by a firm.
- (5) The prescribed fee.

FORM E (Regulation 32)
APPLICATION FOR LICENSING
AS A PRINCIPAL

- (1) Applicant's personal information including full name, address, telephone number, date of birth, family data, educational background and employment history.
- (2) A copy of the first three pages of the applicant's passport, along with three recent photographs individually signed on the back by the applicant, if applicable.
- (3) Three recent photographs individually signed on the back by the applicant.
- (4) Applicant's police certificate.
- (5) Details of registration with any other regulatory authority, if applicable.
- (6) Attestation by the applicant that he is currently in compliance and will comply with all applicable provisions of the Act and the Regulations.
- (7) Evidence of successfully passing the required principal's examination.
- (8) The prescribed fee.

FORM F (Regulation 46)
EMPLOYMENT

- (1) Employment of licensed stockbroker, broker, associated person or securities investment advisor-
 - (a) employee's personal information including full name, address, telephone number, date of birth, family data, educational background, and employment history;
 - (b) details of employee's licensing as a stockbroker, broker, associated person or securities investment advisor with the Commission, e.g. licence number, date, status.
- (2) Employment of unlicensed individual who will be applying to the Commission for licensing as a stockbroker, broker, associated person or securities investment advisor -

- (a) employee's personal information including full name, address, telephone number, date of birth, family data, educational background and employment history;
 - (b) details of intended application for licensing of employee, e.g. date of submission of application or intended submission and what category license employee has applied for or will be applying for.
- (3) The prescribed fee.

FORM G (Regulation 47)

TERMINATION OF EMPLOYMENT

Termination of employment or association of licensed individual with the firm.

- (1) Employee's personal information including full name, address, telephone number, date of birth, family data, educational background and employment history.
- (2) Effective date of termination of licensed individual.
- (3) Brief summary of circumstances of grounds of termination of licensed individual.
- (4) The prescribed fee.

FORM H (Regulation 49)

FINANCIAL AND OPERATIONAL REPORTS

Calculation and evidence of -

- (a) tangible net worth, regulatory capital as of the last business day of the previous month and income statement for the previous month;
- (b) number, volume, value and all trades executed.
- (c) the prescribed fee.

FORM J (Regulation 96)

EXEMPT TRANSACTIONS

Nature of exempt transactions.

- (1) Name of issuer.
- (2) Name and details of investor.
- (3) Details establishing that investor is accredited along with any necessary attachments.
- (4) Summary details of the nature of the transactions.
- (5) Date of transaction.
- (6) Prescribed fee.

SIXTH SCHEDULE (Regulation 139)

FEES

	Section In Act	Regulation	Fee	
Securities Exchange				
Securities Exchange application fee.	17	5	\$ 5,000.00	
Securities Exchange registration fee.	17	6(1)	\$ 20,000.00	Registration fees paid after January 31 shall be prorated over the months, or part thereof remaining in the year.
Securities Exchange annual registration fee payable on or before January 31	17	6(3)	\$25,000.00	

in each year.

	Section In Act	Regulation	Fee	
				Registered Firms
Broker-Dealer Class 1 application	22(1)	18	\$ 2,500.00	
Broker-Dealer Class 1 registration.	22(1)	18	\$ 5,000.00	Registration fees paid after January 31 shall be pro- rated over the months, or part thereof, remaining in the year.
Broker-Dealer Class 1 annual registration fee payable on or before January 31 in each year.	22(1)	18	\$ 7,500.00	
Broker-Dealer Class 11 application fee.	22(1)	18	\$ 1,500.00	
Broker-Dealer Class 11 registration fee.	22(1)	18	\$ 2,000.00	Registration fees paid after January 31 shall be pro- rated over the months, or

part thereof,
remaining in
the year.

Broker-Dealer Class 11 annual registration fee payable on or before January 31 in each year.	22(1)	18	\$ 3,500.00	
Broker-Dealer Class 111 application fee.	22(1)	18	\$ 500.00	
Broker-Dealer Class 111 registration fee.	22(1)	18	\$ 500.00 \$ 2,000.00 \$ 4,500.00	up to \$25 million \$25 to \$50 million over \$50 million Registration fees paid after January 31 shall be prorated over the months, or part thereof, remaining in the year.
Broker-Dealer Class 111 annual registration fee payable on or before January 31 in each year.	22(1)	18	\$ 1,000.00 \$ 2,500.00 \$ 5,000.00	up to \$25 million \$25 to \$50 million over \$50 million All fees relate to amounts under management.
Broker-Dealer Class IV application fee.	22(1)	18	\$ 500.00	

Broker-Dealer 22(1) 18 \$ 500.00 Registration fees paid after January 31 shall be pro-rated over the months, or part thereof, remaining in the year.

Broker-Dealer 22(1) 18 \$ 500.00 Class IV annual registration fee payable on or before January 31 in each year.

Securities 29(5) 19 \$ 500.00 Investment Advisor Application fee.

Securities 29(5) 19 \$ 500.00 Investment Advisor registration fee. Registration fees paid after January 31 shall be pro-rated over the months, or part thereof, remaining in the year.

Securities 29(5) 19 \$ 1,000.00 Investment Advisor annual registration fee payable on or before

January 31 in
each year.

	Section	Regulation	Fee	
	In Act			
	Stockbroker or Broker, Associated Person and Principal			
Stockbroker or Broker registration application fee.	29(1)	27	\$ 100.00	
Stockbroker or Broker registration fee.	29(1)	33	\$ 250.00	Registration fees paid after January 31 shall be pro- rated over the months, or part thereof, re- maining in the year.
Stockbroker or Broker annual registration fee payable on or before January 31 in each year.	29(1)	34	\$ 250.00	
Associated Person registration application fee.	29(2)	29	\$ 50.00	
Associated Person	29(2)	33	\$ 100.00	Registration fees paid after

registration
fee.

January 31
shall be pro-
rated over the
months, or part
thereof, re-
maining in the
year.

Associated 29(2) 34 \$ 100.00
Person annual
registration
fee payable
on or before
January 31
in each year.

Principal 29(1) 32 \$ 100.00
licence
application
fee.

Principal 29(1) 33 \$ 250.00
licence fee.

Licence fees
paid after
January 31
shall be pro-
rated over the
months, or part
thereof, re-
maining in the
year.

Principal 29(1) 34 \$ 250.00
annual
licence fee
payable on
or before
January 31
in each year.

In Act

Registered Facility

Facility application fee.	20(1) 38	\$ 1,500.00	Clearing, settlement, Depository, custodian.
		\$ 1,000.00	Registrar, Transfer agent.
Facility registration fee.	20(1) 39	\$ 5,000.00	Clearing, Settlement, Depository, Custodian.
		\$ 1,500.00	Registrar, Transfer agent. Registration fees paid after January 31 shall be prorated over the months, or part thereof, remaining in the year.
Facility annual registration fee payable on or before January 31 in each year.	20(1) 39	\$ 5,500.00	Clearing, settlement, depository, custodian.
		\$ 2,500.00	Registrar, Transfer agent.

**Section Regulation Fee
In Act**

Employment Filing and Reporting Requirements

Status of	22, 29	46, \$ 25.00	Payable at the
		lexbahamas	

employment filing.	47, 49,		end of the month for each change of status filing submitted during that month.
Financial and operational reports filing.	49	\$ 100.00	

Public Offerings

Prospectus filing fee.	54(1)	84	\$ 1,000.00
Prospectus registration fee for offerings made within The Bahamas	54(1)	83	(i) under \$10,000,000 –20 basis points; (ii) \$10,000,000 but under \$15,000,000 - 15 basis points; (iii) \$15,000,000 but under \$25,000,000 - 10 basis points; (iv) \$25,000,000 and over - 7.5 basis points; (v) \$20,000.00 minimum fee per review.

**Section Regulation Fee
In Act**

Exempt Offering Filings

Filing of exempt offering notice.	54(11)	96	\$ 500.00
Filing of exempt statement		96	\$ 1,000.00

Proxies

Proxy filing requirement.	92	99	\$ 100.00
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Made the 5th day of July 2000.

Minister of Finance