

# Bahamas: what's in it for you?

*LatAm FM* talks to Premier Fund Services, Graham Thompson & Co and The Bahamas Financial Services Board about the jurisdiction's ability to provide new streamlined investment funds

The Bahamian government is showing an increased flexibility and willingness to consider innovative suggestions from the private sector to enhance the regulatory regime. Fast and reasoned responses to challenges have equipped the region for international investment. *LatAm FM* talks to those in the industry about how new Smart models, created in response to the market demand, aim to increase investment potential.

**LatAm FM (LFM):** How does the Bahamas differ from other fund jurisdictions and what advantages does it offer potential clients from Latin America?

**Rawiya Rahming (RR):** The Bahamas is an independent sovereign state with a stout parliamentary government and an established political system. As a member of The Common-

wealth of Nations, it shares universal principles with members including democratic political processes, rule of law, liberty of the individual, equal

rights for all, self-determination and non-racialism, free-flow of international trade, and international peace and order.

According to the *CIA World Factbook 2011*, it remains one of the wealthiest in the North American/Caribbean region with only 9.3% of its population living below the poverty line. The value of the Bahamian dollar is on par with the US Dollar and US currency is accepted throughout the country.

Like many of its competitors, there are no direct taxes. However, The Bahamas also boasts a free trade zone in Freeport, Grand Bahama, where certain concessions apply only to the Freeport area. Investors of every description from all over the world call Freeport home.

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tion, administration and real estate.

Additionally, unlike many of its competitors, The Bahamas has a large pool of resident professionals. It ranks 173 in the world in labour force according to the *CIA World Factbook* (better than other fund jurisdictions such as The Cayman Islands, Bermuda, Malta, Jersey, Guernsey, the US, British Virgin Islands and Liechtenstein).

**Linda Beidler-D'Aguilar (LBD):** Specific Mandate Alternative Regulatory Test Funds, or SMART Funds, are unique in their flexibility and adaptability, offering substantive opportunities for creative thinking and development of new products. Consequently, they have proven to be tremendously popular, meeting a specific need within the market for a streamlined investment fund vehicle that can be used in a broad range of circumstances. These vehicles have been used by boutique investment managers to create niche products, by newly established asset managers to create their first products, by banks with global presences to meet specific requirements imposed by very high-net worth clients and by family offices to enhance their planning and investment programmes.

The flexibility and willingness of the Bahamian government to consider innovative suggestions from the private sector to enhance the regulatory regime, and in particular to create new SMART Fund models in response to market demand, will continue to en-

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wealth of Nations, it shares universal principles with members including democratic political processes, rule of law, liberty of the individual, equal

Moreover, The Bahamas is a lower cost-centre than the majority of its competitors as it relates to fund incorporation, licensing and registra-



**WENDY C. WARREN,**  
CEO & Executive  
Director, Bahamas Fi-  
nancial Services Board



**LINDA BEIDLER-  
D'AGUIAR,** Partner,  
Graham Thompson  
& Co



**RAWIYA HANNA  
RAHMING,** In-House  
Legal Counsel and  
Compliance Officer,  
Premier Fund Services

sure that The Bahamas is a jurisdiction of choice for discerning and demanding clients.

**Wendy Warren (WW):** The Bahamas has a long history of providing investment fund services which form an integral part of the jurisdiction's ability to provide comprehensive wealth management solutions for clients. This full service infrastructure has been built over the past 80 years and has allowed The Bahamas to become the regional leader for international financial service while maintaining costs at a competitive level.

With the overriding objective set as compliance with the International Organization of Securities Commissions (IOSCO), close attention is paid to the need for a strong corporate governance environment while maintaining a regulatory framework that is appropriately responsive and vigilant for funds and clients investing in them.

In this regard, a dual licensing regime exists in The Bahamas. The Securities Commission of The Bahamas is authorised to license all classes of funds and Unrestricted Fund Administrators (UFA) are authorised to license funds offered only to accredited investors.

What distinguishes The Bahamas from other jurisdictions is the latitude provided to administrators that at the same time must meet and maintain certain licensing and governance requirements. This also has negated the need to impose the requirement for independent directors.

This combination of SCB or administrator oversight, depending on the fund, creates a high degree of flexibility for fund administration in The Bahamas while providing an appropriate level of corporate governance for the growing but increasingly complex funds industry.

**LFM: In what areas is the Bahamas currently experiencing growth?**

**RR:** The Bahamas is experiencing growth in the construction industry.

**LBD:** Historically, the principal sources of business for The Bahamas were largely from North America and Europe; however, we are in fact seeing some changes to this model, including the development of ties elsewhere in the Americas, specifically in South America, as well as in Asia.

onstrated commitment to persistently strengthening the financial services sector.

The current global economic recession has impacted the country. In response, the government borrowed to cover deficit and kept spending consistent with budget to stimulate investment spending and solidify social safety. The country is concentrating

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**WW:** The comprehensive nature of the Bahamas financial services offering and our risk-based regulatory environment are attracting new asset management companies to establish operations and has also led to continued growth in funds under management and administration in the jurisdiction.

**LFM: What challenges does the Bahamas face and what measures are being taken to tackle these challenges? Have any of these challenges been turned into an advantage?**

**RR:** As a result of its offshore status and tax neutrality, The Bahamas has been targeted by the G20/OECD nations. In response, it has entered into Tax Information Exchange Agreements (TIEAs) with 24 nations. Also, the bi-cameral legislative branch of government has enacted solid legislation, ensuring that we remain at the vanguard of the market. Successive Bahamian Administrations have dem-

onstrated commitment to persistently strengthening the financial services sector. The current global economic recession has impacted the country. In response, the government borrowed to cover deficit and kept spending consistent with budget to stimulate investment spending and solidify social safety. The country is concentrating

on infrastructure undertakings and endeavours to encourage private sector and international investment. The administration has also proactively encouraged international investment and has made trips to Latin America, Europe, Canada, India and Asia to this end.

**WW:** Following the economic and financial crisis, all countries seeking to operate in the highly competitive business arena of international business and financial services must revisit and refine their value proposition. The crisis and the developments in the regulatory environment provided an ideal opportunity for The Bahamas to undertake this self-assessment.

On a regulatory front, The Bahamas adopts a very conservative approach to protect its reputation and that of its business community. As such, its regulatory environment did not require major adjustments.

In examining the landscape, The Bahamas reaffirmed its commitment

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to business development by clarifying its vision: 'To be a globally competitive international business centre for private wealth management, capital investment in the Americas and emerging markets, and residency'.

We have a number of assets at our disposal to achieve this goal. We are ideally located off the coast of Florida with the two major transit hubs of Miami and Panama providing easy access for conducting business from anywhere in the Americas. Land is abundantly available to establish business operations and there is a sizeable and growing talent pool to draw upon, capable of running complex financial, family office and trading operations. This combination of land and skill sets enables international firms to locate substantial operations in The Bahamas.

This is consistent with our client-centric focus on mobile wealth and our long history of being known as a business centre that is trustworthy, stable, and independent.

**LFM:** What is the domicile doing to attract business from Latin America? What developments have been made?

**LBD:** Key service providers, such as administrators, auditors and attorneys, are making a concerted effort to bring The Bahamas and its outstanding opportunities to the attention of asset managers and other advisors in Latin America through various channels. There is a serious commitment to enhancing awareness of the substantive and innovative products available here, and by meeting with prospective clients, speaking at and attending conferences, hosting events and writing articles, the word is getting out.

**WW:** Market responsiveness in terms of being nimble, efficient and acquiring human resources is fundamental to the continued maturation of our jurisdiction and our ability to attract business. This applies to all areas that

make a difference whether its legislation reflective of the industry or marketing.

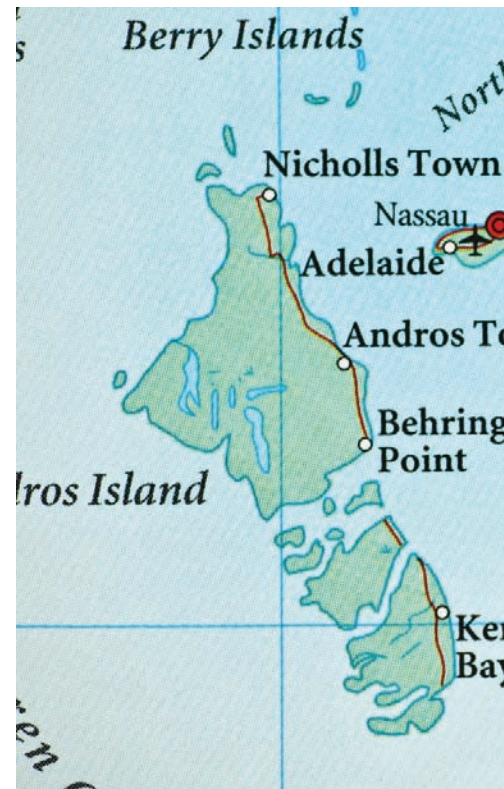
Facilitating interactions, for example, through quick work permit and business license approvals and a streamlined Economic Permanent Residency process, will play important roles in enhancing our regional competitive advantage.

We also recognise that we must have the appropriate infrastructure to attract business and wealthy clients, this has resulted in \$800m being invested in capital projects over the past four years.

**LFM:** What are the key differences and benefits of the SMART fund structure available to managers who are domiciling funds in the Bahamas?

**RR:** Traditional fund structures feature overly restrictive regulation and reporting requirements and may not be the best fit for clients. The Specific Mandate Alternative Regulatory Test Fund is ideal for untraditional investment strategies. 'SMART Fund' legislation does not set out stringent or precise criterion. If one of the six existing models is not appropriate, an application for licensing can still be submitted to the Securities Commission of The Bahamas. The applicant need only demonstrate that the entity is an appropriate employment of a fund.

**LBD:** As economic conditions change faster than ever before, investment opportunities and strategies necessitate agility and speed in setting up, licensing and operating funds. The SMART Fund models are intended for just such circumstances: advantages include prompt licensing via unrestricted investment fund administrators, the ability to use a term sheet rather than a full-blown offering document and the ability (in most instances) for investors to waive an annual audit requirement.



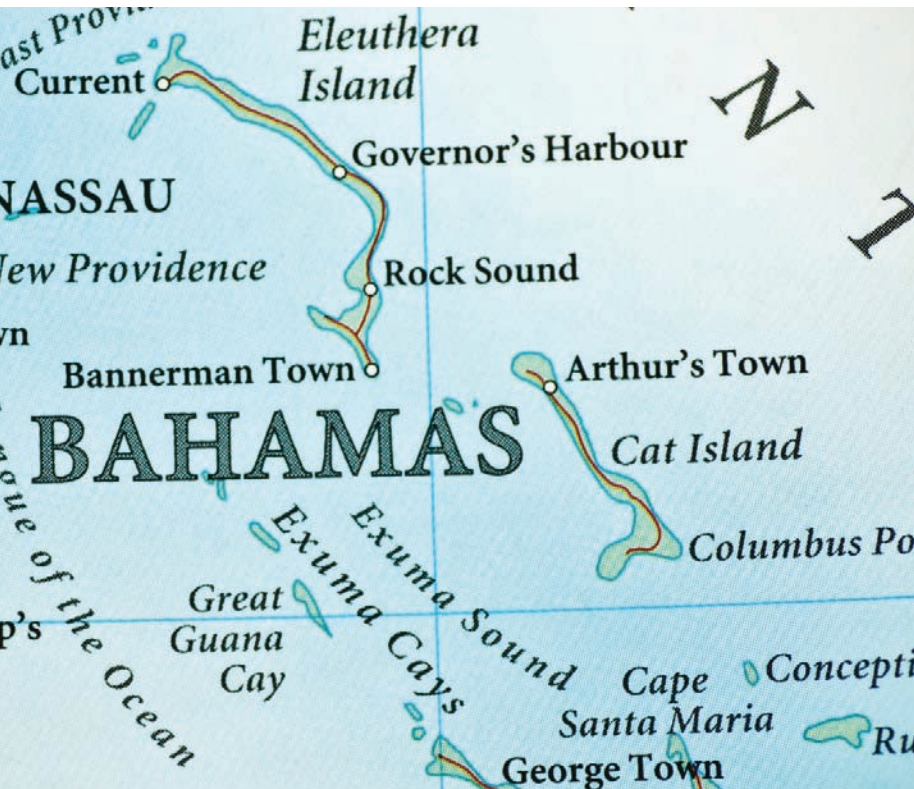
The Bahamas also affords a distinctive portfolio of entities that can be used to create an investment fund: International Business Companies are quite a familiar concept to most managers, but there are some advantages specific to those incorporated in The Bahamas:

- Multi-currency share capital structures are permitted
- Annual general meetings of shareholders are optional
- Director and shareholder meetings can be held outside The Bahamas, and may also be held via telephone.

Asset managers establishing their own funds find Exempted Limited Partnerships (ELPs) of particular interest because an ELP is by its nature a vehicle that places substantive inherent limits on the investors' ability and opportunity to direct the fund and

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its operations. The Exempted Limited Partnership Act sets forth in detail the nature and extent of information that a limited partner can request from the general partner, the matters on which a limited partner can vote, and similar matters. The specificity of these points makes ELPs a very attractive option.

And finally, it is also possible to use a Segregated Account Company (SAC). An SAC is, functionally, layered onto an IBC, it is an IBC that is expressly registered and thereby authorised to operate segregated accounts. Each segregated account stands alone, it contracts in its own name, operates its own bank accounts, maintains its own investments, and discloses its status as a segregated account in all its dealings with third parties, but it does share common governance with the SAC as a whole. That is, an SAC

has just one board of directors, and the directors operate each account individually. If the directors do so properly, the creditor of one segregated account (and its shareholders) may claim only against the assets of that account, there will be no cross liability as between the accounts.

**WW:** The Bahamas offers a full suite of funds. All funds are subject to regulation by the Securities Commission of The Bahamas, a member of IOSCO and the Council of Securities Regulators of the Americas (COSRA). SMART Funds is one of four types of funds. The others, Standard, Professional and Recognised Foreign Funds all fit market requirements based on where the company is incorporated, the sophistication of the investor and the manner of distribution of the fund. SMART Funds fits a niche of a variety of funds including those seeking to

make private equity and real estate investment funds.

**LFM:** What opportunities do you see arising for the Bahamas in the near future?

**RR:** The Bahamas is poised to become the premier financial services jurisdiction. It's speedy yet reasoned responses to challenges faced by offshore jurisdictions has equipped it for international investment. It continues to have a sound commercial banking system. Fiscal and investment incentives are fuelling development in the financial services, real estate, tourism and technological industries. Freeport is particularly ideal for re-domiciling of businesses and its wealth of canal-front properties and abundance of available land for development makes it ideal for second homes.

**WW:** The Bahamas continues to focus on being a high-quality destination for owners of capital, whether it is the Latam, Asian, European or any other market that is identified as a priority.

The continued focus on the global market can be seen with the investment by Chinese investors confirmed for The Bahamas from 2008/09 to 2014 in excess of \$3bn.

The strength of the Bahamas rests with its multiple touch points with owners of capital, wealth management, a platform for capital investment and international business in to the Americas and residency.

In essence the opportunity for The Bahamas is to remain true in meeting the needs of the wealthy by adding to the services we already provide that create greater linkages and touch points for their full circle of needs, personal, corporate and lifestyle.

The launch of direct airline service between Panama and Nassau by COPA will also provide new and expanded opportunities for business development at many levels, one of which is for The Bahamas to be a bridge between Asia and the region.