



### MESSAGE FROM THE PRESIDENT



Tanya McCartney, President

"I am pleased that we are able to re-launch the newsletter and I commend all those who contributed to this publication. In keeping with its mission BACO continues to find innovative ways to offer opportunities for education and training for our membership and the wider community. This year we held a successful MLRO Day, as-

sisted with training of the staff of the Central bank and took our compliance program to Exuma and Abaco. In addition we have liaised with all industry stakeholders to ensure that we remained a voice for those in the industry who are responsible for ensuring that financial institutions remain compliant.

Our aim at all times or goal is to contribute positively to the maintenance of the reputation of The Bahamas as a premier financial services sector. To this end, we were one of the industry stakeholders that met with the Carib-

bean Financial Action Task Force (CFATF). We advised as to our membership criteria and our training programme. In addition, the relevant government ministries and departments continue to consult with us as regards enhancements to our legislative regime. We continue to work hand in hand with the Bahamas Institute of Financial Services and the International Compliance Association. It is our hope that in the very near future we will be able to offer a Foundation certificate in compliance as a precursor to the Diploma Course. We remain committed to providing the best in education and training to our membership and we look forward to your continued support." –

### INTRODUCING THE NEW EXECUTIVE TEAM

The Annual General Meeting saw a change of the guard for the Executive of BACO. Miss Robin Scavella, Legal Counsel at FirstCaribbean International Bank the immediate past President who stood at the helm of the Association for 2 consecutive years, doing an admirable job, did not offer for another term.

- **PRESIDENT**  
Tanya McCartney
- **EXECUTIVE VICE PRESIDENT**  
Steve Davis
- **VICE PRESIDENT**  
Duhiza Smith
- **TREASURER**  
Edward Cooper
- **ASST. TREASURER**  
Fabian Bain
- **SECRETARY**  
Marsha Ferguson

- **ASST. SECRETARY**  
Jasmin Strachan
- **COMMITTEE CHAIRS**
  - Steven Miller
  - Pauline Seymour
  - Jeunesse Osadebay
  - Natika Whitfield

As we embark upon an exciting schedule, we encourage all members to become more involved as we seek to ensure that Compliance Professionals are provided with opportunities for quality education and training.

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**The Nominees for the 2005 Compliance Professional of the year were:**

- **Jackie Hunt-Ferguson**  
Pictet Bank & Trust Ltd
- **Keva Bain**  
RBC FINCO
- **Wendell Gardiner**  
Deltec Bank & Trust Ltd.
- **Fabian Bain**  
Gottardo Trust Company Ltd.



Mrs. Tameka Forbes,

**Compliance Professional of the Year 2005**

## 5<sup>th</sup> ANNUAL COMPLIANCE AWARDS DINNER

### Compliance Professional of the Year (CPYA)

Having decided that compliance is for you there is no reason why you cannot reach the pinnacle in this chose field. At BACO's 5th Annual Compliance Awards Dinner held on March 4th at the British Colonial Hilton, Tameka Burrows-Forbes was named Compliance Professional of the Year 2005.

Tameka became the 6th person to receive this coveted award. In addition to the plaque awarded, the cost of an International Conference or the AML & Compliance Diploma course will be paid for by BACO. The decision was made by the CPYA Judges, Cherise Cox-



(Pictured L to R: Duhiza Smith, Keva Bain, Tameka Burrows – Forbes, Jackie Hunt and Min. Allyson Maynard-Gibson)

Nottage (UBS (Bahamas) Ltd.); Gregory K. Moss (Moss & Associates); Rowena Bethel (The Compliance Commission) and Margaret Butler (Citibank N.A.)

## Mrs. Tameka Forbes

Mrs. Forbes serves as Senior Risk Manager for Bank of the Bahamas Limited. She is an attorney by profession. She joined Bank of The Bahamas International in July 2001 as the Manager of Compliance and Legal Affairs. She is a member of the Bahamas Association of Compliance Officers and the Association of Certified Anti-Money Specialists. In February, 2003 she achieved the ACAMS Certification and has attended Anti-Money Laundering and Compliance seminars and conferences both locally and internationally.

Mrs. Forbes is an Attorney by Profession and was called to the English Bar in London England

and the Bahamas Bar in 1997. She began her career in the office of the Attorney General in 1998 as a Criminal Prosecutor. She is a graduate of Kingsway Academy, the College of the Bahamas and the University of Buckingham.

Mrs. Forbes began her employment in the compliance field on the heels of the introduction of industry changing and regulatory entrenched legislation aimed at concretizing robust KYC and AML procedures and practices.

Her employers acknowledge that she plays a key role in the training of staff and ensuring that the bank meets the highest international standards. Mrs. Forbes is commended for playing a significant role in the growth and development of Bank of the Bahamas Limited. She has published articles and made compliance presentations outside of Bank of Bahamas Limited. Mrs. Forbes is an active member of The Bahamas Association of Compliance Officers.

## International Compliance Association Award (ICA) Recipients

In addition to bestowing the title of Compliance Professional of the Year on Tameka Burrows- Forbes, there were other awards on offer on the evening of the 4th March 2006. The following individuals received their certificates for successfully completing the International Compliance Association's Anti-Money Laundering and Compliance Diploma:

- |                    |                              |
|--------------------|------------------------------|
| 1. Jackie Conyers  | Central Bank of The Bahamas  |
| 2. Linda Lowe      | Bear Bull International Ltd. |
| 3. Pauline Seymour | BSI Overseas (Bahamas) Ltd.  |
| 4. Dwayne Swaby    | J.S. Johnson                 |
| 5. Debra Thompson  | Central Detective Unit       |
| 6. Sally Thompson  | Entrepreneur                 |
| 7. Sandra Walker   | Pictet Bank & Trust Limited  |



(Pictured L to R: Governor Wendy Craig, Debra Thompson and Kim Bodie)

Special recognition was given to **Debra Thompson**, as the most outstanding student and **first Police Officer to complete the course**. BACO's Executive Committee would like to extend special congratulations to all the recipients. We know it was through your hard work and persistence that you achieved this success

## Special Recognition Award



Mrs. Kim Bodie,  
Executive  
Administrator, BIFS

At the 5<sup>th</sup> Annual Awards Dinner, BACO was pleased to present Mr. Edward Robert Smith, CFE and Mrs. Kim Bodie with the Special Recognition Award for their continued support and commitment to the association.

**In 1986 Kim Bodie was promoted to Executive Administrator of the Bahamas Insti-**

**tute of Financial Services. She also serves as Secretary to the Council.**

In addition to her main responsibility of managing the Institute, she has served as Secretary and Co-chairperson of the Conference Committee for three consecutive years in the Bahamas Human Resources Development Association (BHRDA), Secretary and Treasurer of the Women's Ministry of Evangelistic Temple and member of L.W. Young School Board for two consecutive terms. In her final term on the Board she served as secretary to the Board.

For extra curricular activities, Mrs. Bodie enjoys cooking and baking. She is an accomplished vocal soloist. Mrs. Bodie is married to Mr. Dexter Bodie and they have four children and five grandchildren.



Mr. Edward Smith  
and Ms. Robyn Scavella

**The Egmont Group of Financial Intelligence Units lists Mr. Edward Smith as a law enforcement expert to assist the International Monetary Fund/World Bank (IMF/**

**Representative for the Americas region and a member of the Egmont Committee.**

Mr. Smith is a Detective Superintendent of Police and has served as a member of the Royal Bahamas Police Force for the past twenty-six years. Superintendent Smith has spent the past eighteen years in the investigation of financial crimes, specializing in the fight against money laundering since 1996. He is a Certified Fraud Examiner, Certified Financial Investigator and a trained Criminal Intelligence Analyst.

Mr. Smith has attended numerous training seminars and courses in The Bahamas, regionally and internationally in respect to the fight against money laundering and combating the financing of terrorism and has made numerous presentations, which addressed the topic of money laundering and prevention.

**WB) with their Anti Money Laundering/Combating the Financing of Terrorism (AML/CFT) evaluations. He is the Vice Chairman of Egmont Outreach Working Group, Co-**

In October 2000, he was appointed by the Bahamas Government to assist with the establishment of the Bahamas Financial Intelligence Unit (FIU). He acted as the Director of the FIU for the period November 2003 through October 2005 upon the retirement of the Director and appointment of the new Director. He is currently Assistant Director of FIU.



Sen. John Delaney

## CONFIDENTIALITY ISSUES FOR A BAHAMIAN FINANCIAL INSTITUTION IN THE CONTEXT OF A MULTI-JURISDICTIONAL FINANCIAL GROUP

### **Pressure to Harmonize & Share Information**

Multi-jurisdictional financial groups are an example of globalization at work on several levels. As such, they are subject to harmonization pressures from many quarters:

1. For business efficiency reasons - they seek to harmonize their operations, including technology systems. For example: It is not uncommon for a group to want to share computer servers maintained by an affiliate in a jurisdiction other than The Bahamas. This might be familiar to some of you.
  2. For business, reputation and regulatory reasons – they may seek to consolidate risk management especially regarding KYC, AML and anti-terrorist financing systems.
  3. For predominantly regulatory reasons - Increasingly multi-jurisdictional groups are having to conform to globalize or standardized regulation as their home jurisdictions respond to initiatives of international committees such as the Basel Committee on Banking Supervision (BCBS), the Organization for Economic Cooperation & Development and the Financial Action Task Force.
- *Consolidated Risk Management: Basel Committee on Banking Supervision (BCBS) Oct. 2004.* “An established centralized process for coordinating and promulgating policies and procedures on a group wide basis, as well as robust arrangements for the sharing of information within the group”.

The BCBS called for group information sharing and for cross-border supervision.

- *Home-host Information Sharing for Effective Basel II implementation:* BCBS, Jun. 2006. This paper calls for information sharing arrangements as between the home supervisor and the host supervisor focusing on information relevant for banking supervisors to carry out their supervisory responsibilities and that such information be provided in a

timely manner.

Our focus for present purposes will be limited to issues for the Bahamian financial institution in sharing client information with its affiliates, as opposed to disclosures for regulatory purposes.

### **The Bahamian Confidentiality Requirements**

#### 1. Issues for Banks:

Common law duty in contract that a banker will not divulge to persons not party to the bank/customer contract, without the consent of the customer, either the state of the customer’s account, or any of his transactions with the bank, or any information relating to the customer acquired through the keeping of his account (Per *Tounier v. National Provincial and Union Bank of England*).

The common law duty is not absolute and is subject to exceptions.

Multi-jurisdictional Banking: Branches of the same bank in several jurisdictions are different entities separate from each other - *R v Grossman* (1981 73 Cr App R 302); Followed and applied by the Supreme Court of The Bahamas (In the Matter of Bank of America NT & SA and Bank America Trust and Banking Corp, Common Law Action 923/1993, Gonsalves-Sabola CJ; and *Choukroun v Gotthard Bank Nassau Branch*, Equity Action 176/1996, Burton Hall, J.).

For confidence purposes, each corporate entity within the banking group must be viewed as separate - *Bank of Tokyo Ltd v Karoon* (1987 1 AC 45).

#### 2. Banks & Trust Companies:

Banks and Trust Companies Regulations Act, 2000 - Section 19(1), imposes a statutory duty of confidentiality upon banks and trust companies that prohibits the disclo-

sure of customer information.

### 3. Securities Firms:

Investment Funds Act, 2003 - Section 59 imposes a statutory duty of confidentiality upon regulated persons under that Act disclosing the affairs of their clients.

### 4. All Financial Institutions

*Suspicious transaction reports not to be disclosed - The Financial Transactions Reporting Act, 2000 ("FTRA").*

*Personal data not to be disclosed - The Data Protection (Privacy of Personal Information) Act, 2003 ("DPA").*

### **Conclusion**

It is prudent for all Bahamian financial institutions to review the circumstances within which they reasonably contemplate a need to share information within their group and to make suitable contractual provisions with customers that would permit it.

*This presentation to BACO by Sen. Delaney is a summary of the actual topic presented on June 21, 2006.*



**Sen. John Delaney**

## A PERSPECTIVE ON THE ICA DIPLOMA COURSE



The International Compliance Association (ICA) Diploma is offered in association with the Bahamas Institute of Financial Services (BIFS), the Bahamas Association of Compliance Officers (BACO), the Manchester Business School (MBS) and the International Compliance Association (ICA). The Diploma is offered in 2 separate parts each consisting of 2 assignments and an exam. Upon successful completion the candidate receives two separate diplomas and two separate certified designations

International Diploma in Anti – Money Laundering (Int. Dip AML) International Diploma in Compliance (Int. Dip Comp)

Lectures are given once a week for about 3 hours during non-work hours to accommodate working professionals. Lectures are given by local professionals with a diverse background representing all different sections of the finance industry including the regulators, legal profession, Bahamas Association of Compliance Officers, Trust/Corporate Sections of Financial Institutions. Additionally the lecturers are available to read and assess your papers, take your phone calls (during work hours of course), answer your e-mails and give advice on how to pass the exam.

Your first shock comes when you are given your package of study material and realize the volume of reading necessary for this course. P.S. this does not include keeping up-to- date on current events commonly referred to as “the hot and sexy topics”, cross jurisdictional differences and of course local events such as changes to financial legislation that you are expected to know. As an added bonus being knowledgeable of current events will help to turn an average paper into a first class paper. Attending class is not compulsory and does not count towards your grade. Class attendance is advisable though because it helps you to keep on track with where you should be in your modules! It is an opportunity to network and gain outside perspective and knowledge. Class attendance also helps to foster a feeling of camaraderie. The author’s class comprised of a diverse array of students from financial institutions, insurance companies, casinos, regulatory bodies (i.e. The Central Bank of the Bahamas, Compliance Commission) and law firms.

The best way to reduce the stress of working and school is to put aside at least an hour a day plus 4 hours on the weekend to keep on top of things. This is all in theory of course because unfortunately and inevitably your papers will creep up on you. But take heart in knowing that as in the author’s case your first paper will probably be your worst which will allow you to learn from your mistakes. It is a fact that receiving your results does take six to eight weeks, which seems like an eternity but the comments from the examiners are very helpful.

**This diploma teaches you how to present a thesis using correlations from the legislation and international and local best practice theories. Certain terminologies become a part of your vocabulary and every day language, which will help you to articulate better in meetings. It also helps to provide a framework for understanding anti-money laundering and compliance. By the way commendably so far no one in**

Upon registration with the ICA the candidate gains access to the ICA website a useful online resource center. Using your ID you can also write the ICA and they will respond to your questions.

Upon completion of the diploma you can also join the ICA and become a professional member able to use the certification of (MICA – Member of the International Compliance Association). Completion also helps you gain points toward your membership standards/credit award system for BACO. Completion also helps to justify

your institutions appointment of the student in a compliance/anti-money laundering position. It can also be helpful in fulfilling the Central Banks Fitness and Properness Test for persons employed in an Anti – Money Laundering position. This diploma is also a useful certification for anyone interested in pursuing Compliance/Anti-Money Laundering as a career.

More details about this course can be obtained by contacting anyone of the BACO members or found on the Bahamas Institute of Financial Services Website at [http://www.bifs-bahamas.com/ica\\_programme.asp](http://www.bifs-bahamas.com/ica_programme.asp)



www.bifs-bahamas.com

## A COMPLIANCE CULTURE?

*(Excerpt taken from article prepared for Nassau Guardian)*

Let's look at this culture with the hindsight of modern day financial scandals. During the course of the last few years we have heard of financial services companies collapsing and of senior officials being found liable for due diligence, compliance and risk failures. What would be surprising in the review of the organizational structures of these companies is that "a culture" existed:

1. There was method to the way business was done
2. The core values were promoted
3. The "fit" of employees considered.

These companies may have had in place Codes of Ethics; Reporting Lines; Training Programmes and Policies and Procedures and chances are they Knew their Employees (KYE) and Knew their customers (KYE). However, all risks were not considered, for instance the element of **integrity**.

The Compliance Function cannot create the Compliance Culture but can help to facilitate changes through sensitizing the Financial Institution (FI's) to the absence of the right values attitudes etc. that can contribute to protection of the FI's reputation. It can always be present to clarify concerns as they relate to the business and the exercise of "exceptions" to the FI's rules. The Compliance function must not be compromised within the FI's corporate culture.

## The Compliance Culture must Takes Root from Top to Bottom

Within Compliance we examine the FI's adherence to law and policy, codes of conduct as well as any noted or envisioned regulatory considerations. An FI simply complying with law



and regulation by fulfilling these mandates does not guarantee a Compliance Culture. Shareholder; Board of Directors, CEO Senior Management and Employees must consider a new bottom line: does our corporate culture work within the context of moral considerations as well as regulatory considerations? The reality is that unless this new bottom line of professional integrity exists the bottom could very well fall out from under the institution.

The FI's leadership must demonstrate adherence to the required legislation and policy through actions displaying truth transparency and fairness. Compliance and a Compliance Culture will follow the value system of the leadership of the institution. Leaders must want to comply. They must see the value in being compliant.

## What Does a Healthy Compliance Culture Reflect?

1. **Exemplary character of the parties:** Board of Directors; Senior Management; Management and Staff (the team) of the organization knows their value system and that it is aligned to the good values of the organization.
2. **Integrity is demonstrated by the team** - Employees in observing Managers will see demonstrations of what is "right" and in keeping with the ethics of the company.
3. **An email will not suffice** - there will be some direct contact between Employees and Senior Management. Managers will through excellent communication skills and direct contact with employee and customer demonstrate the organization's ethos.
4. **The vision of the Organization will be a shared vision** - Employees will feel comfortable accessing Senior Management and feel their comments, reports contributions will be listened to – No "Shooting of the Messenger"
5. **Internal Complaints and Reporting will be encouraged** - Through a system, which allows anonymity.
6. **Employees will buy in to the concept of team** - they will understand their role and consideration will be given to motivation and incentives. They will be rewarded for good ethical behavior
7. **Managers will be engaged in the organization's compliance program:** They will contribute to the ethi-

cal structure. There will be no delegation of this task.

8. **Managers will demonstrate their knowledge of the compliance programmes:** They will monitor and assess these programmes
9. **Managers will be trained and be willing to be trained by Compliance:** Thereby demonstrating their personal commitment to this direction to be taken by the organization.

Integrity + Ethics + Ethos (credibility) = Compliance

Corporate Culture guides employee behavior more so than formal rules. Therefore, An FI must encourage adherence to written rules and policies but must also consistently demonstrate to employees the importance of operating under a moral principle of "right and wrong". CEO's, Board of Directors and Senior Management set the moral environment of the FI. They must be seen as "Practicing what they Preach". They must be seen as believing in and accepting of the need for a culture of compliance. This reduces the risk of a culture of unethical behavior and will result in a display of ethical values and behaviors throughout the organization. The FI must look behind the laws and regulations, why do they exist? What are the long-term benefits of adherence to clients, the FI and the Employee? When these questions are seriously answered then an FI can safely say that it is on the road to adopting the much needed culture of compliance.

## The Regional Compliance Conference

- The Regional Compliance Association in partnership with the International Compliance Association will hold the 3rd Annual Conference in Barbados at the Hilton Hotel on Needhams Point in Bridgetown from October 23 -24, 2006. [www.craconference.com](http://www.craconference.com)  
BACO hosted the first conference in 2003 and is a founding member of the Regional Compliance Association.

## Upcoming Conferences

- 5th OffshoreAlert Due Diligence Conference will be held in Miami, Florida USA from April 24-25, 2007. [www.kycnews.com](http://www.kycnews.com)
- The moneylaundering.com and Money Laundering Alert - 12th Annual International Conference & Exhibition, March 19 - 21, 2007 at The Westin Diplomat Resort & Spa, Hollywood, Florida USA. [www.moneylaundering.com](http://www.moneylaundering.com) or [www.monelyaunderingalert.com](http://www.monelyaunderingalert.com)

## BACO CALENDAR - FALL 2006

### September

- ICA Diplomas awarded at Bahamas Institute of Financial Services 30<sup>th</sup> Annual Dinner

### October

- High School Speech Competition in conjunction with Toastmasters. Topic: "Preserving the Financial Services Sector for Future Generations of Bahamians"
- BFSB Careers Fest— October 10th & 11th

### November

- Membership Meeting: Basel 2 Implications on The Bahamas & Risk Management— November 15th

### December

- Church Service at St. Barnabas – Executive Committee and Members – December 10th
- AGM & CPYA Awards Luncheon – December 14th (tentatively)

## BACO NOTICES

### Membership

BACO invites Compliance Professionals who have not already done so, to consider applying for membership into the association. We are of the view that we all have contribution to make and certainly can all learn from each other so . . . "Comply with Us" by becoming a member of BACO. Annual Membership Fees are B\$175 per annum and affords its members various discounts to certain international and local conferences, seminars and workshops. Please contact any member of the Association for further information. Membership certainly has its privileges.

### Non-Cooperative Countries and Territories (NCCT's)

As at June 23, 2006, Myanmar is the only country, which, remains on the list from the 23 jurisdictions designated as non-cooperative countries and territories in 2000 and 2001 by the Financial Action Task Force (FATF).

### Important Web Sites

Bahamas Compliance Commission  
[www.bahamas.gov.bs/compliancecommission](http://www.bahamas.gov.bs/compliancecommission)

Financial Intelligence Unit  
[legal.counsel@fiubahamas.bs](mailto:legal.counsel@fiubahamas.bs)

Securities Commission  
[www.scb.gov.bs](http://www.scb.gov.bs)

Bahamas Association of Compliance Officers  
[www.bahamascompliance.com](http://www.bahamascompliance.com)

The Bahamas Institute of Financial Services  
[www.bifs-bahamas.com](http://www.bifs-bahamas.com)