

# Revamping the National Investment Policy of The Bahamas

## **The Bahamas Investment Authority: Digitised and Efficient**

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## Executive Summary

In April 2020, the Government of The Bahamas established the Economic Recovery Committee (“ERC”)<sup>1</sup> as its response to the novel coronavirus (“2019-ncov” or “COVID-19”) global pandemic. One of the goals of the ERC is to review and revamp the national investment policy (“NIP”), with a view to, among other things, increase The Bahamas’ economic growth. This review includes providing recommendations to improve the existing NIP, the framework under which foreign direct investment projects are approved, and the overall ease of doing business to attract foreign direct investment (“FDI”) to the country.

FDI is defined as an investment made by a legal person in one country into business interests or ventures in another country<sup>2</sup>. The investments into the host country are made to establish a lasting interest, which is defined as the investor obtaining and maintaining at least ten percent of the voting power in a firm<sup>3</sup>.

The benefits of FDI can be significant and many countries around the world work feverishly to improve ease of doing business and promotional efforts, among other things, in an attempt to attract FDI inflows. One of the major advantages<sup>4</sup> of FDI is that it can positively affect other macroeconomic factors, including the employment rate, and, perhaps most importantly, can contribute to economic growth and development in the host country. Economic growth and development is usually emphasized when foreign investors help to develop the underdeveloped industries in the host country, thus expanding the overall economy. An example of this benefit can be seen in Singapore, which is the fifth largest recipient of FDI inflows in the world<sup>5</sup>. Singapore’s FDI policies have contributed to its successful technology, finance, and pharmaceuticals industries<sup>6</sup>. This is perhaps the main benefit The Bahamas wishes to experience through revamping the NIP, and will be the primary focus of this paper.

The Bahamas’ current NIP incorporates the role and functions of the Bahamas Investment Authority (“BIA”), targeted areas for FDI and reserved areas for Bahamians, various investment incentives and concessions offered by way of legislation, and property investment incentives for foreigners. Target areas for FDI include touristic resorts, information and data processing services, and pharmaceutical

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<sup>1</sup> The Economic Review Committee was officially announced by the Prime Minister, the Most Hon. Dr. Hubert Minnis, on April 26, 2020. The public-private Committee was created to make recommendations to the Cabinet of The Bahamas on the long-term economic recovery of The Bahamas economy, including job-creation and stimulating small business recovery and development in response to COVID-19. In particular, the Committee will focus on restoring the macro economy, restarting a competitive business environment, economic diversification, tourism and transport, financial services and labour. The committee is made of up of seventeen (17) members.

<sup>2</sup> “Foreign Direct Investment.” *Investopedia*. <https://www.investopedia.com/terms/f/fdi.asp>

<sup>3</sup> “Foreign Direct Investment.” *Corporate Finance Institute*. <https://corporatefinanceinstitute.com/resources/knowledge/economics/foreign-direct-investment-fdi/>

<sup>4</sup> For further information, see the ERC’s previous paper: Revamping The Bahamas’ Foreign Direct Investment Policy, May 2020.

<sup>5</sup> World Investment Report, 2019, United Nations Conference on Trade and Development.

<sup>6</sup> Teck-Wong Soon and William A. Stoeber, 1996, ‘Foreign Investment and Economic Development in Singapore: A Policy-Oriented Approach’, *The Journal of Developing Areas*, Vol. 30, No. 3 (Apr., 1996), pp. 317-340.

manufacturing, while reserved areas include wholesale and retail operations, real estate, and auto and appliance service operations. The legal framework that supports the NIP includes:

- The intellectual property regime, which consists of six (6) pieces of legislation<sup>7</sup>;
- The business licence procedures, which are supported by the Business Licence Act, 2010;
- The minimal taxation regime, inclusive of business licence taxes, value added tax, real property taxes, excise duties and tariffs; and
- Incentives offered through various legislation, such as the Hotels Encouragement Act, 1954, as amended.

Historically, FDI efforts have been heavily concentrated in the tourism industry; however, governments and academics have long questioned the viability of solely focusing on a specific industry as the primary source of a country's growth and development. Most recently, the effect of the COVID-19 pandemic has seemed to confirm that such a singular strategy is not ideal. In March 2020, employees from both the Atlantis and Baha Mar resorts were either furloughed or made redundant<sup>8</sup>. This was a global effect on the tourism industry, as noted in the Minister of Tourism and Aviation, Hon. Dionisio D'Aguilar's address to the House of Assembly in March 2020. In his address<sup>9</sup>, he noted that The Bahamas' tourism industry was in a dire situation and referenced that some 50 million jobs were at risk in the worldwide tourism sector, as reported by the World Travel and Tourism Council. This statement only serves to underscore the importance of not only encouraging foreign direct investment, but also ensuring that the investment is both quality and diverse.

To become more attractive to foreign investors, increase the level of foreign direct investment inflows and, as a result, increase economic growth, it is critical that The Bahamas revamps the existing NIP and framework to both apply for and access concession, to compete with both emerging and advanced countries. Previous benchmarking<sup>10</sup> contained in the ERC's initial paper, "*Revamping the National Investment Policy of The Bahamas*", provided a number of recommendations to increase the quality of foreign direct investment. This paper both supports and expands upon those recommendations.

Specifically, the recommendations are designed for the precise aim of attracting quality FDI ("QFDI"), which is characterized as follows:

- Contributing to the creation of decent and value-adding jobs;
- Enhancing the skill base of host economies;
- Facilitating the transfer of technology, knowledge and know-how;
- Boosting competitiveness of domestic firms and enabling their access to markets; and
- Operating in a socially and environmentally responsible manner.

The first, and perhaps most important, recommendation entails improving the investment application process, by primarily updating the role and function of the BIA. This includes expanding on the role

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<sup>7</sup> The Patents Act, 2015, Geographical Indications Act, 2015, False Trade Description Act, 2015, Integrated Circuits Act, 2015, and Copyright (Amendment) Act, 2015.

<sup>8</sup> See <https://ewnews.com/atlantis-asks-employees-to-take-unpaid-leave-after-first-confirmed-covid-19-case> and <http://www.tribune242.com/news/2020/mar/21/baha-mar-close-march-25-until-further-notice-tempo/>

<sup>9</sup> Impact Of COVID-19 On The Bahamas' Tourism Industry, <https://www.tourismtoday.com/news/impact-covid-19-bahamas-tourism-industry>

<sup>10</sup> Countries benchmarked include Singapore, Hong Kong, Estonia, United Arab Emirates, and Jamaica.

and function of the BIA, modernizing the investment application process, and restructuring the role and authority of the National Economic Council (“NEC”).

Currently, the investment process is unnecessarily bureaucratic, onerous and antiquated. The entire process, from the submission of a completed application to a final decision by the NEC, can exceed sixty days. Moreover, investors largely bear the responsibility of navigating the various government agencies to complete the approval process, although the BIA does assist with this process.

The paper recommends that the BIA be restructured and that its functions are expanded to more efficiently facilitate and coordinate the investment process, ultimately, providing a more modern, transparent and faster experience for investors. Other recommendations include refined units within the BIA, thus creating more specialised departments, and technological transformation to facilitate the investment proposal and approval process. Enhancing marketing and communication efforts to promote The Bahamas as “open for FDI” particularly through an updated BIA website and through special advertisements. Finally, as it relates to technological transformation, central to facilitating the investment process is the development and implementation of an integrated agency system, potentially with the use of application programming interface technology, to coordinate investment approval functions between relevant government agencies.

Other recommendations to support increased quality QFDI inflows include:

- i. Making adjustments to the certain existing legislation
- ii. Introduce legislation to allow for efficiency in enforcing contracts;
- iii. Introducing a national cybersecurity framework, with appropriate legislation<sup>11</sup>;
- iv. Refining the FDI focus on the development of underdeveloped industries;
- v. The promotion of The Bahamas as a FinTech hub and/or a Renewable Energy hub;
- vi. Revising the concessions and incentives offered to both Bahamians and foreign investors with a view to diversifying the economy and support the domestic and foreign investment process;
- vii. Redefining the list of target areas for FDI and categorising the industries as emerging/underdeveloped, sensitive/vulnerable, or developed to better monitor development in the industries and to inform any revisions made post revamping efforts;
- viii. Introducing a special entrepreneur visa, with special advantages, to attract investors for targeted areas, such as Financial Technology (“FinTech”); and
- ix. Streamlining the intellectual property application process with the use of technology and restructuring the Intellectual Property Office.

This paper also recommends the inclusion of concessions and incentives to attract Diaspora Direct Investment<sup>12</sup> and supports investment initiatives to drive domestic Bahamian investment, some of which include:

- i. Introducing Government supported programmes and incentives for investment in areas reserved for Bahamians, which would include collaboration efforts by the BIA and the Small Business Development Centre<sup>13</sup> to provide resources for start-ups;

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<sup>11</sup> The government of The Bahamas has received proposals from Carapace InfoSec Services Ltd. to develop new API and cybersecurity legislation and protocols.

<sup>12</sup> Investment from individuals with origin in The Bahamas, but located in another location geographically.

<sup>13</sup> The SBDC is an initiative that advocates for and support the evolution of Micro, Small and Medium-sized Enterprises in The Bahamas. It offers business advisory services, training and entrepreneurial programs, and mentorship and incubation programs.

- ii. Ensuring a levelled playing field for both members of the Bahamian diaspora and foreign investors;
- iii. Attracting international Bahamian talent through the offering of special grants and government subsidies; and
- iv. Creating a FinTech incubator to work alongside regulator-led initiatives.

### *Implications*

Due to a number of external and internal factors, including the housing crisis of 2008 and the reticence of successive governments to implement a more modern tax structure, for examples, The Bahamas recently, has experience negligible economic growth. Within in the past week, Moody’s credit rating agency downgraded The Bahamas’ investment rating to Baa1 – essentially “junk” status.

An important macroeconomic tool to facilitate economic growth and development is FDI. However, FDI inflows to The Bahamas have been on the decline, with 2019 marking the second consecutive year of FDI contraction<sup>14</sup>, and are at its nadir since 2010. With the unfortunate hurricane Dorian, and with the COVID-19 pandemic, global FDI inflows are predicted to decrease drastically in 2020 and 2021. Against this backdrop, companies and countries willing to invest internationally will become even more discerning in order to ensure asset protection, maximize return on investments and mitigate other risks. The need to develop and implement a new, robust and internationally competitive investment environment is essential, if The Bahamas hopes to compete for foreign investment.

The structure of this paper first presents the current business and investment environment of The Bahamas and notes any areas of merit or areas of concern, it then presents recommendations to adjust the current framework to address areas of concern and finally, a streamlined process for investment facilitated by the BIA, taking into consideration the recommendations made, is introduced.

Recommendations presented in this paper do not necessarily represent the views of the Securities Commission of The Bahamas (“the Commission”), but rather represents supported suggestions based on research efforts by members of the Policy, Research and Compliance Unit of the Commission.

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<sup>14</sup> Ibid.

## 1. Introduction

The World Investment Report<sup>15</sup> published by the United Nations Conference on Trade and Development, recorded that FDI inflows to The Bahamas decreased by 9.1% (pg. 91) in 2019, contracting for yet another consecutive year. Still, it is somewhat notable that The Bahamas is one of the small island developing states where FDI is concentrated<sup>16</sup>. In fact, the 2019 outlook for the Bahamian economy by IMF staff<sup>17</sup>, predicted that FDI (and tourism) would support near term growth. However, predictions did not anticipate the full impact of Hurricane Dorian on The Bahamian economy and indeed could not have anticipated the COVID-19 pandemic.

In April 2020, in response to the economic impact of COVID-19 and support current recovery efforts, the Prime Minister of The Bahamas, The Most Hon. Dr. Hubert Minnis, appointed the *Economic Recovery Committee*<sup>18</sup> (“ERC”). The committee is tasked with restoring the macro economy by submitting recommendation for policies, changes to policies, and innovative measures to support a stronger, resilient, and diversified economy.

This paper seeks to support this mandate by presenting an overview of the current national investment framework and making recommendations to support FDI growth.

It should be noted that while recommendations are made to improve efficiency in the FDI process, current efforts undertaken by the government should be considered and aligned with such recommendations. More specifically, current efforts by the government to modernise processes, having received loans<sup>19</sup> from the International Development Bank (IDB) to digitise public services in The Bahamas and to support sustainability, may address some of the deficiencies in administrative processes that this paper seeks to address.

It may be of some merit to note that the proposed approach to the investment framework recommendations made in this paper coincide with the assumptions of the FDI model tested under the comprehensive reform assumption presented in the second scenario for World Trade Organisation Accession in the study conducted by Oxford Economics (pg.9)<sup>20</sup>. This scenario predicts positive economic benefits to acceding to the WTO, but assumes a broad policy reform agenda that:

- i. Improves transparency and consistency in legislation;
- ii. Reduces time delays by introducing a modernised and streamlined process;
- iii. Reviews regulatory requirements for starting a business;
- iv. Strengthens the Intellectual Property Regime;
- v. Improves access to finance; and
- vi. Reforms the energy sector.

<sup>15</sup> World Investment Report, 2019, UNCTAD. See [https://unctad.org/en/PublicationsLibrary/wir2019\\_en.pdf](https://unctad.org/en/PublicationsLibrary/wir2019_en.pdf)

<sup>16</sup> FDI Stock remained greatly concentrated in The Bahamas and Barbados, with five of the top ten sources from developing Asian economies.

<sup>17</sup> Bahamas IMF Staff Report for 2019 Article IV Consultation, May 2019. See <https://www.imf.org/en/Publications/CR/Issues/2019/07/01/The-Bahamas-2019-Article-IV-Consultation-Press-Release-and-Staff-Report-47067>

<sup>18</sup> See <https://thenassauguardian.com/2020/04/27/economic-recovery-committee-appointed/>

<sup>19</sup> See <http://www.thebahamasinvestor.com/2019/bahamas-launches-idb-funded-digital-transformation-programme/> and <https://www.iadb.org/en/news/bahamas-promote-renewable-energy-idb-support>

<sup>20</sup> The Bahamas: WTO Impact Assessment, May 2019, Oxford Economics.

## 2. Current National Investment Policy Framework

### 2.1 General Approach

The BIA serves as the administrative unit for NEC and the Investments Board (“IB”) and is the point of entry for investment projects. The NEC renders investment decisions on foreign investment proposals, while the IB determines whether a foreigner can consummate a land transaction.

The NIP that is published and implemented today was reviewed and amended in 1994 and later again in 2011. The current policy does not seem to have been changed significantly since 2011<sup>21</sup>.

The existing National Investment Policy (“ENIP”) has the following components<sup>22</sup>:

- Role of the Bahamas Investment Authority;
- Investment Incentives and Concessions;
- Areas Targeted for Foreign Investors;
- Areas reserved for Bahamians; and
- Property Investments: Minimum Investment and Immigration Benefits.

While the process for investing or starting a business is different for Bahamians and Non-Bahamians, investment concessions and incentives are available for all investors, regardless of nationality.

A conceptual view of the components of the ENIP is presented in Figure 1. The current landscape of each component is outlined in this section<sup>23</sup>, as a precursor to the recommendations for amendments.

Figure 1 National Investment Policy: A Conceptual View



<sup>21</sup> The Bahamas, A Paradise For Many Reasons, April 2011, Bahamas Information Services or The Bahamas Consulate version <http://bahconga.com/pdf/National-Investment.pdf>

<sup>22</sup> For further information, see the ERC’s previous paper: Revamping The Bahamas’ Foreign Direct Investment Policy, May 2020

<sup>23</sup> The Role of the BIA will be addressed in Section 4 of this paper.

## 2.2 Ease of Business

At the core of the ENIP is the ease of doing business. To this end, the BIA has increasingly used the moniker “one-stop shop” in an attempt to convey the ease in which investors can be approved to invest in The Bahamas. This ease of doing business, though, is almost routinely aligned with the foreign investor’s ability to apply for concessions and incentives rather than the submission of application and approval process.

Unfortunately, however, The Bahamas’ has not scored well in the area of ease of doing business. The World Bank’s Doing Business Index provides objective measures of business regulations and their enforcement across 190 economies and selected cities at the subnational and regional level. A good ranking indicates that a country is business-friendly, in that it is relatively easy for entrepreneurs to start and operate a business. The 2020 Doing Business Report<sup>24</sup> ranks The Bahamas as 119 overall for ease of business.

Select sub-indices and the corresponding ranking and comparable scores are presented in Table 1.

Table 1 Ease of Business Rankings

<b>Sub-Index</b>	<b>Rank</b>	<b>Score</b>	<b>LATAM/Caribbean Regional Average</b>
<i>Starting a business</i>	94	87	79.6
<i>Getting Credit</i>	152	30	52.0
<i>Registering Property</i>	181	30.8	54.9
<i>Trading Across Borders</i>	161	53.1	69.1

Table 1 shows that The Bahamas lags behind the regional average on major components of the Ease of Business Index. Oxford Economics (2019) presents information gathered from stakeholders that sheds some light on why The Bahamas lags in ease of business. Some of the concerns include:

- High cost of business;
- Inadequate warnings of change in policy;
- Domestic firms are at a competitive disadvantage to foreign firms (mainly due to lack of access to finance); and
- High cost of electricity.

Similar concerns related to onerous procedures, time delays, and issues with the overall investment process are reflected in the U.S. Department of State’s 2019 Investment Climate Statement<sup>25</sup> (Investment Climate Statement) for The Bahamas. Concerns related to foreign investment include high cost of energy (particularly for the tourism sector), bureaucratic and inefficient investment approval process, and delays in the settlement of business disputes.

Ease of Business is foundational to the attractiveness of the NIP and the existing concerns must be addressed in tandem with adjustments to the NIP.

## 2.3 Legal Framework for Investing Environment

Currently, there are many legislation and policies tied to the NIP, in particular to the granting of concessions. However, the legal framework that supports ease of business has been generally overlooked. Foreign investors and Bahamian investors alike are concerned with the legal processes

<sup>24</sup> See <https://www.doingbusiness.org/content/dam/doingBusiness/country/b/bahamas/BHS.pdf>

<sup>25</sup> 2019 Investment Climate Statement, The Bahamas. <https://www.state.gov/reports/2019-investment-climate-statements/bahamas-the/>

involved in starting a business or making an investment as well as the corresponding taxes and fees. As it relates to foreign investment, the intellectual property (“IP”) regime can be a deciding factor for innovators and multinational companies.

### *Intellectual Property (“IP”) Regime*

The Bahamas’ IP regime is bound by the Paris Convention for the Protection of Industrial Property<sup>26</sup>, which means international investors currently do not have an option for a Patent Cooperation Treaty (PCT) filing<sup>27</sup> in The Bahamas. The Paris Convention calls for the same protections on intellectual property for a national of a contracting state to be afforded to a national of another contracting state. It also affords applicants with a right of priority, where a filing in one state is given priority when filed in another contracting state as the date of filing is to be treated as the same. The PCT makes it possible to file one international application in one language for patent registration and such application will simultaneously be filed in a large number of countries. A PCT application may be filed by a national or resident of a PCT contracting state.

In becoming a PCT contracting state, The Bahamas can attract international innovators, such as multinational corporations and technological investors, who are generally interested in registering IP in a large number of jurisdictions at the same time as opposed to being limited or having to go through several states for IP registrations.

The Bahamas’ Intellectual Property regime has been updated through the promulgation of a suite of legislation in 2015 including the Patents Act, Geographical Indications Act, False Trade Description Act, Integrated Circuits Act, and Copyright (Amendment) Act. While the passing of these Acts has improved the IP regime, there remains the matter of time delays in settling business disputes and enforcing contracts. According to the Doing Business Report 2020, The Bahamas Ranks 82 in the area of enforcing contracts while smaller island states like Antigua and Barbuda (rank 36) and St. Kitts and Nevis (49) performed better in this area. Supporting this score is the previously mentioned Investment Climate Statement, which notes, “Many companies have reported that there are many cases where investors have civil disputes tied up in the court system for many years.”

Currently, the Intellectual Property Office of the Registrar Department administers the IP legislative framework. Applications for the registration of trademarks and patents must be done manually, and the requisite forms are not available online. This means that investors must manually submit registration and cannot pay the relevant fees online. Turnaround time for registering a trademark is 18 months, while registering a patent may take up to one year; these turnaround times seem to be relatively standard; however, the manual process may delay the turnaround time.

The IP regime can only be robust where innovators and businesses can access e-services and have timely legal protection. Central to IP protection is also a robust cybersecurity regime, an area in which The Bahamas lags.

When overall ease of business improves, legal processes are seamless, and the IP regime is robust, then investment concessions and incentives assigned to areas of development can work as a tool to foster development.

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<sup>26</sup> See [https://www.wipo.int/treaties/en/text.jsp?file\\_id=288514](https://www.wipo.int/treaties/en/text.jsp?file_id=288514)

<sup>27</sup> Patent Cooperation Treaty. World Intellectual Property Organization. <https://www.wipo.int/treaties/en/registration/pct/>

The legal framework as it relates to starting a business or making an investment in The Bahamas are grouped into three categories for the purposes of this paper: Business and Taxes, Concessions and Incentives, and Property and Immigration Matters. The legislation under these categories are set out in Table 2.

Table 2 Legal Framework for Investment Environment

Business and Taxes	Investment Concessions	Property Ownership and Immigration Matters
Companies Act	Hotels Encouragement Act	International Persons Landholding Act
International Companies Act	Industries Encouragement Act	Immigration Act
Tariffs Act	The Bahamas Free Trade Zones Act	
Business Licence Act	Export Manufacturing Industries Encouragement Act	
IP Regime: Patents Act, Trademarks Act, Geographical Indications Act, Integrated Circuits Act, False Trade Descriptions Act, Copyright (Amendment) Act	City of Nassau Revitalization Act	
Stamp Act	Family Island Development Encouragement Act	
Excise Act	Economic Empowerment Zones	
Commercial Enterprises Act	Bahamas Investment Incentives Act	
Commercial Entities (Substance Requirements) Act	Agricultural Manufactories Act	
	Spirits and Beer Manufacturing Act	
	The Bahamas Vacation Plan and Time Sharing Act	

#### 2.4 Taxes, Fees and Tariffs

The Bahamas' ENIP is supported by either low or no taxes and fees. There is currently no capital gains tax, inheritance tax, or corporate income tax. Currently, fees and taxes levied on businesses in The Bahamas include business licence taxes, custom duties, excise tax, real property taxes, and value added tax.

##### *Business Licence Tax*

The Business Licence Act, 2010<sup>28</sup> sets out business licence taxes in the first schedule. Prior to the 2017 amendment,<sup>29</sup> the Business Licence Act, 2010 imposed a tax<sup>30</sup> on International Business Companies<sup>31</sup>. A full schedule of business licence taxes may be found in the First Schedule of the Business Licence Act, as amended.

Business licences may be applied for and registered through the Department of Inland Revenue's Online Tax Administration System ("OTAS"). This online application system may also be used to access

<sup>28</sup> [http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/2010/2010-0025/BusinessLicenceAct2010\\_1.pdf](http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/2010/2010-0025/BusinessLicenceAct2010_1.pdf)

<sup>29</sup> See <https://inlandrevenue.finance.gov.bs/wp-content/uploads/2017/11/BusinessLicenceAmendmentAct2017.pdf>

<sup>30</sup> A business licence tax of \$300 annually.

<sup>31</sup> As defined under the International Business Companies Act (Chapter 308).

other tax management services such as tax registration, filings and payments and tax objections and appeals. Value Added Tax and Real Property tax may also be paid using this application.

#### *Value Added Tax (“VAT”)*

The Value Added Tax Act, 2014 introduced VAT in The Bahamas at a rate of 7.5%. This rate was increased to 12% in 2018. Exported goods to customers abroad are exempt or zero-rated. Taxable persons include businesses that provide taxable supplies for sale and meet the VAT threshold of \$100,000 within 12 months. This is applicable even if the business is a temporary or occasional business.<sup>32</sup>

#### *Real Property Tax*

Real property tax is imposed in accordance with the Real Property Tax Act (Chapter 375) and may be paid through the OTAS. Real property tax may also be paid by credit card, cheques or wire transfer. For commercial buildings, the tax rate is:

- First \$500,000 of market value - 1% of the market value;
- On the portion over \$500,000 - 2% of the market value<sup>33</sup>.

#### *Excise Duties*

Excise duties are calculated and charged on locally manufactured products that are intended for retail sale. Currently, excise duty is collected on locally produced alcoholic spirits and beer<sup>34</sup>. Certain goods are exempted<sup>35</sup> such as:

- Aircraft parts and accessories;
- Farm tractors for agricultural co-operative societies;
- Relief goods; and
- Educational, scientific, and cultural goods.

#### *Customs Duties*

Customs duty ranges from 0% to 220%, with an average duty rate between 30 and 35%, and is collected on all imports by The Bahamas Customs Department. Customs duty rates may be found in the Tariff Act, 2013, as amended.

In 2019, the Customs Department launched, as a part of the Customs Modernisation Initiative, an online portal, Click2Clear<sup>36</sup>. This portal aims to facilitate customs payments on imports and importer/exporter registration and digitise processes. The Custom Department’s website is user friendly and easy to navigate. This improves accessibility and ease of business.

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<sup>32</sup> See <https://inlandrevenue.finance.gov.bs/wp-content/uploads/2017/03/2017-01-01-VAT-Guidance-on-Filing-Your-Quarterly-VAT-Return.pdf>

<sup>33</sup> See Section 2 of Real Property Tax Act, 1969. [http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1969/1969-0023/RealPropertyTaxAct\\_1.pdf](http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1969/1969-0023/RealPropertyTaxAct_1.pdf)

<sup>34</sup> See <http://www.bahamas.gov.bs/customs>

<sup>35</sup> See Excise Act, 2013 [http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/2013/2013-0024/ExciseAct2013\\_1.pdf](http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/2013/2013-0024/ExciseAct2013_1.pdf)

<sup>36</sup> See <https://www.bahamascustoms.gov.bs/landing-page/click2clear/>

Additionally, various concessions on customs duties are provided for investors and developers as well as small business owners and entrepreneurs in select industries to encourage development.

## 2.5 Target Investment Areas: Concessions and Incentives

### 2.5.1 Overview of Concessions and Incentives

The current legal framework supports the NIP through legislation that allows for investment concessions for investors and developers for both Bahamians and Non-Bahamians. Investors or entrepreneurs who seek to contribute to areas of development in the Bahamian economy in specified industries may apply for concessions on custom duties, excise tax, real property tax and exemptions on other fiscal impositions.

The NIP sets out target investment areas for foreign investment and areas reserved for Bahamians. The list of target areas, shown in Table 3 below, is not exhaustive and investors may seek approval through the BIA for projects that do not appear to fall within the list.

Table 3 Investment Target and Reserved Areas

Target Areas for FDI	Reserved for Bahamians
Touristic Resorts	*Wholesale and Retail Operations
Upscale Condominium, Time share and Second Home Development	Commission agencies engaged in the import/export trade
Information and Data Processing Services	Real estate and domestic property management agencies.
Assembly Industries	Domestic newspapers and magazine publications
High-Tech Services	Domestic advertising and public relations firms
Ship Repair and other services	Security services
Light Manufacturing for export	Domestic distribution of building supplies.
Agro-Industries	Construction companies, except for special structures for which international expertise is required
Food Processing	Personal cosmetic/beauty establishments
Mariculture	Commercial fishing within the exclusive economic zone of The Bahamas
Banking and other Financial Services	Auto and appliance service operations
Captive Insurance	Public transportation inclusive of locally solicited charter boat tours
Aircraft Services	Landscaping
Pharmaceutical manufacture	*International Investors may engage in the wholesale distribution of any product they produce locally
Off-shore Medical Centres	

The lists do not seem to have been updated since 2011, which means considerations for contemporary economic focus areas, for example areas to push the country as a renewable energy hub or a technological hub, have not been made. The list should be adjusted to coincide with the vision for a modern Bahamas.

#### *Customs Duties*

As mentioned earlier, concessions on taxes and duties are set out in a suite of legislation encouraging industrial development, development in the tourism industry and development in trade and manufacturing. Five areas providing concessions on customs duties and/or real property tax are presented below. A comprehensive list of the suite of legislation providing concessions for investors can be found in Appendix B.

Table 4 Concessions Available to Investors

Legislation	Concessions Available
Hotels Encouragement Act, 1954 (as amended) (Chapter 289)	Exempt from customs import duties on materials related to the development; exemption from real property tax for 10 years (may be extended for up to 10 years); exemption from taxation on earnings. Duplicated concessions for Entertainment Facility, Nightclub, Restaurant and Shop Concessions
Export Manufacturing Industries Encouragement Act, 1990 (Chapter 327)	Exempt from custom duties on import of machinery or raw materials. Exemption from export tax, real property tax on factories, tax on income and profits (for 25 years).
Industries Encouragement Act, 1970 (as amended) (Chapter 326)	Exempt from custom duties on import of machinery or raw material necessary for manufacturing approved product. Relief from income/profits, export, real property tax on factory for 15 years after commencing manufacturing of product.
The Family Island Development Encouragement Act, 2008 (Chapter 328A)	Exempt from custom duties on building materials, land-clearing machinery. After 5 years imported materials subject to customs duties; Exemption from excise tax.
Economic Empowerment Zones Act, 2018 (No. 28 of 2018)	Property development: Exempt from real property tax; Exemptions from custom duties on machinery, material, articles for 2 years; no excise tax; no stamp duty on sale/transfer or property. Businesses: conditional business licence-fee waiver; conditional waiver of customs duties on commercial vehicles; no excise tax.

While concessions may encourage development, there does not appear to be a correlation between the amount of concessions offered to a foreigner investor and economic growth. In fact, ease of doing business and dispute resolution appear to be of much more valence for investors.<sup>37</sup> We recommend a thorough review of both the length and amount of concessions offered to attract foreign investors, particularly in industries that are already developed and industries that we especially would like to develop.

#### *Incentives*

##### *Small Business Guarantee Loans*

The Ministry of Finance offers guarantee loans<sup>38</sup> to Bahamian citizens seeking to establish a small business. The loans are offered at a concessionary interest rate at a commercial bank and must be repaid within ten years.

##### *Tourism Development Loans Guarantee Programme*

This loan<sup>39</sup> is offered to Bahamian citizens seeking to establish a Family Island Tourist Development and to access guarantee loans at a concessionary interest rate at financial institutions. The loan must be repaid within 15 years.

## 2.6 Overview of Current Investment Process

### 2.6.1 Investment Process for Bahamians (Starting a business) for Bahamian Citizens or Permanent Residents

<sup>37</sup> Please see previous ERC paper for a more detailed analysis of this topic.

<sup>38</sup> See <https://www.bahamascustoms.gov.bs/small-business-guarantee-of-loans/>

<sup>39</sup> See <https://www.bahamascustoms.gov.bs/tourism-development-loans-guarantee-programme/>

- Step 1:** Create account at [vat.revenue.gov.bs](http://vat.revenue.gov.bs)
- Step 2:** For individuals or partnerships, Register Trade Name at [http://mofportal.bahamas.gov.bs/BSLI/Business\\_Licence\\_Application.nsf/DIR\\_Trade\\_Name\\_Splash.xsp](http://mofportal.bahamas.gov.bs/BSLI/Business_Licence_Application.nsf/DIR_Trade_Name_Splash.xsp)  
For Limited Companies, Register Trade Name via <https://www.bahamas.gov.bs/wps/myportal/public/rgd/company/reserve-name>
- Step 3:** Using the Consolidated Agencies Application, apply for approvals.
- Step 4:** Apply for Royal Bahamas Police Force inspection.  
Register Company with National Insurance Board if not done already: <https://www.nib-bahamas.com/m1758/Employers>
- Step 6:** Upon agency approvals and approval or business licence, print business licence. **Applications are usually processed within 7 days**, but may be delayed. Applicants are alerted via email. Once the licence is approved, the applicant may make online payment.

*Note that where the business owner also owns the commercial property of the business, real property tax must be paid to the Department of Inland Revenue.*

## 2.6.2 Investment Process for Non- Bahamians

### *Establishing a Business in The Bahamas*

#### *First Stage*

- Step 1:** Applicants must ensure that they have the required minimum investment of \$500,000.
- Step 2:** Using the BIA's project proposal guidelines (available in pdf.), applicants should submit project proposal to BIA along with supporting documents. BIA will process proposal and send to the NEC for review. Relevant government agencies will also be consulted for input (Ministry of Public Works, Ministry of Environment, etc.).
- Step 3:** BIA will communicate decision on proposal in writing.
- Step 4:** Upon approval, BIA will coordinate with relevant government agencies to facilitate implementation. **Turnaround time for approvals is 60 days.**

#### *Second Stage*

- Step 1:** Register Company Name and Incorporate Company: If non-resident, have financial and corporate service provider register company name using the Registrar General's e-service: <https://www.bahamas.gov.bs/wps/myportal/public/rgd/company/reserve-name>
- Step 2:** Register Company with National Insurance Board <https://www.nib-bahamas.com/>
- Step 3:** The applicant must make a consolidated agency application, if not facilitated already by the BIA  
[http://mofportal.bahamas.gov.bs/BSLI/Business\\_Licence\\_Application.nsf/Consolidated\\_Splash.xsp](http://mofportal.bahamas.gov.bs/BSLI/Business_Licence_Application.nsf/Consolidated_Splash.xsp)
- Step 4:** **Application processed within 7 days** and you are alerted through your email. Once licence approved make online payment.

*Note that where the business owner also owns the commercial property of the business, real property tax must be paid to the Department of Inland Revenue.*

As mentioned earlier, the application process is onerous, time-consuming and frustrating. We will recommend a consolidated application process for all foreign proposals.

### *Property Acquisition and Other Considerations*

For foreign nationals who wish to purchase property (non-investment) in The Bahamas, there are a number of additional legal requirements to consider, namely: property acquisition usage, number of acres purchased, intended time to develop the property, immigration matters including securing residency or other relevant permits and physical presence requirements.<sup>40</sup>

As previously mentioned, adjudication of these applications are exclusively under the remit of the Investment Board. As is the case with the foreign investors, the application process is equally archaic and not conducive to attracting foreign homeowners.

In summary, applications are submitted to the Secretary of the Investment Board where an approval letter may then be issued, which must be submitted to the BIA. The BIA will subsequently issue the permit to acquire property. The fee for the Permit to Acquire Property is \$500 with a turnaround time of 30 days.

The rate of stamp duty payable by a Non-Bahamian in respect of a transaction relating to the acquisition of an interest in land is the same as that which would be payable by a Bahamian.

### *Immigration Matters*

Currently, the ENIP allows foreign investors, once approved, to acquire certain permits to allow them to either work or reside in the country (or both). These permits are processed via the Department of Immigration, and include:

- **Work Permit:** Foreign nationals seeking to work and live in The Bahamas for a period greater than 90 days, must first be authorized to do so by way of a valid work permit issued by the Department of Immigration. Persons have the option to apply for:
  - A short-term work permit, which allows an individual to work in the country for a period of 1-90 days. The turn-around time for approval or denial is 7 days and there is a non-refundable application fee of \$100; or
  - A long-term work permit, which allows an individual to work in the country for a period greater than 90 days. The turn-around time for an update of the work permit is 3-4 weeks and there is a non-refundable fee of \$100.00.
  
- **Permanent Residency<sup>41</sup>:** Foreign investors who are legitimate owners of a residence in The Bahamas are eligible for permanent residency and those with a residence valued at \$1.5 million or more receive special considerations. Major international investors and owners of residences valued at BS\$750,000.00 or more are given accelerated consideration for their annual or permanent residence applications. There is an application fee of \$100 with a 3-4 week turn around for an update of the process.

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<sup>40</sup> For further information see: The International Persons Landholding Act, 1994 (Chapter 140).

<sup>41</sup> See <https://www.immigration.gov.bs/permits-and-residencies/permanent-residence/>

- Home Owner Identification Card<sup>42</sup>: Foreign nationals who own a home in The Bahamas may apply for a Home Owner’s Identification Card. This card entitles the homeowner, his/her spouse and minor children to enter and remain in The Bahamas for the duration of the validity of the card. The card carries a \$200 processing fee and an annual fee of \$250 per year.

### 3. Recommendations to Improve Current Investment Framework

#### 3.1 Recommended Updates to Support Ease of Business

##### *Starting a business*

Costs and time delays related to the processes of starting a business or making an investment in The Bahamas can be reduced through implementation of the recommended interagency coordination. The digitisation of all government forms is recommended in the first instance as a precursor to implementation of online applications.

##### *Registering Intellectual Property*

The Intellectual Property Office currently operates out of the Registrar’s Department. From benchmarking of the five top performing countries<sup>43</sup> in the Global Competitiveness Report<sup>44</sup>, 2019, it is noted that all have an online process for IP registrations. Additionally, the structure of this office is usually an independent authority or operates as a state agency connected to the Registrar, but with its own units and Board of Directors.

As an example, the Swiss Federal Institute of Intellectual Property<sup>45</sup> operates independently from the Federal Budget and is made up of a Board and Council and several departments. Further, employees have expertise in law, science, economic, and information technology. Similarly, the IP regime of Singapore is administered through the Intellectual Property Office of Singapore<sup>46</sup> (“IPOS”), a government agency. This agency has a Board of Directors and the Chief Executive is the Registrar. The IPOS has several departments including corporate services, hearings and mediation, and policy and engagement. Registering a trademark, patent or design may be completed online. Notably, there is an accelerated process to expedite the application process for Artificial Intelligence Property.

It is recommended that the Intellectual Property Office be:

- Expanded to accommodate more staff with expertise in intellectual property law, communicators or officers that work with directly with applicants, domestic and international, and staff with knowledge in various industries to support the legal officers in the Office; or
- Restructured into a Commission or Authority, like the BIA, that operates under the Registrar General.

As previously noted, all of the jurisdictions benchmarked have an online presence with options to register intellectual property online or manually. Like the BIA, the IP Offices in the benchmarked

<sup>42</sup> See <https://www.immigration.gov.bs/permits-and-residencies/home-owners/>

<sup>43</sup> Singapore (1), United States (2), Hong Kong SAR (3) Netherlands (4) and Switzerland (5).

<sup>44</sup> See [http://www3.weforum.org/docs/WEF\\_TheGlobalCompetitivenessReport2019.pdf](http://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf)

<sup>45</sup> See <https://www.ige.ch/en/about-us/who-we-are.html>

<sup>46</sup> See <https://www.ipos.gov.sg/who-we-are>

jurisdictions have assigned officers to field any questions regarding IP registration and to manage the registration process.

As a near term recommendation, IP registration forms should be digitised and made available on the current Registrar General Webpage and registrations should be included as an e-service. The current process is manual, which is not attractive to international filings. Additionally, the Intellectual Property Office should have its own online presence, including a search portal for trademarks, and online registering of patents, trademarks and other related registrations and ability to check approval status of registration applications.

Finally, there appears to be benefits to countries that are bound by the PCT. This seems to be an attractive point to foreign investors as the top performing jurisdictions benchmarked are all contract parties to the PCT<sup>47</sup>.

### 3.2 Proposed Changes to Existing Legal Frameworks

#### *Enforcement of Contracts*

In addition to the recommendation to consider signing the PCT, as noted in the analysis of the current investment framework, The Bahamas did not perform well in the Enforcement of Contracts indicator under the Ease of Business index. Efforts should be directed toward improving this area so that the IP regime and overall ease of business is supported. This may mean digitisation of the processes in the legal system, which – by all accounts – appears to be a current focus of the government.

#### *Introduce National Cybersecurity Framework*

Also having a nexus to the IP regime is cybersecurity. In early June of this year, the Attorney General revealed<sup>48</sup> that the Bahamas Registrar General’s online platform was attacked in a cybercrime of “hacking” the Registrar General’s server; the information therein was published. As many of our recommendations are connected to leveraging advancements in technology and, as cybersecurity is a \$6 trillion dollar business<sup>49</sup> the Bahamas must augment its cybersecurity and data protection legislation. In the short term, carefully reviewing and implementing a national cybersecurity framework and ensuring that cybersecurity personnel and/or an Information Security Officer is staffed at the Registrar General and Intellectual Property Office is pertinent.

### 3.3 Proposed Updates to Target Investment Areas: Concessions and Incentives

Recommendations for revising the concessions and incentives framework can be categorised as follows:

- Determine and/or Refine Focus for The Bahamas;
- Designate industries or target areas as *Underdeveloped, Sensitive/Vulnerable and Developed*;
- Revise Concessions; and
- Introduce Additional Incentives.

#### *Determine and/or Refine Focus for The Bahamas*

We recommend that two areas of focus should be Financial Technology (FinTech) (Development as an International FinTech Centre) and Alternative/Renewable energy. The impending promulgation of the Digital Assets and Registered Exchanges Act, 2020 and the current consideration for establishing an

<sup>47</sup> See List of PCT Contracting States [https://www.wipo.int/pct/en/pct\\_contracting\\_states.html#note3](https://www.wipo.int/pct/en/pct_contracting_states.html#note3)

<sup>48</sup> See story at <https://thenassauguardian.com/2020/06/02/registrar-general-departments-system-hacked/>

<sup>49</sup> [www.coindesk.com](http://www.coindesk.com)

Innovation Authority indicates that the area of digital assets and innovation is already a focus for The Bahamas. As there appears to be a direct, positive correlation between countries that have embraced integrating technology and the level of direct FDI inflow, The Bahamas should continue to pursue this strategy. Singapore, for example, a previously benchmarked country, ranks in the top ten innovative countries as reflected on the 2019 Global Innovation Index<sup>50</sup>, while Hong Kong – also benchmarked in the initial paper - ranks in the top 15.<sup>51</sup>

As it relates to renewable energy, The Bahamas currently ranks 81 in the Doing Business *Getting Electricity* Index, again falling behind the smaller island state of Antigua and Barbuda (rank 50). Energy reform is no longer just a good idea, but rather a most needed and viable option as a focus area for The Bahamas.

*Designate industries or target areas as Emerging/Underdeveloped, Sensitive/Vulnerable and Developed*

Prior to adjusting the investment incentives and concessions regime, we recommend redefining the industries into three categories: 1) underdeveloped, 2) sensitive and 3) developed. Investment concessions will be apportioned based on the category of the industry a foreign investor is applying to engage in. In short, we recommend the elimination of blanket concessions for all foreign investment proposals.

Since the NIP has not been significantly updated since 2011, certain industries that needed encouragement may have already become developed, such as “mega-hotels”, which were “encouraged” under the Hotels Encouragement Act, and may not necessarily require the same level of concessions now. Alternatively, sensitive or vulnerable and underdeveloped industries, or industries that The Bahamas may want to encourage, such as agriculture, farming and manufacturing, may lead the government to offer more incentives for investment in sensitive areas.

Categorising the industries as recommended may prove as a guide to assist in economic diversification efforts. For Example, the Oxford Economics review<sup>52</sup> indicates a decline in output from the manufacturing sector where some 4000 individuals are employed in the Light Manufacturing sector (pg.3). On the other hand, according to The Bahamas Department of Statistics’ Preliminary Results Labour Force Survey<sup>53</sup>, at May 2019, 31,230 individuals were employed in the hotels and restaurant industry; this accounted for 20.9% of the labour force at that time for New Providence alone. With the determination of an industry categorisation methodology, the Hotels and Industry may be categorised as developed as compared to the manufacturing industry and as such, may be able to survive amid reduced concessions.

It is also recommended the list of Target Investment Areas, under the ENIP, be refined and more specified. For example, the area of High-Tech may be refined to FinTech or Digital/ICT, Biotechnology, etc. Additionally, Alternative/renewable energy, Island Logistics, E-commerce, Science, Technology, Engineering and Math (STEM) or STEAM (to include the Arts) projects or educational facilities, and investment projects that promote sustainable development may also be considered as additions to the list.

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<sup>50</sup> See, Global Innovation Index Report 2019, <https://www.globalinnovationindex.org/gii-2019-report>

<sup>51</sup> See previous Revamping the National Investment Policy of The Bahamas.

<sup>52</sup> Ibid.

<sup>53</sup> See [http://www.bahamas.gov.bs/wps/wcm/connect/6cbfd694-837f-49e5-9e69-94cc51bb8799/FOR+PRESS+RELEASE\\_Labour+Force+Survey+December+2019.pdf?MOD=AJPERES](http://www.bahamas.gov.bs/wps/wcm/connect/6cbfd694-837f-49e5-9e69-94cc51bb8799/FOR+PRESS+RELEASE_Labour+Force+Survey+December+2019.pdf?MOD=AJPERES)

Government investment in STEM programmes and incentives to attract talent and FDI in STEM driven businesses projects or research efforts can lead to diversification in skills translating to growth and diversification of the economy and supporting the recommended focus on FinTech. Many countries have implemented STEM programmes into the educational framework, including the United States and the United Kingdom. In 2018, The United Kingdom's House of Commons Committee of Public Accounts published a report *Delivering STEM Skills for the Economy*<sup>54</sup> noted concerns of an inadequately skilled workforce in STEM; the committee realised that this can negatively affect economic growth and productivity and set out initiatives to address challenges of the workforce in this area. The Bahamas is behind in this area and this is a good time to set this course toward a diversified and skilled labour force.

#### *Revising Current Concessions*

The Bahamas should consider special and/or additional concessions for foreigners wishing to invest in emerging, undeveloped and/or underdeveloped industries, such as technology, medical and environmental tourism, light manufacturing, and alternative energy. This could broaden the types of investments received by The Bahamas and, more appropriately, ensure that the level of concessions provided to the FDI are commensurate with the potential benefit to The Bahamas.

One area of recommendation for reduced incentives is that of the length of time available for claiming an exemption of real property taxes for hotels under the Hotels Encouragement Act. This Act allows for real property tax exemptions for ten years with the ability to extend for another ten years. While this has been a marketable point for developing the hotels industry, this Act was introduced in 1954 to encourage development of the industry. It must now be determined whether this industry remains underdeveloped or whether re-categorisation is required. Considerations may also be made to the regions of The Bahamas that may be developed or underdeveloped in this industry.

#### *Introduce Additional Incentives*

##### *Grants and Financing for Investment in Areas Reserved for Bahamians*

We recommend that access to funding be significantly diversified to incentivize Bahamians to invest in the areas reserved for them as an effort to develop these areas. One recommendation is for the government to introduce grants in areas that support socio economic development. As an example, a grant may be given to a Bahamian business owner engaged in commercial fishing for domestic distribution. While we are aware that the existing investment incentives are available to both foreigners and Bahamians, the issue is that Bahamians are unable in the first instance to accumulate business capital to support their objectives. Diversifying opportunities for business capital should be a major addition to the incentives structure.

#### *Small Businesses*

As previously mentioned, the Bahamas ranks 152 and scores 30 in the Doing Business *Getting Credit* index, falling behind the average score for the LATAM/Caribbean region (52.0). While the government has introduced incentives such as the small business guarantee loan, it is evident that there is more work to be done in this area. More concessions and incentives are required for small businesses, particularly in the area of access to finance. It is further recommended that any concession or incentive

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<sup>54</sup> See <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/691/691.pdf>

introduced for small businesses with storefronts also be awarded to small businesses that only have an online presence as an encouragement for businesses to embrace technology.

#### *Small Business Development Centre*

The governments of Hong Kong and Singapore see merit in focusing on small businesses and start-ups. In the case of Hong Kong, the initiative *Startmeup HK*<sup>55</sup> was launched in 2013 with an aim to promote Hong Kong as a start-up destination. This initiative assists founders of innovative start-ups or existing start-ups seeking expansion. Startmeup HK fosters the collaboration between overseas and Hong Kong-based companies. Notably, Startmeup HK hosts an annual festival, which serves as a platform for entrepreneurs, investors, industry leaders and government to exchange ideas and network. It features investor and entrepreneur matching, a services marketplace, start-up villages, etc. and focuses on technology innovation across sectors. Startmeup HK also provides resources on its designated webpage where entrepreneurs and investors can explore incubation and acceleration programmes available to them.

It is recommended that the BIA in collaboration with the Small Business Development Centre, serve as a resource for start-ups, providing resources, linking vendors with companies and creating a platform for networking and promoting The Bahamas as a start-up destination.

#### *Bahamian Diaspora<sup>56</sup> (Talent Abroad)*

Rodriguez-Montemayor (2012) notes that Diaspora Direct Investment (“DDI”) contributes to boosting productivity in countries and offers that a main advantage of DDI is stability during unfavourable economic conditions compared to other types of FDI, attributed to the emotional connection to the country<sup>57</sup>. Attracting talent and investment from the Bahamian diaspora may be done through the introduction of research and development grants for specified areas of focus for The Bahamas, particularly in the areas of medicine (stem cell), FinTech (digitization, AI/ML) and science (alternative energy/etc.). Additionally, the government can collaborate with Category 1 diaspora investors or subsidise the launch of their business operations. Here, the government has the opportunity to develop specified industries that may be underdeveloped or emerging while giving Bahamians a feasible avenue for investment in their country. Finally, the government may offer special visas<sup>58</sup> or citizenship status to Category 2 diaspora if they meet specific investment guidelines/thresholds.

#### *FinTech incubator*

To support the recommendation that The Bahamas develops as an International FinTech Centre<sup>59</sup>, it is recommended that a FinTech Incubator Programme be launched, through the Small Business Development Centre or through a public-private partnership. This incubator may work alongside established regulator-led initiatives, such as the Commission’s FinTech Hub, SCB FITLink.

### *3.4 Updates to Immigration Permit Regime*

#### *Minimum Investment*

<sup>55</sup> See <https://www.startmeup.hk/>

<sup>56</sup> For the purposes of this paper diaspora is: Category 1 - A person born in The Bahamas, but living outside of The Bahamas; and Category 2 - A person born to a Bahamian, though the person him/herself is not a Bahamian.

<sup>57</sup> Rodriguez-Montemayor, Eduardo (2012) Diaspora Direct Investment: Policy Options for Development, Inter-American Development Bank, Policy Brief.

<sup>58</sup> Similar to Barbados’ proposed “Welcome Stamp”.

<sup>59</sup> The ERC is currently working on a FinTech Centre/Financial Hub paper, which we intend to imminently disseminate to committee members.

Currently investors with feasible project proposals must make a minimum capital investment of \$500,000. When benchmarked against other jurisdictions, such as Hong Kong (no minimum amount of company paid-up capital), Jamaica (no minimum investment threshold) and Singapore (minimum investment is SGD\$1), The Bahamas' minimum investments appear exorbitant. However, in reviewing the investment policies of these countries, it should be noted that taxes on profits, corporate income taxes are imposed. With this in mind, recommendations are not made to change the investment threshold; however, it is recommended that investors be required to agree to corporate social responsibility similar to the provision prescribed in section 12 of the Economic Empowerment Zones Act, 2018.

Upon the submission of a foreign investment project to the BIA, we recommend that the principal investor is automatically conferred a special investor visa, which allows, among other things: a) entry to The Bahamas (without having a travel visa); b) limited ability to conduct business relating to the proposal (e.g. banking and negotiating leases, where applicable).

#### *Special Visas*

To attract development in High-Tech, FinTech and other determined areas of focus, we recommend that special *Entrepreneur Visas* be considered. Singapore allows for an Entrepreneur Visa called *EntrePass*<sup>60</sup>, which allows entrepreneurs to start a private limited company in Singapore upon conditions being met. Some of the conditions include the business must be entrepreneurial and innovative and the applicant must have an entrepreneurial track-record, investment track-record or own intellectual property. The Visa is renewable every 1-2 years and allows for the relocation of immediate family.

Similarly, Hong Kong issues the *Entrepreneur Visa*<sup>61</sup>, which may only be granted upon proving that the venture will make a substantial contribution to the economy (mainly in areas of cyber and technology). The Visa is renewable annually as long as the business remains viable and allows for relocation of spouse and dependent children. Under both regimes, permanent residency may be applied for in due course.

It should be noted that prior to implementing such a Visa, key High-Tech, FinTech and innovative areas must be defined. Additionally, strict criteria regarding the evidence of contribution to the Bahamian economy should be imposed; a 1 to 3 year renewable fee may be imposed (as temporary business licences do not exceed 3 years). This Visa should only be made available in areas that are undeveloped and that are innovative in nature.

As a final recommendation, the NIP should be revisited periodically, for example every 6 years, to ensure relevance and to make any amendments based on FDI statistics and international business trends post revamping of the investment framework.

A summary of the recommendations to update the NIP framework is presented in Appendix C.

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<sup>60</sup> See <https://www.mom.gov.sg/newsroom/press-releases/2017/0803-enhanced-entrepass-to-attract-global-startup-talent-to-build-innovative-businesses-in-singapore>

<sup>61</sup> See <https://www.investhk.gov.hk/en/setting-hong-kong/visa-immigration.html>

## 4. Revamped Bahamas Investment Authority: Digitised and Efficient

### 4.1 Mandate

While the focus is on foreign direct investment, changes to the national investment policy and the BIA affect both Bahamian and Non-Bahamian investors. As such, recommendations are made to facilitate an easier investment process for all investors.

#### *Role of the BIA<sup>62</sup>*

Currently, the mandate of the BIA as publicised on their website is as follows:

*“The government’s proactive economic growth and development policies are guided by the Bahamas Investment Authority (BIA), established to reduce bureaucratic delays for **domestic and international** investors. Operating from the Office of the Prime Minister, the BIA has been designated a “one-stop shop” designed to simplify investing in The Bahamas.”*

To facilitate this mandate efficiently, we recommend an improvement in promotion efforts, a streamlined investment process for evaluating project proposals, an enhanced interagency coordination effort supported by technology, and specific units for policy and research to monitor FDI developments and to allow for more informed advisement regarding the NIP. Additionally, in carrying out its mandate, it is recommended that the BIA operate by a published code of conduct on confidentiality, transparency, and efficiency.

We further recommend that BIA engage with investors from the approval and implementation stage to operations stage, including after-investment care, acknowledging the experience of investors, the potential for reinvestments, and the potential for cluster-development because of follow-up investments.

The BIA should operate autonomously, and should undergo a restructuring event to facilitate the updates to its role. The structure should be changed from having several investment officers responsible for facilitating investment approvals per assigned legislation, and should include a more diversified staff working under new specified units.

#### *Promotional Efforts*

The promotional effort, being an important element in revamping the NIP, should be reviewed and enhanced. Current efforts seem to be limited to the Bahamas Financial Services Board’s efforts in promoting the financial industry of The Bahamas and presenting certain areas for concessions on the BIA website.

Promotional efforts should be expanded to include a social media presence for the BIA, international advertisements, and a campaign, whether on the BIA website or otherwise, that promotes investment incentives for domestic and international investors. International roadshows, where staff from the BIA are prominently included, should be conducted quarterly and, a BIA officer with the requisite experience, seniority and an appropriate level of decision making authority, should be stationed in every overseas embassy, consulate, tourism and maritime office.

Further, while the BIA acts as a one-stop shop for investment, the BIA public presence<sup>63</sup> can be perceived as being mainly concerned with foreign investment. This is one of the challenges being

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<sup>62</sup> A detailed approach to the role of the BIA is presented in section 4.

<sup>63</sup> The Bahamas Investment Authority webpage.

addressed in this paper. It is therefore recommended that the BIA promote itself as an available resource for all investors (Bahamian and Non-Bahamian).

#### *Streamlining the FDI Application Process*

Currently, the process for investment approval from the BIA can take 60 days. This is not a competitive timeline<sup>64</sup>. Additionally, the process is manually intensive and lacks transparency. It is recommended that the BIA be digitised in the first instance, that is, pdf versions of documents such as the Proposal Guideline document should be converted into an online form<sup>65</sup>.

Ideally, an online portal like that of the Department of Inland Revenue is recommended for the BIA. Investors should be able to electronically submit applications online, receive an acknowledgement of receipt of application, track the stages of the proposal and be notified of approval, denial or any request for additional information. To this end, the BIA should have an initial response rate of 1 to 3 days for acknowledgement of receipt of proposal and the entire process should not take more than seven (7) working days if The Bahamas is to remain competitive.

If completion of approval within 7 days is not feasible, efforts should be made to increase response time to acknowledge receipt of proposal and to reduce the NEC approval timeline. Foreign investors should also have the ability to register for property acquisition or apply for permit to acquire property via an online platform. Additionally, application for investment concessions should be able to be made through the BIA as opposed to investors having to apply for them separately.

A complete recommendation for an updated model for the BIA is presented in section 4.

#### *Modernisation and Interagency Coordination*

In efforts to update the current investment framework, the foreign investment component in particular, it is recommended that relevant agencies associated with approvals for business operations and investments (including BIA, Ministry of Environment, Ministry of Works, and Department of Physical Planning) be modernised. This should be done through the digitisation of processes and technical updates to introduce online platforms (where they may be absent) and interagency coordination. A review of the current framework reveals time consuming and manual processes combined with minimal digital components. The manual process undoubtedly add to the time delays and make the foreign investment process onerous.

More specifically, from a review of current processes, it is recommended that agencies coordinate processes to streamline the overall experience for investors. Ideally, databases would be shared and would be able to speak to each other by way of Application Programming Interface<sup>66</sup> technology. Additionally, updates made to shared relevant legislation would be updated on all publications by all agencies at the same time. It was noted for example, that legislative updates were not included in an updated business licence guide on the Department of Inland Revenue's website. Further, certain figures related to minimum investment for expedited permanent residency permits differed on the BIA's website and the Department of Immigration's website.

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<sup>64</sup> The U.A.E. provides approval within 5 days; Hong Kong processes online application within 1 day and hard copy applications within 4 days; Cayman Islands processes in 2-4 weeks; Jamaica 3-5 days for acknowledgement.

<sup>65</sup> See [http://forms.bahamas.gov.bs/documents/OPM\\_OPM\\_Project%20Proposal%20Guidelines.pdf](http://forms.bahamas.gov.bs/documents/OPM_OPM_Project%20Proposal%20Guidelines.pdf)

<sup>66</sup> Application Programming Interface refers to software that allows interaction between multiple software intermediaries. See <https://www.mulesoft.com/resources/api/what-is-an-api>

The agencies that are being recommended for coordinated efforts and shared databases and/or online application platforms include:

- **Shared e-registry portal between Department of Inland Revenue and the Registrar General** (so that applicants do not have to leave the Department of Inland Revenue’s page to access the Registrar General’s e-service for registering a company name).
- **The Department of Immigration, Ministry of Foreign Affairs, and the BIA** (similar information is collected and/or required by these agencies, for example, the Department of Immigration requires a verified birth certificate from the Ministry of Foreign Affairs as a part of the Permanent Residency application process. The Department of Immigration requires the International Landholders Certificate from BIA for granting of the Homeowner’s identification card).
- **BIA and Department of Inland Revenue** (to streamline the investment and business licence process for foreign investors. The BIA approval is required for application of a business licence).

#### *Structure of BIA*

The BIA is currently staffed with Investment Officers who are assigned by area of legislative purview, that is, for example, investment officers are assigned under the Hotels Encouragement Act, Industries Encouragement Act, etc. To accommodate recommendations made to the NIP framework, the below changes are suggested.

#### *Recommended Organizational Structure*

It is recommended that the BIA be restructured where departments are associated with the various industries and areas of focus for investment for The Bahamas. For example, recommended department or units may include:

- FinTech and Innovation Unit;
- Trade and Industry Unit;
- Tourism Unit (including medical tourism, eco-tourism, etc.);
- Food and Agriculture Unit (including responsibility for Mariculture);
- Information, Communication and Technology Unit;
- Business and Finance Services;
- Domestic Investors Unit;
- Marketing and Promotions Department; and
- Policy and Research Unit.

#### *4.2 Units and Functions*

##### *Unit Responsibility and Staffing*

Pursuant to the recommended units, each unit should have responsibility over the associated target areas and in the case of the Domestic Unit, areas reserved for Bahamians. Investment Officers in each unit should be skilled and well versed in legislation and concessions offered in the applicable industry.

Similar to the current process, investment officers will manage investment proposals and liaise with the investor to ensure transparency and continued engagement. This structure hopes to support the recommendation that investment queries and proposals are all given a timely response.

Staff in these Units should be skilled in law and policy, research, finance, economics, business, technology, marketing and communications, including social media coordination.

### *FinTech Unit*

The FinTech Unit should be responsible for FinTech developments and proposals and should keep track of all FinTech related investments through a FinTech Register. The FinTech Unit should also focus efforts on monitoring the FinTech environment and observing areas for development, in addition to facilitating promotion efforts with the Marketing and Promotions Unit.

### *Policy and Research Unit*

The Policy and Research Unit should have sole responsibility for research, statistics and monitoring efforts of global and domestic FDI statistics and developments and should collect and maintain FDI statistics and produce comprehensive annual reports. Through these efforts, any changes to the NIP can be supported by statistical evidence. Complaints about the FDI process and experience should also be tracked to inform changes in processes, where necessary.

### *Marketing and Promotions Unit*

The Marketing and Promotions Unit should be responsible for all investment communication and promotion efforts, both locally and internationally. Duties may include:

- Liaising with the public and private sector to conduct roadshows to promote The Bahamas as an FDI destination;
- Hosting special events to attract investors;
- Publishing advertisements;
- Managing promotion efforts on the website and establishing and monitoring BIA's presence on social media platforms; and
- Ensuring that the website has updated information on the BIA and its functions.

### *Updated Investment Process*

We further recommend that in place of the NEC, the BIA is empowered to approve certain investment proposals.<sup>67</sup> The NEC has been heavily criticized by both foreign investors and local law firms, whose staff typically processes the investment applications on behalf of foreign investors. Firstly, the NEC has been characterized as non-value adding and overly bureaucratic. Critics aver that the NIP already outlines the areas that are targeted for foreign investment and the requirements to qualify for the investment. As a result, a foreign investor, assuming they have met the requisite stipulations, should not have to receive a separate approval for their investment. Moreover, even when the NEC approves a project, the foreign investor is still obliged to seek additional ancillary approvals for other government agencies. The NEC's involvement is considered duplicative and uninviting to foreign investors. Secondly, critics assert that the often capricious meeting schedule of NEC members elongates an already haphazard and onerous process. As previously mentioned, the NEC convenes weekly meetings, however, due to the exigencies of the government, the meetings are not always held. Investors note that the frustration in having to "wait for the NEC to meet" discourages foreign investment. Finally, and perhaps most importantly, critics aver that the NEC is an analogue institution that is not conducive for 21<sup>st</sup> century business. NEC communications and meetings, for example, are still held "in-person" with limit use of existing technology to expedite both meeting times and the decision process. Moreover, the NEC appears unique to The Bahamas as virtually no other country

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<sup>67</sup> Currently approval authority is vested with the NEC. See the previous paper: "Revamping The National Investment Policy", for further information.

employs an NEC-type organization to both review and render decisions on foreign investment approvals.

We recommend that all industries that are encouraged for foreign investment be reviewed and approved (or refused) internally by the Director of the BIA<sup>68</sup>, assuming all Security Intelligence Branch and World Criminal checks are met, and the investor meets the project proposal and approval guidelines that will be prominently displayed on BIA's website. In essence, a transparent and revised policy will outline the requirements for an approval – which will not be refused if the applicant meets the requirements.

Sensitive applications, involving bespoke matters such as crown land, environmental concerns and applications to develop industries that are not on the “specifically targeted for investors list”, and investments greater than one hundred million dollars (\$100,000,000) may be referred to the NEC.

In summary, the application processed is recommended as follows:

- i. Investor makes application via BIA digital platform or portal and uploads supporting documents including the online project proposal guidelines, which is incorporated into the online process.
- ii. The online platform alerts the investor of the received submission and simultaneously alerts the relevant BIA Unit. A case reference number is given and an investment officer is assigned.
- iii. Investment officer reviews application for good order and feasibility and communicates the same to the investor via the online platform or requests additional information. This process should be completed within 1 to 3 days.
- iv. Investment Officer submits application to NEC for review and makes a simultaneous submission to relevant agencies for review and provisional approvals. (Throughout this process, the investment officer should makes status updates via the online platform so that the investor can track process).
- v. Upon NEC approval, Investment Officer coordinates with caseworkers at relevant agencies to secure formal approvals. Investment officer updates status of application in platform, which alert the investors. The Investment Officer also Notes next steps for the investor. Timeline should not take more than 14 business days, noting that a competitive timeline is 7 days.
- vi. Should the Investor need to acquire property, this service may be facilitate through the BIA platform (for registering or application for permit to acquire property).
- vii. Should the investor wish to seek investment concessions, the BIA and Customs Department should coordinate application process.
- viii. Case is closed by Investment Officer upon implementation of investment.

To ensure efficiency in this updated process, case workers – with the authority to approve permits, licences, etc. - should be assigned at each government agency to liaise with the investment officers, including financial services regulators, the Department of Immigration, the Ministry of Foreign Affairs, The Department of Inland Revenue, Ministry of Environmental Health, the Bahamas Trade Commission, the SBDC, the Ministry of Public Works, and the Registrar General.

### *Helpdesk*

It is recommended that a Helpdesk/Help line be established to forward queries based on industry Unit and to allow for the facilitation of non-legally binding advice (calls should be recorded). The

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<sup>68</sup> The Minister with responsibility for BIA and an appropriate senior level official can also be included in process.

helpdesk/investor services contact will be responsible for answering all queries and concerns from potential investors in real time, via live chat or via email channels. Help desk facilitators will also be responsible for escalating complaints to the relevant departments of the BIA.

#### 4.3 *Interagency Coordination*

##### *Short Term*

As a short-term update to the investment process as it relates to agency approvals and interagency coordination, the BIA should send an electronic notification to all ministries and affected government agencies advising the decision status of an application and next steps. The BIA investment officers should work with case officers in the relevant agencies to ensure the timely review and/or approval of the application.

##### *Long Term*

It is envisioned that through the modernisation of government agencies, all government agencies responsible for permits and approvals of any type of business use an integrated API platform and data management system in order to promote interagency cooperation. The platform will allow for automatic and electronic notifications to all ministries and affected government agencies advising the decision status of the investment application and next steps involved and will allow for tracking of applications via a shared key identifier for applicant cases.

It is believed that by implementing an integrated agency system the following functions will be improved:

- i. Tracking of all investor case statuses from application process to completion, whether accepted or rejected;
- ii. Coordinated functions between pertinent agencies, including:
  - The BIA;
  - The Department of Inland Revenue;
  - The Department of Immigration;
  - The Registrar General's Office; and
  - Other governmental offices that authorise special approvals and/or permits for businesses.
- iii. Reducing the timelines on all approvals and permits necessary;
- iv. Streamlining the FDI and domestic investment process; and
- v. Gathering statistical information on the amount and types of foreign and Bahamian investment efforts.

#### 4.4 *Promotion Efforts and Independent Website*

The BIA website serves as an important promotion tool for investment. It is recommended that the BIA create a new website that is independent from the Government of The Bahamas' website, much like the Customs Department's website. Issues with the current webpage include:

- It does not prove to be user-friendly;
- It lacks e-fillable or digital forms;
- Information appears scattered and unorganized;
- News articles and notices unrelated to FDI are linked to the webpage, which creates confusion; and

- The webpage lacks robust and easily digestible information for potential investors.

The new website design should promote The Bahamas as an investment destination by illustrating, among other things, the ease of doing business in the country and the efficiency levels of the BIA. This can be accomplished by a completely new and efficient website design, similar to that of the Bahamas Customs Department's website and offering information in a user-friendly way like that of Singapore's Economic Development Board's website<sup>69</sup> Hong Kong's Invest HK<sup>70</sup>.

In Singapore, for example, the Economic Development Board<sup>71</sup> ensures a fully transparent, convenient, and digitised business start-up process via its website. InvestHK also has an efficient website model that competently promotes Hong Kong as an investment hotspot to foreigners. On both websites mentioned, the steps are easily understood, sufficient information on taxes and other business necessities is presented, and the websites are user friendly.

An efficient website design can be one of the most important tools to attract FDI to The Bahamas. A few things that separate a less attractive website design from an inviting and user-friendly website design include navigation, visual design and branding, content and information accessibility, interaction, internal and external links, and limitation of advertisements.

#### *Navigation*

The BIA's website should be easy to navigate with an option to view the menu on every webpage. The menu should include items such as steps to invest, permits and approvals needed, business taxation and fees, contact information, targeted FDI areas, policies and legislation summaries for businesses, and documentation needed. It may also prove beneficial for website users to have access to frequently asked questions ("FAQs") for quick and easy access to pertinent information (for e.g. apply for concessions; opening a bank account).

#### *Visual Design and Branding*

Many people are drawn to visual aspects of a website and proper designs lend to user-friendliness elements. The BIA's new website should be welcoming and professional. The homepage of the website should promote the brand of The Bahamas as an FDI hotspot. A few elements that can aid visual design and branding are the promotion of a digital application platform, a quick response time, and fast approval rates. The focus areas for The Bahamas should also be promoted.

Additionally, the BIA should establish a twitter account and/or Facebook page to increase its social media presence and promotion efforts.

#### *Content and Information Accessibility*

Content plays a major role in keeping website users engaged. It is important that content is easily located, digestible, and sufficient. The Department of Inland Revenue's website is a good example of content and information accessibility. Their website has various guides on virtually any topic related to taxation and payment avenues. The new BIA website should have content related to all things FDI, including steps to invest, permits and approvals needed, contact information, targeted FDI areas, policies and legislation summaries for businesses, required supporting documentation needed, and designated sections for all tax and fee information connected with starting a business.

<sup>69</sup> See <https://www.edb.gov.sg/>

<sup>70</sup> See <https://www.investhk.gov.hk/en/setting-hong-kong.html>.

<sup>71</sup> The agency responsible for FDI application processes.

### *User-friendliness and Interaction*

An effective website offers interaction with users and allows for ease of navigation between webpages. A few elements that can be beneficial in this area include:

- **Search Engine Optimization (“SEO”)**, which is the process of making website search functions more efficient. For example, if a website user is on the BIA’s website and types in “taxes” in the search engine, all content on taxation should appear. SEO is also about optimizing the content on the website so that the website is one of the top results when someone is looking for a particular item. For example, if a foreign investor is searching for the best Caribbean country to invest in, the BIA should be one of the top results;
- **Live Chat and Chat Bot** – Live chat adds a human element to the website and requires software or messenger application. Persons seeking information or assistance from the BIA can use a live chat option for updates on cases or help with application process. An alternative to live chat is chat bot, which uses artificial intelligence to answer standard or FAQs in real-time;
- **A digital application platform** or online portal with an application tracker is central to the overall ease of business in submitting an investment proposal. The platform should allow applicants to view investment officers’ notes and updates. The platform should also be able to send updates or notifications to the applicants related to application receipt and approvals/rejections; and
- **Different databases** for SMEs, contractors, corporate service providers, and vendors can also be a useful feature for the new BIA website, as it will allow interested persons to review their options for business assistance in The Bahamas.

### *Internal and External Links*

The BIA should only link helpful resources on the new website; otherwise, the website may become confusing. Some useful links may include:

- External link to the proposed FinTech Unit Webpage, which would include information on all things FinTech The Bahamas, including the recommended FinTech Target Area, FinTech Incubator Programme, Opportunities in The Bahamas and agency FinTech developments such as the Securities Commission of The Bahamas’ FinTech innovation office;
- External links to the relevant agencies’ website and key contact information;
- SME and Start-Up portal and link to the Small Business Development Centre’s website;
- External links to BIA social media platforms on Facebook and Twitter; and
- Internal links to popular BIA webpages.

### *Limitations of Advertisements and News Articles*

In the event the BIA accepts advertisements on the website, advertisements should be limited to investor related material. Additionally, if news articles are posted on the website, they should only be articles related to the BIA and other investor-related matters.

## 5. Points for Consideration

### *Areas of National Interest*

In conducting research for this paper, it was found that there are no restrictions on the level of ownership (percentage of shares) a foreign investor can own in companies. While no argument is

presented to support changing this approach, the ERC may want to consider whether restrictions should or can be imposed as it relates to companies in the telecommunications and broadcasting sectors.

For example, while Singapore does not generally restrict foreign investment, there are certain restrictions in areas of media, telecommunications, and broadcasting. Foreigners are allowed to invest in these areas; however, they are not allowed to own majority shares as the government aims to protect these sectors for nationals.

Certain media sectors are already reserved for Bahamians, such as public relations and domestic news. In support of a comprehensive review of the NIP, it may be beneficial to review areas that may not be reserved for Bahamians but are of national interest, such as the telecommunications and broadcasting sectors.

### **WTO and Impact on Foreign Direct Investment**

The World Trade Organization (“WTO”) is an intergovernmental organization established on 1 January 1995, through the Marrakesh Agreement during the Uruguay Round Negotiations and subsequently replaced the General Agreement on Tariffs and Trade (“GATT”). The WTO is the only global international organization dealing with the rules of trade between nations; and it operates a global system of trade rules, acts as a forum for negotiating trade agreements, settles trade disputes between its members, and supports the needs of developing countries. There are currently 164 members of the WTO, which represents 98 per cent of total world trade.

The Bertelsmann Foundation published a report that assesses the economic value of the WTO and the GATT. According to its analysis, countries with strong exports and production tend to be the main beneficiaries of WTO membership. The study concludes that country-specific effects for the exports of each member country to trade partner members are heterogeneous but positive for the majority of the considered countries. Further, a comparison of how trade volumes in countries emerged before and after accession to the WTO appears to suggest that for some countries, trade increased significantly and continuously after membership in the GATT and WTO. However, what seems apparent is that most of these countries already embedded a favourable investment culture as a part of their regulatory framework and, accordingly, were prepared to reap the benefits of FDI upon accession to the WTO. The Bahamas does not appear to possess the requisite robust regulatory framework.

With reference to the initial National Investment Policy benchmarking, all countries have WTO membership, commencement dates below:

- Singapore –member since 1 January 1995;
- The United Arab Emirates - member since April 1996;
- Hong Kong - member since 1 January 1995;
- Estonia - member since 13 November 1999; and
- Jamaica - member since 9 March 1995.

The Bahamas is not a member of the WTO; however, The Bahamas' Working Party on the Accession of The Bahamas was established on 18 July 2001 and held its first and second meeting in September 2010 and in June 2012, respectively. In April 2019, the Working Party expressed full support to the government’s ambition to secure WTO membership.

There does not appear to be robust empirical evidence to support the claim that WTO accession, in and of itself, translates to increased FDI inflow for a country. At best, and according to the Oxford

Economics Reports commissioned for The Bahamas, the full benefits of joining WTO can only be seen once The Bahamas has updated business, investment and policy frameworks – such as the FDI policy.

Further, though The Bahamas is not a WTO member, FDI inflows to the country are relatively healthy when compared to those of the benchmarked jurisdictions. Below is a comparison table showing the FDI inflow data prior to and after WTO accession of the benchmarked jurisdictions:

Table 5 FDI Inflow Before and After WTO Accession

*Foreign direct investment: Inward, annual (US\$ at current prices / Millions) (Before and after WTO Accession)*

<i>Jurisdictions</i>	<b>1990</b>	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>
<i>Bahamas</i>	-17	- 1	-	27	23	107	88	210	847	782	609
<i>Estonia (1999)</i>			82	161	214	193	147	268	578	303	391
<i>Hong Kong (1995)</i>	3,275	1,021	3,887	6,930	7,828	7,828	10,460	11,368	13,939	25,355	54,582
<i>Jamaica (1995)</i>	175	171	190	139	130	147	184	203	369	524	469
<i>Singapore (1995)</i>	5,575	4,887	2,204	4,686	8,550	11,943	11,432	15,702	5,959	18,853	14,752
<i>United Arab Emirates (1996)</i>	-116	26	130	401	62	400	301	232	258	-985	-506

Highlighted numbers represent the year of WTO accession.

For further comparison, below is a table showing FDI inflow data between 2014-2018:

Table 6 FDI Inflow Comparison

*Foreign direct investment: Inward, annual (US\$ at current prices / Millions)*

<i>Jurisdiction</i>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
<i>Bahamas</i>	3,551	865	1,260	901	947
<i>Estonia</i>	685	36	1,059	1,921	1,486
<i>Hong Kong</i>	113,038	174,353	117,387	110,685	68,379
<i>Jamaica</i>	582	925	928	888	775
<i>Singapore</i>	73,287	59,700	68,818	83,604	79,738
<i>United Arab Emirates</i>	11,072	8,551	9,605	10,354	10,385

Singapore and Hong Kong are the most successful jurisdictions in the period portrayed, but their success does not appear solely reliant on WTO membership. Other, arguably more important, factors include: the type of government incentives, other trade agreements, technological infrastructure, ease of doing business metrics, the government's willingness to grow underdeveloped sectors, and the emphasis on technology transfer, globalization, export growth, and production capacity.

If The Bahamas elects to pursue WTO accession, policy makers should ensure that other areas of the NIP are sound, adequate, and backed by relevant frameworks and policies to guarantee the increase of FDI inflow. Such areas for improvement include technology, intellectual property regime, improvement in the ease of doing business indices, refinement of government incentives, and sustainable energy efforts. It is also recommended that the Working Party review efforts to make an informed decision.

## 6. Conclusion

Foreign Direct Investment in The Bahamas has been on the decline over the past two years. Ease of business is undoubtedly one of the factors that drives FDI; however, The Bahamas does not perform well in ease of business measures and in fact, lags behind smaller jurisdictions in the region. Ease of

business is central and pertinent to the overall attractiveness of the National Investment Policy. In this vein, increased efforts should be directed toward addressing the major challenges revealed by stakeholder and reflected in the World Bank’s Doing Business Index.

Secondly, the national investment policy framework, which has not changed substantially from the first introduction in 1994 and subsequent 2011 amendment, should be revisited and reviewed at a macro level. Outdated components or components that no longer serve their intended purpose can be adjusted and new components should be added to reflect the development of the economy since 2011 and the direction of global advancement. This process includes refining The Bahamas’ focus and building concessions to attain goals related to these areas of focus.

This means that the target area list for FDI may require amending and more re-defining and concessions and incentives should be properly aligned with the intended purpose for the associated industry.

Finally, the role of the Bahamas Investment Authority should be enhanced and the overall investment process for both domestic and international investors should be streamlined.

This paper makes specific and general recommendations to improve ease of business, revamp the national investment policy and redefine the role of the Bahamas Investment Authority to facilitate the ease of business vis-à-vis investment and, ultimately, increase economic growth.

The ERC is invited to review such recommendations and consider implementing the same in the NIP framework.

### Tables and Figures

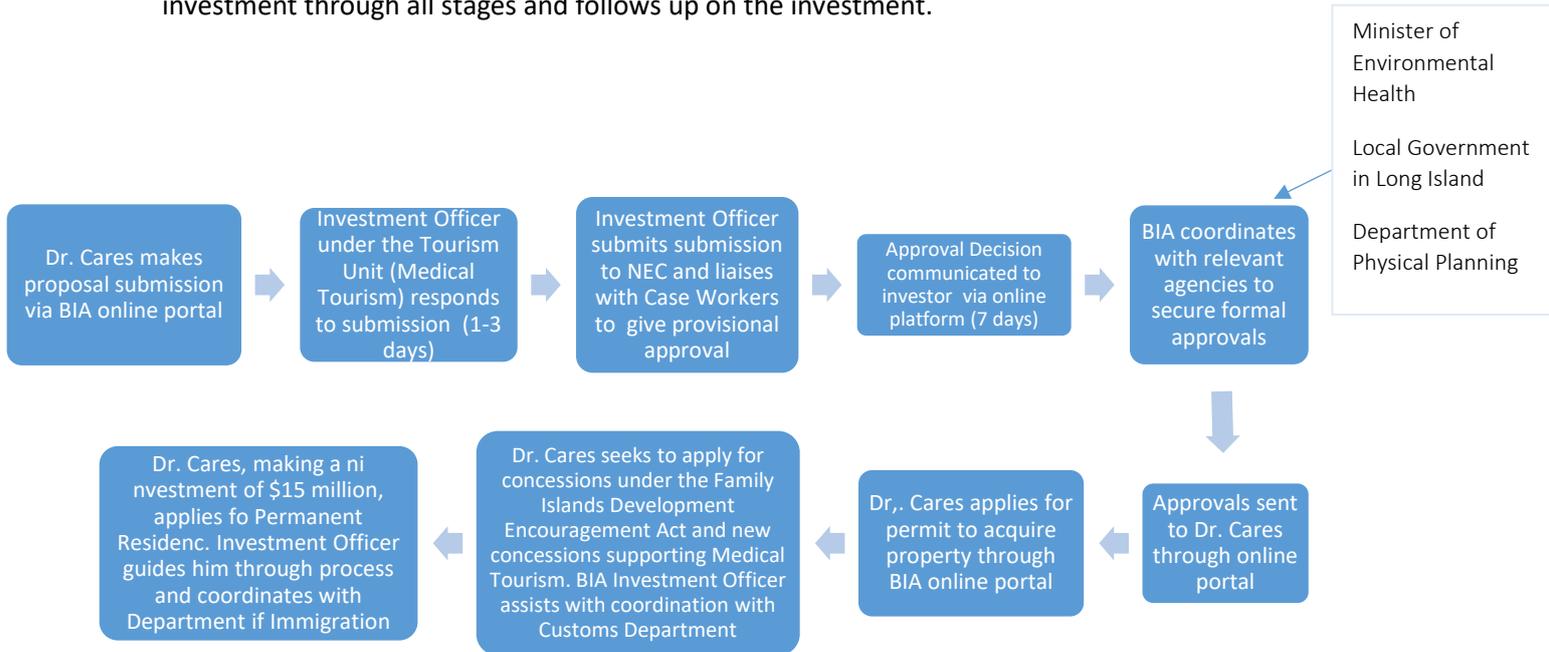
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### Appendix:

- A. BIA Interagency Coordination Concept: Case Examples
- B. Incentives and Concessions: Applicable Legislation
- C. Recommendations to Update Investment Policy Framework

**Appendix A: BIA Interagency Coordination Concept: Case Examples**

**Example 1:** This case example follows an investment proposal from a Dr. Cares to develop a mental health facility on Long Island. The case assumes that medical tourism and offshore medical are areas where new concessions are granted and that concessions are allowed for development of a family island. It also assumes that BIA has an online platform and facilitates agency approvals through a coordinated effort. Land and Property will also be necessary for the development and Dr. Cares plans to relocate to The Bahamas and apply for permanent residency. The caseworker follows the investment through all stages and follows up on the investment.



**Example 2:** To better illustrate the interagency coordination for processing investment prospects, here is an example case, following an investment opportunity in the mariculture (marine agriculture) industry by a fictional investor of the Bahamian diaspora, Ms. Katy Smith, resident of Australia. Katy Smith, because of her love of marine species, is interested in starting a sustainable grouper farm in The Bahamas, where she will farm different grouper species and offer them for local consumption and exportation. Katy is directed to the BIA’s new website, where she completes and submits the application form. The following infographic illustrates the entire process.

# INVESTMENT PROCESS CASE STUDY – KATY SMITH



## STEP 1: BIA RECEIVES APPLICATION

Immediately after Katy sends her application form, an automated email is generated and sent to Katy notifying her of BIA's receipt and an issued case tracking number.

## STEP 2: APPLICATION SENT TO INVESTMENT OFFICER

The Help Desk reviews the application and sends it to the investment officer responsible for investments in agriculture and marine sciences in the BIA. The investment officer reviews the application and in a 7-day period determines if the application is approved on condition of receiving necessary approvals or if the application is rejected. An email is then sent to Katy on her conditional approval and her case is updated to reflect the same.



## STEP 3: REQUEST FOR DOCUMENTATION

The investment officer requests necessary certified documentation for all approvals and permits necessary from Katy and sends a list of approvals and permits needed.

## STEP 4: NOTIFICATION SENT TO RELEVANT AGENCIES

Once Katy send the necessary documents, the BIA officer sends a notification and the documents to the relevant agencies for approvals. The relevant agencies for this case may include:

- The Registrar General, for business name and registration;
- The Department of Inland Revenue, for tax and land registration;

The Department of Immigration, for due diligence on citizenship; and

- The Department of Marine Resources, for permits and approvals.



## STEP 5: APPROVALS RECEIVED

Once the necessary approvals are received, notifications and written approvals are sent to the BIA investment officer.

## STEP 6: INVESTMENT FULLY APPROVED

The BIA sends a congratulatory email to Ms. Katy Smith notifying her that everything was approved and that she can commence business operations. The case is marked as complete on the API platform and automated notifications are sent to each agency involved.



**Appendix B: Incentives and Concessions: Applicable Legislation**

Legislation	Investment Concessions	Scope
Bahamas Investment Incentives Act, 1991 (Chapter 328)	Exempt from customs import duties on supplies necessary for the development, real property tax and taxes or fees on earnings over scheduled period.	Person desirous of developing an island or zone.
<b>Tourism Industry</b>		
Hotels Encouragement Act, 1954 (as amended) (Chapter 289)	Exempt from customs import duties on materials related to the development; exemption from real property tax for 10 years (may be extended for up to 10 years); exemption from taxation on earnings. Duplicated concessions for Entertainment Facility, Nightclub, Restaurant and Shop Concessions	New and Current hotels/hotel developers. Any promoter or owner who desires to erect, repair or refurbish premises for use as a new hotel.
The Bahamas Vacation Plan and Time Sharing Act, 2000 (Chapter 141)	Exempt from customs duties on materials necessary for construction.	Person who intends to develop a time sharing project.
<b>Manufacturing Industry</b>		
Export Manufacturing Industries Encouragement Act, 1990 (Chapter 327)	Exempt from custom duties on import of machinery or raw materials. Exemption from export tax, real property tax on factories, tax on income and profits (for 25 years).	Person who intends to or currently exports 95% of approved products annually. Approved manufacturers other than licensees of Grand Bahama Port Authority.
Agricultural Manufactories Act, 1913 (Chapter 243)	Exempt from import duties on machinery and supplies to maintain or support processes carried out in factory. Exemption from inward or outward tonnage or light dues.	Person maintaining or intending to build an agricultural factory.
Spirits and Beer Manufacture Act, 1963 (Chapter 373)	Licence for 25 years. Reduction of duties on exports. Exempt from duties or bond agreement for raw materials necessary for distillation/brewery.	Distilling, brewing, and rectifying spirits.
<b>Industry and Development</b>		
Industries Encouragement Act, 1970 (as amended) (Chapter 326)	Exempt from custom duties on import of machinery or raw material necessary for manufacturing approved product. Relief from income/profits, export, real property tax on factory for 15 years after commencing manufacturing of product.	Person who is manufacturing, or proposes to manufacture.
City of Nassau Revitalization Act, 2008 (Chapter 328B)	Application may be made for exemption of excise tax, real property tax, and custom duties in respect to the capital investment.	Persons making capital investment in commercial or residential or renovation of buildings in the city of Nassau.
The Family Island Development Encouragement Act, 2008 (Chapter 328A)	Exempt from custom duties on building materials, land-clearing machinery. After 5 years imported materials subject to customs duties; Exemption from excise tax.	Development on Family Islands
Economic Empowerment Zones Act, 2018 (No. 28 of 2018)	Property development: Exempt from real property tax; Exemptions from custom duties on machinery, material, articles for 2 years; no excise tax; no stamp duty on sale/transfer or property. Businesses: conditional business licence-fee waiver; conditional waiver of customs duties on commercial vehicles; no excise tax.	Persons engaged in economic activity in designated zones. Owner of property in zone desirous of improving, renovating or restoring dwelling place or business.
Out Islands Utilities Act, 1965 (Chapter 28)	Concessions on customs duties.	Develops desirous of constructing utility project on Out Islands.
<b>Trade</b>		
The Bahamas Free Trade Zone Act, 1984 (Chapter 325)	No taxes or levies on transactions in free trade zone with licensee and person carrying on business outside of The Bahamas; No taxes or rates on machinery or goods; no export taxes.	Persons who are desirous of establishing and carrying on an industrial or commercial undertaking.

**Appendix C: Recommendations to Update National Investment Policy**

Summary of Recommendations
<b>The New BIA</b>
<ul style="list-style-type: none"> <li>▪ <b>Mandate:</b> to include <u>confidentiality</u> and efficiency</li> <li>▪ <b>Restructure BIA:</b> New Investment Area Units and policy and research unit for collection and provision of insight from FDI statistics; Increase Staff complement with more diverse staff as it relates to expertise.</li> <li>▪ <b>New Independent Website:</b> for efficiency, user-friendliness, promotional efforts, and as better investment information resource for Bahamian and Non-Bahamians.</li> <li>▪ <b>Digitalise investment process:</b> e-platform for investment submissions and investment approval tracking. 1-3 day acknowledgement timeline and 7-14 day timeline (ideally 7) for entire approval process. E-platform to facilitate application for investment concessions and application to register or be permitted to acquire property</li> <li>▪ <b>Enhanced Interagency coordination:</b> for quicker approvals. Caseworkers placed at various agencies to liaise with investment officers at BIA.</li> <li>▪ <b>Enhance functions:</b> assistants pre and post investment approval process</li> <li>▪ <b>Database Resource:</b> SME, corporate service providers, vendors and contractors database or links.</li> <li>▪ <b>12hr or 24hr Helpdesk and Chatbot:</b> Non-legally binding advice on investment matters, including investment immigration matters.</li> </ul>
<b>Target Investment Areas</b>
<ul style="list-style-type: none"> <li>▪ <b>Determine and/or Refine Focus for The Bahamas:</b> <i>Areas of Focus:</i> Financial Technology (FinTech) (Development as an International FinTech Centre) and Alternative/Renewable energy. <i>Refined Areas:</i> Biotechnology, FinTech, E-Commerce, STEM, Island Logistics</li> <li>▪ <b>Designate industries or target areas as Underdeveloped, Sensitive/Vulnerable and Developed:</b> Develop methodology to categorise industries, e.g. of categorised industries <i>Sensitive/Underdeveloped: Agriculture and Farming; Underdeveloped: Manufacturing.</i></li> </ul>
<b>Incentives and Concessions</b>
<ul style="list-style-type: none"> <li>▪ <b>Revise Concessions:</b> Reduce concessions in developed industries e.g. reduce real property tax exemption extension provision in Hotels Encouragement Act. Align concessions with economic need.</li> <li>▪ <b>Introduce Additional Incentives:</b> <ul style="list-style-type: none"> <li>- <i>Incentives for Bahamians:</i> to invest in reserved areas such as grants e.g. grant for commercial fishing for domestic consumption.</li> <li>- <i>Create FinTech Incubator Programme:</i> through public-private partnership and/or SBDC</li> <li>- <i>Diaspora Direct Investment:</i> Attract Bahamian investors/talent from abroad through research and development grants, subsidised business operations or land purchases.</li> </ul> </li> </ul>
<b>Immigration</b>
<ul style="list-style-type: none"> <li>▪ <b>Introduce Special Entrepreneur Visa:</b> to attract development in High-Tech, FinTech and other determined innovative areas. Applicants to demonstrate that they would make substantial contribution to economy. Allows for relocation of immediate family, among other things.</li> <li>▪ <b>Corporate Social Responsibility:</b> as a requirement to accompany minimum investment.</li> </ul>
<b>Updates to Legal Framework</b>
<ul style="list-style-type: none"> <li>▪ <b>Restructure Intellectual Property Office:</b> expand knowledge capacity by hiring staff with expertise in IP law, business and technology and/or give IP office an element of autonomy.</li> <li>▪ <b>Introduce national cybersecurity legislative framework:</b> to support digitalisation/modernisation of government agency services, particularly those of the Registrar General.</li> <li>▪ <b>Modernise court system:</b> to support efficiency in settling business disputes and enforcing contracts.</li> </ul>
<b>Enhancing Ease of Business</b>
<ul style="list-style-type: none"> <li>▪ <b>Digitalise Intellectual Property Registration:</b> digitalise patent, copyright and trademark registration forms and enable e-service for IP registration; consider becoming a Patent Cooperation Treaty contract state.</li> <li>▪ <b>Digitalise and interconnect government agency systems:</b> to allow for interagency coordination.</li> </ul>
<b>N.B. Revisit and review NIP periodically i.e. every 6 years.</b>