



ADDRESS BY

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Good Morning,

Protocol being established, let me state what an honor it is to join all of you here at the Caribbean Regional Compliance Association Conference in Barbados. I wish to extend heartfelt thanks to the organizers of this event for their kind invitation (blackmail as only Freda could get me here today) and I am glad that my schedule permitted coming here to speak on this topic that is impacting so many of our work lives and indeed our personal lives.

Indeed after last night's cocktail party, and I don't know if it's the Mount Gay or the stimulating conversations, I already feel smarter and inspired to do more and carry on the fight....

I would like to salute the Caribbean Regional Compliance Association for once again taking up the mantle of providing a

forum for critical discussion of topical issues impacting the region, especially in the realm of financial services. Your role as the gatekeepers of the industry, makes you the front line of defense against financial crimes like corruption and money laundering, and more recently from attacks on the legitimacy of our business by those that, quite frankly, want to make us involuntary deputies in their attempts to police the behaviour of their citizens, or worse, that want to see us out of the industry altogether.

For the greater part of the past two decades, international financial centres in the Caribbean have had to defend themselves against encroachment on their sovereignty, disguised as calls for greater transparency and cooperation. Given the myriad of development challenges facing our small nation states, the ostensible extraterritorial edicts that are constantly issued by

international financial regulatory standard setters, have had a crippling effect on the region's ability to be regarded as an integral and necessary element of the international financial system and is another constraint and risk factor to our economic development ambitions and our ability to attract quality FDI and conduct cross boarder trade efficiently.

In an all out effort to prevent being condemn by the standard setters (or worse, being included on a blacklist) we have had to exert enormous pressure on severely limited resources.

And what do we get in exchange? (Reflective question. Pause.)

Increased regulatory and compliance costs challenge the competitive advantage that our financial sectors once had.

Couple this with potential risk of exclusion from the international financial system for non-compliance, the risk of sanctions being imposed by the international community has seen an increasing trend by countries in the region to eliminate their international financial product offering and withdraw from the provision of international financial services, a worrisome trend particularly for those of us that rely on this industry for a significant component of GDP.

It is truly a testament to our resilience however, that generally the region not only continues to withstand this constant barrage of regulatory pressure, but show our collective commitment to protecting the integrity of our domestic and international financial systems at large.

When the Financial Action Task Force issued its list of countries that it deemed to have strategic anti-money laundering deficiencies, in 2000, The Bahamas responded with a compendium of legislation that exceeded what FATF and the OECD had asked for, and became the model for other countries to develop their legislative anti-money laundering measures. This high degree of compliance and quality of supervision in the Caribbean, and the high reputation for probity that Caribbean International Financial Centres demonstrate in this regard, is consistently affirmed in independent assessments by, inter alia, Transparency International, a globally recognized anti-corruption organization.

So it is very surprising that the standard setters continue to view a disproportionately large number of Caribbean International

Financial Centres as “uncooperative” or as not having instituted proper mechanisms to mitigate money laundering and harmful tax practices.

There is need for equal treatment of onshore and offshore financial centers. While essentially plagued by the same threats, offshore financial centers seem to bear the brunt of the negative stigma, and most certainly the damage to reputation in the international financial community and in the eyes of international investors.

Many of the countries in the Caribbean have recently undergone comprehensive Mutual Evaluation assessments by the Caribbean Financial Action Task Force on the effectiveness of their measures to combat AML/CFT and their compliance with the

FATF 40 Recommendations. The Bahamas underwent the 4th Round of Mutual Evaluation in 2015 with on-site assessment in late 2015. The Mutual Evaluation Report was published in July 2017 following a period of observation.

While the report acknowledges that The Bahamas has a well developed legislative framework, a robust supervisory regime to counter AML/CFT risks and a high degree of technical compliance, it called on The Bahamas to address a number of gaps that it identified with respect to its enforcement mechanisms, most notably, the areas of Money Laundering/Terrorist Financing.

Now....I'm not disputing that there is continued work needed to be done to improve the effectiveness of our enforcement measures (The Bahamas has recently amended its Proceeds of Crime Act

and the Financial Transactions Reporting Act to bolster supervisory enforcement capabilities)... I would contend that the fact that there have not been a large number of AML/CFT related prosecutions could be because our measures are working effectively at the front end. That is only my view, of course. It would appear, however, that the more we comply with the rules, the more they find novel ways of determining that our compliance is deficient.

### **Perception of Weak Enforcement Mechanisms**

Like the Bahamas, Governments in the region are not blind to the needs for enhanced enforcement when it comes to AML/CFT. Our standards of enforcement must reinforce the no-tolerance stance of our governments and the quality of our domestic regulatory regimes

While there is clearly room for improvement, we cannot let the perception stand that our financial regulatory agencies and the financial intelligence units somehow lack competence or quality; that they are failing to produce results.

Speaking for The Bahamas, we have had quantifiable progress since 2015.

- Between 2016 and 2017 there was a 46% increase in the number of suspicious transactions received and a 69% increase in the number of cases sent to the Royal Bahamas Police Force; we opened 115 more cases in 2017 than we did in 2016. That's a 131% increase in the number of cases that were under active analysis.
- Finally, between 2015 and 2017, suspicious transactions that were analyzed and reported closed by our financial

intelligence unit represented between 35% and 60% of all cases received.

- In one complex case, involving \$3 Million Euros worth of laundered money, the Government of Argentina publicly commended The Bahamas for the effectiveness of its international cooperation. News reports stated: “The case demonstrates an excellent example of international legal cooperation between the Republic of Argentina and The Commonwealth of The Bahamas as well as their commitment to effectively tackle transnational money laundering and corruption, in line with international conventions and standards.”

This is the conundrum that we face in our efforts to demonstrate our commitment to safeguarding our financial sector and

complying with the international standards. Nonetheless we will fastidiously close the gaps that have been identified such as those related to measures to prevent proliferation financing.

The issue of proliferation financing has received a significant amount of international attention in the wake of the terrorist attacks in the late 1990's and the September 11th tragedy in 2001. The increased focus on preventing the financial system from being exploited by terrorist groups seeking to move capital through the international financial system has inevitably required that financial centres in our region remain vigilant in analysing the vulnerabilities within the financial sector to ensure adherence to the FATF 40 Recommendations, the European Union's Anti-Money Laundering Directives and by extension the provisions of UN Security Council Resolution 1540, and to the greatest extent we are contributing to the disruption of proliferation networks.

It is perhaps by no means a coincidence that the final priority action point that was identified by the Mutual Evaluation Report, is that The Bahamas should put in place measures to identify and pursue the proceeds of foreign tax evasion.

International organizations including the OECD, the IMF and the World Bank have increasingly become more forceful in the way that they “persuade” (and I use that term loosely) countries to strengthen their legal and institutional frameworks related to the prevention of tax evasion. We are all active participants (some might say unwitting participants) in a series of international initiatives to combat harmful tax practices. The past few months, for most of you as it has been for us, have probably been dominated by the OECD’s reinvigorated effort to recoup corporate tax revenue in the form of the BEPS Minimum Standards to curtail

multinational entities use of profit shifting techniques to reduce their tax burden. There is also the application of the Common Reporting Standard and the move towards Automatic Exchange of Information (“AEOI”) for Tax Purposes, which I have no doubt also continues to be a major focus for the financial institutions.

The Bahamas has worked collaboratively with the OECD in respect of tax information exchange since becoming a member of the Global Forum Peer Review Group in 2009. We have continued to show our commitment to fully implementing the international standards on transparency in tax matters by enacting the Automatic Exchange of Financial Account Information Act and the International Tax Co-operation Act (which provides the legislative framework for the automatic exchange of information) and the full implementation of the Common Reporting Standard.

We successfully completed our reporting exercise for both FATCA and CRS in September of this year.

Since becoming a member of the OECD BEPS Inclusive Framework, we have also become a signatory to the Multilateral Competent Authority Agreement and the Convention on Mutual Administrative Assistance in Tax Matters. We have signed Tax Information Exchange Agreements with 35 countries and continue to actively negotiate with a number of jurisdictions.

However, we still face increasing pressure from the standard setters and more recently from the European Union.

The broadening of the criteria for the assessment of high risk third countries as non-cooperative for tax purposes by the European Union and the threat of inclusion on the EU's blacklist

of non-cooperative jurisdictions for tax purposes has detrimentally affected most of your jurisdictions, as it has mine.

The European Union's Secretariat of the Code of Conduct Group (Business Taxation) communicated a letter to The Bahamas in November 2017 to express concern that it held the view that The Bahamas was facilitating offshore structures or arrangements aimed at attracting profits which do not reflect real economic activity in the jurisdiction. In addition, the absence of a corporate income tax or a nominal corporate income tax in The Bahamas was taken into account and viewed negatively. The Secretariat of the Code of Conduct Group further advised that its main concern related to a presumed lack of economic substance of corporate entities, which it felt increases the risk that profits earned by companies registered are not commensurate with real economic

activities in the country. The Code of Conduct Group recommended (and again I use that term loosely) that The Bahamas

(a) Introduce additional accounting and tax reporting obligations on entities and ensure the collection and subsequent exchange of relevant information with European Union Member States; and

(b) Abolish or amend legal mechanisms existing in The Bahamas that enable the granting of advantages only to non-residents or in respect of transactions carried out with non-residents, in particular, through the incorporation of entities which are not permitted to carry on business in The Bahamas. This, as we know, is the basis of most offshore investment vehicles like the IBC.

The Bahamas provided its commitment to implement measures to address the EU's concerns and remained engaged in dialogue with the EU Code of Conduct Group (Business Taxation) to gain a better understanding of the standard of measures that were expected in this regard.

It therefore came as a shock and a disappointment when, on 13 March, 2018, the European Union Finance Ministers endorsed a decision of the Code of Conduct Group to include The Bahamas, U.S. Virgin Islands and St. Kitts and Nevis on the list of Non Co-operative Jurisdictions for tax purposes.

Upon learning of the decision to blacklist The Bahamas as a non co-operative jurisdiction, I, together with the Minister of Financial Services, Trade & Industry and Immigration, immediately traveled

to Brussels for high level dialogue with the EU authorities, including Chair of the Code of Conduct Group, The Head of the EU's Directorate General for Tax and Customs Unions and the Secretariat of the European Council.

Following our successful visit, The Council of the European Union decided on 25 May 2018 to remove The Bahamas from the blacklist based on The Bahamas' demonstrated co-operation and reinforced commitments to address their concerns highlighted on or before December 2018. These commitments include a number of legislative measures which will integrate substance requirements and remove preferential exemptions.

Compliance with the OECD and EU criteria on tax governance has required the Government of The Bahamas to institute

sweeping changes to the regulatory framework that governs our financial sector. Following intense consultation with industry, regulators and other stakeholders, we have moved swiftly to implement the necessary policy and to enact legislation with the right balance of business, economic sustainability, and compliance with the international standards. We have addressed the issue of additional accounting measures and reporting obligations for multinational entities through the Multinational Entities Financial Reporting Act, which sets out a comprehensive framework for Country by Country reporting in line with the BEPS Action 13.

To address the EU's concerns on the absence on substance requirements and the elimination of preferential exemptions, we have drafted the Commercial Entities (Substance Requirements)

Bill, 2018 and the Removal of Preferential Exemptions Bill, 2018, respectively.

Both Bills are currently being reviewed by the European Union to ensure that they adequately remediate the areas of concern. We anticipate that they will be enacted in November.

Ladies and Gentlemen, as you can see it is no small feat keeping up with the ever evolving standards that govern the international financial community. We can not be blind to the fact that our sector is intrinsically linked to a global system that is become more complex and geared toward the demands of the industrialized nations. However, it is imperative that we continue to implore the international regulatory bodies to consider the importance of financial services to our economies and the impact

that these often arbitrary and unilateral decisions have on our economies.

Those of us who work in the Caribbean have some work to do as well. I challenge all of us to continue to shake the “tax haven” label on our countries and continue to fight against the inaccurate and unfair narrative of the Caribbean’s International Financial Centres being the repository of the world’s ill-gotten gains and the conduit by which the developed world is robbed of legitimate revenue. How do we do this when seemingly compliance with the standards is not enough? By demonstrating through your work as Compliance Officers that no Caribbean nation encourages nor shields anyone engaging in illicit activity with respect to the financial sector. Our objective should be to think globally and proactively anticipate challenges before they have a chance to

ripen and negatively impact the financial sector, and deliberately and unashamedly promote our positive stories and interactions.

The Bahamas intends to be a leader in this effort and is embracing new opportunities to expose the value proposition posed by IFCs and the services they offer. The Government of The Bahamas has made digital technology a critical element of its national development plan, and it is a priority to encourage innovation, diversification and growth of our financial sector through becoming a regional hub for digital finance and virtual currencies. We have assembled a FinTech Task Force that is charged with assessing and implementing a robust digital finance regulatory framework. We are supporting the development of applications that allow for peer to peer payments, similar to Venmo and PayPal. We are also working with the prudential

regulators to develop sound policy to promote and expand digital banking and other FinTech applications. Recently, the Central Bank of The Bahamas published a paper outlining a pilot program for a national digital currency which it hopes to roll out within 18 months.

As digital finance is the new frontier for the financial sector, we must protect our IT architecture by all necessary means. Not only is ensuring that digital platforms do not become vehicles through which criminals can move substantial sums of money between multiple jurisdictions, to multiple people, with relative ease an area that we will have to urgently address, we must also safeguard against hacking and cyber attacks that compromise confidence in the integrity of our financial system and I note the UK is also doing work in this space.

## **CONCLUSION**

Once again I wish to thank the organizers of this conference for inviting me to come to speak with you. I know you recently held a previous edition of this conference in Nassau, but as we say in The Bahamas, once is not enough! I invite you to the beautiful island of Grand Bahama, home of the nation's second city, Freeport, which is the epicentre of the digital transformation of The Bahamas.

I wish you all continued success.