



BAHAMAS
INVESTMENT CLIMATE STATEMENT
2015

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Executive Summary

The Bahamas maintains a relatively stable environment for investment and demonstrates a long tradition of parliamentary democracy, respect for the rule of law and a well-developed legal system, and security of life and personal property. It aggressively promotes its liberal tax environment and freedom from many types of taxes, including capital gains, inheritance, and corporate or personal income taxes. U.S. companies find that The Bahamas' proximity to the United States, common English language, and the exposure to U.S. media and culture contribute to Bahamian consumers having general familiarity and positive attitudes towards U.S. products. The Bahamas conducts approximately 80% of its international trade with the United States.

The Bahamian economy remains heavily dependent on tourism and financial services, although the government has made efforts to encourage diversification, particularly in agriculture. The Bahamas relies primarily on imports from the United States to satisfy its food needs for local and tourist consumption.

On January 1, 2015, the Government of the Commonwealth of The Bahamas (GCOB) introduced a 7.5% Value Added Tax (VAT) levied on most goods and services, a measure designed to strengthen the fiscal balance sheet. Implementation of the new tax has gone relatively smoothly and the government continues to refine its VAT rules and procedures.

The Bahamas continues to attract significant foreign direct investment (FDI) from various parts of the world. However, there remain significant challenges to investing in the country, including the cost and reliability of electricity, high unemployment combined with a lack of skilled labor, and cumbersome administrative requirements. U.S. and Bahamian companies alike report that the resolution of business disputes often takes years, and the approval process for foreign investments is cumbersome and often time-consuming. The Bahamian government asserts, however, that the majority of foreign investment applications are processed quickly and without significant issues. Some U.S. and Bahamian companies also complain that the tender process for public contracts is not consistent or transparent.

On September 2, 2014, Moody's Investor Service (<https://www.moody.com>) downgraded the Bahamas' issuer and senior unsecured ratings to Baa2 from Baa1 and changed the outlook from stable to negative, citing continued deterioration of the government's balance sheet and subdued economic growth. In a credit opinion issued on March 9, 2015, Moody's predicted that the government would overshoot its fiscal deficit projections, but maintained the rating and outlook. Standard and Poor's (<http://standardandpoors.com>) affirmed a BBB/A-2 rating with a negative outlook on November 6, 2014, noting that The Bahamas' credit profile remains under pressure amid a stagnant economy and weak fiscal performance, while acknowledging that VAT revenues would be a key driver in future ratings.

The Bahamian government continues to assert that long awaited-benefits from foreign investment-led activities are imminent, particularly in the tourism and construction sectors. The USD 3.5 billion Baha Mar mega-resort in Nassau is expected to open in 2015. The International Monetary Fund (IMF) in its March 2015 Article IV consultations predicted 2.8 percent growth for the country in 2016, supported in part by a strengthened economy in the United States. (<http://www.imf.org/external/np/sec/pr/2015/pr15143.htm>).

The Bahamas remains the only country in the Western Hemisphere that has not acceded to the World Trade Organization (WTO). The government has committed to accelerating its efforts to acquire full membership, which will require it to remove barriers to international trade and take further steps to facilitate foreign investment and bolster intellectual property rights. These goals are commendable and vital to economic growth, but the government likely will face continued internal and external challenges to their successful implementation.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

With the exception of certain sectors highlighted below, the GCOB does not give preferential treatment to investors based on nationality, and investors have equal access to incentives which include land grants, tax concessions, and direct marketing and budgetary support. The government provides guidelines for investments through its National Investment Policy (NIP), which is administered by The Bahamas Investment Authority (BIA) in the Office of the Prime Minister.

Other Investment Policy Reviews

The Bahamas dropped from 84th in 2014 to 97th in terms of the ease of doing business in the 2015 World Bank Doing Business Report (<http://doingbusiness.org/rankings>). The report reflected a significant decline in the ease of starting a business and underscored historically problematic issues related to property registration and contract enforcement. On the positive side, it highlighted significant improvement in the area of tax collection.

Laws/Regulations of Foreign Direct Investment

The Bahamian Investment Authority (BIA) acts as a first point of contact for foreign investors and serves to channel and facilitate investment approvals. The agency is mandated to act as a “one-stop shop” for foreign investors, and works to assist them in navigating what can be a cumbersome approval process. The BIA works to direct investment to specific sectors in the economy through its management of the National Investment Policy (NIP), which provides policy guidance to decision makers on investment issues, but is not codified in legislation. The BIA's Project Proposal Guidelines (www.bahamas.gov.bs/bia) lists the type of information and documentation that investors should provide when submitting proposals. The government generally views more favorably those proposals that demonstrate adequate financing, and benefits to local employment or economic development.

Industrial Promotion

The National Investment Policy encourages and, for certain industries, provides incentives for foreign direct investment in the following priority sectors: tourist resorts, amenities and attractions; condominiums; time share and second home developments; marinas, information and data processing services; assembly industries; high-tech services; shipping; ship repair and other services; light manufacturing for export; agro-industries; food processing; aquaculture; banking and other financial services; captive insurance; aircraft and yachting services; pharmaceuticals;

petro-chemicals; mining; and offshore medical centers. The GCOB has also recently indicated strong interest in attracting FDI to non-traditional sectors, including alternative energy, telecommunications, and agriculture. Areas targeted for foreign investment are available at www.bahamas.gov.bs/bia.

Limits on Foreign Control

The National Investment Policy explicitly reserves certain sectors of the economy exclusively for Bahamian investors. These sectors are listed on the BIA website at www.bahamas.gov.bs/bia. The government has granted exceptions to this policy on a case-by-case basis. In 2011, the government increased the minimum investment required by international investors to USD 500,000. International investors are permitted to engage in the wholesale distribution of any product they produce locally.

Privatization Program

In recent years, the government has generally preferred to grant management contracts for state owned enterprises over equity interests. It continues to entertain proposals for upgrading services. Foreign companies and investors have generally been permitted to participate in privatization programs and to bid on management contracts.

Screening of FDI

Decision-making in The Bahamas is highly centralized, and all investments by foreign nationals are subject to approval by the National Economic Council (NEC) or the full Cabinet. Investment proposals must include economic and environmental impact assessments. NEC or Cabinet decisions are final, although it is sometimes possible for an investor to request reconsideration of a denial, particularly in cases where a proposal has been revised and strengthened. The government asserts that the vast majority of investment applications are processed quickly and without undue delay. However, some U.S. companies have reported that the review and approval process is cumbersome and time-consuming, and that often pending decisions linger for long periods, making it difficult to make investment decisions.

Competition Law

There are no regulations governing competition and antitrust policy. Exclusive rights to provide services have been granted by contract in some areas.

Investment Trends

The Bahamas is experiencing growth in the investment fund sector, and has seen significant increases in investments from Brazil in particular. According to the Bahamian Securities Commission, the increase is due to the development and approval of SMART Funds -- risk-adjusted, low-cost investment structures. The Bahamas was recently designated a Status A signatory of the International Organization of Securities Commissions (IOSCO) Multilateral Memorandum of Understanding.

Sources of portfolio investment are not known to be tax havens; however, the BIA actively promotes The Bahamas' tax-free environment for investors.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	24 of 175	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2014	97 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	Not Listed	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 22,700	data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

Foreign Exchange

Individuals and corporations resident in The Bahamas are subject to capital or exchange controls. These controls and the related regulations govern all foreign currency transactions between residents of The Bahamas and residents of foreign countries. The legal basis for the policy is in the Exchange Control Act of 1974 and the Exchange Control Regulations. The Bahamas maintains a fixed exchange rate policy (i.e. consisting of a fixed one-to-one peg with the U.S. dollar), which necessitates some level of exchange controls to maintain the country's foreign currency reserves and to assist in its balance of payments. However, non-resident investors who finance their projects substantially from foreign currency transferred into The Bahamas are permitted to convert and repatriate profits and capital gains freely. The existence of the controls is not generally considered an impediment to investment.

In the administration of exchange controls, the Central Bank does not withhold approval for legitimate foreign exchange purchases for currency transactions and, in the interest of facilitating international trade, generally delegates this authority to major commercial banks and selected trust companies.

The current system allows international and local commercial banks to be registered by the Central Bank as 'Authorized Dealers.' This designation confers the authority to administer and conduct foreign currency transactions with residents of The Bahamas. Similarly, private banks and trust companies can be designated as 'Authorized Agents' and are permitted to act as depositories for foreign securities of residents and to conduct securities transactions for non-resident companies under their management.

Non-resident investors in The Bahamas must register with the Central Bank. If their projects are financed substantially by foreign currency transferred into The Bahamas, they will be given “approved status,” meaning that profits and capital gains can be converted into foreign currency and repatriated. In practice, this has been done with minimal bureaucratic formalities and without limitations on the inflows or outflows of funds.

Foreign exchange transactions that fall outside of the delegated authority are approved directly by the Central Bank and include loans, dividends, issues and transfer of shares, travel facilities, and investment currency. These are generally routine and addressed at the Exchange Control Counter at the Central Bank or facilitated by correspondence with the Governor of the Central Bank.

Investment in The Bahamas will likely remain subject to exchange controls as policy makers maintain that this is an effective tool to preserve the country’s external reserves, safeguard its capacity to meet its balance of payments, and maintain dollar parity with the United States.

Remittance Policies

There are no restrictions on investment remittances. Foreign investors who receive a Central Bank designation as a non-resident may open foreign currency-denominated bank accounts and repatriate those funds freely. In addition, with Central Bank approval, a foreign investor may open an account denominated in Bahamian currency to be used in paying local expenses. The Bahamas is a member of the Caribbean Financial Action Task Force (CFATF). Its most recent peer review evaluation can be found at <https://www.cfatf-gafic.org/index.php/documents/cfatf-mutual-evaluation-reports/the-bahamas-1>.

3. Expropriation and Compensation

Property rights are protected under Article 27 of The Bahamian Constitution, which prohibits the deprivation of property without prompt and adequate compensation. There have been compulsory acquisitions of property for public use, but in all instances reported there was satisfactory compensation at fair market value. There is no evidence that the GCOB has ever expropriated a business, and it remains unlikely that this will be an instrument of government policy.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

The Bahamian legal system is based on English common law and foreign nationals are afforded full rights in Bahamian legal proceedings. Contracts are legally enforced through the courts; there is no written contract or commercial law.

The judiciary is independent and evidence of government interference with the system is rare. The judiciary is appointed by the Governor-General, and the Attorney General is the government’s chief legal advisor and has responsibility for public prosecutions. The Bahamas is a member of the British Commonwealth and uses the Privy Council in London as the final court

of appeal. The country also contributes financially to the operations of the Caribbean Court of Justice, and recently announced its intention to develop itself as a center for international arbitration.

Judgments by British Courts and selected Commonwealth countries can be registered and enforced in The Bahamas under the Reciprocal Enforcement of Judgments Act. Court judgments from other countries, including those of the United States, must be litigated in the local courts and are subject to all Bahamian legal requirements.

The Industrial Tribunal comprises three members appointed by the Governor-General acting on the advice of the Judicial and Legal Service Commission. The Tribunal has the power to hear and determine trade disputes, register industrial agreements, hear and determine matters relating to the registration of such agreements, make orders or awards, and award compensation on complaints brought and proved before the Tribunal.

Complaints made to the Embassy about local attorneys have primarily involved real estate transactions. Property disputes can be challenging, sometimes lasting several years in the Bahamian court system. Some purchasers have reported problems obtaining clear title to property, either because the seller had no legal right to convey, or due to claims to ownership that arose after a purchase was made.

Additional information on the Bahamian Court System is available at <http://nassau.usembassy.gov/bahamianlegaloverview2.html>.

Bankruptcy

Personal bankruptcy laws are antiquated and rarely used. Companies are regularly liquidated (voluntarily or involuntarily) according to the Companies Act. Liquidations are routinely published in accordance with the legislation. Creditors of bankrupt debtors and liquidated companies participate in the distribution of the bankrupt debtor's or liquidated company's assets according to statute.

Investment Disputes

Significant investment disputes in The Bahamas that directly involve the Bahamian government are rare. Contractual and other disputes between private Bahamians and foreign investors or exporters are common. The Bahamas is not a signatory to an international trade agreement with a developed dispute settlement mechanism and, therefore, disputes must be settled within the judicial system or international arbitration.

International Arbitration

The Bahamas has been a member of the International Center for the Settlement of Investment Disputes since 1995 and is also a member of the Multilateral Investment Guarantee Agency. This agency insures investors against current transfer restrictions, expropriation, war and civil disturbances, and breach of contract by member countries.

Order 66 of the Rules of the Bahamian Supreme Court provides rules for arbitration proceedings. The 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards entered into force for The Bahamas on March 20, 2007. This convention also provides for the enforcement of agreements for commercial disputes. Under the convention, courts of a contracting state can enforce such an agreement by referring the parties to arbitration. There are no restrictions on foreign investors negotiating arbitration provisions in private agreements. The government has announced its intention to establish The Bahamas as a center for international arbitration cases, but a body has yet to be formally established.

ICSID Convention and New York Convention

The Bahamas is a member of both the International Center for Settlement of Investment Disputes (ICSID) Convention (adopted 1965) and the New York Convention (adopted 1958). The Arbitration Act of 2009 enacted the New York Convention and provides a legal framework.

Duration of Dispute Resolution

Judicial courts in The Bahamas face a persistent backlog of cases. Civil cases, on average, take five years to resolve. Foreign investors have frequently complained that local defendants are able to delay payment on Bahamian civil judgments in dispute cases due to the lengthy judicial process, which often involve multiple levels of appeal. The Attorney General of The Bahamas has implemented a “swift justice” program that aims to improve the judicial system by utilizing video-conferencing technology to minimize delays related to court testimony by non-residents, as well as by creating additional courts. Corporate plaintiffs must generally engage a resident attorney to represent their interests in court. The 2015 World Bank Report on Ease of Doing Business (www.doingbusiness.org) notes that The Bahamas has made enforcing contracts easier by streamlining and simplifying court proceedings.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

The Bahamas is an observer in the WTO and is not a party to the agreement on Trade Related Investment Measures (TRIMS). It has signed an Economic Partnership Agreement (EPA) with the countries of the Forum of the Caribbean Group of African, Caribbean, and Pacific States (CARIFORUM) and the European Union (EU).

Compliance with the terms of the EPA has resulted in reductions to both the range and rate of tariffs applied to goods originating from countries party to the agreement. While there is no specific discrimination based on rules of origin and, at the moment, no rules of origin regime in the country over the long term, the agreement could have implications for U.S. investment. The reciprocal agreement requires that The Bahamas eliminate duties on 87 percent of its tariff headings in five, ten, and fifteen year baskets. Provided that a trade agreement is not finalized between the United States and The Bahamas, and that The Bahamas does not accede to the WTO, the EPA could result in an advantage to EU and/or CARIFORUM producers over the long term.

Investment Incentives

Tax relief is the most significant investment incentive in The Bahamas. Currently the GCOB does not impose taxes on income, estates, or inheritances in the country, but instead raises revenue from real property tax, import duties, a value added tax, and various permit and license fees. Other incentives for investment include concessions on import duties, property tax abatement, and, in some cases, land grants for private development.

Industry and region-specific incentives are offered to any qualifying individual and available under various legislation. Details of these laws are available at <http://www.bahamas.gov.bs>.

There is no policy of forced localization or a requirement for technology transfers, but there is official encouragement to direct benefits to local producers and the transfer of skills to the local labor market. This engagement is a part of the negotiations with government and it is not uncommon for an investor to gain greater concessions where there is direct benefit to local business, job creation, or an investment in economically depressed regions.

Work permits are generally facilitated for key foreign employees as part of the investment approval process, but government policy generally favors the employment of Bahamian nationals. Fees for work permits have developed as a revenue measure and, depending on the category of employee, can cost up to USD 12,500 annually. Work permits for less senior employees and those without specialized skills are generally more difficult to obtain. Work permits, like requests for approval on investment projects, are sometimes subject to an extensive and lengthy review process, and may require Cabinet approval.

Research and Development

Foreign firms are not restricted from participating in government subsidized research and development programs.

Performance Requirements

The Bahamas maintains formal performance requirements for investments, including proof of adequate and legitimate sources of funding and economic and environmental impact assessments. Such requirements are negotiated on a project-by-project basis, and, particularly in the case of larger developments, are written into “heads of agreement,” between the government and the investor. It is noteworthy that these heads also include government obligations to the investor.

Data Storage

There is no policy of forced localization, requirements for access to source codes, or a requirement for local data storage. There are only limited significant data storage facilities in The Bahamas.

6. Right to Private Ownership and Establishment

Beyond the areas reserved for Bahamian participation in the NIP, rights to private ownership and establishment are maintained and respected. With the assistance of a local attorney, investors can create the following types of businesses: sole proprietorship, limited or general partnership, joint stock company, or a subsidiary of a foreign company. However, the most popular all-purpose vehicles for foreign investors are the International Business Company (IBC) and the Limited Duration Company (LDC). Both benefit from income, capital gains, gift, estate, inheritance, and succession tax exemptions.

The right of establishment is subject to licensing and approval by the relevant authorities, but generally foreign and domestic private entities may engage in all forms of remunerative activity. They may also freely establish, acquire, and dispose of interests in their business enterprises. However, any foreign investment is subject to review and approval by the BIA.

7. Protection of Property Rights

Real Property

The Bahamas' score for ease of "registering property" in the World Bank's 2015 Doing Business Report (<http://doingbusiness.org/rankings>) is 179 out of 189 countries, an improvement of three slots from its 2014 ranking. The government supports and encourages joint venture and partnership investments in some sectors of the economy (see National Investment Policy) and allows 100 percent foreign ownership of an enterprise in selected sectors. All international investments are subject to review by the National Economic Council/Bahamas Investment Authority and can benefit from the incentives legislated by the government.

The various forms of land ownership in The Bahamas have their beginnings in English law and can include crown land, commonage land, and generational land. The legal system facilitates the investor's secured interest in both mobile and immobile property and is recognized and enforced in law. Mortgages in real property and security interests in personal property are recorded with the Registrar General of The Bahamas. The government reduced stamp taxes in the country in 2014, making it easier to register property. The tax now ranges between 4-10 percent of the value of conveyances.

The Embassy has received reports of problems obtaining clear title to property, either because the seller had no legal right to convey, or due to claims to ownership that arose after a purchase was made.

Intellectual Property Rights

The Bahamian government is taking positive steps to strengthen Intellectual Property Rights (IPR) protection as part of its WTO accession process. The Bahamas is a member of the World Intellectual Property Organization (WIPO) but has not ratified the WIPO Internet treaties. There is no legislation relating to geographical indications, rules of origin, or technological protection measures, and there are recognized shortcomings in the current industrial design and patents legislation. To this end, the GCOB has implemented a "Plan of Action," which includes

proposed legislative amendments to address gaps in the current IPR legislation. The goal of the proposed amendments is to provide greater IPR protections and more stringent penalties for violations. The new legislation would bring The Bahamas into compliance with the terms of the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement of the WTO as well as its obligations under the Economic Partnership Agreement.

The Bahamas is signatory to the following intellectual property conventions and agreements:

- Berne Convention for the Protection of Literary and Artistic Works
- Paris Convention for the Protection of Industrial Property
- Universal Copyright Convention (UCC)
- Convention establishing the World Intellectual Property Organization (WIPO)
- Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property

The Bahamas is not listed as a country of concern in the U.S. Trade Representative (USTR)'s 2014 Special 301 Report.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

Resources for Rights Holders

Contact at U.S. Embassy Nassau:

Economic/Commercial Section
P.O. Box N-8197
U.S Embassy Nassau
New Providence, The Bahamas
Telephone: (242) 322-1181
Email: CommercialNassau@state.gov

Contact information for the Bahamas Bar Association:

P. O. Box N 4632, Nassau, New Providence, The Bahamas: Phone: (242) 326-3276; Fax: (242) 328-4615; Email: bba@batelnet.bs

See also: <http://nassau.usembassy.gov/bahamaslawyerslist.html>.

8. Transparency of the Regulatory System

The Embassy continues to receive reports from U.S. companies alleging a lack of transparency and undue political influence with government bidding and procurement processes. These processes are governed by the Public Procurement Act and the Financial Administration and Audit Act of 1973. A minister can approve any purchase up to USD 50,000; purchases of equal to or greater than USD 50,000, but less than USD 250,000 must be approved by the Minister of Finance; and amounts exceeding USD 250,000 require Cabinet approval. The process lacks transparency, there is no requirement to engage in open public tenders, and award decisions are not subject to review. The government has implemented procurement procedures in the

management of funds from international lending agencies, but has not yet implemented best international practices for the management of national finances. Successive governments sometimes review high-profile contracts executed by previous administrations, although government officials assert that the majority of contracts are not reviewed or altered in any way. Other areas of concern noted by companies include the discretionary issuance of approvals and licenses from various government authorities. Companies complain that in many instances these approval processes are confusing and opaque, with little to no possibility for review or appeal of a decision.

The Bahamian government has publicly committed to modernizing and reforming government procurement. The 12 to 18 month program is being financed by the Inter-American Development Bank, and will include the transition to program based budgeting and the creation of an integrated financial management system to collect statistics, oversee the procurement process, and perform evaluation and monitoring functions.

The Bahamas does not currently have legislation or institutions for the development and implementation of national standards, although the government has indicated its commitment to developing a national standards bureau.

According to Transparency International's 2014 Corruption Perceptions Index (<http://www.transparency.org/country#BHS>), The Bahamas ranked 24 out of 175 countries with a score of 71 out of 100.

9. Efficient Capital Markets and Portfolio Investment

The free flow of capital to markets is encouraged by the GCOB and supported by the functions of the publicly funded Bahamas Development Bank and the Bahamas Mortgage Corporation. The Bahamas is an Article VIII member of the IMF and has agreed not to place restrictions on currency transactions, such as payments for imports.

There are no legal limitations on foreigners' access to the domestic credit market, and credit is available on market terms through commercial banks. Bahamian-foreign joint venture businesses are encouraged by the government and are eligible for financing both through commercial banks and the Bahamas Development Bank.

Money and Banking System, Hostile Takeovers

The financial sector of The Bahamas is highly developed and dynamic, providing a wide array of services by several types of financial intermediaries. The Central Bank of The Bahamas, the Securities Commission, Insurance Commission, Inspector of Financial and Corporate Service Providers, and the Compliance Commission are the regulatory bodies of the financial sector which consists of savings banks, trust companies, offshore banks, insurance companies, a development bank, a publicly controlled pension fund, a housing corporation, a public savings bank, private pension funds, cooperative societies, credit unions, commercial banks, and the state-owned Bank of The Bahamas – which dominate financial intermediation. The Securities Commission also regulates The Bahamas International Securities Exchange (BISX), and a

Central Bank supervision department ensures that banks comply with capitalization and reporting requirements.

The Bahamas boasts over 200 banks and trust companies licensed in the country, the majority of which are subsidiaries of institutions from over 20 different countries, including Switzerland, the United Kingdom, Canada, and the United States. Limited banking services are available on some of the less populated islands. These institutions have a combined balance sheet of more than USD 300 billion and over USD 1 trillion in assets under administration.

10. Competition from State-Owned Enterprises

State-Owned Enterprises (SOEs) are active in the utilities and services sectors with a few notable monopolies still maintained by the GCOB. There is a published list of SOEs available on www.bahamas.gov.bs under a listing for Government Corporations and Statutory Agencies. There has been a reduction in the number of SOEs in The Bahamas with the privatization and recent liberalization in the telecommunications sector, but, to date, the following SOEs are still maintained and funded by the GCOB:

- Bahamasair Holdings Ltd. (National Flag Carrier)
- Bank of The Bahamas
- Bahamas Electricity Corporation (BEC)
- Water and Sewerage Corporation
- Broadcasting Corporation of The Bahamas (ZNS)
- Hotel Corporation of The Bahamas

The Water and Sewerage Corporation (WSC) and the Bahamas Electricity Corporation (BEC) are the largest public corporations in The Bahamas. Both utility providers operate as monopolies and are supported by legislation. The GCOB has permitted limited exceptions to these monopolies, and has provided licenses to private suppliers of electrical and water and sewerage services. These licenses have been issued for private real estate developments or in locations in which there is limited government capacity to own and operate the utility. An additional exception was made for the city of Freeport on the island of Grand Bahama, which has its own licensing authority for the provision of electricity and sanitation services.

The Bahamas telecommunications sector has been partially privatized and continues to move in that direction. In April 2011, the government took steps to divest ownership and sold 51 percent of the Bahamas Telecommunications Company (BTC) to Cable & Wireless (DBA LIME) with the government retaining ownership of 49 percent of the company. In 2014, at the initiative of the government, Cable & Wireless agreed to transfer two percent of shares to a trust to fund social programs, while board and management control would remain with the investors. The government intends to issue a second cellular phone license in the first half of 2015.

The government has announced its intention to find a strategic partner for national flag carrier Bahamasair, although there appear to be no immediate plans for the divestment of the company. Privately owned airlines providing service to the various markets have consistently complained of the market distortions created by Bahamasair, claiming that the national airline uses state funds to undercut fares. Bahamasair has operated at a loss for more than two decades.

BEC is seen by potential local and international investors as an impediment to diversification and development of an alternative energy platform. The corporation is the largest SOE in the country and has accumulated losses of more than half a billion dollars of debt. This debt has hampered its ability to independently fund the replacement of its decades-old plants and the necessary expansion to meet the needs of the country. These factors have resulted in energy prices in The Bahamas being among the highest in the hemisphere. Investors recognized this confluence of issues as an opportunity and many have entered the market to offer solutions ranging from the introduction of utility scale alternative energy solutions to new generation plants fueled by CNG/Propane and other gas options. In response, the government has announced plans for a privately owned company to take over management of BEC and that, after a competitive bidding process, it has decided to enter into exclusive negotiations with an American company to finalize terms of the five-year contract. Amendments to the Electricity Act that took effect in March 2015 opened the door to grid-tied small-scale alternative power generation systems and power credits, although the application process and certain technical requirements have not yet been defined.

OECD Guidelines on Corporate Governance of SOEs

Corporate governance of SOEs generally includes a board of directors chaired by senior politicians, and board members drawn from the Chambers of Commerce, trade unions, governing party members, and broader civil society. Some board memberships are paid and not subject to public vetting. Oversight is under the purview of a member of the Cabinet. Historically, at least some have perceived that these corporations have been used to employ party supporters and, with few exceptions, SOEs have not demonstrated sustained profitability.

Sovereign Wealth Funds

The GCOB's oil exploration legislation, tabled in December 2014, will establish the legislative framework for a sovereign wealth fund managed by the Central Bank.

11. Corporate Social Responsibility

There is a growing awareness of, and commitment to corporate social responsibility (CSR) by local and foreign companies operating in The Bahamas. International companies have led CSR-related initiatives, including educational programs directed at capacity-building for specific industries, the maintenance of public spaces, and financial and technical assistance to charitable organizations.

The government encourages and enforces responsible business conduct through legislation. For example, in 2014, The Bahamas enacted a law protecting individuals with disabilities from discrimination in the workplace. A Consumer Protection Act was enacted in 2006; citizens can lodge complaints at consumer affairs offices on the different islands.

OECD Guidelines for Multinational Enterprises

The Bahamas adopted the UN Guiding Principles on Business and Human Rights in 2011 (<http://investmentpolicyhub.unctad.org/IIA/CountryIris/14>). It is not an adherent to the OECD Guidelines for Multinational Enterprises.

12. Political Violence

The Bahamas has no history of politically motivated violence and, barring a few incidents leading up to the last general elections, the political process is violence-free and transparent. These incidents were relatively minor and included damage to political party installations, signage, billboards, and a few reported altercations between opposing party members.

13. Corruption

In The Bahamas, giving a bribe to, or accepting bribes from, a government official is a criminal act under the Prevention of Bribery Act. The penalty under this act is a fine of up to USD 10,000, or a maximum prison term of four years, or both. The Embassy knows of no prosecutions under the Act. Reports of corruption, including allegations of widespread patronage and the routine directing of contracts to party supporters and benefactors, have plagued the political system for decades.

According to Transparency International's 2014 Corruption Perceptions Index, The Bahamas ranked 24/175 with a score of 71/100.

The government neither encourages nor facilitates illegal activity associated with drug trafficking. No charges of drug-related corruption were filed against government officials in 2014. (from 2015 INCSR)

The Bahamas has been a State Party to the Inter-American Convention against Corruption since signing in 1998 (ratified in 2000), and a party to the Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption (MESICIC) since June 2001.

U.S. firms operating in The Bahamas are generally aware of the 1977 U.S. Foreign Corrupt Practices Act and have not been accused of breaches of this law.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

The Bahamas is not a signatory to either the U.N. Convention Against Corruption or the OECD Convention on Combating Bribery.

Resources to Report Corruption

Contact at government agency or agencies responsible for combating corruption is:

Office of the Attorney General
John F. Kennedy Drive
Nassau, The Bahamas
TEL: (242) 322-1141
EMAIL: attorneygeneral@bahamas.gov.bs

14. Bilateral Investment Agreements

There is no Bilateral Investment Treaty (BIT) between The Bahamas and the United States. The Bahamas was designated a beneficiary of the Caribbean Basin Initiative (CBI) in 1985 and has established a Tax Information Exchange Agreement with the United States—one of twenty-nine that The Bahamas has ratified. The agreement establishes The Bahamas as a qualified jurisdiction and allows U.S.-registered companies to qualify for tax credits for conventions and related corporate expenses in The Bahamas. The Bahamas also signed an Inter-Governmental Agreement under the Foreign Account Tax Compliance Act (FATCA) in November 2014, and is making progress toward implementation.

The benefits under CBI provide products manufactured in The Bahamas that meet defined rules of origin duty-free and quota-free entry into the United States, such as the country's largest export to the United States, polystyrene beads used in the production of Styrofoam products. The Bahamas continues to use this access guaranteed by waiver from the WTO as an incentive for investments in manufacturing in the domestic economy. The CBI agreement expires at the end of 2015 and prospects for an additional waiver are unknown at this time. Additionally, The Bahamas has applied for benefits under the Caribbean Basin Trade Partnership Act (CBTPA), but as of April 2015 had not yet met all of the requirements for its application to be ratified.

The CARIFORUM – EU Economic Partnership Agreement was concluded between CARIFORUM states (CARICOM and the Dominican Republic) and the European Union and its member states in 2008. The agreement promotes trade-related developments in areas such as competition, intellectual property, public procurement, the environment, and protection of personal data.

CARIBCAN is an economic and trade development assistance program for Commonwealth Caribbean countries in which Canada provides duty free and quota free access to its national market for the majority of products which originate in Commonwealth Caribbean Countries. The agreement is currently being renegotiated. Canada and The Bahamas agreed in principle to preserve duty-free market access until a new agreement was reached.

Bilateral Taxation Treaties

There is no bilateral taxation treaty between The Bahamas and the United States. For other agreements affecting taxation, please see above.

15. OPIC and Other Investment Insurance Programs

Since 1992, the U.S. Overseas Private Investment Corporation (OPIC) has approved two investment projects in The Bahamas. It guaranteed up to USD 10.8 million in loans to Uniroyal Chemical Company, Ltd. to assist in the purchase and refurbishment of a plant in Freeport. The Uniroyal plant has since closed. In addition, OPIC committed up to USD 1.6 million to Landquest, Ltd., for the development of a cruise ship facility on the island of Eleuthera. The facility at Princess Cay, Bannerman Town, Eleuthera, is currently operational and a major source of employment for residents of the southern end of the island.

In 1999, OPIC signed with Citibank to establish a USD 200 million investment facility for the Caribbean and Central America, as one means of encouraging investment and stimulating economic development. The Caribbean Development Bank, of which The Bahamas is a member, administers the program and provides financing and political risk insurance to viable private sector projects in these emerging markets.

The Bahamas is also associated with the Multilateral Investment Guarantee Agency of the World Bank, which insures investors against currency transfer restrictions, expropriation, war, civil disturbances and breach of contract by member countries.

16. Labor

The Bahamian labor force is generally considered to be well-educated by international standards, although foreign nationals may be sought after for specialized skills. Wage rates, while lower than in the United States, are higher than elsewhere in the Caribbean. Well-qualified accountants and secretaries, and others with skills appropriate to the financial services industry, command a premium wage while wages for low-skilled labor, mostly found in hotels and restaurants, hover around the minimum rate. The minimum wage is USD 4.45 per hour for public sector employees and USD 4 per hour for private sector employees.

Unemployment continues to be a significant problem. The Bahamas Department of Statistics reported that overall the labor force grew from 196,880 at the of 2013 to 201,040 in November 2014. The unemployment rate in the Bahamas as of November 2014 was 15.7 percent overall, and 31 percent for youth between the ages of 15 and 24. Overall unemployment on the islands of New Providence, Grand Bahamas, and Abaco was 16, 18.6, and 20.3 percent respectively.

The Fair Labor Standards Act requires at least one 24-hour rest period per week, paid annual vacations, and employer contributions to National Insurance (Social Security). The Act also requires overtime pay (time and a half) for hours in excess of 40 or on public holidays. A 1988 law provides for maternity leave and the right to re-employment after childbirth. The Minimum Labor Standards Act, including the Employment Act, Health and Safety at Work Act, Industrial Tribunal and Trade Disputes Act, and the Trade Union and Labor Relations Act were passed in 2001 and in early 2002.

The Bahamian Constitution specifically grants labor unions the right to free assembly and association. These rights are exercised extensively, particularly in state-owned industries and in the hotel industry (where 80 percent of the employees are unionized). The right to strike is

governed under the Industrial Relations Act, which requires a simple majority of union members to vote in favor of a strike before it can commence. The Ministry of Labor oversees strike votes. Although prolonged strikes are still rare, work slow-downs and protests occur, and workers often use labor actions to force management to act on issues of concern to them. Labor unions and others involved in disputes with foreign-owned enterprises sometimes use the fact of foreign ownership as a lever to gain popular support for their demands.

The Immigration Act requires foreigners to obtain work permits before they can legitimately be employed in The Bahamas. The GCOB permits foreign employees to work in a technical, supervisory or managerial capacity, provided no similarly qualified Bahamians are available for the job. Foreign business owners are expected to train as many of their Bahamian employees as possible to eventually fill technical and managerial positions. Work permit fees range from USD 500 to USD 12,500 per year.

17. Foreign Trade Zones/Free Ports

The 1955 Hawksbill Creek Agreement established Freeport on the island of Grand Bahama. Freeport is the country's second-largest city and has developed as a free trade and economic development zone under private ownership and control of the Grand Bahama Port Authority (GBPA).

Firms licensed by the GBPA to operate within the 230-square mile free trade zone are granted the right to import equipment and materials duty-free and benefit from the exemption from real property taxes and business license fees ordinarily payable to the central government. However, there are fees imposed by the GBPA for businesses operating in Freeport that are not subject to national regulation and, in some instances, licensees report that the process lacks transparency.

In 1993, the GCOB extended the Hawksbill Creek property tax exemptions to 2015 and duty exemptions to 2054, but withdrew real property tax exemptions for foreign individuals and corporations. Renegotiation of this aspect of the agreement between the government and the Port Authority began in early 2015, with statements by senior officials indicating that the GCOB may seek concessions to offset its public expenses within the free trade zone.

Additional information is available at www.gbpa.com.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (\$M USD)	N/A	N/A	2013	8,420	www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (\$M USD, stock positions)	N/A	N/A	2013	34,747	http://bea.gov/international/di1usdba1.htm
Host country's FDI in the United States (\$M USD, stock positions)	N/A	N/A	2013	876	http://bea.gov/international/di1fdibal.htm
Total inbound stock of FDI as % host GDP	N/A	N/A	2013	412.6%	

Table 3: Sources and Destination of FDI

IMF Coordinated Direct Investment Survey data are not available for the Bahamas.

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets							
Top Five Partners (Millions, US Dollars)							
Total			Equity Securities			Total Debt Securities	
All Countries		100%	All Countries	2,624	100%	All Countries	13,005 100%
United States	6,803	44%	United States	1,488	57%	Brazil	5,803 45%
Brazil	6,239	40%	Brazil	436	17%	United States	5,315 41%
Switzerland	519	3%	Switzerland	358	14%	Guatemala	483 4%
Guatemala	483	3%	U.K.	198	8%	Cayman Isl	302 2%
U.K.	321	2%	Argentina	41	2%	Switzerland	161 1%

Source: IMF Coordinated Portfolio Investment Survey

19. Contact for More Information

Economic/Commercial Section
P.O. Box N-8197
U.S Embassy Nassau
New Providence, The Bahamas
Telephone: (242) 322-1181
Email: CommercialNassau@state.gov