



Exchange Control Department

Application Requirements for Approved Investment Status and for Investment Activities Involving Non-Residents, and for Approval and Designation of Other Capital Account Transactions

I. A General Note

This document outlines the Central Bank of the Bahamas' information and application requirements for processing investment applications involving non-residents, approval of investments or business developments that require prior approval from the National Economic Council or the Investment Authority, or approval of transactions for investment by resident (or Bahamian) owned entities outside The Bahamas. The examples in this document are not exhaustive. These applications are received and processed by the Exchange Control Department (ECD).

The Central Bank is implementing a secure, online applications process, which will directly solicit the required information/documentation need to process the application. Applicants will receive almost immediate feedback on the completeness of applications.

In vetting applications for capital transactions, the Central Bank undertakes due diligence to verify that the proposed parties to the transaction are eligible to take on the venture, in accordance with the Exchange Control Regulations; the National Investment Policy on activities in which non-residents may engage inside The Bahamas; and activities for which residents are permitted financing in foreign currency.

The information requirements of the Central Bank are sufficiently detailed to verify full accounting of the proposed origin and quantum of any funds to be invested; and the identities, nationality and immigration status of the ultimate beneficiaries or sponsors of the investments. For legal entities applicants must also satisfactorily disclose intermediary layers of ownership, proof of legal existence and evidence of the corporate governance processes which authorised the transactions.

The Bank exercises extreme care to ensure that approved capital transactions do not pose adverse risks to the international reputation of The Bahamas. This is also in accordance with the Government's policy objectives. The Bank is obligated therefore to withhold Exchange Control approvals whenever suspicions arise about money laundering or other illicit activities being associated with proposed transactions. The Bank is obligated to report suspicious transactions to local law enforcement agencies for further investigation, as appropriate, under the relevant laws of The Bahamas.

The Central Bank's due diligence does not however, relieve financial institutions of their own legal and regulatory obligations to scrutinise, monitor and report on suspicious transactions, for the same approved investments.

II. Foreign Currency Financing of Domestic Businesses

The application and documentation requirements for foreign currency financing of domestic businesses are detailed below. For Bahamian-owned businesses operating in eligible sectors (see EC Notice of 29th March 2017), applications must be made to the Central Bank for approval of foreign currency financing for amounts in excess of US\$5.0 million. This facility is available every three years and applies to financing by credit or equity. Non-residents are restricted to acquiring a maximum equity interest of 40% in companies that operate in areas reserved for Bahamians under the Bahamas Investment Policy¹. Applications for foreign currency credit for amounts of US\$5.0 million or less from domestic commercial banks should be made directly to the lending institutions.

Applications should include:

1. Name and address of the applicant, with documentary evidence to confirm the applicant's Bahamas immigration status.
2. If the applicant is a company, copies of its Certificate of Incorporation, Designation Letter (if applicable) and the information required at item 1. above in respect of its ultimate beneficial owner(s). If the applicant is a publicly traded company, shareholder information is only required in respect of ownership that exceeds 10% of the company.
3. Copies of tax compliance certificate, business licenses and approvals from local regulators and licensing authorities, as applicable.
4. Specific details of the investment proposed to be financed, with appropriate documentary evidence as outlined:
 -) Verification of the source of the funding
 -) Documentary evidence of share purchase agreement, financing contract or financing commitment
 -) Full particulars on the identity, nationality and immigration status of the financier or investor.

It should be noted that subsequent to receiving approval for the investment and prior to any payment of principal, interest, dividends or prior to any transfer of non-resident ownership, the applicant is also required to furnish the Central Bank with final evidence of the amount of financing secured. Separate reporting obligations are required of commercial banks.

¹ See the Bahamas Investment Authority's website for a current listing of reserved areas:
www.bahamas.gov.bs/bia

III. Approved Investment Status

Approved Investment Status (“AIS”) is the formal recognition by the ECD that foreign capital has been used by a non-resident for investment in the local economy. AIS may be granted for investments in real property, the acquisition of shares or interest in businesses, and loans made by non-residents to resident entities. The status ensures the approved investor’s subsequent access to the domestic banking system to convert Bahamian dollars into foreign currency to fund the repatriation of capital, repay foreign currency loans or to make interest and dividend payments in foreign currency. Similar permissions are also granted for businesses authorised by the Government to provide specialised services in The Bahamas on a temporary or contractual basis.

ECD policy mandates that all investment inflows and outflows are evidenced, approved and recorded. In particular, it is critical that there is clear documentary evidence that the investor for whom AIS is being sought provided foreign currency funds for investment into the local economy, as well as clear evidence of any outflow of foreign currency funds in connection with the transaction, as applicable.

Acceptable documentation of capital inflows and outflows for AIS eligible transactions should clearly:

- (i) evidence the inflow of foreign currency into The Bahamas;
- (ii) identify the party for whom AIS is being sought as the source of those funds;
- (iii) indicate the transaction to which it relates; and
- (iv) show the appropriate disposition of the investment funds (in accordance with ECD requirements, as indicated in this document).

The ECD normally accepts cancelled cheques, bank statements, credit or debit advices, wire transfer instructions, provided that they meet the above criteria. As a practical example, in an application for the grant of AIS to a purchaser for an investment in property acquired from a Bahamian, acceptable documentary evidence would be a bank statement that indicates the purchaser as the depositor of funds on an attorney’s foreign currency client account with a note to identify the transaction to which the funds relates – this evidences inflows. A copy of a cancelled Bahamian dollar cheque in the name of the vendor with a note to identify the transaction to which the payment relates – this evidences the disposition of the investment funds.

Applications to the ECD for the grant of AIS in respect of a particular type of transaction should include the appropriate information and documentation as indicated below.

A. Approved Investment Status to a Non-Resident Individual for Property Purchase

1. All applications:
 - Full name, address and Bahamas Immigration status of purchaser, with documentary evidence of same.
 - Name, address and Bahamas immigration status of vendor, with documentary evidence of same.
 - Copy of recorded and stamped Conveyance in favour of purchaser.

- Copy of Permit from the Investment Board in respect of commercial property or undeveloped land of five or more contiguous acres or Investment Board Certificate of Registration in purchaser's favour, as applicable.
 - Documentary evidence that purchaser paid for property with funds that emanated from a foreign currency source (i.e. copy of cancelled cheque, wire transfer document, bank statement).
2. If vendor is a Bahamian individual or wholly Bahamian owned company:
 - Documentary evidence to show that purchase funds were paid to vendor and converted into Bahamian dollars (i.e. copy of cancelled cheque, wire transfer document, bank statement).
 3. If vendor is a non-resident individual:
 - Letter granting vendor approved investment status for property being sold.
 - If no approved investment status granted - a copy of stamped and recorded Conveyance in vendor's favour with copy of Certificate of Registration or Permit issued by the Investments Board and documentary evidence that vendor paid for property with funds that emanated from a foreign currency source (i.e. copy of cancelled cheque, wire transfer document, bank statement).
 - If vendor inherited the property – a copy of the approved investment status granted to the deceased, a copy of the Will and Grant of Probate issued by the Supreme Court of The Bahamas, and a copy of the Deed of Assent in favour of the vendor.
 4. If vendor is a resident company:
 - Copy of vendor company's Exchange Control designation letter and grant of approved investment status for property being sold.
 - If no approved investment status granted – the information detailed at the second bullet point of item 3 above.
 - Duly sealed directors' resolution authorizing the sale of the property.
 - Documentary evidence to show that purchase funds were paid to vendor company and converted into Bahamian dollars or copy of Central Bank's approval for vendor's retention of sale proceeds in foreign currency).
 5. If vendor is an Estate:
 - Letter granting deceased approved investment status for property being sold.
 - If no approved investment status granted – the information detailed at the second bullet point of item 3 above.
 - Copy of the Will and Grant of Probate issued by the Supreme Court of The Bahamas.
 6. If Vendor is a Trust:

B. Approved Investment Status to Non-Resident Beneficial Owner of Resident Company

1. All applications:
 - Name of resident company².

² These checklists assume that property holding or operating company has been designated as resident for EC purposes. If the company has not been designated, see the checklist titled "Company Designation & Issuance of Shares" for additional information necessary for regularisation of the company.

- Name, address and Bahamas immigration status of vendor, with documentary evidence of same.
 - Copy of stamped and recorded Conveyance in favour of purchaser company, if applicable.
 - Copy of Permit from the Investments Board in respect of commercial property or undeveloped land of five or more contiguous acres or Certificate of Registration in purchaser company's favour, if applicable.
 - Confirmation of the account on which investment funds passed to the company from its beneficial owner (share subscription, loan, contributed surplus, etc.).
 - Documentary evidence that investment funds emanated from the company's beneficial owner(s) from a foreign currency source (i.e. copy of cancelled cheque, wire transfer document, bank statement).
2. Where investment involves the company's purchase of property, the relevant information relating to the vendor, as indicated in items 2 through 6 of Section A of this checklist.

C. Approved Investment Status to a Non-resident that (i) Extends a Loan to Resident Company or (ii) On-lends Loan Proceeds to Resident Company³:

1. Copy of Central Bank approval for non-resident to lend or on-lend⁴ to resident company.
2. Documentary evidence (wire transfer, debit/credit advice, bank statement, cancelled cheque) that the loan proceeds emanated from the personal foreign currency source of the Lender or from a foreign Lender.
3. Documentary evidence (wire transfer, debit/credit advice, bank statement, cancelled cheque) that the loan proceeds were paid to the resident company and converted to Bahamian dollars, or Central Bank's approval for the Borrower to retain the funds in foreign currency
4. Documentary evidence that the loan proceeds were used for the purpose approved by the Central Bank.
5. Documentary evidence to confirm that the loan was satisfied from the Borrower's foreign currency resources and a copy of the Satisfaction of Mortgage or other document in favour of the Borrower as evidence that the loan has been satisfied.
6. Where the loan proceeds were utilized in the acquisition of property, the information in item 1 and the relevant information for item 2 of Section B of this checklist is also required.

³ All extension of loans to resident companies require the Central Bank's prior approval.

⁴ On-lend refers to where a loan is obtained and the loan proceeds are then loaned to a third party.

IV. Company Designation & Issuance of Shares (Local Holding Company)

Where investments are undertaken through a corporate entity, the particulars of the company and its shareholders must be disclosed.

1. Corporate and trading name, registered office, location of company, copy of Certificate of Registration and Certificate of Good Standing as a foreign company, if applicable.
2. Details of the purpose for which the company was established; whether proposed activity to be conducted in The Bahamas or elsewhere.
3. Authorized share capital of the company (i.e. number and type of shares) and the par value of the shares.
4. Consideration (and currency) to be paid for the shares.
5. For each proposed shareholder:
 -) Full name, address, Bahamian Immigration status and number of shares to be held;
 -) If individual - name and place of birth, supporting documentation (i.e., passport and document issued by Bahamas Immigration Department, if applicable).
 -) If corporate - copy of Exchange Control designation, if applicable; name, address and equity of each beneficial owner; company profile; Certificate of Incorporation.
 -) Details of how the company's activities will be financed, e.g. loan, debenture, private resources, etc.
 -) Where applicable, confirm the amount (including currency), source and account on which any additional funds to be invested in the company will pass from the shareholder(s) to the company, (i.e. shareholders loan, contributed surplus, etc.)
6. Other Supporting Document(s) if relevant:
 -) Property purchase/Sale Agreement in respect of any investment in realty, securities proposed to be undertaken by the company;
 -) Permit from the Investments Board in respect of vacation/rental use property, a cay or undeveloped land of five or more contiguous acres;

**** *Additional details/comments pertinent to consideration of this application.*

V. Investment Abroad by Bahamians and Permanent Residents without Restrictions on Their Right to Work in The Bahamas (“Residents”)

Outward direct investments are investments by residents that result in the management, ownership and legal control by residents of foreign enterprises and/or foreign assets. Outward direct investments include acquisition of real property, securities, businesses, or any asset denominated in foreign currency and are categorized as either:

- (a) ‘special criterion’ investments that directly promote exports of Bahamian goods or services and add benefits to the country’s balance of payments. Residents may purchase up to \$2 million in foreign currency per person or entity from Commercial Banks for direct investment (excluding portfolio investments) within The Bahamas’ offshore sector or abroad. Such investments are restricted to an overall limit of \$10 million per investor group, per transaction. The facility is accessible once every 3 years.
- (b) Investments that do not merit ‘special-criterion’ treatment. Investments must be funded at a premium through the Investment Currency Market (ICM), which is conducted by the Banking Department of The Central Bank. Presently, the bid and offer rates on currency purchased in this market are 12.5% and 10%, respectively.

All outward direct investments by residents require the specific approval of the Central Bank. Applications should include the following information and documents

1. Name of the applicant, with documentary evidence to confirm the applicant’s Bahamas immigration status.
2. If the applicant is a company, copies of its Certificate of Incorporation, Designation Letter (if applicable) and the information required at item 1. above in respect of its ultimate beneficial owner(s).
3. Copies of licenses and approvals from local Regulators (i.e., Securities Commission, Insurance Commission, URCA, etc.), as applicable.
4. Specific details of the proposed investment with appropriate documentary evidence as outlined below:
 -) real property purchase: sales agreement;
 -) timeshare: purchase agreement with payment schedule;
 -) Portfolio investments: shareholder agreement, company prospectus, etc.
 -) employee stock plans: detailed explanation of the plan, name of participating employees, national insurance numbers, and the number and value of shares which each person is eligible to buy; and
 -) Special criterion investments: full particulars of the proposed investment, with copies of prospectus, draft agreement, etc.

VI. Foreign Contractors Performing Work in The Bahamas

The following information and documentation should be included in an application for approval in respect of a foreign contractor working in The Bahamas

1. Name and address of the foreign contractor proposing to undertake contracted works in The Bahamas, supported by a copy of its Certificate of Incorporation and Certificate of Registration as a foreign company, if applicable.

2. Name of resident company for which contracted works are to be performed with copy of its designation letter (if applicable) or confirmation of the names of beneficial owner(s) of wholly Bahamian-owned company, with copy of passport(s).
3. Copy of Work Contract/Agreement between foreign contractor and resident company.
4. Copy of the Bahamas Investment Authority's approval for the foreign contractor to undertake contracted works in The Bahamas.
5. Copy of foreign contractor's business license and any other license(s) required by the Government of The Bahamas in respect of the contracted works.
6. Specific details of the foreign contractor's proposed activities in The Bahamas.
7. If the foreign contractor establishes a local company to undertake the contracted works:
 - Confirmation of the company's authorized share capital, number and par value of shares and number of shares issued to each shareholder.
 - Confirmation of the name, address of each shareholder and documentary evidence of same (i.e., passport and document issued by the Bahamas Immigration Department, if applicable).
 - Confirmation of the consideration to be paid for the shares.
8. Details of how the foreign contractor's activities will be financed (i.e., proceeds of contract only, other financing).

VII. Other Information

The Central Bank will update this document from time to time to provide additional clarification on the Exchange Control approval process.