

# **Fiduciary Services**

## **Who are Fiduciaries?**

A fiduciary is an individual or entity in which another has placed utmost trust and confidence to manage and protect their property or money. Trust and Corporate Service Providers (fiduciaries) owe a duty to its clients to ensure that all incorporation documents and other relevant documentation are filed at the Company's Registry located at the Financial Services Regulatory Commission (FSRC). In addition, Service Providers should ensure that these company documents and other supporting documents required by the Companies Act, Cap 21.03 and the AML/CFT Laws and Regulations are maintained on the incorporated company's files at each Service Provider's office. Corporate and Trust Service Providers have a fiduciary duty to act on behalf of his/her clients.



Any person or entity that is duly licensed or authorized to carry on fiduciary services from within St. Kitts and Nevis under the Financial Services (Regulations) Order, Cap 21.03 (Seventh Schedule) is considered a fiduciary in accordance with the Financial Services (Implementation of Industry Standards) Regulations, 2011. Paragraph 171 of the Financial Services (Implementation of Industry Standards) Regulations of 2011 states that "Fiduciary Services" are carried out by persons who are authorized to conduct trust and/or corporate business under the Financial Services (Regulations) Order 1997 and the Financial Services (Regulations) Order, Cap 21.03.



Trust and Corporate Service Providers are required to take the relevant steps and establish the necessary measures to ensure that the pertinent company documents are maintained on each file. Adequate measures to ensure compliance with the AML/CFT Laws and Regulations of St. Kitts and Nevis should also be established.

### **Topics Discussed:**

- \* Who are Fiduciaries?**
- \* Duties of a Fiduciary**
- \* Documents a Fiduciary should maintain**
- \* Puzzle**
- \* Legislative References**

## Duties of a Fiduciary

Paragraph 171 of the Financial Services (Implementation of Standards) Regulations of 2011, also states that fiduciary services are comprised of the following activities, either singly or a combination of:

- Formation and/or execution of trusts;
- Management or administration of trusts;
- Acting as a trustee or protector for trusts;
- Maintaining the office for service of trusts;
- Incorporation and/or registration of companies;
- Establishing partnerships or foundations;
- Providing nominee shareholders, directors, chief executives or managers for companies or partnerships;
- Maintaining the registered office or the office of service, for companies or partnerships or foundations;
- Managing the administration of companies of limited partnerships; and
- Acting as a registered agent.

Trust and Corporate Service Providers should ensure that their clients and companies of their clients are operating in accordance with the AML/CFT Laws and Regulations of St. Kitts and Nevis.

## Documents a Fiduciary should maintain:

- \* Written procedures to ensure that the identity of each client to whom he provides a service is known;
- \* Records for a period of five (5) years following the discontinuation of the Service Provider to the client;
- \* On each client's file, two (2) original letters of references; one from a recognized banking institution and the other from a member of a recognized professional body such as a lawyer or an accountant;
- \* On each client's file, a copy of the client's passport or identity card with photo identification, duly notarized; and
- \* On each client's file, details of the client's address, telephone, facsimile and telex numbers. It is useful to also obtain proof of address such as a utility bill.

To the extent of the services being provided, a fiduciary should always maintain on each client's file:

- \* Evidence of the opening of bank and investment accounts;
- \* Copies of the statements of those accounts;
- \* Copies of minutes of meetings of shareholders, directors and committees;
- \* Copies of registers of shareholders, including the number of shares, address, date of appointment and date of termination;
- \* Copies of registers of directors and officers, including the address, date of appointment and date of termination; and
- \* Copies of registers of mortgages, charges and other encumbrances.

Trust and Corporate Service Providers should remind their clients annually that they should notify the registered agent/authorized person within a reasonable period of any changes in the above details.



## PUZZLE

S P B F S P Y S C V W A I N R  
 T C T E M S E R S L A P O D E  
 N Q X H N T C T T Q A I V M G  
 U T K K U E I U U S T I D V U  
 O S H N J J F L F A I B M G L  
 C G I R G J B I C R A G Y S A  
 C M Y M I W D I C Q H T E L T  
 A W B J Z U F E L I J Y X R I  
 W K B G C I B N Z U A M F B O  
 G L U I T E T A R O P R O C N  
 F H A N B Y H Y S K P V Y T K  
 R R E A H N E Z B K S I P M V  
 Y D S H A R E H O L D E R S H  
 I C O M P A N Y N Y W V C Q V  
 A K B P U B L V D I I I D Q Y

ACCOUNTS  
 IDENTIFICATION  
 MINUTES  
 REGISTRY  
 REGULATION  
 SHAREHOLDERS

FIDUCIARY  
 BENEFICIARY  
 BOND  
 CLAIMS  
 COMPANY  
 CORPORATE

## Legislative References:

- \* *Financial Services Regulatory Commission Act, No. 22 of 2009*
- \* *Anti-Money Laundering Regulations (AMLR), No. 46 of 2011*
- \* *Anti-Terrorism (Prevention of Terrorist Financing) Regulations (ATR), No. 47 of 2011*
- \* *Financial Services (Implementation of Industry Standards) Regulations (FSR), No. 51 of 2011*

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