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Disclaimer

The information and comments contained herein are for the general information of the reader and are not intended as advice or opinions to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

THE BAHAMAS EXECUTIVE ENTITY

The Executive Entities Act, 2011, under which the Bahamas Executive Entity (“BEE”) may be established, came into force in The Bahamas on 1 February, 2012.

WHAT IS A BEE ?

The BEE is a unique wealth planning vehicle unavailable in any other jurisdiction.

It is a legal entity which is established to perform only executive functions.

Executive functions are defined as: (a) any powers and duties of an executive, administrative, supervisory, fiduciary and office holding nature including, amongst other things the powers and duties of: (i) an enforcer, protector or investment advisor of a trust, and (ii) the holder of any office of any legal person; and (b) the ownership, management and holding of executive entity assets (although note that a BEE may only hold such assets as are necessary to meet the expenses of carrying out its executive functions).

KEY CHARACTERISTICS

The BEE:

- is a legal entity which has limited liability, no capital requirements, no shareholders and no beneficiaries;

- requires an Executive Entity Agent (which must be a bank or trust company duly licensed in The Bahamas) and has a governing body which is comprised of officers or a council or both;

- can be established for a definite or indefinite period; and

- is cost effective and easy to operate (annual meetings of the officers and council (if any) are required but there is no requirement to make annual filings at the registry).

THE CONSTITUTION OF A BEE

In order to establish a BEE, there must be (i) a Charter to which the founder subscribes; (ii) registration with the Registrar General, and (iii) issuance of a Certificate of Registration.

PRACTICAL USES

The BEE is a vehicle which can be used to perform executive functions or act in a shareholding capacity. It may be used as a stand-alone vehicle or as part of an overall structure:

(i) as a protector: if a protector acts in a personal capacity, liability is unlimited. The limited liability of a BEE will provide comfort in this respect.

(ii) where a protector committee is required: this can be logistically problematic, especially when a committee member retires or needs to be removed. Using a BEE, the protector will be constant and it will simply be the composition of the BEE council (or officers if no council is appointed) that will be altered in accordance with the Charter or Articles (if any).

(iii) acting in a fiduciary capacity: a director or investment advisor can benefit from limited liability.

(iv) as a shareholder of a PTC: removes the need to use a purpose trust to fulfill this role.