



## Ministry of Finance

### Public Consultation on the Draft Public Finance Management Bill, 2020

October 5, 2020

#### I. INTRODUCTION

1. The Ministry of Finance is inviting public feedback on the draft Public Finance Management Bill, 2020 (the “PFM Bill”) which seeks to address observed weaknesses in the frameworks for accountability, transparency and assigned role and responsibilities in the existing public finance law, the Financial Administration and Audit Act, 2011 (the “FAA Act”). ***For instructions on how to provide feedback, see section IV (Feedback Guidelines).***
2. This exercise is the culmination of an extensive drafting process, which commenced with the initial draft prepared by a legal expert engaged by the regional technical assistance arm of the International Monetary Fund, the Caribbean Regional Technical Assistance Centre (“CARTAC”). Subsequent internal reviews were supported by a CARTAC-led intensive workshop for stakeholders in the public sector, including representatives from the Treasury, the accounting officers, the Law Revision and Reform Commission, legal consultant at the Public Financial Management and Performance Monitoring Reform Project Office, and the Ministry of Finance. Over the past 18 months, the document has been refined and, more recently, a cross cutting review was undertaken between the PFM Bill, the provisions of the Public Debt Management Bill 2020, and the Fiscal Responsibility Act, 2018—to ensure consistency in the provisions and completeness of coverage.
3. Against this backdrop, the objective of this consultation is to invite the views of stakeholders and interested parties on the broad policy thrust of the PFM Bill and to provide any additional perspectives that will help us to improve the clarity and scope deliverables sought after in this important legislative initiative.

#### II. BACKGROUND

4. During the preparation of the Fiscal Responsibility Act, 2018, a review was also undertaken of the FAA Act, which identified significant weaknesses relative to acceptable best practices for public financial management. Given the extensive revisions required to address these concerns, it was agreed that it would be best to repeal the administrative

provisions of the FAA Act and draft a new public finance management law—one that was consistent with modern public finance management law and that would improve the effectiveness of the Government’s fiscal policy outcomes.

5. When compared with modern PFM laws, the FAA was determined to be lacking in substantive areas, key among which were the following:
  - a. Limited in scope to the central government, which did not allow for the broader public sector oversight mechanisms found in modern public sector laws.
  - b. Deficient specification of roles and responsibilities—importantly those for the Minister of Finance, Responsible Ministers, the Financial Secretary, and the CEOs of Public Entities.
  - c. Sparsely specified budget documents and omission of publication dates for reports.
  - d. Absence of provisions governing cash management and forecasting.
  - e. Inadequate in-year reporting requirements on the fiscal situation.
  - f. Lack of public entity accountability—in terms of reporting and publication requirements for all public entities—including Ministries, Departments, and Government state-owned enterprises.
  - g. Inadequate provisions on sanctions for financial misconduct, crimes, and institutional sanctions.

### **III. PROPOSED LEGISLATION**

6. The PFM Bill seeks to promote responsibility, transparency, accountability, and effectiveness in the management of the public finances—which cover the Government’s revenue, expenditure, financing arrangement and its asset and liability management.
7. The salient features of the Bill are as follows:
  - a. An expanded classification of public entities will now allow for a governance framework that extends beyond the central Government—to the state-owned enterprises, classified as Agencies (non-commercial state-owned enterprises that primarily pursue a public policy role) and Government Business Enterprises (state-owned enterprises that undertake commercial activities and are expected to be profit oriented—although having a public policy orientation).
  - b. Roles and responsibilities have been clearly defined for all key positions i.e., the Minister, the Responsible Minister, the Financial Secretary, the Accountant-General (Treasurer); the Permanent Secretary, and Public Officers and Public Office Holders.
  - c. Provisions in the FAA Act on the annual budget and authorization of expenditure have been expanded and modernized to achieve operating efficiency.

- d. Financial management provisions have been given more prominence, with enhanced requirements for the government to prepare and present its asset liability management strategy to Parliament along with the Budget and for publication of the document.
  - e. Ex-post financial performance reporting and contents and publication requirements for the central Government have been extended beyond the current quarterly and Mid-Year reports to the now include publication of monthly reporting to Cabinet, and for the annual financial statements to be accompanied by an annual report.
  - f. Ministries are required to prepare annual plans and annual reports, of a strategic nature, for tabling along with the annual budget in Parliament, and subsequent publication, and preparation of mid-year reports.
  - g. Entity accountability is given high visibility as evidenced by new reporting and publication requirements for all groupings of public entities. The classifications of public entities establish the basis for assigning the appropriate accountability frameworks—namely, the production of annual plans, monthly, quarterly, and mid-year reports, conduct of reviews and other governance requirements.
  - h. In line with emerging international practices, the sanctions regime is more comprehensive—defining financial misconduct, financial offenses and institutional sanctions.
  - i. The formal establishment of the Internal Audit Committee.
  - j. Provisions to allow the Minister to make regulations and issue directions; and for the FS and the Accountant-General to issue directions.
  - k. A staggered implementation schedule is proposed, given the extensive new requirements of the Bill which will require broad dissemination and capacity building to ensure a full understanding by covered entities across the public sector.
8. The statement of objects and reasons at the end of the PFM Bill provides a brief explanation of the various legislative clauses.

#### **IV. FEEDBACK GUIDELINES**

9. The Ministry of Finance appreciates your participation in this important initiative. To ensure that the consultation exercise is productive and focused, we ask that you kindly observe the following guidelines:
- a. Utilize the template provided to organize and submit your feedback.
  - b. Identify yourself and, where applicable, the organization you represent to enable us to contact you, should clarification be needed.
  - c. Be clear and concise in your comments—referencing the specific clause.

- d. Focus your comments on how the legislative provisions can be better written to make them clearer and more effective in application. If possible, provide alternative formulations on the clause(s) in question.

10. Completed templates should be forwarded to:

Email: [MOFCONSULTATIONS@BAHAMAS.GOV.BS](mailto:MOFCONSULTATIONS@BAHAMAS.GOV.BS)

or

Mail: Ministry of Finance  
Cecil Wallace-Whitfield Centre  
West Bay Street  
P.O. Box N-3017  
Nassau, The Bahamas  
**Attention: Financial Secretary**

11. All comments received during the consultation will be reviewed and, if accepted, will be incorporated into the final bill for consideration of the Cabinet.

## V. CONSULTATION PERIOD

12. The public consultation is from October 5 to November 17, 2020. Comments received after November 17, 2020 will not be considered.

## VI. SUMMARY OF RESPONSES

13. The Ministry of Finance will publish a summary of the main comments received on the Government's official website [www.bahamas.gov.bs](http://www.bahamas.gov.bs), together with its responses, by November 30, 2020. The identity of respondents will not be disclosed in the summary.

## VII. DOCUMENTS TO DOWNLOAD

14. For reference, interested persons may visit the Ministry of Finance website at [www.bahamas.gov.bs/finance](http://www.bahamas.gov.bs/finance) to download a copy of the relevant documents for this public consultation.