



**TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION  
("the Commission")**

**In the Matter of the Securities Act, Chap. 83:02 of the Laws of the Republic of Trinidad and Tobago ("the Securities Act") and the Securities Industry (Hearings and Settlements) Practice Rules 2008 ("the Hearings Rules")**

**And**

**In the Matter of an Investigation pursuant to section 150 of the Securities Act by the Commission into Mr. Hassan Phillip Rahaman's application for, and purchase of, First Citizens Bank Limited Shares ("FCB Shares") on the 12<sup>th</sup> day of August 2013 and the Subsequent Sale of FCB Shares on the 14<sup>th</sup> day of January 2014 ("the Matter")**

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**SUPPLEMENTAL STATEMENT TO NOTICE OF SETTLEMENT**

**This Statement is Supplemental to the Notice of Settlement dated 3<sup>rd</sup> February 2020.**

1. This statement is issued in light of the commentary following the publication of the Notice of Settlement dated 3<sup>rd</sup> February 2020, which commentary indicates that there is a degree of public misinformation and uncertainty regarding the Commission's statutory powers and the steps taken by the Commission in arriving at the settlement agreements.

**Criminal and Administrative Proceedings Considered:**

2. In June 2015 the Commission completed its investigation into the Matter and referred its Investigative Report, together with all information collected in relation to the investigation, to the Director of Public Prosecution (DPP).
3. In January 2017 the DPP responded to the Commission advising that based on information provided, there was insufficient evidence to support a conviction with a realistic prospect of success for any offence under the Securities Act Chapter 83:02, or for an offence of fraud.

4. As a consequence of the DPP's opinion, the Commission decided to explore whether the actions of the Respondents amounted to civil breaches under the Securities Act, Chapter 83:02 ("the Securities Act"), since the burden of proof in administrative proceedings is lower than that required for criminal proceedings. To this end the Commission sought external legal advice.
5. The Commission, after considering the legal advice received, commenced administrative proceedings by Notices of Hearing dated 20<sup>th</sup> July 2018 and supplemented by Notices of Hearing dated 17<sup>th</sup> September 2018, 5<sup>th</sup> October 2018 and 25<sup>th</sup> January 2019.
6. In accordance with the requirements of the Commission's Securities Industry (Hearings and Settlements) Practice Rules 2008, the first private pre- hearing conference into the Matter took place on 30<sup>th</sup> January 2019, followed by a second one on 22<sup>nd</sup> July 2019.
7. After the Commission's administrative proceedings commenced, the Respondents individually approached the Commission with requests to enter into settlement discussions.
8. The Commission eventually settled with all four respondents namely, Hassan Phillip Rahaman, Imtiaz Rahaman, Subhas Ramkhelawan and Bourse Brokers Limited by three separate settlement agreements each dated 20<sup>th</sup> December 2019.
9. The Settlement Agreements were approved by the Board of Commissioners by Orders dated 29<sup>th</sup> January 2020.
10. The full texts of the Settlement Agreements and the Orders are available on the Commission's website and members of the public are encouraged to read the documents in their entirety. The links to the documents on the Commission's website are as follows:

Settlement Orders - [https://www.ttsec.org.tt/legal-framework/?sft\\_category=orders](https://www.ttsec.org.tt/legal-framework/?sft_category=orders)

Settlement Agreements - <https://www.ttsec.org.tt/legal-framework/decisionssettlements/>

#### **Response to the Public Commentary:**

1. It is therefore incorrect to infer that the Commission acted without consulting the DPP or considering whether any criminal offences had been committed by the Respondents. The Commission took all reasonable steps in exploring whether the Respondents' actions amounted to criminal offences.

2. The Commission initiated administrative proceedings after the DPP concluded that there was insufficient evidence to bring criminal charges. In March 2017 the Minister of Finance reported to Parliament on the Commission's referral of this Matter to the DPP as a matter of public record.
3. The settlement of matters with respect to breaches of securities legislation is a common instance of international best practice, as it is an efficient means of regulating securities markets. In the year 2019, the United States Securities and Exchange Commission settled 23% of the Matters that it opened; the Financial Conduct Authority in the UK settled 55% of the matters opened and the Australian Securities and Investment Commission (ASIC) settled 84% of the matters opened.
4. In most instances, settlement negotiations and agreements take place in circumstances where eventual legal outcomes are uncertain and/or the resolution process is expected to be both lengthy and costly. Settlement allows the regulator control and certainty over the outcome and saves the time and resources that would otherwise be expended in lengthy proceedings, including appeals to the High Court, Court of Appeal or Privy Council pursuant to Section 161 of the Securities Act.
5. The Commission's ability to impose fines in administrative proceedings is capped at TTD \$500,000 per contravention as prescribed by Section 156 (1) of the Securities Act. Further the Commission does not have the statutory authority to make an order of disgorgement nor does it have the ability to Order that shares be forfeited.
6. The Settlements were guided primarily by the public interest which requires the Commission to consider, among other factors, the seriousness and nature of the alleged contraventions, the need for a resolution of the Matter which began six years ago, as well as the uncertainty of the outcome of a lengthy and contested hearing.
7. Further the Commission determined that the Settlements were consistent with its internal policy, which provides that for contraventions where there is no evidence of actual harm to investors, settlement amounts of a particular range (below the maximum amount of TTD 500, 000) should be levied. Actual harm to investors would typically arise where investors provide proof of financial loss as a result of the contravention.
8. In conclusion, the Commission acted consistent with the public interest, reasonably and proportionately within the parameters of its statutory powers in considering criminal liability and in pursuing administrative action against the Respondents.

**Dated the 21<sup>st</sup> day of February 2020**

**CHIEF EXECUTIVE OFFICER**