



## **TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION**

### **In the Matter of an Application by the NCB Financial Group Limited for an Exemption from By-laws 11, 12, 13, 14, 15 and 16 of the Securities Industry (Take-Over) By-Laws 2005**

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#### **ORDER OF THE COMMISSION**

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Dated this 14<sup>th</sup> day of June, 2021

#### **WHEREAS:**

1. Guardian Holdings Limited (“GHL”) is a company incorporated in Trinidad and Tobago, with its shares listed on the Trinidad and Tobago Stock Exchange (“TTSE”) and recently cross-listed on the Jamaica Stock Exchange (“JSE”);
2. NCB Financial Group Limited (“NCBFG”) is a financial holding company, incorporated in Jamaica and registered with the Trinidad and Tobago Securities and Exchange Commission (the “Commission”) as a Reporting Issuer;
3. NCB Global Holdings Limited (“NCBGHL”), a wholly owned subsidiary of NCBFG acquired a 61.97% holding in GHL’s outstanding shares, as a result of a take-over bid which was completed in 2019;
4. NCB Capital Markets Limited (“NCBCM”) a licensed securities dealer in Jamaica, NCB Capital Markets (Cayman) Limited and NCB Capital Markets (Barbados) Limited (collectively the “NCB Entities”) are subsidiaries of NCBFG and will provide market maker functions by buying or selling shares in relation to the recently cross-listed GHL shares on the JSE;
5. Having regard to NCBFG’s acquisition, through its subsidiary NCBGHL, of 61.97% of GHL’s shares, any additional acquisition of GHL shares by any of the NCB Entities will trigger a take-over which consequently will be subject to the requirements of By-

Laws 11 to 16 of the Securities Industry (Take-Over) By-Laws 2005 (“TOBL”), unless such a bid is granted an exemption from the said By-laws;

6. By letters dated April 15, 2021, May 15, 2021 and June 3<sup>rd</sup> 2021 NCBFG applied to the Commission for the NCB Entities to be exempted from the requirements of By-laws 11 to 16 of the TOBL, for a period of two (2) years from the date that the exemption is granted;
7. In support of its application for exemption, NCBFG, inter alia,
  - a. gave the undertaking that the GHL shares acquired by the NCB Entities will only be acquired to facilitate their conduct of market maker or dealer activities in GHL’s shares; and
  - b. outlined the measures that it will implement to ensure that any acquisitions of GHL shares by the NCB Entities will not result in the NCBFG’s ownership of GHL shares rising above its current ownership of 61.97% or 143,777,991 ordinary GHL shares.
8. By-law 24(2) (c) of the TOBL grants the Commission the power to make an Order exempting a person or class of persons from one or more of the requirements of the TOBL, where it considers that to do so would not be prejudicial to the public interest;
9. Section 159(1) of the Securities Act (the “Act”) provides that the Commission shall provide a reasonable opportunity for a hearing to each person who may be directly affected by an Order of the Commission; and
10. By virtue of Section 159(10) of the Act, the requirement in Section 159 (1) does not apply where the Order is essentially procedural and/or does not adversely affect the rights of any person.

#### **AND UPON**

1. The Board of Commissioners considering the application by NCBFG for an exemption from satisfying the requirements of By-laws 11 to 16 of the TOBL, together with the representations made by the Staff of the Commission in relation to this matter;
2. The Board of Commissioners being satisfied that the granting of such an exemption would not be prejudicial to the public interest; and
3. The Board of Commissioners determining that in accordance with Sections 159(10)(a) of the Act, that no person will be adversely affected by the granting of

such an exemption order and therefore, no hearing is required in accordance with Section 159(1) of the Act.

**IT IS HEREBY ORDERED THAT:**

- I. The application by NCBFG for an exemption, from By-laws 11 to 16 of the Securities Industry (Take-Over) By-laws, 2005 for a period of two years with effect from June 11, 2021, in respect of its subsidiaries, the NCB Entities, acquiring Guardian Holdings Limited's cross-listed shares on the Jamaican Stock Exchange, for the purpose of providing market maker functions, is approved and the exemption granted on the condition that:
  - a. such acquisitions would not cause the aggregate shareholding in GHL held by the NCBFG and the NCB Entities to increase above 61.97% or 143,777,991 ordinary shares; and
  - b. NCBFG provides a report to the Commission on a quarterly basis which outlines the relevant details of the GHL shares that are held by the NCB Entities.
- II. This Order shall be published in the Trinidad and Tobago Gazette and on the Commission's website. A Notice of the posting shall be published in two daily newspapers of general circulation in Trinidad and Tobago;
- III. This Order shall be effective from June 11, 2021.

**Order by the Commission**