



# TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION

INVEST WITH CONFIDENCE!

ISSUE 11 *January – April 2015*



Together Toward  
A Strong and Efficient Commission

# FOREWORD



It is my distinct pleasure to welcome you to another issue of the Commission's external communiqué which is intended to inform you, our stakeholder about the many developments taking place in the securities industry, the work of the Commission and other related matters.

In this issue, the first for 2015, you will find an update from our Chief Executive Officer, Mr. C. Wainwright Iton, an update from our Deputy Chief Executive Officer, Lystra Lucillio, and articles and information on AML/CFT matters, collective investment schemes, limited offerings, our activities in the regional and international fora and our activities as they relate to investor education and empowerment.

Thank you once again for taking the time to read this communiqué and I do hope that you enjoy reading the information presented therein.

*Patrick F. Watson*  
Chairman

Disclaimer: The information in this Quarterly Newsletter is provided as a service to the market. It is designed to provide information of a general nature and should not be used as a substitute for professional consultation or advice in relation to a particular matter. If you have any questions about a specific matter, you should consult the relevant department at the Commission.

## WHO WE ARE AND WHAT WE DO

### Who are we?

The Trinidad and Tobago Securities and Exchange Commission (the Commission) was established as a body corporate, by virtue of the Securities Industry Act of 1995 which was later repealed and replaced by the Securities Act, 2012. The Commission is an autonomous agency whose primary roles are the protection of investors and fostering the orderly growth and development of the local capital market.

### Our Vision

To be an effective regulator fostering confidence in the securities industry.

### Our Mission

To protect investors, promote and enable the growth and development of the securities industry by nurturing fair, efficient and transparent securities markets and mitigating systemic risk.

# Greetings from the Chief Executive Officer

2014 was an important year for the Commission as a number of very significant events/activities were either initiated or completed during the period. Some of these included

- a) the completion of the Commission's Strategic Plan 2014-2018;
- b) the launch of an investigation into the First Citizens' Initial Public Offer ("IPO");
- c) The passage of the Securities (Amendment Act) 2014 in September 2014
- d) The establishment of the Compliance and Inspections Division and the conduct of five (5) compliance reviews of registrants;
- e) Our participation in and contribution to a Task Force appointed by the Ministry of Finance and The Economy, to "Determine the most suitable Model of Financial Regulation and Supervision for Trinidad & Tobago". A report was submitted to the Ministry of Finance and The Economy on September 3, 2014.

## The Securities (Amendment Act) 2014

Significant amendments were made to the legislation which I believe must be noted and underscored:

- a) Amended sections 4(5) and 4(6) which deal with "location of trade";
- b) A change of "offences" to "summary offences" instead of "indictable offences" and the introduction of a schedule of offences which can be disposed of by administrative fines;
- c) A change from "prescribed forms" to "administrative forms"; and
- d) The exemption from registration requirements for Government-issued securities. However, the arranger must file a post distribution statement and pay market access fees.

It was the Commission's intention to have the Securities (General) By-Laws 2014 laid in Parliament before the end of 2014 but this did not happen. However, on April 14, the By-Laws were in fact laid in the Senate and subsequently laid in the House of Representatives on April 17.

## Investor Education

The Commission is mandated by law, Section 6 of the SA, 2012 "to educate and promote an understanding by the public, of the securities industry and the benefits, risks and liabilities associated with investing in securities." We take this charge very seriously and have begun to intensify our efforts in 2015.

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*C. Wainwright Stone*  
Chief Executive Officer

## Registration of Securities

Our analysis of 2014 reveals that there was a very noticeable decrease in the value of securities registered with the Commission in 2014.

- a) Debt securities registered in fiscal 2014 fell to \$10.1 billion from \$15.8 billion in fiscal 2013; i.e. (36%) reduction.
- b) Securitised investments registered in fiscal 2014 fell to \$1.0 billion from \$3.6 billion in fiscal 2013, i.e. a (72%) reduction.
- c) Equities reflected a similar pattern; however, fiscal 2013's figures included the approximate \$5.5 billion First Citizens IPO.

In summary, the value of all securities registered in fiscal 2014, fell to \$11.2 billion, from \$25 billion in fiscal 2013; a (55%) reduction. We do hope that there is a reversal of this trend in fiscal 2015.

## Strategic Plan 2014-2018

The Strategic Plan 2014-2018 was completed and introduced to staff and stakeholders. This Plan is built around three (3) overarching objectives, viz:

- a) To improve the operational efficiency and effectiveness of the Commission;
- b) To develop a positive corporate identity; and
- c) To foster the development of the Securities Industry.

I have personally committed to the realisation of these objectives and have asked each and every member of staff to similarly commit. Each of us must constantly strive to improve every aspect of our work. Once we do, we will be well on the road to realising these three (3) primary objectives.

## Regional and International Representation

The TTSEC is a member of the Board of the International Organization of Securities Commissions (IOSCO) for the period 2014-2016, a member of the Growth and Emerging Markets (GEM) Committee of IOSCO, the Second Representative of the Inter-American Regional Committee (IARC) and a member of the Council of Securities Regulators of the Americas (COSRA). As such, the TTSEC is required to attend and actively participate in a number of the sessions convened by these organisations. For the first

quarter of 2015, the TTSEC, represented by the Chairman, Professor Patrick Watson and CEO, Mr. C. Wainwright Iton, participated in the COSRA meeting in Mexico City, Mexico (January 22-23) and the IOSCO Board meeting and pre-meetings in Seoul, South Korea (February 11-13). The major topics of discussions across both meetings were (i) IOSCO's Strategic Direction 2015-2020 and (ii) Capacity Building activities.

### IOSCO 2020 Strategic Direction 2015 to 2020

The consensus among IOSCO members was to build on IOSCO's 2010 Mission: the development of international standards, strengthening information sharing and cooperation and supporting the development of markets, infrastructure and implementing regulation. As such, IOSCO's 2020 Working Group identified six priorities and recommended action plans to advance each of the priorities: (i) Research and Risk identification, (ii) Standard Setting and Developing Guidance, (iii) Implementation Monitoring, (iv) Capacity Building, (v) Co-operation and Information Exchange and (vi) Collaboration and Engagement with other International Organizations.

### Capacity Building Activities

IOSCO seeks to build a new set of capacity building activities to support members in developing the necessary capability and regulatory infrastructure to more effectively regulate their markets. These activities include the Online Toolkit for Regulatory Capacity Building, the IOSCO Secondment Register, the Global Certificate Program as well as extending the number of training seminars.

### Upcoming meetings

The TTSEC is expected to participate in the following:

- Caribbean Group of Securities Regulators (CGSR) 11th Annual Conference: April 23-24
- GEM Committee- IOSCO, Annual Meeting & Conference: April 27-29

### Outlook for 2015

Without a crystal ball, it is impossible to predict what will happen in 2015. How many persons in January 2014 predicted that the world's oil price would have been approximately US\$60 per barrel in December 2014? It is clear, however, that 2015 will have its own challenges, for which we must be properly prepared.

Lystra Lucillio

## Toward an Efficient and Effective Commission

The Trinidad and Tobago Securities and Exchange Commission (“the Commission”) undertook the development of a five (5) year strategic plan for the period 2014 to 2018 which incorporated the collective vision of external stakeholders, fellow regulators and our staff, for the accomplishment of our mandate under the Securities Act 2012. This Strategic Plan 2014-18 was officially adopted in January 2014 and three (3) main strategic goals or foundational pillars, representing the key areas of focus for the Commission to achieve the collective vision, were identified.

- Pillar 1: To improve the Operational Efficiency and Effectiveness of the TTSEC**
- Pillar 2: To develop a positive Corporate Identity**
- Pillar 3: To foster the development of the Securities Industry**

The TTSEC has embarked on initiatives designed to achieve all three strategic imperatives. Most critical for the Commission however, was the revision of the legislation governing its functions.

The Securities (Amendment) Act, 2014 was assented to by the President of the Republic of

Trinidad and Tobago on September 10, 2014 and the Securities (General) By-Laws 2014, were laid in both Houses of Parliament in April 2014. This will result in the completion of the full update of the legislation.

We are committed to improving our efficiency in regard to the registration process and to make it easier for registrants as well. Once the By-Laws are passed the TTSEC will initiate the standardisation of electronic submissions. This will require the implementation of all associated forms, a total of twenty-seven (27) new forms. These forms will be interactive and able to be completed online.

In tandem with this technological advancement, the Commission will implement the electronic submission of reporting requirements, update the main website to increase its ease of use and the provision of informational content and develop a website specifically targeted to investor education.

Stakeholders will be updated further as the Commission continues to roll out various aspects of its Strategic Plan in the effort to transform the Commission into an even more effective and efficient entity.

## TTSEC and BIGWU sign first Collective Agreement

On April 4, 2011, the Banking, Insurance and General Workers’ Union (“the Union”) was certified as the Recognised Majority Union in respect of certain workers employed by the Trinidad and Tobago Securities and Exchange Commission (“the Commission”).

On March 19, 2015, the parties signed the Commission’s First Collective Agreement for a three (3) year period of October 1, 2011 to September 30, 2014 for employees in the bargaining unit.

The Commission wishes to congratulate members of both Negotiating Teams for the successful conclusion of the Collective Bargaining Process.

The Commission remains committed to working with the Union to foster stronger employer-employee relations which will benefit all parties involved.



Mario Als (second from right), Vice President of the Banking, Insurance and General Workers’ Union (BIGWU) signs the Agreement in the presence of TTSEC CEO, C. Wainwright Iton. Looking on are Francisca Ambrose-Grant, Human Resource Manager and Gerard Pierre, President of the TTSEC Branch of BIGWU.



TTSEC CEO, C. Wainwright Iton, formalises the Agreement with Mario Als, Vice President, BIGWU.



# Divisional *Spotlight*

In order for our stakeholders to have an even deeper understanding and appreciation of the Commission and its role and functions, we will place the spotlight on a Division in each issue. In this issue, we will focus on the Division of Compliance and Inspections (C&I) which formally became a Division in the Commission's structure in January 2014.

## Division of Compliance and Inspections(C&I)

This Division was established as a result of the passage of the Securities Act 2012. Its main responsibilities are to:

- Conduct on-site inspections of registrants and self-regulatory organizations, whether routine, for cause or sweep inspections (*registrants include: self-regulatory organizations and persons registered under Part IV of the Act, i.e. broker-dealer, investment adviser, reporting issuer and underwriter*);

- Advise the Chief Executive Officer on the need to issue compliance directions, thus directing a registrant to take measures that are necessary to remedy any course of conduct that is contrary to generally accepted standards of conduct or prudent operation and behavior; and
- Refer matters for legal enforcement in instances where a person fails to take measures as directed in a compliance direction.

In furtherance of its responsibilities, the Division's major objectives are to:

- Ensure that registrants are operating in compliance with the legislation;
- Help identify compliance problems and areas of emerging risk, which if they occur can adversely affect investors; and
- Review allegations of improper practices.

## TTSEC publishes its 2015 FOIA Public Statement

In accordance with sections 7, 8 and 9 of the Freedom of Information Act, 1999 (FOIA), the Trinidad and Tobago Securities & Exchange Commission ("the Commission") is required by law to publish a Public Statement which lists the documents and information generally available for public scrutiny.

The FOIA gives members of the public a legal right:

- (1) For each person to access information filed with the Commission;
- (2) For each person to have official information relating to himself/ herself amended where it is incomplete, incorrect or misleading;
- (3) To obtain reasons for adverse decisions made by the Commission regarding an applicant's request for information under the FOIA;
- (4) To complain to the Ombudsman and to apply to the High Court for judicial review to challenge adverse decisions made under the FOIA.

Here is some more information on the FOIA,1999:

- The FOIA, 1999 is a statute that gives a person the right to request information from any public

authority. It also gives a person the right to request that personal information held by the public authority be amended to reflect the truth about that personal information;

The statute enshrines the concept that information created/maintained by a public authority is not created for its own benefit nor for the benefit of its employees or government but for the public;

- Public bodies are required to publish in the Gazette and in the daily newspapers an updated public information statement annually. The statement must set out the classes and types of documents that are not readily available to the public and identifying the persons who are to be contacted if a member of the public desires to access any document created and maintained by the public body. There are however 11 exempt categories of documents.
- All public bodies are required to comply except if exempt by statute (Central Bank of Trinidad and Tobago and all GORTT Banks are exempt)

To read the 2015 Public Statement of the Commission, we encourage you to visit : <http://www.ttsec.org.tt/content/TTSEC-FOIA-Statement-2015.pdf>

# An Insight into Market Misconduct – Part III

We conclude this three-part series on market misconduct by providing additional information on the various manifestations of market misconduct which occur in securities markets worldwide. Part I addressed two main categories of market misconduct: illegal insider trading and market manipulation, and Part II, further explained how these illicit activities are manifested. Part III, seeks to address issues such as the dissemination of false or misleading information, excessive trading in securities and the use of fraudulent or deceptive devices. This final instalment will also treat with the existing legislative provisions that may be applicable in addressing such issues when they occur.

## What other types of market misconduct occur in securities markets?

Part II of this series highlighted some of the methods employed in creating artificial prices and volumes in securities markets. This article expounds on the previous publication, by examining the following alternative market misconduct techniques:

### 1. Pump and Dump or Hype and Dump

This occurs when false or misleading information is disseminated about a company's stock, thereby creating a "hype" about the security thus "pumping up" or artificially inflating its price. The manipulators would have acquired a significant volume of the targeted security, either via their own accounts or nominee accounts, prior to the release of such information. Once the false rumours cause an increase in the price of the security through increased demand, they would then profit by "dumping" or selling said security at the higher price, unbeknownst to other investors. These unsuspecting investors would be left holding stocks priced well above their intrinsic or true value, and would often suffer considerable losses as the stock price falls back down after the process is complete. In recent years, social media platforms such as Facebook and Twitter have created new avenues through which to facilitate such activities.

### 2. Churning

This occurs when brokers engage in the excessive purchase and sale of securities on behalf of clients' accounts, with the intention of benefiting from

commissions generated from those transactions. These trades may not be aligned with the investment goals or objectives of the clients who own the accounts and are not meant to produce any real benefit to the clients. In order for this to transpire, brokers must have discretionary authority or control over the investment decisions made in respect of the clients' accounts.

### 3. Front running

The most common form of front running occurs when brokers use non-public information relating to clients' orders to transact in securities, prior to executing the client's orders. For instance, where employees of a brokerage firm are aware of substantially large buy orders that are expected to increase the price of a security, they may purchase the security on behalf of their personal accounts or the firm's house account prior to fulfilling the large client orders. They would then profit from capital gains by selling the security after the large orders have entered the market and pushed up the price of the security. Front running can also occur when a firm's analysts or other employees, purchase a stock prior to the firm releasing a buy recommendation on the stock. These persons would earn capital gains when demand generated from the buy recommendation increases the price of the security.

The forms of market misconduct discussed thus far relate to securities transactions executed primarily on the trading floor of stock exchanges. However, perpetrators of practices aimed at unethical gain may resort to illegal investment schemes which do not involve an organised exchange. Two common examples of these schemes, which may vary in size and structure across securities markets, are Ponzi and Pyramid schemes.

### 4. Ponzi and Pyramid Schemes

Ponzi and Pyramid schemes are investment scams offering exorbitant returns against the pretence of low risk, but which are actually, investment mirages where funds are obtained from new investors and subsequently distributed to earlier investors under the guise of "returns". Without an infinite number of new investors to maintain the façade of a legitimate investment, such schemes eventually collapse.

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Ponzi schemes derived their name from Italian born Charles Ponzi, one of the most notorious fraudsters in American history who swindled investors out of millions of dollars. In the 1920s, Charles Ponzi formed the “Securities Exchange Company”, which promised investors returns of fifty percent over forty-five days, to be earned from the purchase of discounted postal reply coupons from various countries and the redemption of same at face value within the United States. However, in reality, he used funds received from earlier-stage investors to pay new investors. Thus, today, the term ‘Ponzi Scheme’ refers to such structures, where the perpetrator possesses access to all funds within the system. Some modern day Ponzi schemes include those orchestrated by Bernard Madoff and Alan Stanford, who are both currently serving jail time for their crimes.

Pyramid schemes, on the other hand, occur when earlier investors gain “returns” by encouraging new investors to join. Unlike Ponzi schemes, the control of funds within these systems does not remain with any one person; illicit gains can be derived by persons at any level of the pyramid. Pyramid schemes are often disguised as multi-level marketing systems, but differ in that the former do not involve the sale of a product or service that possesses independent value.

**What are the applicable provisions of the Securities Act, 2012 (“SA 2012”)?**

We now examine the following provisions of the SA 2012, which may be applied in deterring the various market misconduct manifestations discussed above, and hence encourage greater investor confidence in the local securities industry:

**Section Actions prohibited**

- 93**
  - intentional disclosure, circulation or dissemination of information containing misrepresentations, expected to induce trading in securities, and
  - authorization of the disclosure, circulation or dissemination of such information for the above purpose.

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- 95**
  - direct or indirect
    - employment of fraudulent or deceptive devices, schemes or artifices;
    - engagement in any act, practice or business deemed to be fraudulent or deceptive; and
    - making of false statements of

material fact or omission of material facts intended to mislead investors.

- 96**
  - excessive trading, by certain registrants or their employees, on behalf of clients whose trading activities they control or direct; and
  - excessive trading by persons who have discretionary authority or are trustees for their clients’ accounts.

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- 98**
  - certain registrants giving trading recommendations that:
    - o are not aligned with their clients’ investment objectives, investment experience, financial situation and needs, or any other information known about the client; and
    - o do not disclose, in writing, all existing and potential conflicts of interest arising from beneficial ownership of the security, compensation arrangements with any person, underwriting activities in the security during the three years prior, and direct or indirect financial or other interest in the security.

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- publication of research reports not containing the above disclosures.

Further, Section 97 authorises the Commission to prescribe standards of conduct for its registrants, which are intended to prevent conflicts of interest and the unfair treatment of clients.

Given that many iterations of market misconduct persist within securities markets, the Sections of the SA 2012 presented within Parts II and III of this series were deliberately worded to capture a broad range of such manipulative and deceptive behaviours including, but not limited to, those identified herein.

Section 6(f) of the SA 2012 states that one of the core functions of the Commission is to “*protect the integrity of the securities market against any abuses arising from market manipulating practices, insider trading, conflicts of interest, and other unfair and improper practices*”. As indicated above and in Parts I and II of this series, the Commission is mandated to detect and suspend all forms of market misconduct within the local securities market, and will utilise all resources within its ambit to penalise perpetrators of such illicit and unethical practices.

# Continuing with our Investor Education Thrust

Partnering with Blue Waters Products Limited to educate and empower



Blue Waters Products Limited held its inaugural **Health & Wellness Empowerment Fair** on **Saturday 24th January 2015** from **9am to 3pm** at its Trincity location. The fair targeted the staff of Blue Waters and their families and aimed to promote self-improvement, increase awareness and knowledge via entities and companies from the financial, health and other service sectors.. The Commission was happy to participate in this session since it allowed the “Investor Education team” to educate and promote an understanding of the securities industry, the TTSEC as the

regulator of the industry and the benefits, risks and liabilities associated with investing in securities. The TTSEC team also provided information on the rights and responsibilities of investors, the importance of retirement planning and other necessary information which will encourage them to become active and wise investors. The information was well received by participants and we look forward to future collaborations with other organisations as we aim to educate and empower.



## TTSEC gives guidance to registrants on AML/CFT requirements

In its role as the Supervisory Authority, the Trinidad and Tobago Securities and Exchange Commission, is responsible for ensuring that Broker-Dealers, Underwriters and Investment Advisers comply with laws related to Anti-Money Laundering/Combating the Financing of Terrorism (“AML/CFT”) and have a deep appreciation and full understanding of the AML/CFT requirements and the importance of implementing the relevant systems of internal controls.

In light of this, the Commission hosted an informative session for its securities market registrants titled *AML/CFT: The Money, the Law and You* on Wednesday January 07. Attendees included representatives from entities such as RBC Merchant Bank, ANSA Merchant Bank, Citicorp Merchant Bank, First Citizens Asset Management Limited, First Citizens Investment Services, Guardian Group, Republic Securities and other securities market players.

TTSEC Chairman, Professor Patrick Watson

opened the morning’s session by clarifying money laundering and terrorist financing, its effect on Trinidad and Tobago and the world and the Commission’s role as “Supervisory Authority”. He also placed some much needed emphasis on the imminent Fourth Round Mutual Evaluation by the Caribbean Financial Action Task Force (CFATF) which was conducted in mid-January 2015. He affirmed that “money laundering (“ML”) schemes in the securities sector normally involve transaction types associated with the integration and layering stages of ML. The activities of this sector’s participants principally involve the flow of value instruments both within the local economy and internationally. Consequently, we, as a Commission, are required to mitigate against the risk that the proceeds of criminal activity and funds intended for terrorist activities, become included in these capital flows.”

The agenda also included presentations on AML/CFT and the Securities Sector, the Role of the TTSEC in AML/CFT Regulation, Review of the



Securities Sector's National Risk Assessment and the AML/CFT Regulation: The Way Forward. These presentations were conducted by the TTSEC's Advisor, Enforcement; Director, Legal Advisory and Enforcement; Director, Compliance and Inspections and General Counsel respectively.

In bringing the morning's session to an end, TTSEC Chief Executive Officer, C. Wainwright Iton, implored attendees to recognise the possible disastrous effects that money laundering and terrorist financing can have on our economy and our country's reputation especially if we are intent on becoming the region's premier financial centre. He also urged them to implement the necessary systems and internal controls which will assist in their entity's efforts to treat with money laundering and terrorist financing.

The Commission will continue to use its website, external communiqués and other fora in order to effectively communicate this burgeoning issue.

About the CFATF Fourth Round Mutual Evaluation:

CFATF conducts assessments or mutual evaluations of its members on a regular basis. The evaluators review a member-country's performance in relation to the Financial Action Task Force's (FATF) forty recommendations and eleven immediate outcomes. In doing so, they seek to judge a country's technical compliance with the forty recommendations and the effectiveness of its AML/CFT efforts that result from its implementation of the recommendations. Countries that are found deficient by mutual evaluations find themselves under intense pressure by the international community and may suffer increased costs in carrying out international trade in addition to a loss of international reputation. The last evaluation was conducted ten years ago and Trinidad and Tobago was the first Caribbean nation that was assessed in January 2015.

# An Update on AML/CFT Initiatives

As Trinidad & Tobago continues along the path to becoming the financial centre of the Caribbean, it must seek to demonstrate that it meets and exceeds the international standards on Anti-Money Laundering and Combatting the Financing of Terrorism (AML/CFT). As the Supervisory Authority for the securities sector in Trinidad & Tobago, the Trinidad and Tobago Securities and Exchange Commission (TTSEC) regulates the securities sector and provides guidance to its registrants in order to assist them in meeting their AML/CFT obligations. The nation's drive toward becoming the premier financial centre of the region means that all businesses regulated by the TTSEC will be subject to increased scrutiny so that the sector does not fall short of international standards

## National Anti-Money Laundering Committee

The TTSEC is a member of the National Anti-Money Laundering Committee (NAMLC) whose membership includes representatives from the Supervisory Authorities so designated in the Proceeds of Crime Act 2000 (POCA). Other members include law enforcement agencies, the Office of the Director of Public Prosecutions, and the Office of the Attorney General. NAMLC ensures that the fight against Money Laundering and Terrorism Financing is coordinated nationally. TTSEC's membership on NAMLC provides a forum for the discussion of issues affecting our sector and ensures that the supervision of the securities sector is in keeping with the highest national and global standards.

## Retrospective Due Diligence

In order to foster compliance with the established standards in the securities sector, the TTSEC reminded its registrants of their need to carry out Retrospective Due Diligence (RDD). This measure is addressed in Guideline 63 of TTSEC's Guidelines on Anti-Money Laundering & Combatting the Financing of Terrorism which mandates registrants to have accurate, complete and up-to-date information on both their nominal and beneficial account holders so that they can:

- determine the money laundering and terrorism financing risk which may be posed by each account-holder;
- decide whether to proceed with a business relationship or transaction;

- assess the level of future monitoring required.

The TTSEC's Compliance and Inspections Division conducts inspections of its registrants to verify compliance with governing legislation and guidelines. Inspections include a review of registrants' records to (among other things) confirm that they have completed RDD of their account-holders. Registrants should note that the enforcement sections of the Securities Act 2012 as amended, provide for the levying of sanctions by TTSEC in instances where non-compliance with the published guidelines are encountered.

## New Developments

The Miscellaneous Provisions Bill, 2014 was assented to on October 13, 2014. This Bill introduced a range of amendments to existing AML/CFT legislation which, because of their volume, cannot all be addressed in this publication. However, one of the changes that is of special note to our registrants is a new registration requirement which is mandatory. Section 52 (6) (f) extends the "fit and proper" requirements of registrants to their senior officers, both new and existing. The new amendment obligates registrants to seek the approval of the Commission on new appointments of persons to senior officer positions, and of existing senior officers within two years of enactment of the legislation. The legislation states that the Commission will consider whether a person is fit and proper by considering:

- a) the financial condition and solvency of the person;
- b) the educational and other qualifications and experience of the person;
- c) the ability of the person to perform his proposed business efficiently, honestly and fairly;
- d) the ability of the person to comply with the requirements of the Act applicable to the category of registration for which he is applying;
- e) the character, financial integrity and reliability of the person;
- g) additional requirements as may be prescribed.

In short, registrants are now required to seek the approval of the Commission for any new appointments to senior positions, or those of existing senior officers when they apply to renew their registration within two years. The legislation

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is a measure aimed at ensuring that our sector is led by qualified persons of competence, financial integrity and high moral character.

### Caribbean Financial Action Task Force Mutual Evaluation

In January 2015, Trinidad & Tobago was visited by assessors from the Caribbean Financial Action Task Force ("CFATF") who conducted the effectiveness component of the country's mutual evaluation. This process sought to gauge the effectiveness of the country's measures in achieving the stipulated AML/CFT goals. Members of the securities sector participated in this country-wide assessment by providing input to the assessors which formed part of the nation's mutual evaluation.

The TTSEC and other NAMLC members are eagerly awaiting the first draft of CFATF's report which will assist the country in moving forward in the implementation of its AML/CFT regime thereby ensuring that Trinidad & Tobago maintains its international standing and reputation as an upcoming regional financial centre.

### AML/CFT Supervisory Authority Committee

TTSEC, the Central Bank of Trinidad & Tobago, and the Financial Intelligence Unit of Trinidad & Tobago; the three supervisory authorities named in POCA, are equally committed to working together to reduce duplication of effort and the regulatory burden of our supervised entities while we safeguard our respective sectors. Some of the initiatives that are currently being developed by this group include:

- The hosting of joint outreach sessions;
- Joint inspections of our registrants;
- Greater coordination and rationalisation of our registrations; and
- Greater coordination in the development of supervisory guidelines.

It is the hope of the supervisory authorities that by applying a coordinated approach to their efforts, there may be a reduction in unnecessary bureaucratic demands on the supervised entities and in turn, compliance with the AML/CFT requirements will be further encouraged.

### Weapons Proliferation Financing

In support of the obligations of the Government

of the Republic of Trinidad and Tobago to operate in compliance with the Financial Action Task Force Recommendations 2 (national cooperation and coordination) and 7 (targeted financial sanctions related to proliferation), the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UNLIREC) has pledged to provide technical assistance in the field of combatting proliferation financing. This project is a component of UNLIREC's wider programme to assist nations in their efforts to comply with United Nations Security Council Resolution 1540, which requires the establishment and intensification of the enforcement of strict controls to prevent the proliferation of nuclear, chemical and biological weapons and their means of delivery.

UNLIREC has developed a general plan of action for strengthening the implementation of UNSCR 1540 OP 2 and is providing support to:

1. Identify existing legislation in Trinidad and Tobago in the field of proliferation financing;
2. Facilitate work sessions for sharing information and knowledge on proliferation financing;
3. Draft legislation / regulations on proliferation financing.

TTSEC, in its role as a Supervisory Authority is obligated to undertake measures to ensure compliance with Trinidad & Tobago's legislative framework that results from the FATF recommendations. TTSEC's efforts in this regard will be aimed at preventing the financing of prohibited activities through the securities sector. In the interim, we urge our registrants to continue their process of performing checks of international sanctions lists for existing and prospective clients as a preventative measure.

Registrants are advised to note the following:

- The TTSEC plans to host more AML/CFT outreach sessions as well as collaborative sessions with other Supervisory Authorities; and
- The organisation's website ([www.ttsec.org.tt](http://www.ttsec.org.tt)) provides regular updates on AML/CFT matters occurring both locally and internationally.

If you have any further questions or concerns, please contact us at [amlwg@ttsec.org.tt](mailto:amlwg@ttsec.org.tt) or 624 2991.

# LIMITED OFFERINGS UNDER THE SECURITIES ACT, 2012

The Division of Disclosure, Registration and Corporate Finance (“DR&CF”) has received several enquiries from external parties requesting clarification on “limited offerings” and their practical application in the marketplace. As such, this article will analyse the relevant provisions of the Securities Act, 2012 (“the SA 2012”) in order to clarify any ambiguity surrounding the interpretation of the term “limited offerings”.

Generally, **the distribution of any security in Trinidad and Tobago will necessitate certain registration requirements under the SA 2012.** These registration requirements are outlined at Sections 62(1) and 61(1) of the SA 2012 which specifically state that:

*“62(1) No security shall be –  
 (a) distributed; or  
 (b) listed with any securities exchange unless it is registered with the Commission.”*

*“61(1) A person, who is not a reporting issuer, and who proposes to make a distribution shall first apply to the Commission to be registered as a reporting issuer by filing a registration statement in such form as the Commission may determine and paying the prescribed fee.”*

In essence, these Sections provide that:

- a security must be registered with the Commission prior to issuance or distribution; and
- the issuer of the security must first be registered with the Commission as a Reporting Issuer before the security can be distributed.

However, exemptions from these registration requirements are provided for at Sections 61(4)(a) and 62(9)(a) and state inter alia that the requirements to register either the security to be distributed or the issuer thereof as a Reporting Issuer *“...shall not apply where the distribution is a limited offering and the issuer-*

- i. Notifies the Commission in writing of the proposed commencement date of the distribution **within ten days of the first distribution of securities;** and*
- ii. Files a post distribution statement in accordance with section 84...”*

**A “limited offering” can best be described as a distribution of securities by a “government entity” or “private issuer” where those securities will be distributed to less than 35 persons (excluding employees or former employees of the issuer), where there are restrictions on the transferability of those securities and where there is no general marketing of the securities being distributed.**

In order to be considered as a “limited offering,” the issuer of the securities that will be distributed must be either a “government entity” or a “private issuer”. These terms are also defined at section 4(1) of the SA 2012.

**A “private issuer” in essence must be an entity that is not a reporting issuer, has fewer than thirty five shareholders (excluding its employees and former employees), has restrictions on the transferability of its shares, and does not distribute securities frequently.**

Collectively, Sections 61(4), 62(9) and 84 dictate the process to be followed when seeking to claim the exemptions from registration that are available to “government entities” or “private issuers” when issuing “limited offerings”.

It should be noted that the “prior written notice” referred to above, is meant to be submitted through the use of a “proposed Form No.20”, which has been approved for use but will only be available for official use once the Draft Securities (General) By-Laws are enacted. The Post Distribution Statement is required to be filed with the Commission within ten business days of the completion of the distribution. Both the Notification of Limited Offering and Post Distribution Statement are proposed in the Draft Securities (General) By-Laws.

The proposed Form No. 20 is the Notification of Limited Offering Form and is meant to be used by entities wishing to claim the exemptions provided at Sections 61(4) and 62(9) in respect of proposed distributions. Among other things, Form 20 requires the applicant to provide relevant information pertaining to limited offerings such as:

- proposed issue dates;
- details of the security to be issued; and
- confirmation that restrictions on transferability of the securities exist.

*Continued on Page 15 ▶*

The proposed Form No. 19 is the Post Distribution Statement and will capture relevant information regarding any distributions that were issued i.e. via limited offerings or otherwise. Among other things, it captures information such as:

- issue date;
- list of investors; and
- details of the security that was issued.

It has always been the aim of the Commission to proactively engage the market, where possible, to reduce the occurrence of any possible contraventions due to lack of clarity regarding their understanding of

the SA 2012. We therefore kindly request that if any party is unsure about a particular distribution and/ or whether it constitutes a limited offering, that they actively engage the Commission prior to moving forward with the issuance.

The Commission also encourages all registrants to become familiar with the provisions of the SA 2012 which relate to limited offerings and the proposed Forms No. 19 and 20. These forms are accessible on our website via the following URL: <http://www.ttsec.org.tt/content/Forms-for-SA-2012.pdf>.

[www.ttsec.org.tt/content/Forms-for-SA-2012.pdf](http://www.ttsec.org.tt/content/Forms-for-SA-2012.pdf).

**COMMEMORATES IWD 2015**

# “Getting financially fit”

Ladies, have you ever thought of becoming financially fit? We know that many of you have spent a lot of time and energy becoming physically fit, which is an admirable quality but of equal importance is the need to become financially fit and to maintain that fitness over various life stages.

As we celebrate International Women's Day, we encourage you to "Make It Happen" and ensure that your goals become a reality.

## Here Are Some Tips For You To Consider To Improve Your Financial Well-being:

**Young Adult (Ages: 17 - 21)**

- Put aside a minimum of one tenth (1/10) of any income that you receive before you spend out of it
- Map out what you will like to accomplish in the next five years
- Create a detailed plan of how to get there and modify your plan as your situation changes

**Early Working Years (Ages: 22-29)**

- Request the services of a registered financial coach/advisor to help you match your goals to a financial plan
- Financial experts advise that you should try to ensure that you have at least six month's salary put aside in the event of an emergency like losing your job or being on extended sick leave
- Do not yield to the temptation to buy everything your heart desires. Save, meet all of your fixed expenses, clear off all of your debt, satisfy your needs and then see which of your 'wants' can be met

**Middle Years (Ages 30 - 49)**

- As your income increases, so should the money you put aside for savings
- Ensure that you also put aside money in a retirement fund
- Consider the purchase of assets that appreciate in value over time such as real estate

**Winding Down Years (Ages: 50 - 60)**

- You should be working to ensure that you are free from major debt at least five years before the mandatory age of retirement
- Consider the purchase of real property which can supplement your retirement income
- Ensure that you have appropriate insurance coverage so that your retirement savings are not eaten up by medical expenses

**Let's Make It Happen in 2015!**

**Retirement Phase (Ages: 60 & up)**

- If you choose not to work, ensure that you are as careful with your finances now as you were when you were younger
- Turn a hobby or passion into additional income (tutoring, interior decorating, coaching)
- Use your successful life story to help others learn how to be Financially Fit!

"Empowering Women, Empowering Humanity"

Picture It!



## Collective Investment Schemes

Collective Investment Schemes (CIS) are vehicles which allow investors to pool their resources to create a more diversified portfolio and take advantage of the benefits of large-scale investment opportunities. The CIS industry in Trinidad and Tobago commenced in 1981 with the establishment of the Trinidad and Tobago Unit Trust Corporation (“UTC”) through the Unit Trust of Trinidad and Tobago Act 1981. The aim of the UTC was to establish an institution that would provide greater investment opportunities for nationals of our twin-island Republic. The industry has grown significantly since the establishment of the UTC and now has 14 sponsors, offering 61 funds and collectively managing approximately TT\$46.33 billion. In this issue, we will explore these schemes and delve deeper into their characteristics and how they are regulated by the Trinidad and Tobago Securities and Exchange Commission (“the Commission”).

### Characteristics of CIS?

CIS are a pool of savings collected from multiple investors who effectively own portions of the overall pool through shares or units which are proportional to their contributions. Its primary objective is to invest the pooled savings for the benefit of the CIS investors.

These investment instruments are usually managed by professional investment companies (CIS managers) which have the overall responsibility for managing the pool in

accordance with a stated investment objective which can be found in the CIS’ prospectus. This document must detail the major features of CIS and provides, inter alia, material information about the CIS including its managers, the risks associated with them and their fee structure.

The CIS manager utilises the pool of savings to invest in securities that are in line with the CIS’ investment strategy. These securities allow CIS to earn income from dividends received on shares bought, interest on bonds or deposits held or income on real estate they own. The income earned is then shared with investors via distributions or through capital gains which can be realized upon disposal of shares/units.

These schemes can be closed-ended or open-ended. Closed-ended CIS have a fixed number of shares that are not redeemable from the fund and are usually listed on an actively trading stock exchange. Open-ended CIS, on the other hand, issue shares/units which can be redeemed from the CIS manager at any time. This is the most popular type of CIS that operates in Trinidad and Tobago.

CIS should not be utilized primarily for the lodgment of deposits since they are investment vehicles and the value of the assets have the potential to go up or down. Investors must peruse prospectus documents carefully before investing in CIS to ensure that they understand the investment and that the stated objective is aligned to their investment goals.

*Continued on Page 17 ▶*



## The Commission's Regulatory Strategy for CIS

Any investment scheme which fulfills the definition of a Collective Investment Scheme is required to be registered with the Commission along with its manager and/or operator and must adhere to reporting requirements. The Securities Act 2012 as amended ("SA 2012", "the Act") requires CIS which are organised as trusts to register as Reporting Issuers and CIS managers and/ or operators to be registered as a Broker-Dealers and / or Investment Advisers. CIS are also required by the Act to submit their prospectus to the Commission for review and receipt. This process must occur before the CIS is distributed or offered to the market. The registration requirement effectively places CIS under the supervisory oversight of the Commission. This makes CIS and their managers or operators subject to the reporting requirements and on-site inspections stipulated by the Act, its associated Guidelines and By-Laws.

CIS managers are subject to on-site inspections as and when the Commission deems appropriate and are also subject to continuous monitoring through the Commission's market surveillance function which handles and processes investor complaints.

The Commission's Guidelines for Collective Investments Schemes ("the Guidelines") require the following submissions by CIS:

- Audited annual comparative financial statements;
- Monthly volume reports;
- Statement of investment portfolio;
- Statement of portfolio transactions; and
- Statement of changes in net assets.

The Guidelines do not require that these reports be made publicly available. However, any party wishing to access these submissions can make a request to the Commission pursuant to Section 33 of the SA 2012. The staff of the Commission wishes to remind registrants of these reporting requirements and to be guided by the Guidelines when compiling their submissions.

CIS can be rewarding investments once the investors are fully aware of the risks associated with any scheme they should choose. The Commission will continue to do its part to ensure that the relevant safeguards are in place to adequately protect the investor, as well as the wider stability of the securities market. In subsequent issues, we will delve deeper into the topic of CIS, discussing specifically the classification of CIS with respect to their investment strategies, their structures, as well as the registration and reporting requirements that the Commission has established for these investment vehicles.



# IOSCO is currently working toward modifying its strategic direction to 2020.

*“Fundamentally, IOSCO’s mission is to ensure investors and issuers can have trust and confidence in the markets and therefore, enable those markets to function properly and fund economic growth”. – Greg Medcraft IOSCO Chair*

At the beginning of the year, the International Organization of Securities Commissions (IOSCO) issued a Consultation Report on its Strategic Direction for 2015 to 2020. In developing this Report, the IOSCO 2020 Working Group’s approach was to ensure that the Strategic Direction reflects members’ views and wishes about IOSCO’s role and function up to 2020. Most members provided feedback on the Consultation Report and affirmed that IOSCO should consolidate and build on the mission which IOSCO committed to, in 2010. This Mission focused on the development of international standards, strengthening of information sharing and cooperation, implementing regulation and supporting the developments of markets and infrastructure.

As such, the IOSCO 2020 Working Group identified six priorities and recommended specific action plans to progress each of the priorities. The Action Plans make specific and general recommendations about how the Board, its Committees and the Secretariat can contribute to the overall goal and various priorities. They build, in some areas, on work currently in train. In other areas, they make recommendations about new activities and structural and operational changes.

One of the main objectives of the Consultation Report is to ensure that IOSCO’s activities and programmes are delivered as an integrated, interdependent and inclusive package with each programme feeding into and supporting other programmes and activities. This will strengthen IOSCO’s ability to support its members in meeting the challenges that they face.

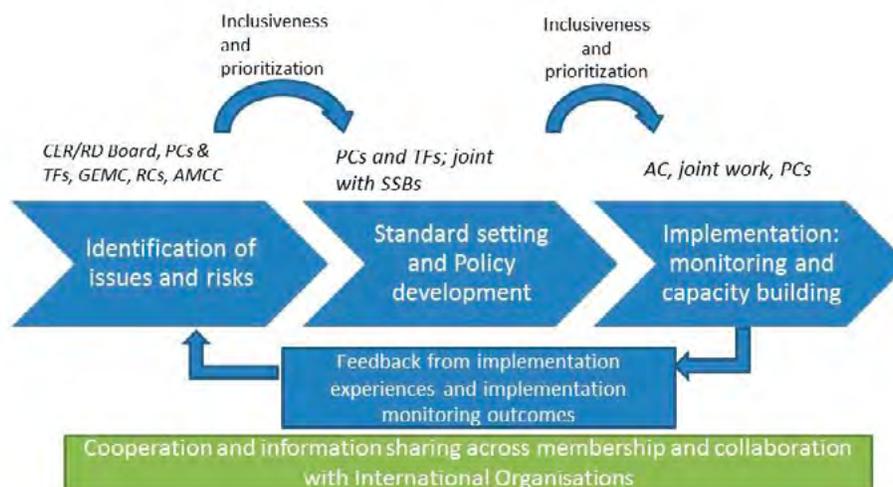
IOSCO believes that the approaches used to **identify issues and risks**, should be designed in such a way that they are able to feed into the **standard setting approaches and the development of guidance**. This work, in turn, will be supported through implementation monitoring which aims to encourage application of the standards and guidance and **capacity building**. Further, implementation monitoring will assist in developing supervisory and enforcement programmes to support new standards and guidance. Implementation experiences and the outcomes of implementation monitoring will also filter into the identification of issues for the standard setting and policy development process in order to determine if any adjustments to the standards or policies are needed.

## IOSCO’s 2020 Priorities

- (1) **Research and Risk identification** – Identifying risks arising from market activities, technology and product developments in securities markets;
- (2) **Standard Setting and Developing Guidance** – Improving the international regulatory framework for securities markets by developing standards and guidance which are timely, responsive to market developments and are internationally recognized;
- (3) **Implementation Monitoring** – Promoting implementation of IOSCO standards through increased monitoring and assessments;
- (4) **Capacity Building** – Addressing the capacity building needs of its members, particularly in growth and emerging markets;
- (5) **Co-operation and Information Exchange** – Strengthening the exchange of information and co-operation in the enforcement of market regulation and in the supervision of markets and market intermediaries; and
- (6) **Collaboration and Engagement with Other International Organizations** – Ensuring effective representation of IOSCO’s views in other international organizations and effective collaboration with other standard setters within the international financial regulatory community.

The links between these programmes are summarised in the following Chart:

## LINKS BETWEEN IOSCO PROGRAMS



The Consultation Report also recognised the importance of integrating the issues arising from Growth and Emerging Markets (GEM) into and across IOSCO's work. The priorities and action plans therefore take into account the needs of GEM members and as such, will serve to strengthen and build a more inclusive organization.

### Capacity Building Activities

The increased interconnectedness of markets has caused the international regulatory community to increase its focus on monitoring and promoting the implementation of standards and guidance developed since the crisis; a focus which is expected to continue beyond 2015. In light of this and the fact that IOSCO's membership also represents a broad spectrum of markets of various levels of complexity and development, operating in different cultural and legal environments, members will need increased support in building the necessary capacity and regulatory infrastructure to more effectively regulate market activity. A key measure of IOSCO's effectiveness to 2020 will, therefore, be whether its members have the capacity to implement IOSCO's core principles and its standards to meet the requirements of the MMOU and to contribute to raising the standards for market regulation world-wide.

As such, in responding to the priority needs for capacity building identified by its growth and emerging markets members, IOSCO aims to build a new set of capacity building activities which include the Online Toolkit for Regulatory Capacity Building, the IOSCO Secondment Register, the Global Certificate Programme as well as extending the number of training seminars.

The General Secretariat's Pilot Programme for 2015 includes the *Online Toolkit for Regulatory Capacity Building* ('Online Toolkit') and the organization of two additional regional training seminars. In its initial stage, the Online Toolkit will design two modules on *Risk based supervision; and Enforcement: inspections, investigations and sanctions*. These modules will be structured as follows:

- Introduction to the specific topic;
- Sub-modules for each topic;
- IOSCO Principles & Standards (where applicable) and relevant IOSCO reports;
- Case studies of implementation;
- Presentations made by IOSCO members, Secretariat staff and third-party experts;
- Webinars (for members to share experiences of implementation; challenges and lessons learnt);

Similarly, the two regional seminars will complement the Online Toolkit focusing on the same two topics- risk based supervision and enforcement.



# Secondary Schools visit the Commission to learn more about securities and the TTSEC

The Commission is of the firm belief that issues related to finances and general issues about saving and investing, need to be introduced to young people from as early as possible. It is for this reason that we embrace the opportunity to educate our young citizens about future wealth creation and the securities market. On Wednesday March 18, thirty (30) Form Five students and four (4) teachers from the Mason Hall Secondary School in Tobago, visited the Commission to learn more about the Commission and the securities sector. During this interface, the CCEI Division conducted a dynamic Investor Education presentation, which provided information on saving and

investing, preparing a goal card and ways to manage money. The Human Resource Management Division was also part of this session and conducted an interactive session on the career opportunities at the Commission.

The Commission's interface with our young citizens will continue in April 2015 and in the upcoming months, the Commission will visit the sister isle to conduct some additional sessions with other secondary schools on the island. The latter will be a collaborative project with the Division of Finance and Enterprise Development of the Tobago House of Assembly.



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