



The Governing Laws of the Securities Industry in Trinidad and Tobago



As we approach our 25th anniversary of protecting investors and fostering the orderly growth and development of the local capital market, the Trinidad and Tobago Securities and Exchange Commission (“TTSEC”) remains committed to its mandate. The TTSEC is an autonomous agency which was established as a body corporate, by virtue of the Securities Industry Act of the Republic of Trinidad and Tobago, Act No. 32 of 1995 (“SIA 1995”), which was proclaimed in 1997. In December 2012, the SIA 1995 was repealed and replaced by the Securities Act, Chapter 83:02 of the Laws of the Republic of Trinidad and Tobago (“SA 2012”). This governing legislation authorises the TTSEC to regulate the securities market of Trinidad and Tobago. This week’s article provides an overview of the SA 2012 as well as the By-laws and Guidelines issued by the TTSEC in accordance with this legislation.

Securities Act, Chapter 83:02 of the Laws of the Republic of Trinidad and Tobago (“SA 2012”)

The SA 2012 is an Act of Parliament which provides protection to investors from unfair, improper, or fraudulent practices of market actors within the securities industry. The SA 2012 outlines the requirements for market actors to operate within the securities market of Trinidad and Tobago. It also empowers the TTSEC with the authority to oversee all related matters of the securities industry. Therefore, the TTSEC’s actions are designed to protect investors; foster fair and efficient securities markets; reduce systemic risk and engender confidence in the local securities industry.

Section 6 of the SA 2012 empowers the TTSEC to perform the following functions:

- **advise** the Honourable Minister of Finance on all matters related to the securities industry;
- **maintain** surveillance over the securities market and ensures orderly, fair, and equitable dealings in securities;
- **register, authorise or regulate** self-regulatory organisations and other market actors with a view to maintaining proper standards of conduct and professionalism in the securities industry;

- **regulate and supervise** the timely, accurate, fair and efficient disclosure of information to the securities industry and the investing public;
- **conduct** such inspections and examinations of self-regulatory organisations, broker-dealers, registered representatives, underwriters, issuers, and investment advisers;
- **protect** the integrity of securities markets against abuses arising from market manipulation, insider trading, conflicts of interest and unfair or improper practices;
- **educate and promote** an understanding by the public of the securities industry and the benefits, risks and liabilities associated with investing in securities;
- **cooperate with and provide assistance** to regulatory authorities in Trinidad and Tobago and elsewhere;
- **ensure** compliance with the Proceeds of Crime Act and any other written law in relation to the prevention of money laundering and combating the financing of terrorism;
- **create and promote** such conditions as may seem necessary to ensure the orderly growth and development of the capital market; and
- **cooperate** with other jurisdictions in the development of a fair and efficient securities industry.

Section 7 of the SA 2012 outlines the powers under which the TTSEC can discharge the foregoing functions. This section was discussed in last week's article, which can be accessed via the url: <https://www.ttsec.org.tt/importance-of-financial-regulation-in-the-securities-industry/>.

By-laws

The Securities (General) By-laws, 2015 ("the General By-laws"), which accompanies the SA 2012, expands upon certain requirements and procedures applicable to provisions of the SA 2012 and clarifies certain obligations and standards of conduct applicable to registrants and self-regulatory organisations under the SA 2012. These include, but are not limited to, the following:

- registration requirements (inclusive of the fees payable by registrants);
- disclosure obligations applicable to registrants and self-regulatory organisations;
- business conduct and practices required of registrants and self-regulatory organisations;
- fit and proper requirements of persons to engage in securities business; and
- standards of conduct and disclosure obligations for the auditors of registrants.

In addition to the General By-laws, there is also the Securities Industry (Take-Over) By-laws, 2005 which was established to regulate the process by which a person or persons may take control of, or takeover, a public company and ensure that such market activity is conducted in an orderly manner.

Of recent, the TTSEC proposed and drafted the following By-laws:

- ***The Collective Investment Schemes By-laws, 2021*** – These seek to establish a framework for the regulation of Collective Investment Schemes to provide a greater level of surveillance for the market and align with the principles of the international

securities and futures markets regulation as guided by the International Organization of Securities Commissions (“IOSCO”).

- ***The Portfolio Manager By-laws, 2021*** – These seek to regulate the registration and minimum capital requirements; permitted activities and conduct of business rules for portfolio managers (a new and proposed sub-category of the broker-dealer registrant status).

Guidelines

In accordance with **Section 146** of the SA 2012, the TTSEC may, in consultation with the Minister of Finance, issue guidelines to promote conditions to ensure the orderly growth, regulation and development of the securities industry. As these guidelines are not regarded as a statutory instrument, contravention of same is not constituted as an offence. However, this does not prevent the TTSEC from taking certain prescribed action. These include, but are not limited to, the following:

- ***Anti-Money Laundering and Counter Financing of Terrorism (“AML/CFT”) Guidelines for the Securities Sector, 2018*** – inform the registered entities under the TTSEC of their need to implement effective policies and procedures to comply with the national AML/CFT legislative framework.
- ***Sale and Repurchase Agreements (“Repo”) Guidelines, 2018*** – provide market guidance to local Repo dealers.
- ***Guidelines for Employee Stock Compensation Plans (“ESOPs”), 2009*** – were developed to ensure that companies regularly report detailed information on the creation and operation of ESOPs. This increased flow of information will allow shareholders to make a more accurate assessment of the company’s performance when determining whether to buy, hold or dispose of their investments.
- ***Prospectus Guidelines for Public Offerings, 2002*** – outline the information the TTSEC considers to be necessary for inclusion in a public offering prospectus. A prospectus should provide the relevant information for a potential investor to make an informed investment decision.

The TTSEC continues to work towards improving and strengthening the regulatory framework for the orderly conduct of the securities market. As the market evolves, the TTSEC will introduce revisions to existing legislation or guidelines to ensure that investors are protected.

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