

**TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION**



**PROMOTION PRESENTATION STANDARDS FOR  
COLLECTIVE INVESTMENT SCHEMES**

*Issued in accordance with Section 6(b)  
of the Securities Industry Act 1995*





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## **CHAPTER 1 - The Need for Standards to guide Disclosure in the Media Releases, Advertisements and Promotional Material of Collective Investment Schemes in Trinidad and Tobago**

Advertisements and promotional material exhibiting performance information are key marketing tools in the promotion of securities issued by Collective Investment Schemes (“CISs”) to the investing public.

The rational investor begins the decision making process by gathering and analysing all available information concerning the character and performance of the securities offered before making a decision to buy, hold or dispose of a particular security. In practice, however, the investor’s information search may be significantly abbreviated. Reasons that may be advanced for limiting the information search are as follows:

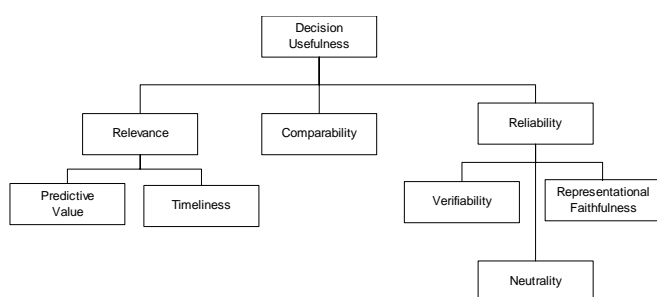
- The dollar and time costs associated with information gathering are significant barriers;
- Investors lack the sophistication to perform an analysis of the offering;
- The information contained in the prospectus is of a technical nature and is difficult to understand.

In such instances, investors place greater weight, vis-à-vis their investment decision, on the performance information contained in the advertisements and promotional material of CISs.

Incomplete or misleading statements contained in media releases, advertisements and promotional material may mean unexpected and often unpleasant surprises for investors and clients of CISs. Further, because these investments are of a long-term nature, the effects are often not felt or discovered until many years after the initial decision to invest.

It is therefore imperative that the information contained in advertisements be judged in terms of three criteria – Reliability, Relevance and Comparability. Below, figure 1 presents a hierarchical structure for the determination of the usefulness of data contained in Collective Investment Scheme promotions.<sup>1</sup>

**Figure 1 - Hierarchy of Criteria for the**



Unfortunately, in Trinidad and Tobago, the performance information presented in media releases, advertisements and the promotional material of CISs emphasise the use of persuasive devices rather than the provision of information that is useful for its balance and neutrality. Representations made in advertisements, though not intentionally misleading, may be construed as such by reason of the omission of information that is critical to the interpretation of the returns used to evaluate performance. Only a handful of promoters present series consisting of historical performance data to facilitate comparison and support decision-making.

With this in mind, the objectives of these presentation standards are as follows:

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<sup>1</sup> Adapted from FASB Concept Statement No. 2, Figure entitled “*Qualitative Characteristics of Accounting Information*”.



- The development of rules for media releases, advertisements and promotional presentations for CISs. The rules would prohibit representations in advertisements that mislead potential and existing investors by projecting inaccurate results, and/or omitting relevant information.
- The standardization of the calculation and presentation of performance results of CISs to facilitate a more meaningful comparison and assessment of Collective Investment Scheme performance across the industry.
- The development of a Trinidad and Tobago Promotion Presentation Standard (TTPPS) that is in line with international standards.

It is our hope that the adoption of these standards developed for Collective Investment Scheme presentation will provide potential and existing clients of CISs with an assurance that the disclosures concerning scheme performance contained in advertisements and promotional material are fair and accurate.



## **CHAPTER 2 - The Development of the Collective Investment Scheme Market in Trinidad and Tobago**

The Collective Investment Scheme market in Trinidad and Tobago has enjoyed meteoric growth over the last seven (7) years. In 1997, there were only five (5) mutual funds held in the registers of the Trinidad and Tobago Securities and Exchange Commission (“the Commission”). These funds were almost exclusively equity-based with aggregate funds under management approximating TT\$3 billion. As at March 31, 2006, this number of CISs (including mutual funds) held in the Commission’s registers increased to one hundred and eighty-five (185) separate schemes in sixty - five (65) prospectuses with aggregate funds under management totalling an estimated TT\$27 billion.<sup>2</sup>

The growth of mutual funds as a choice savings vehicle for investors in Trinidad and Tobago is highlighted by a comparison of statistics concerning mutual funds’ aggregate funds under management and total deposits held in commercial banks. The ratio has grown from 19.0% in 1997 to 47.0% in 2003.

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<sup>2</sup> Estimate based on disclosures provided in presentation by the Trinidad and Tobago Securities & Exchange Commission Revised Fees and Proposals Paper of 2004. The Trinidad & Tobago Unit Trust Corporation is believed to have a 51% share of the market.



### **CHAPTER 3 - Existing Performance Disclosure Requirements for CISs**

There are no existing guidelines or laws in Trinidad and Tobago that govern the presentation of performance data in media releases, advertisements and promotional material of CISs.

Historically, the only disclosure requirements for CISs were set out in the Central Bank of Trinidad and Tobago Circular No.1 of 1994 bearing the title “*Guidelines for the Establishment and Operation of Mutual Funds by Institutions Licensed under the Financial Institutions Act, 1993*” which state:

*“The fund should publish in a daily newspaper, at least once every six months, a statement of its assets and liabilities, and a statement of net income. Financial statements, audited by a qualified accountant registered with Institute of Chartered Accountants of Trinidad and Tobago (ICATT) or other internationally recognized accounting body, should be published in a daily newspaper within three months of the close of each financial year of the fund. Copies of these statements should be kept at all offices where investments are solicited and should, be made available to current and prospective investors on demand.”*

These guidelines were intended to be an interim measure and were to be repealed upon the passage of securities legislation..





## **CHAPTER 4 - Regulatory Issues Concerning the Sale and Promotion Presentations of CISs**

### ***4.1 Advertising of Information Contained in a Receipted Prospectus***

Under Section 69 of the Securities Industry Act, 1995 (“the Act”), “...no person shall distribute a security unless a prospectus or a block distribution circular has been filed with the prescribed fee and a receipt therefor has been issued by the Commission”. Given this stipulation, all providers of CISs are required to file a prospectus with the Commission for receipting.

In Trinidad and Tobago, the prospectus is the main sales instrument and contains important information as to the character of the issuer and the securities offered for sale. All other documents presented to investors must faithfully communicate the representations made in the prospectus, even if presented in simplified form for ease of understanding.

The Commission has intervened on two occasions where the information contained in the prospectus for a Collective Investment Scheme was determined to be materially different from the information contained in the advertisements and promotional material produced by the promoter.

In one such instance, a prospectus filed with the Commission indicated that the scheme’s funds would be invested in “*equity securities and real estate, balanced with a holding of debt securities*”. However, this statement was found to differ materially from representations made by senior managers in promotions and newspaper advertisements for the scheme. Both senior managers and the advertisements promoted the fund as pursuing a strategy that involved an investment of the scheme’s funds in these stated asset classes, *but predominantly in a specific sector*. The Commission required that any representations made in advertisements or marketing material for the Collective Investment Scheme be consistent with the information contained in the prospectus.



Investors, seeking to undertake greater risk in investing in a fund with a sector-specific strategy, or to hedge a position in the market, may be persuaded to invest by the expectation of the greater return relative to, or by an expectation of a pattern of behaviour of returns associated with the advertised strategy. The investor's return expectations in each case may never materialize since the scheme's funds may only be invested in accordance with the investment objective specified in the prospectus.

Aside from regulatory consequences, statements contained in advertisements that are misleading, whether intentional or not, caused by the omission of information for clarification, or the inclusion of an untrue representation, may result in loss and disappointment for investors, undermine investor confidence and work to impede further growth in the market.

#### ***4.2 Advertising of Annualized Returns for Mutual Funds***

It has become common practice for mutual funds to be advertised in Trinidad and Tobago using annualized returns. The annualization of returns for performance periods of less than one (1) year may, however, result in misleading representations of the performance of the scheme. The following conditions must be maintained if the actual return achieved by the fund is to at least match the quoted annualized return:

- All Interest income derived from the fund must be re-invested in the fund.
- The fund must perform no worse than it did for the period for which the annualized return was calculated.
- There must be no increase in fees or taxes charged to the fund.

If any of these conditions are not met, then the annualized return will be different from the actual return on the fund.



Many funds have engaged in the practice of headlining these returns in their media releases, advertisements and promotional material without explanation or caution to the investor in the interpretation of the performance return presented.

The Commission is of the view that the continued use of annualized returns for a period of less than one year without caution or explanation may result in misleading presentations of Collective Investment Scheme performance to investors.

#### ***4.3 Use of Cumulative Total Returns in the Advertising of Mutual Funds***

Collective investment scheme promoters commonly highlight cumulative total returns in advertisements. Cumulative total returns are calculated by chaining the period returns for each performance period. The performance metric is computed on the assumption that all distributions from the fund are reinvested at the adjusted market price after the distribution.

Given the volatility associated with asset returns, Collective Investment Scheme promoters may choose to use selected periods to calculate the cumulative total returns on a fund. This would produce a figure that would not provide a fair representation of the scheme's comparative performance history, or the actual cumulative total return that a fund investor could expect to realize over a random holding period. The Staff are therefore of the view that the computation and disclosure of cumulative total returns from inception of the scheme is a more appropriate performance measure.

#### ***4.4 Advertising of Selected Period Returns***

The use of returns from selected periods has not been limited to the calculation of cumulative total returns, but has also been used in advertisements to highlight the fund's performance in certain periods.

In one such example, the provider of a US Dollar Money Market Fund produced television advertisements in the year 2004 for which the returns of the scheme for the years 2000 and



2001 are prominently displayed. There is no mention, however, of the fund's performance in the years 2002-2004.

The use of selected period returns in promotional advertising may allow the fund to highlight certain periods of positive return, while concealing periods of negative returns and presents a view of scheme performance history that may mislead existing and potential investors.

#### ***4.5 Comparability of the Performance Data of CISs***

The importance of the performance data that is advertised by a CIS provider and the significance of this information to the average investor in arriving at an investment decision requires special consideration.

Performance data that is presented by Collective Investment Scheme providers in Trinidad and Tobago present difficulties for meaningful comparison with competing schemes. Considerable variation is noted, among other things, in:

- Methodologies used for computation of Net Asset Values;
- Accounting treatment of investment income, including realized and unrealized capital gains;
- Frequency of reporting Net Asset Values.

Very often, these variations, which affect the interpretation of the calculated returns headlined in advertisements and promotional material, are not disclosed to the investor. As a result, the investor may make sub-optimal decisions as to the allocation of the funds in his portfolio.



## **CHAPTER 5 - The Proposed Promotion Presentation Standards for CISs**

The aim of these Promotion Presentation Standards is to ensure that CIS advertisers and promoters in Trinidad and Tobago adhere to international best practice. At a minimum, the authors have sought to harmonize the standards developed with the principles as outlined by the International Organization of Securities Commissions (IOSCO) in a report of the Technical Committee of IOSCO in May 2004 ( “the IOSCO Standards”).

The Commission acknowledges that there is a need for disclosure above and beyond that which is prescribed in the IOSCO Standards. The standards advanced herein use the IOSCO standards as a basis, but also draw upon standards established by other organisations and regulatory jurisdictions, and performance presentation standards published by the CFA Institute (formerly the Association of Investment and Management Research).

### **The Promotion Presentation Standards**

#### ***Standard 1: Fundamental Principles***

- 1.1 Promoters of CISs shall not make or cause to be made, any statement that misrepresents the investment performance of a CIS.
- 1.2 In all promotions, promoters of CISs shall give due regard to the investment experience of the target audience, and the suitability of the promotion for that audience.
- 1.3 Promoters shall make reasonable effort to ensure that the representations contained in media releases, advertisements and promotional material are fair, accurate and complete.



- 1.4 Media releases, advertisements and promotional material shall not contain untrue statements of fact, or any omissions that may lead to any information contained in the advertisement from being construed as misleading.
- 1.5 Where a statement is made based on assumptions or on other conditions first occurring, the assumptions or conditions necessary to prevent the statement from being misleading must be stated.
- 1.6 No information contained in a promotion shall be inconsistent with the factual disclosures made in the prospectus.

### ***Standard 2: Disclaimers and Location of a Prospectus***

- 2.1 All Collective Investment Scheme media releases, advertisements and promotional material shall include the following disclaimers in either the same text or with substantially the same meaning:

Important information concerning the investment goals, risks, charges and expenses is contained in the prospectus. Investors should carefully consider these before investing.

- 2.2 All Collective Investment Scheme media releases, advertisements and promotional material that present performance data shall include a disclaimer stating the following in either the same text or with substantially the same meaning:

“Performance is subject to variation and is likely to change over time. Past performance should not be treated as an indicator of future performance.”



- 2.3 All Collective Investment Scheme media releases, advertisements and promotional material shall include a statement containing information as to where a prospectus can be located.
- 2.4 For print advertisements, all disclaimers/disclosures must be in a font size at least as large as, and of a style different from but at least as prominent as, that used in the major portion of the advertisement.

### ***Standard 3: Fees and Expenses***

- 3.1 Collective Information Scheme performance information should be net of all fees and expenses that are directly or indirectly paid by each CIS investor, such as management fees incurred by the Collective Investment Scheme.
- 3.2 If performance information presented in a media release, advertisement or promotional material is not presented as in Item 3.1 above, this fact must be disclosed in the presentation.

### ***Standard 4: Calculation of Returns***

#### **4.1 General Returns**

- A. Where an advertisement contains performance returns, the actual returns of the fund over the 1-year, 3-year and 5-year performance period must be included.
- B. If the Collective Investment Scheme has been in existence for a period of less than five (5) years, the fund shall present the actual return since inception.



## 4.2 Annualized Returns

- A. The practice of projecting in promotions an annualized return for an entire year based on performance periods of less than one year is prohibited.
- B. Where an annualized return is presented in an advertisement, it must be clearly labelled “*Annualized Return*”. The disclosure must be in the same text, and font size as the text stating the percentage return.

## 4.3 Total Cumulative Returns

- A. Total Cumulative Return data presented in media releases, advertisements or promotional material for a Collective Investment Scheme must be calculated from inception of the scheme.
- B. An advertisement presenting the total cumulative return on an investment shall be accompanied by a disclaimer stating the following in either the same text or with substantially the same meaning: “*The calculation of Total Cumulative Returns assumes the reinvestment of all interest income at the Unit Price immediately after the distribution of interest income.*”

## 4.4 Consistency of Calculation of Net Asset Value

- A. The Net Asset Value per unit of a collective investment scheme shall be calculated every business day and must be calculated in accordance with the methodology set out in the prospectus.





- B. A Collective Investment Scheme shall consistently use the same accounting principles when determining asset and liability values in the calculation of Net Asset Values.
- C. If there is a change in accounting principles that affect or causes to be affected the calculation of Net Asset Value, the change and its full effects must be disclosed to investors. The disclosure must present the return that would have been realized had there been no change in accounting principle.

#### **4.5 Use of Standardized Formulas**

- A. Returns shall be calculated with the use of the methodology set out in the prospectus that has been received by the Commission.
- B. If the methodology used in the calculation of the return has changed, the presentation shall prominently disclose the nature of the change and the impact thereof on the calculation of the scheme's return.
- C. All return calculations presented in media releases, advertisements and promotional material should assume the complete redemption of the investment at the end of the performance period.
- D. If calculations do not assume the complete redemption of the Collective Investment Scheme investment at the end of the performance period, this fact must be disclosed in performance presentations.



***Standard 5: Relevance of Performance Data***

5.1 Where advertisements and promotional material present performance information, the Collective Investment Scheme shall include performance information as to the end of its most recently completed calendar quarter.

5.2 Promotions should provide information directing users to either an internet website or telephone number which provides up to date performance information.

***Standard 6: Consistency of Promotions***

6.1 No information presented in the media releases, advertisements or promotional material shall be contrary to the informational disclosures contained in the prospectus that has been filed with the Commission.

6.2 All advertisements and promotional material for a Collective Investment Scheme shall include the inception date of the scheme.

***Standard 7: Benchmarking***

If performance information is presented in the advertisement, information should be presented which may allow potential investors to evaluate the performance and risks of the Collective Investment Scheme. This information should be in the form of a benchmark market index that is consistent with the scheme's investment policies and objectives. If no benchmark market index is available, the advertisement may include information on the performance on the market sector that is consistent with the Collective Investment Scheme's investment policies and objectives.



## References

*AIMR Performance Presentation Standards (2003)* - Association of Investment and Management Research.

*The Securities (Advertisement) Regulations 2001* – Eastern Caribbean Securities Commission.

*Performance Presentation Standards for Collective Investment Schemes: Best Practices Standards - Report of the Technical Committee of the International Organization of Securities Commissions, May 2004.* - International Organization of Securities Commissions.

“*Collective Investment Scheme By-Laws*” – Schedule C of the Final Report on the Review and Revision of the Trinidad and Tobago Securities Industry Act, 1995 and Related By-Laws and Associated Legislation – Stikeman Elliot. November 30, 2004 - Trinidad and Tobago Securities and Exchange Commission.

*Proposed Investment Company Advertising Rules* available at <http://www.sec.gov/rules/final/33-8294>, website of the United States Securities and Exchange Commission.