CONFERENCE OF THE TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
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FEATURE ADDRESS
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INTRODUCTION

Ladies and Gentlemen it is indeed a very special honor and pleasure to have been invited to bring to you the featured address on the opening day of this Conference of Caribbean Securities Regulators. I am sure that at the end of the conference we will all be able to say that it was good for us to have been here and we will join together in congratulating and thanking our very gracious hosts, the Trinidad and Tobago SEC, for organizing a valuable and well coordinated event.

The idea of a conference such as this has been the outgrowth of discussions in a series of informal meetings held over the past year and a half involving securities regulators from the Bahamas, Barbados, the Eastern Caribbean States, Jamaica, and , of course, Trinidad and Tobago. In fact the main proponent of this conference has been my counterpart in the Trinidad and Tobago SEC, Osborne Nurse. We are grateful to Osborne for his vision, drive and commitment in bringing this idea into reality. We also extend our gratitude to the management and staff of the TTSEC for their outstanding work in organizing the conference and for the excellent arrangements which have been made.

These informal meetings of Caribbean Securities Regulators out of which this conference was conceived were quite often held as an adjunct to larger conferences such as IOSCO's Annual Conference and COSRA's bi-annual meetings. The regulators in the audience will be aware that IOSCO, which is an acronym for the International Organization of Securities Commissions, is the world's primary forum for international cooperation amongst securities regulators. COSRA, which is the acronym for the Council of Securities Regulators of the Americas, is a similar body which operates at the regional level and also serves as the Inter-American Regional Committee of IOSCO. Let me assure you that IOSCO and COSRA are not glorified talk shops. IOSCO is a member of the Financial Stability Forum and is recognized by the international financial community as the standard setting body for securities markets and their regulators.

This conference provides the regulators in the Caribbean with an opportunity to discuss how best to utilize our membership in these international bodies, particularly in respect to ensuring that we fully participate in the processes which lead to the development of international standards governing securities markets and their regulation.

In this regard the point needs to be made by Caribbean Regulators at IOSCO and COSRA that a "one-size fits all" mentality should not be used to inform decisions made in respect to international standards. The over-regulation of the markets of emerging economies can serve to stifle the growth and development of these economies thereby leading to social instability and other undesirable effects.

At the same time there is no question that under-regulation is worse than over-regulation. Balance is therefore critical and a balance must be struck between the need for growth and development and the need for effective regulation – the type of regulation that appropriately addresses the risks of systemic shock and protects the interests of investors without creating an unbearable cost burden on the productive sector.

IMPORTANCE OF SECURITIES MARKETS

I believe that there is no one here who needs to be advised of the importance of securities markets and therefore the value of a conference such as this. As Caribbean people however we have bred our fair share of skeptics and cynics. Some may conclude that we have created this conference simply to provide an all-expenses paid holiday to underpaid public servants, a reward for their tireless service. There is no doubt that Caribbean regulators work very hard and Trinidad is a lovely country with beautiful people and lots of thing to do, but we as regulators are not here simply to *soak* up the sights and sounds of the republic although we hope to have some time for that.

So for any skeptics or cynics who may be here let me quickly point out that securities markets play a critical role in mobilizing, for productive purposes, the wealth and savings of a nation's citizens including corporate entities and individuals. The best run securities markets allow those persons who require capital to raise the required amounts by floating debt or equity securities in an orderly, fair, transparent and efficient manner. The market brings together, through intermediaries, those who have funds to invest and those who require capital.

It is an incontrovertible fact that securities markets play a critical role in the growth and development of a nation. This is especially true of Caribbean nations as our region is a collection of relatively young sovereign states that have emerging market economies. In particular, in the Caribbean the equity securities markets provide:-

1. for the free flow of capital, from both local and foreign investors, to the productive sector;
2. an opportunity for wealth creation through the purchase and holding of a diversified portfolio of securities;
3. a facility for investors to readily access funds by liquidating their portfolios or parts thereof;
4. an objective basis for the valuation of a company's equity;
5. a source of employment for intermediaries and market professionals such as brokers, investments advisors and analysts

The debt securities market is no less important especially to the public sector. In Jamaica, for example, the Government regularly turns to the debt market to raise funds to finance public expenditure and important developmental programs such as road infrastructure development.

Most importantly the existence of active equity and debt securities markets provide a depth and diversity to an economy's financial system which helps it withstand and recover more quickly from systemic financial shocks. Economies which have financial systems that lack breadth and diversity, by being totally or predominantly reliant on the banking sector, are ill equipped to handle financial crises which originate in the banking subsystem. The financial systems of such economies may be said to be standing on one leg since they do not have a well developed non-banking financial sector which complements their banking sector.

Alan Greenspan, the erudite Chairman of the US Federal Reserve Board, recognized this principle after the East Asian crisis which occurred in the late 1990's. Here I quote him in a speech made before the World Bank Group and the IMF meetings held in 1999:

"...Before the crisis broke there was little reason to question the three decades of phenomenally solid East Asian economic growth, largely financed through the banking system ... Thefailure to have backupforms of intermediation was of little consequence. The lack of a spare tire is of no concern if you do not get a flat ..."

Here Mr. Greenspan acknowledged that in the emerging East Asian economies the banking sector dominated the financial system prior to the crisis although admittedly this dominance was in decline as a nascent non-banking fmancial institution sector, inclusive of securities dealers, had already begun to establish footholds in these jurisdictions. The fact though was that the financial systems in the emerging Asian economies remained heavily dependent upon banks. In South Korea for example, banks accounted for approximately 70% of financial system assets at the end of 1997.[6]

Mi. Greenspan went on to say:-

"EastAsia had no spare tires ...Banks, being highly leveraged institutions, have, throughout their history, periodically fallen into crisis. Where there was no backup, they pulled their economies down with them."

In South Korea, then the 11th largest economy in the world, the crisis was the result of the banking sector being burdened with non-performing loans. Excessive debt in the South Korea's corporate sector eventually sparked major failures, spawned take-overs and eroded confidence in the economy. In the wake of the crisis Mr. Greenspan in his eloquent "spare tires" speech in 1999 raised an interesting thought and I quote:-

"This leads one to wonder how severe East Asia's problem would have been during the past eighteen months had those economies not relied so heavily on banks as their means

of financial intermediation...Had a functioning capital market existed, the outcome might well have been far yore benign"

So then the need for depth and diversity in the financial system of an economy was one of the key lessons taken from the East Asian crisis.

It is with some pride that I report to you that in the Caribbean, for the most part, our financial system firmly stands on two legs; one leg being the banking sector the other being the non-bank financial sector a critical component of which is the securities industry. And I might add that our securities industry plays a significant role in fueling the growth of our economies by helping to mobilize local investment and attract foreign capital to our shores.

A BRIEF HISTORY OF CARIBBEAN SECURITIES REGULATION

It is of fundamental importance that where a securities market exists there is in place a strong and effective regulatory infrastructure. In the Caribbean, for the most part, the securities markets pre-dated an autonomous but state sponsored regulator which was created by statute. In Jamaica, for example, although the Jamaica Stock Exchange commenced operations in 1969 the Act establishing the Securities Commission was not enacted until 1993 with the Commission commencing operations shortly thereafter.

In Trinidad the informal securities market which had existed for some twenty years was in 1981 transformed into a formal exchange – the Trinidad and Tobago Stock Exchange came into being after the passage of the Securities Industry Act of 1981. However, our hosts, the TTSEC, were only established after the passage of the 1995 Securities Industry Act which repealed the 1981 Act.

In Barbados, we see a similar pattern. The Securities Exchange of Barbados, which was the precursor to the Barbados Stock Exchange, was established in 1987 with the Barbados Securities Commission being formed some eight years later in 1995.

In the case of Jamaica, Trinidad and Tobago and Barbados the creation of the respective Commissions heralded the establishment of regulations and rules governing the securities market which were designed to ensure open, fair and equitable dealings in securities.

Our regulatory colleagues in the Bahamas and the Eastern Caribbean had the distinct advantage of having their national exchanges being created after or very close to the time of the establishment of their respective Commissions.

In the Bahamas the Bahamas International Securities Exchange (BISX) was incorporated in 1999 and launched its domestic market the following year or some five years after the Securities Commission of the Bahamas had been established.

The Eastern Caribbean Securities Market came into being in 2001 the year after the Eastern Caribbean Securities Regulatory Authority Agreement was signed by seven of the eight member territories. This agreement formed the basis for the creation of the Eastern Caribbean Securities Regulatory Commission.

The Commissioners and senior staff of the various Commissions in the region have been experienced persons drawn from the worlds of central banking, academia, economics and finance, the legal and accounting professions and of course from the securities industry itself. Considerable technical assistance has also been provided by seasoned professionals with experience in the more sophisticated markets. Much of this technical assistance has been in terms of drafting legislation, training staff and developing regulatory procedure manuals.

As Commissions were being established important strides were being made to improve market infrastructure such as the formation of central securities depositories and the implementation of electronic trading platforms on the exchanges.

The Securities Commissions and regulatory authorities in the Caribbean have enhanced the safety and orderly operation of our securities markets by carrying out the following functions:-

- screening persons seeking to provide services to the industry in order to ensure that only fit and proper persons are licensed or approved to operate as brokers and dealers
- establishing the criteria for licensing persons seeking to operate within the industry, inclusive of minimum capital requirements and academic qualifications for brokers and their representatives
- developing rules to govern the market conduct of intermediaries including know your customer rules and standards of fairness in the allocation of investment opportunities
- implementing on-going programs of routine on-site and off-site examination and monitoring of brokers operations to ensure that they are complying with market conduct rules and are meeting minimum capital requirements
- carrying out in association with industry participants public education programs to broaden awareness of the securities market and the benefits of investing in securities and collective investment schemes

THE GLOBAL CONTEXT

An important aspect of the securities industry in the Caribbean is the registration of off-shore mutual funds in jurisdictions such as the Cayman Islands and the British Virgin Islands among others. These jurisdictions are classified as Off-shore Financial Centres (or OFC's for short). In recent times OFC's have come under increasing scrutiny and pressure to comply with international standards especially in respect to measures designed to combat money-laundering and terrorist financing.

Indeed all Caribbean territories, whether classified as an OFC or not, have been encouraged by the international financial community, particularly in the wake of the East Asian crisis and the 9/11 attacks, to seriously look at their levels of compliance with the various standards promulgated by international standard setting bodies such as IOSCO, and the Financial Action Task Force (FATF) to name a few.

Contagion Risk and the Vulnerability of Small States

The standards established by the international standard setting bodies reflect a desire to strengthen and protect the global financial system. The pressure on small states to comply with these standards comes from an acknowledgement that contagion emanating from emerging markets can have a major adverse impact on the more developed markets.

The East Asian crisis not only affected the financial markets of South Korea, Thailand, and Indonesia but also severely hit the United States and Japan. In the U.S. the Dow Jones industrial plunged 554 points or 7.2% on October 27,1997 amid growing concerns about the East Asian crisis. The crisis also led to the suspension of trading on the New York Stock Exchange. Japan's GDP real growth rate slumped dramatically from 5% to 1.6% in 1997 before the economy went into recession in 1998.

If large economies are not immune to contagion risk what about small states such as ours? Based on figures reported in the World Economic and Financial Surveys published by the IMF, the aggregate GDP of Caricom member states in 2001 amounted to approximately 0.11% of the entire global economy. Our combined population amounts to approximate 0.19% of the world population.

By any standard or measure the Caribbean is a collection of small states. Notwithstanding this fact we cannot be ignored.

Impact of International Standard Setting Bodies

Why do I confidently say that we cannot be ignored? In the first place, as the events of 9/11 have underscored the actions of a few, can have very serious implications for the global economy of which we are a part.

The Caribbean needs to play its **part** in combating terrorism by ensuring that funds waiting to be used in financing terrorist acts do not find safe harbor within our jurisdictions.

The prospect of our financial institutions being used as channels for terrorist financing is not the only reason why we cannot be ignored. The Parmalat scandal - potentially the largest of the recent major corporate scandals - had a significant Caribbean connection.

Parmalat was a publicly listed Italian dairy food giant, which was reputedly Italy's eighth largest industrial empire. The company's owners employed fraudulent devices to create a favorable but false impression of the conglomerate's financial condition. The centre piece of the deceptive scheme involved a Cayman Islands registered subsidiary of Parmalat which purportedly held US$4.98 billion in a Bank of America account. This $4.98 billion (or 38% of Parmalat's reported assets) did not exist as the owners of the company had over a decade been siphoning off the company's assets while simultaneously inflating the asset base reported in its published accounts in order to deceive investors and cover-up their fraud.

Money laundering, terrorist attacks and corporate scandals are evils which threaten the orderly and safe operation of the global financial system which is integral to the health of the world economy. The enforcement of international standards has become a key weapon in combating these evils. Some of the key international standards in existence that are of particular importance to securities markets and their regulators include:

- Objectives and Principles of Securities Regulations issued by IOSCO
- The Principles of Corporate Governance issued by the Organization for Economic Cooperation and Development (OECD)
- International Financial Reporting Standards issued by the International Accounting Standards Board (IASB)
- International Standards on Auditing issued by the International Federation of Accountants (IFAC)
- Core Principles for Systematically Important Payment Systems issued by the Committee on Payment and Settlement Systems (CPSS) and
- The Forty Recommendations of the FATF on Money Laundering

There are costs to be incurred in ensuring full observance of these standards since compliance often requires enactment of legislation and the creation of or enhancement of local institutions to enforce compliance.

I would submit to you that non-observance of these standards has a higher cost than the cost of observance. The reason I say this is that non-observance of a particular standard can result in any of or all of the following adverse outcomes:-

- lower rating of a country's sovereign debt than would occur if the country was in full compliance with a standard
- reluctance of the international financial community to invest capital in an economy which is not in compliance with international standards
- stigma being attached to a country due to its appearance on a "black" list of un-cooperative jurisdictions, e.g. the FATF and OCED lists of non-cooperative countries and territories, for failure to observe international standards
- and finally the inability of a government to raise hard currency funds on the international market due to all or some of the above.

THE CASE FOR AN ASSOCIATION OF CARIBBEAN SECURITIES REGULATORS

In closing I would like to set out the case for the creation of a formal association of Caribbean Securities Regulators.

Firstly, by combining and coordinating our efforts we can have a larger voice in the international arena than would be possible if we individually act alone. I have already stated that we in the Caribbean, along with pther emerging markets, need to be more proactive in ensuring that the international standard setters do not seek to impose upon us standards which would stifle the growth and development of our economies.

Secondly, I believe there is much we can learn from each other's experience in securities market regulation. We have similar but not identical experiences and I am convinced that there are potential synergies which can best be exploited through the erection of a formal regional association.

Thirdly, with the Caribbean Single Market and Economy (CSME) implementation imminent there is an urgent need for us to eliminate the prospect of regulatory arbitrage resulting from jurisdictional differences in the intensity of securities market regulation and enforcement. CSME once in effect will potentially allow for the unrestricted flow of services, including those provided by securities business and professionals, across the Caribbean. **A** formal association of the securities regulators in the region can foster the elimination of the regulatory arbitrage I have described.

Fourthly, there is already increasing cross-border activity traversing the respective jurisdictions in our region arising from the cross-listing of the securities of Caribbean corporations on the regional exchanges and the acquisition of domestic financial service providers by foreign Caribbean nationals. For this increased cross-border activity to be properly mopitored and regulated by the Commissions there needs to a framework for inter-jurisdictional cooperation and information sharing which can be established through the creation of multi-lateral memorandums of understanding. **A** regional association would serve to promote the implementation of a framework for cooperation and information sharing.

Finally, with increasing pressure being placed on us to observe international standards a regional association can facilitate the process of transforming our jurisdictions to the status of fully compliant countries and territories. Significant preparatory work is required to make a jurisdiction fully compliant including carrying out self-assessments, developing action plans and drafting legislation. An effective regional association can be a source of strength to individual jurisdictions in carrying out this preparatory work in a timely and cost effective manner.

I urge us all then to redouble our efforts in seeking to make a regional association of Caribbean Securities Regulators a reality of which we can be proud.

In closing I wish once again to thank the TTSEC for having organized this conference and for having invited me to participate in this opening session. I look forward with keen anticipation to the discussions over the next few days.

Thank you ladies and gentlemen.