

**OBJECTIVES AND PRINCIPLES FOR CORPORATE GOVERNANCE IN  
TRINIDAD AND TOBAGO AND THE CARIBBEAN**



***Trinidad and Tobago Securities and Exchange Commission***

***Address by the Chairman & CEO- Osborne Nurse***

***at the CHAIRS' Forum 2008***

***Flamingo Room, Hilton Trinidad & Conference Centre***

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I would like firstly to thank the UWI School of Business and Applied Studies (ROYTEC) for hosting this Forum and for inviting me to participate in it as the Securities Regulator.

Much of the discussion on the subject of Corporate Governance goes directly to issues such as the role and function of the Boards of Directors of companies and their relationships with the management, staff, shareholders and other stakeholders of the company. Indeed this focus is clearly important in today's event and is reflected both by the feature presentation and by the composition of this Panel.

I have been asked to comment on the issue of Corporate Governance as a participant in the securities market and within the context of the current international financial crisis which it is feared, will produce a deep and extended recession in the United States with consequential effects on the rest of the world, including, of course Trinidad and Tobago. I believe that it would perhaps be useful to approach my comments from two perspectives.

Firstly, I would like to briefly outline some principles of Corporate Governance from the perspective of the Regulator and secondly I would like to take what I might describe as a "macro" view of the subject, particularly from the perspective

of the crisis about which a number of commentators in Trinidad and Tobago have been issuing pretty dire warnings regarding future developments in this country.

In 2005, banking and securities regulators in the Caribbean undertook a series of consultations and meetings designed to produce a statement of Corporate Governance Principles for Caribbean Countries. As far as I am aware the resulting Draft Principles have not been made part of specific legislation or even operating principles by any Government and I am hopeful that the reference in the invitation that I received to this Forum is an indication that that situation will shortly be changed in Trinidad and Tobago.

The Caribbean Regulators outlined six (6) broad principles of Corporate Governance that I would like to briefly summarise

Principle 1 sets out the overall objective of Corporate Governance Principles as follows:

***The Corporate Governance Framework within the Caribbean should encourage the development of transparent and efficient markets, have its basis in the rule of law and ethical business practices and foster the division of responsibilities among supervisory, regulatory and enforcement bodies.***

Clearly the development, operation and application of Corporate Governance standards are intended to provide for the development of a market that is both transparent and efficient and for a regulatory and enforcement regime, to ensure its effective operation all within an effective legal framework.

***Principle 2 – Shareholder Rights***

***The Corporate Governance Framework should protect and facilitate the exercise of shareholder rights.***

These include the right to obtain relevant and material information on a timely and regular basis, to participate in fundamental changes in the business, and the right to a transparent regime for changes in corporate control.

***Principle 3 – Equal treatment of Shareholders***

***The Corporate Governance Framework should ensure the equitable treatment of all shareholders, including minority and foreign shareholders. All shareholders should have an opportunity to obtain effective redress for violation of their rights.***

Included within this principle are provisions for the strict prohibition of illegal insider trading and provisions for the disclosure of all kinds of conflicts of interests.

***Principle 4 – Rights of Other Stakeholders provides for the recognition, under law, of the rights of stakeholders to participate and cooperate in creating wealth, jobs and the sustainability of financially sound enterprises.***

This principle is intended to apply not only to publicly listed companies but also explicitly to state owned enterprises and to family owned businesses. The concept of Corporate Social responsibility emerges from this principle.

***Principle 5 – Disclosure and Transparency***

***The framework should ensure that timely and accurate disclosure is made on all material matters relating to the entity, including its financial situation, performance, ownership and governance***

Disclosure and transparency form the bedrock of securities regulation and our focus on these issues as the Regulator emanates directly from this principle.

### ***Principle 6 - Board Responsibilities***

***The framework should ensure the strategic guidance of the entity, the effective monitoring of management by the Board, and the Board's accountability to the entity and to stakeholders.***

These principles effectively form the foundation for the regulatory system that has been introduced and that operates in Trinidad and Tobago. Both the Companies Act, 1995 (“the CA”), as well as the Securities Industry Act, 1995 (“the SIA”), address corporate governance to some extent particularly with respect to the requirement for statutory filings which fall under Principles 2 and 5. The SIA, its bye-laws and guidelines also stipulate disclosure requirements to facilitate a fair and transparent environment for investors. For example, the SIA provides for reports to be filed with the Commission annually, pursuant to section 66 and it also provides for the periodic filing of material change events and decisions. The CA provides for the disclosure of the holdings of directors of public companies pursuant to section 179.

In keeping with the requirements of Principle 3 on equal treatment of shareholders section 122 of the SIA, empowers a reporting issuer to require a member to disclose its shareholding whether as beneficial owner or otherwise within a reasonable timeframe . This is part of an important insider reporting regime (Part

IX of the SIA) which ensures that a person connected with a reporting issuer or an "insider" does not conduct trades based on price sensitive and unpublished information which would place another trader or investor in an unfair or inequitable position.

The Proposed SA, which is currently under consideration by the Government, seeks to strengthen the reporting and disclosure requirements as well as the provisions relating to insider trading and market manipulation because strong corporate governance along these lines, among other things, fosters confidence by providing for appropriate levels of transparency and availability of information. Efficient markets are based on information symmetry.

Among the principles that I have outlined, the last, Principle 6 on Board Responsibilities is the one that obviously has the greatest recognition among the general public and the corporate world. But I think it is important to emphasise that it is only one of the principles and that the concept of corporate governance has both macro and micro application.

Allow me therefore to spend a few minutes on a macro approach to corporate governance in the context of the current financial and impending economic crises.

There are those who fear catastrophic consequences for Trinidad and Tobago from this crisis. They are suggesting that severe economic and financial disaster is likely to overtake us. However, these fears remain ill-defined, as no one has clearly stated what are the risks we face and what are the remedies needed. Some have advanced the view that we are suffering from several ills. We are ill-prepared for this disaster, and ill-equipped to handle it, lacking both the experience and expertise.

Consider this scenario:

Rising inflation – double digits; Commodity prices, especially oil, falling sharply; stresses and closures among financial institutions resulting in huge reductions of profits among banks; poorly performing loan portfolios; specifically poorly performing mortgage loan portfolios; increasingly insistent demands for the central government to significantly reduce public spending; sharp declines in manufacturing output and exports; shortages of foreign exchange....

The United States in 2008? The UK? Or does this describe the impending local scenario of which so many current commentators are warning the Trinidad and Tobago public?



The truth is that the scenario that I have outlined describes Trinidad and Tobago a mere 20 or so years ago. In the mid 1980's financial institutions failed, some were nationalised, a mortgage crisis emerged, oil prices fell, foreign exchange scarcities emerged, and inflation reached double digits – all the possible worst case scenarios emerged.

That we not only dealt with the situation that we faced but we currently have not been significantly affected by the first wave of the United States and global crisis redounds to the significant strengthening of governance and the application of the governance principles that I have outlined here this afternoon. For example, government eventually restrained spending, inflation was reduced, the financial sector was restructured in much the same way as the US, UK and other countries are seeking to do today, the regulatory framework was significantly strengthened – the Financial Institutions Act was passed in 1993 and the Securities Industry Act in 1995 – and banks and other corporations took a much more serious and concerted approach to improving corporate governance including their risk assessment and risk management practices.

Many of us in this room and many more who are not present today participated in the strengthening of governance in Trinidad and Tobago that led to our recovery and nearly 20 years of sustained prosperity. Can we say that we do not know what

to do and how to do it? I reject outright such an assessment. What we are witnessing today is that the very strategies to arrest the problem and lay the groundwork for recovery that were applied in the mid-80's in Trinidad and Tobago are currently being applied in the global economy thereby restating, re-establishing and revalidating their soundness.

Comments therefore that the improvements in regulation that will undoubtedly emerge – in the form of revisions of the Financial Institution Act, the Securities Industry Act, the Insurance Act and the Pensions Act – will stymie the growth of the financial sector and financial innovation are clearly unsustainable in the face of our own history and the current state of the markets.

I end by commending ROYTEC once again for hosting this Forum and inviting me to participate in it and by recommending to the national community the importance of observing and implementing the principles of governance that I have today outlined. We have the capacity, the experience and the skills to do the job – however difficult and however long it might take – that may lie ahead of us.

Thank you,