

OPENING REMARKS
AT THE PUBLIC CONSULTATION ON
EMPLOYEE STOCK COMPENSATION PLANS [ESCPs]



Trinidad and Tobago Securities and Exchange Commission

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Teak Room, Crowne Plaza Hotel- Port of Spain

July 7, 2009

On behalf of the Securities and Exchange Commission I am very pleased to welcome you this morning to this consultation on our regulatory proposals for Employee Stock Compensation Plans operating here in Trinidad and Tobago (from time to time I will refer to them as ESCPs). This event is in keeping with the standard approach followed by the Commission whenever we are seeking to introduce any new form of regulation. We are practical and experienced enough to understand that the process of making good regulation requires a dialogue between the regulator, the regulated community and, of course, those who are intended to benefit from the proposed regulation. For this reason we are very pleased to have in our audience this morning so many corporate sponsors and potential sponsors of Employee Stock Compensation Plans, as well as members of the accounting and legal fraternities who provide key support services to the operations of these plans.

For some considerable time equity-linked compensation plans have been the major source of issuance of new shares registered by the Commission and coming onto the local stock market. Over the four-year period 2005-2008 a total of 125 such issues were registered by the Commission and these accounted for a total volume of 54.4 million shares with an aggregate value of \$215 million. Over that period eleven (11) reporting issuers issued equity securities under these plans. In the current financial year, that is, since October 2008 there have been four (4) additional issues amounting to 345,907 shares with an aggregate value of \$6.5 million. The importance this type of activity to the life of the market is underscored

by the fact that, if one excludes the extraordinary issues that that occurred in the context of the RBTT transaction last year, in reality there has been a virtual drought in new issue activity on the market in both volume and value terms.

The dialogue between the Commission and the market with regard to the regulation of Employee Stock Compensation Plans has been ongoing for quite some time. Many of you would recall a meeting in November 2007 – some twenty months ago - at which the then Chairman of the Commission, Mr. Osborne Nurse, reviewed some of the issues and considerations that were before the Commission as it contemplated a regulatory regime for ESCPs. High on the list were the concerns articulated by certain foreign-owned companies who were willing and ready to extend access to their employee stock option plans to locally based staff. However, these companies saw as a deterrent the existing regulatory requirements for equity issues which took no particular account of their special circumstances.

The fact of the matter is that there was nothing by way of specific regulations or guidelines to address the operation of equity based compensation schemes of any kind, whether local or foreign. This lacuna in our regulatory framework meant that, in the case of locally established plans, while the normal requirements for the registration of equity issues were applicable, there was a considerable shortfall in

plan-specific disclosure and reporting, subsequent to the shares being initially registered for issue under the plan.

In the case of ESCPs established or intending to be established by multinational companies the concerns were somewhat different, and revolved mainly around the duplicative nature of the regulatory demands faced by these companies, given the fact that they operated in more than a single jurisdiction. In a number of cases of which we are aware the disincentive effect arising from this situation has been sufficient to deter or place in abeyance the decision by some multinational companies, operating mainly in the energy sector, to extend their ESCPs to their local employees.

It should be immediately obvious that such a solution is in the best interest of neither the employee nor the country given that citizens of Trinidad and Tobago for the most part have no easy or practical alternative way of sharing directly in the benefits of ownership of the country's energy resources. Against the backdrop of these concerns as well as those to which I referred earlier, the Commission has sought to develop a regulatory framework that is sensitive to the needs of the market while maintaining the high regulatory standards necessary for the protection of investors and for safeguarding the integrity of our securities market.

It should come as no surprise that the regime we are proposing for the regulation of ESCPs places a high reliance on requirements for disclosure and for compliance with these requirements. It is through the instrument of disclosure that the Commission sees itself best able to fulfill its function and purpose of the protection of investors. Investor protection is based primarily on ensuring that investors understand the risks that are attendant on investments in securities, and on ensuring that adequate and timely information is provided on the performance of the securities themselves and/or of the issuers of the securities.

Those of you who may be familiar with the proposed new Securities Act, which is currently before Parliament, would be aware of the primacy that has been assigned to enhanced disclosure in the impending new regulatory dispensation. Also embedded in the Act are other key principles of regulatory cooperation and mutual reliance which provide the basis on which we have premised the regime that we are now proposing for foreign ESCPs. Essentially what this means is that, in providing for the regulation of foreign ESCPs, the Commission is prepared to place a considerable degree of reliance on the fact that the issuers of shares under these plans originate and are regulated in reputable foreign jurisdictions in which the Commission has confidence.

I will leave it to the presentation by my colleague Mr. Kurt Headley to explain the details of how these considerations have shaped the guidelines for the regulation of ESCPS.

Thank you very much for your attention.

