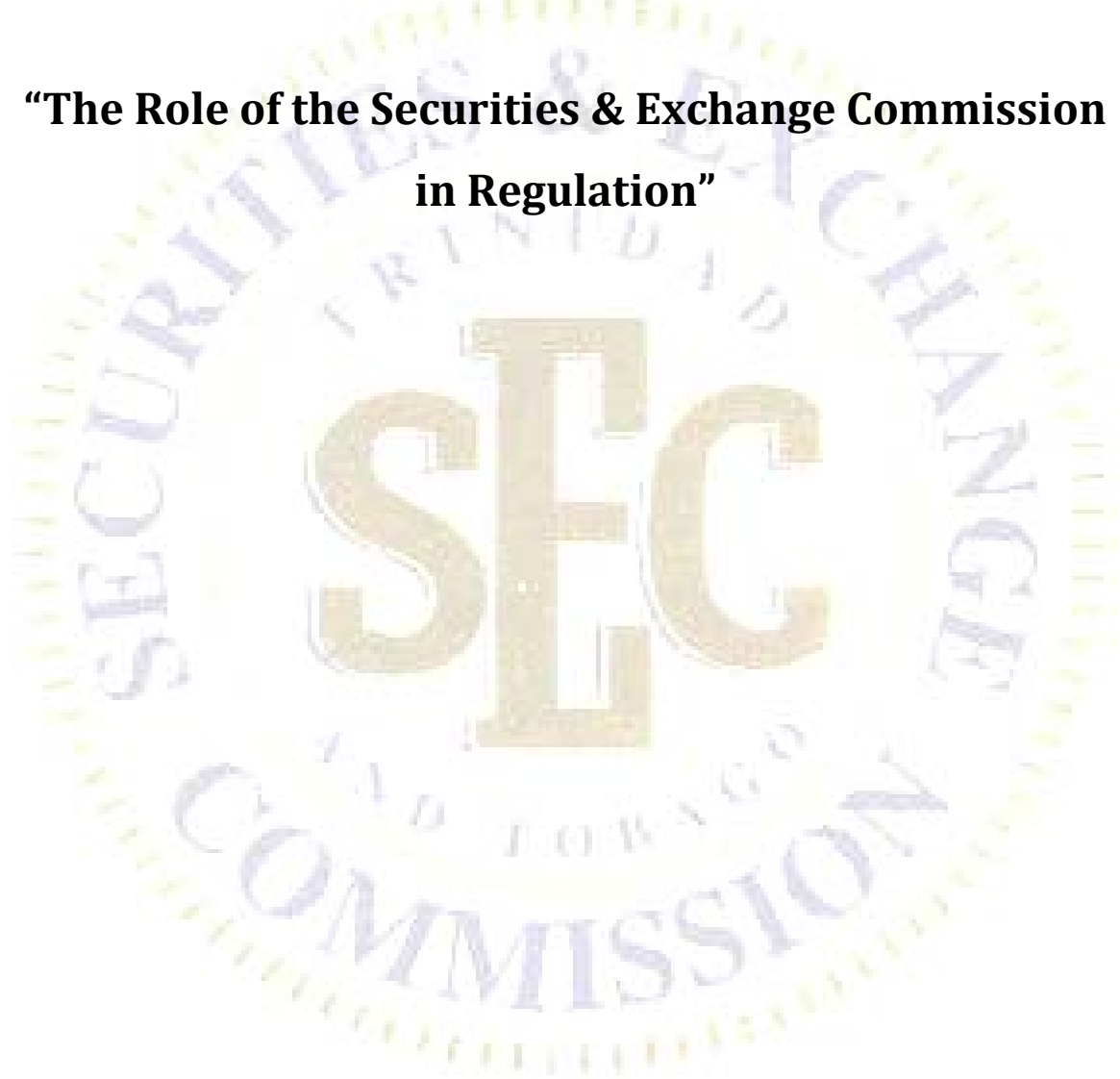


Trinidad and Tobago Securities and Exchange Commission

**Feature Presentation at the Institute of Internal Auditors –
22nd Annual General Meeting**

**“The Role of the Securities & Exchange Commission
in Regulation”**



Address by the Chairman- Ms. Deborah Thomas-Felix

Arthur Lok Jack Graduate School of Business

May 26th, 2010

ADDRESS

Introduction

Good morning Ladies and Gentlemen,

It is my pleasure to be here with you this morning. I do enjoy the opportunity to speak on what I consider to be the importance of the work that the Commission has been doing and continues to do and I thank you for inviting me.

I am sure that we can all agree that most people who are not working in the financial sector will not know or fully understand the work and role of the Securities and Exchange Commission.

The Securities & Exchange Commission (or the SEC as it is called) is an independent agency which is charged with the administration of all the securities laws of the nation. The primary purpose of the SEC is to supervise all activity in the securities industry.

Our role can be likened to that of a gatekeeper of the securities market because we quietly work in the background to ensure that we achieve our three core objectives which are to ensure that markets are fair, efficient and transparent; to reduce systemic risks; and to protect investors.

In essence the Commission serves as the nexus between the regulations which govern the capital market and the socially desirable outcomes which these regulations are intended to achieve.

These three (3) objectives are achieved via the regulation process, which includes registration of market actors, formulation and promulgation of rules and guidelines to guide the actions of participants in the market, monitoring of these participants to ensure compliance, and enforcement in the event of non-compliance. The Commission is structured in such a way as to allow for this process to be conducted effectively and efficiently as is evident from our specialist departments which focus on these key areas namely registration, rule making, monitoring and surveillance and investigation and enforcement.

Registration

One of the key functions of the Commission is the registration of self-regulatory bodies, such as the Trinidad and Tobago Stock Exchange, as well as market actors and the various financial instruments that they offer to investors. Registration with the Commission establishes a market actor's bona fides, in a manner of speaking. You should note that any form of solicitation, advertisement or announcement of securities to the investing public **must** also be approved by the Commission prior to publication.

As I have mentioned, one of our main objectives is to protect investors. One of the ways in which we perform this vital role is by ensuring that investors are provided with all of the necessary information they need with respect to the risks to which they may be exposed when entering the market. This information allows investors to make informed investment decisions with respect to any security. It goes without saying therefore that the principle of full disclosure is an important aspect of the Commission's regulatory regime. In designing disclosure and reporting requirements we strive to strike a balance between a sufficiently robust regime which satisfies the information needs of investors without imposing excessive costs on reporting issuers and market actors. At the most basic level the market actor must provide material information relating to the security to be issued. He must also disclose any risks relating to the security and must divulge his current and proposed operations.

In this regard, the registration process at the Commission requires the submission of offering documents or prospectuses to accompany the issue of a security. These are required to also be provided to the investor and are thoroughly reviewed by the staff of the Commission to ensure that they meet relevant standards.

Rule Making

The Commission functions as a rule-making body and has the authority to formulate adequate rules, laws and guidelines for the operation of the markets, ensuring fairness, efficiency and transparency. The Commission's Rules address several key areas

including the disclosure of information and the monitoring of market behavior as well as unfair trading practices such as insider trading and market manipulation. The proposed Securities Act (SA), when enacted, would strengthen the Commission's ability to effectively address these forms of market misconduct and would impose stricter penalties for them.

We all know that investors may suffer losses from adverse market events such as the failure of a market actor. However the world now knows that such adverse events may not only impact an individual investor but may also have severe repercussions for the stability of the wider capital market. The responsibility is therefore on us as regulators to establish prudential standards which ensure the safety and soundness of financial institutions operating in the market and especially those that hold clients' funds. Prudential regulations therefore serve as a key component in the regulatory process to ensure confidence in the market and preserve the interests of investors. These regulations administered by the TTSEC focus on capital adequacy, although in most developed securities markets regulators also impose solvency and liquidity requirements.

We at the Commission are very mindful of the impact that overly restrictive regulations may have on the growth and development of the capital market and we seek to maintain that delicate balance to ensure that any standards we impose do not unduly impede the operations of the market. As regulators, we aim to ensure that capital and other prudential requirements are sufficiently robust and address appropriate risk taking. Currently the capital adequacy requirements which are provided in our existing legislation are not sensitive to the level of risks undertaken by the firm. Rather, they take the form of fixed minimum levels of capital for the various regulated activities undertaken by licensed market actors and a specific percentage of the value of the securities being underwritten or issued in the case of underwriters and issuers of asset-backed securities. The Commission is therefore seeking to develop a more risk-based capital adequacy framework in line with international standards.

As you know investors are vulnerable to misconduct or fraudulent practices on the part of market actors. The Commission is cognizant of this and is continuously in the process of

establishing principles and guidelines to govern the business conduct of market actors to address these risks. These regulations aim to ensure that firms and their employees adhere to standards of honesty, transparency and integrity and that they act in the best interest of their clients.

I cannot underscore how critical it is for the market to be well regulated and the important role that the SEC plays in this regard.

The effect of the global financial crisis on the US and other developed capital markets has served to highlight the weaknesses or gaps in the regulatory framework of these markets. These regulatory gaps allowed risks present in unregulated or lightly regulated markets to spread to and ultimately impact the stability of the wider financial system. The crisis has therefore underscored the need for a more macro approach towards regulation which should take into account the growing sophistication and interconnectedness of the capital market. While these issues may not be immediate to our market the Commission has nonetheless taken steps in this regard. The proposed SA would expand the regulatory powers and framework of the Commission by ensuring that all regulatory matters relating to the securities market fall under the SEC's purview. The mutual fund industry which has and continues to operate without formal regulation also would be brought under our regulatory net.

Monitoring and Surveillance

I think I have made a case for the need for regulation, the areas where regulatory intervention is necessary and required and the various rules that can be applied by the regulator to bring about the socially desirable outcomes, the most important of which is investor protection. While regulation is a necessary precondition for the achievement of our objectives it is not a sufficient requirement. For regulation to be effective it must be enforced and the regulator must be well equipped to monitor the behavior of market participants and ensure their compliance with the established rules and laws. The regulator must also have the power to require regulated entities to provide information related to its business operations, that is, the power to conduct off-site supervision. Presently, market participants have ongoing disclosure and reporting obligations which generally include the submission of their financial statements. We at the Commission

also have a role to play in reviewing these financial statements for consistency, relevance, reliability and comparability in keeping with the International Organization of Securities Commission (IOSCO) principles.

At present our governing legislation does not permit the Commission to conduct routine on-site inspections and examinations a function which in our view is an integral and critical part of the monitoring and surveillance function of regulators worldwide.

The proposed legislation gives the Commission the power to conduct onsite examinations of market actors which will allow the SEC to better carry out its surveillance function. In keeping with standard international practice for financial sector regulators, the Commission will now be able to examine and review the financial affairs of market actors **whether or not there is a suspected breach of the Act**. In addition the regime for reporting by issuers of securities has been substantially improved under the proposed Act. Reporting issuers must make timely disclosure of financial information to the market, including their annual reports, management discussions and analysis of financial statements. Financial reports must be prepared in accordance with International Financial Reporting Standards.

At present, the Commission uses several tools to effectively monitor market actors. Among these tools is an in house electronic market surveillance system called Stock Market Watch (SMW) that is linked to the Trinidad and Tobago Stock Exchange and that is used, in real time, to monitor trends in the local and regional stock markets. We also use complaints made by the public on market actors, and information from the media, specifically newspaper articles and advertisements from market actors.

Investigation and Enforcement

The final element in the Commission's regulatory process is the ability to enforce laws. An effective regulatory regime requires a strong set of enforcement tools which would minimize the possibility of contraventions. Currently, enforcement is carried out through the use of moral suasion and the application of administrative, civil or criminal sanctions. In keeping with the principles of IOSCO which requires "rigorous enforcement of securities laws" the Commission has sought to strengthen its enforcement regime. The

proposed SA will bring with it significantly higher penalties for a range of contraventions. These include the failure of reporting issuers to file required disclosure documents such as annual reports and audited financial statements within the prescribed timeframes, knowingly filing a false report and market manipulation. The fines of insider trading would increase from \$200,000 on indictment to a fine of \$2,000,000 on indictment in addition to disgorgement, in which the offender would also be required to compensate investors for the profit made or loss avoided.

Investor Education

As I previously indicated, one of the main objectives of the Commission is the protection of investors. As part of our continued efforts in this area; the Commission is actively involved in investor education programs, both individually and in some cases in partnership with the Central Bank. And recently we have been holding talks with the Tobago House of Assembly to lend assistance to their financial literacy drive in Tobago. The aim of these programs is to enable investors to make informed personal investment decisions; and to educate them about recognizing and avoiding the risks and pitfalls which may exist in the market in the form of scams and fraudulent investment schemes.

An informed investor will be watchful for fraud and market abuse thereby promoting market discipline and of course such an investor is a potential source of information to the Commission, on any fraudulent practices in the market place.

Working with the Internal Auditor

The role of the Trinidad and Tobago Securities and Exchange Commission is in some ways similar to that of the internal auditor. We at the Commission seek to deter and investigate any instance of fraud, which is also an important responsibility of the internal auditor. We ensure compliance with existing laws and regulations, as you do in your individual companies, working together with, and yet independent of your management and board members, which is similar to what we do with our market actors. The internal auditor's main responsibility is to monitor his company's financial reporting process and its internal control systems while he maintains an independent and objective approach. In this regard, the internal auditor becomes a repository of information on fraud and irregularities within his company and he monitors and evaluates the existing risk

management processes within the company. Not unlike the function which we perform at the Commission.

Aside from our similarity in roles, the work of the internal auditor is of special interest to the Commission.

Together with external auditors and accountants, it is the duty of some internal auditors to prepare financial statements in accordance with international accounting standards and to provide a comprehensive, relevant and accurate picture of the financial performance of the firm. Moreover, the internal auditor is responsible for reviewing the findings of any examinations carried out by the SEC and to communicate these findings to the management of his company while ensuring that they are acted upon. The internal auditor therefore has a duty to ensure that there is compliance with relevant laws and regulations of the Commission.

In our interaction with the market we encourage market participants to adopt globally-accepted standards, so that organizations can improve the effectiveness of their internal auditing function.

With the advent of the new legislation you will witness the Commission's proactive approach to the conduct of onsite inspections. For internal audit departments, an understanding of the Commission's investigatory process provides you with the opportunity to ensure that you comply with the provisions of the legislation.

You, as internal auditors, are very important to the Commission. The effective performance of your mandate assists us in no small measure in the successful execution of the Commission's mandate, which in the end can only redound to the benefit of your company, the market and society as a whole.

Conclusion

I am sure that you will agree that the increasing complexity of the market and the growing level of risk faced by market participants have made the job of the securities regulator even more critical.

As internal auditors you are in the business of risk management at the level of your individual companies and there is clearly some complementarity between your own mandate and that of the Commission.

The Commission remains committed to promoting polices and rules which would ensure disclosure and transparency in the capital market, leading ultimately to a stable market that is attractive to investors. We recognize and appreciate the work which you have done as you seek to ensure good corporate governance within your companies.

I am confident that by your efforts you will continue to play a pivotal role in the promotion of an efficient and effective capital market here in Trinidad and Tobago.

I wish to extend best wishes to you from the Board and Staff of the Commission and I thank you.

