



TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE  
COMMISSION

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PROPOSED REVISED  
GUIDELINE FOR THE DE-  
REGISTRATION OF  
REPORTING ISSUERS AND  
COLLECTIVE INVESTMENT  
SCHEMES

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AUGUST 2015

## PREFACE

*The Trinidad and Tobago Securities and Exchange Commission (“the Commission”) is pleased to inform you that a proposed revised Guideline for the De-registration of Reporting Issuers and Collective Investment Schemes (“Guideline for De-registration”) has been released for public comment in accordance with section 147 of the amended Securities Act, 2012 (“the SA 2012”).*

*The previous Guideline on de-registration was implemented under the Securities Industry Act 1995 which has since been repealed and replaced with the SA 2012. This proposed revised Guideline for De-registration is meant to make the Guideline consistent with the provisions of the SA 2012 as well as address certain inefficiencies in the Guideline for De-registration. The scope of this revised Guideline has also been broadened so that it outlines a process for the de-registration of Collective Investment Schemes (which was not part of the original guideline).*

*We therefore invite you to review and provide feedback on the Guideline for De-registration. Written comments and feedback on the Guideline for De-registration can be addressed to:*

*Mr. C Wainwright Iton  
Chief Executive Officer  
Trinidad and Tobago Securities and Exchange Commission  
57 – 59 Dundonald Street  
Port of Spain*

*Written comments and feedback may also be sent via electronic mail to the following address: [comments@ttsec.org.tt](mailto:comments@ttsec.org.tt). The deadline for submission of comments and feedback is September 7, 2015.*

*We look forward to your participation. Should you have any questions or concerns, please contact us via the electronic mail address listed above.*

## **Introduction**

In 2009, the Commission issued its first Guideline for the De-registration of Reporting Issuers (“the Guideline”). This Guideline was issued under the Securities Industry Act, 1995 (“the SIA 1995”). Since then the Commission has processed several applications for de-registration of reporting issuers using this Guideline. In addition it must be noted that, while the Guideline did not specifically address applications for de-registration of Collective Investment Schemes (“CIS”) that were not reporting issuers, the Commission has used the principles outlined in the Guideline as the basis upon which it has processed those applications for de-registration.

Given that the SIA 1995 was repealed and replaced by the Securities Act, 2012 (“the SA 2012”) and some operational and logistical issues which were experienced using the Guideline, the Commission is amending the original Guideline to address these issues as well as to ensure that it is consistent with the provisions of the SA 2012.

## **LEGAL FRAMEWORK**

The purpose of this revised Guideline is to clarify and outline the process for de-registration of reporting issuers and CIS that are not reporting issuers under the SA 2012.

- **Authority to de-register**

Section 71(1) of the SA 2012 provides the Commission with explicit power to *Order* that an issuer is no longer a reporting issuer. Further, section 155(1A)(e) of the SA 2012 gives the Commission broad powers to make *Orders* on matters that are not contrary to the public interest and are required to carry out the purposes of the SA 2012. Section 155(1A)(e) of the SA 2012 can therefore be used as the basis upon which the Commission can *Order* that a CIS is no longer registered with the Commission.

- **Requirement for Hearings**

Section 159(1) of the SA 2012 provides that before making an Order, the Commission must hold a hearing. The requirement to have a hearing before making an Order may be waived in accordance with section 159(10) of the SA 2012 for:

- (i) an order that is essentially procedural;
- (ii) an order that does not adversely affect the rights or interests of any person;
- (iii) an interim order or other order that the Commission may make under this Act without holding a hearing under this section; or
- (iv) an appointment that is made under section 150.

- **Publication Requirements**

Sections 159(9), 159(11) and 159(12) of the SA 2012 identify certain publication requirements that the Commission may be required to satisfy when it makes an Order. Whenever the Commission makes any Order authorising the de-registration of a reporting issuer or CIS it will need to determine whether it is required to comply with the applicable publication requirements of these sections of the SA 2012.

## REVISED PROCESS FOR DE-REGISTRATION

The following is an outline of the process and prerequisites for de-registration under the SA 2012 that will be applicable to Reporting Issuers and CIS:

### 1. Submission of Application

Where a reporting issuer or CIS is desirous of being de-registered, it must submit an application in writing to the Commission. This application must be accompanied by the Form (in the Appendix to this Guideline) as well as the prescribed fee of TT\$1,000.00 as outlined in Schedule 1 of the Securities (General) By-Laws, 2015. The applicant for de-registration will also be required to include with the application:

- a. documentary evidence that the securities that were issued by the Reporting Issuer or CIS-
  - i. are no longer listed for trading on any securities exchange in Trinidad and Tobago. Alternatively, the applicant may supply documentary evidence that an application for the de-listing of these securities has been submitted to the relevant securities exchange; and
  - ii. have been redeemed, repurchased or cancelled by the issuer. This documentary evidence should as far as possible be from an independent third party such as the registrar, trustee, custodian or paying agent for the securities of the issuer or CIS; **or**
  - iii. are held by fewer than thirty-five investors in Trinidad and Tobago. In the event that the securities of the applicant are held by fewer than 35 investors in Trinidad and Tobago, the applicant will be required to include documentary evidence in its application to show that these remaining shareholders were provided with:
    1. written notification of the applicant's intention to seek de-registration and the reason(s) therefor;
    2. an opportunity to sell the securities which were issued by the applicant and which they own;
    3. written explanation of the consequence for investors in the event that they do not utilize the opportunity to sell their securities and the application for de-registration is successful. This explanation should at minimum explain the protections afforded to investors in Trinidad and Tobago as a result of the applicant maintaining its registration with the Commission;
    4. written confirmation of what disclosures they will receive and/or how their accounts will be serviced in the event that they retain their investment in the applicant.  
Documentary evidence of the foregoing must be included in the application for de-registration.
- b. Written confirmation that it has remitted any outstanding fees, penalties or fines to the Commission.

- c. What, if any, exemptions from the continuous disclosure requirements of the SA 2012 it may be seeking and the reason(s) therefor.

Where the Commission is desirous of de-registering an issuer or CIS on its own motion, it must publish a notice to this effect in accordance with item 3(b) below.

**2. Initial Review of Application** – In addition to reviewing the adequacy of the documentation referred to in item (1) above, staff of the Commission will also consider the following in assessing whether to recommend that the Commission approves the application for de-registration:

- a. Whether the applicant is a respondent in any pending enforcement action being taken by the Commission; and
- b. Whether the applicant is in default of any of its continuous disclosure obligations under the SA 2012.

**3. Preliminary Feedback and Publication of Advertisement**

Upon completion of its review of the application for de-registration, staff of the Commission will inform the applicant in writing as to whether:

- a. there are any outstanding issues that need to be addressed in order to proceed with the application;
- b. the applicant can proceed to publish the required advertisement to advise the public that the issuer or CIS is seeking de-registration. This advertisement must also:
  - i. provide the public with a two week period within which they may lodge written concerns with respect to the application for de-registration with the Commission; and
  - ii. be published in two daily newspapers in Trinidad and Tobago for a period of two weeks, on at least two days in each week; and
- c. given the circumstances of the application, a *request* will be made to the Commission to exempt the Issuer or the CIS from compliance with any continuous reporting obligations that may arise, or would have arisen during the time that the application for de-registration was forwarded to the Commission, and the final consideration of that application by the Commission. Applicants are asked to note that this undertaking must *not be considered as an approval* by the Board of the Commission for an exemption from the requirement to comply with any continuous disclosure requirements of the SA 2012.

**4. Consideration of Application** –

In the event that:

- a. there are issues which are identified by members of the public in response to the advertisement mentioned at 3(b) above, staff of the Commission will liaise with

both the applicant and the members of the public to address those concerns. If those concerns:

- i. cannot be addressed, then the Commission will hold a public hearing in accordance with Section 159(1) of the SA 2012 to provide anyone who is likely to be affected by any Order authorising the de-registration with an opportunity to be heard. After holding the hearing, the Commission will determine whether it will approve the application for de-registration.
  - ii. are addressed to the satisfaction of the applicant, the person(s) who raised the concern, and the Commission, then the Commission will be asked to determine whether it will approve the application for de-registration without having a hearing.
- b. no issues are identified in response to the advertisement, then the Commission will be asked to determine whether it will approve the application for de-registration without having a hearing.

The Commission may approve the application for de-registration subject to any conditions that it deems appropriate. For example, the approval may be subject to the closure of any pending enforcement action being taken by the Commission against the issuer or CIS.

If the application for de-registration is approved, the Commission will issue a formal Order confirming that the application was approved and that the issuer or CIS has been de-registered. If the application is not approved, the applicant will be informed of this (as well as the reasons that the application was denied) in writing.

**FORM NO. \*\***

**Application for Removal of Reporting Issuers or Collective Investment Schemes from the Register of the Commission**

<b>General Instructions:</b>	<p>Please complete all relevant sections. Where the allocated space is insufficient, you may continue on a separate page and attach to the completed form. All supporting information and attached pages should be appropriately numbered and referenced. See detailed list of required attachments.</p> <p>This form and any attachments should be certified by the Chief Executive Officer and two directors of the Applicant. Where the Chief Executive Officer is unavailable to sign the form, the form should be signed by any other duly authorised senior officer whose proof of authorisation must be submitted with this form.</p> <p>Completed Forms should be submitted to: The Director Disclosure Registration and Corporate Finance Trinidad and Tobago Securities and Exchange Commission 57-59 Dundonald Street Port of Spain Trinidad</p>
<b>Item 1</b>	State the name of the Reporting Issuer or Collective Investment Scheme that is seeking de-registration.
<b>Item 2</b>	Please mark “x” by the relevant checkbox to indicate the manner in which the applicant is incorporated or organized and whether the applicant is a local or foreign entity. If the applicant is a foreign entity please state the jurisdiction in which it is incorporated or organized.
<b>Item 3</b>	State the date of the applicant’s incorporation or organization.
<b>Item 4</b>	State the applicant’s principal business address, website, telephone numbers, email addresses and fax numbers.
<b>Item 5</b>	If the Applicant is not incorporated or organized in Trinidad and Tobago, state the Applicant’s address for Service of Process in Trinidad and Tobago, as well as its telephone and fax numbers.
<b>Item 6</b>	Please mark “x” by the relevant checkbox to indicate the type(s) of registration the applicant holds with the Commission and state the effective date of the registration(s).
<b>Item 7</b>	<p>State the name of and provide contact information for the Designated Officer of the Applicant.</p> <p>Where the Applicant is an issuer which is a Collective Investment Scheme organized in Trust form, provide the full name and job title of a person in the Trustee’s employ who shall be the primary contact with the Commission with respect to the Collective Investment Scheme.</p>

<b>Item 8</b>	Please mark “x” in the relevant checkboxes to indicate what type of securities the Applicant has issued and whether these securities were registered with the Commission. For each type of security that the Applicant has issued, please confirm whether those securities have been repaid, repurchased, cancelled, matured or remain outstanding.
<b>Item 9</b>	<i>This item is only applicable to Applicants that are Collective Investment Schemes with multiple Sub-Funds.</i> Please state the name of the Sub-Funds in respect of which de-registration is being sought.
<b>Item 10</b>	Please mark “x” in the relevant checkboxes to respond either “Yes” or “No” to each question. If your response is “Yes”, please provide full details with respect to that question.
<b>Item 11</b>	Please provide any additional information which may be used to establish the Applicant’s qualification and suitability for de-registration.
<b>Item 12</b>	<p>Date the form. Where the applicant is:</p> <ul style="list-style-type: none"> <li>• constituted in corporate form, include the signature of the Chief Executive Officer <i>and</i> two directors of the Applicant. Where the Chief Executive Officer is unavailable to sign the Form, the Form should be signed by any other duly authorized senior officer whose proof of authorization must be submitted with this form.</li> <li>• constituted in Trust form, include the signature of the Trustee or a person duly authorized by the Trustee to sign the Form.</li> </ul>



**FORM NO. \*\***

**Application for Removal of Reporting Issuers or Collective Investment Schemes from the Register of the Commission**

1. NAME OF REPORTING ISSUER/CIS

Name of Applicant/Reporting Issuer/CIS

2. COMPANY PROFILE

<b>Form of Incorporation or Organisation</b>	
Publicly Owned Company	<input type="checkbox"/>
Privately Owned Company	<input type="checkbox"/>
State Owned Entity	<input type="checkbox"/>
Collective Investment Scheme constituted in Trust Form	<input type="checkbox"/>
<b>Jurisdiction of Incorporation or Organization</b>	
Local	<input type="checkbox"/>
Foreign	<input type="checkbox"/>
If "Foreign" above, please Specify below:	

3. DATE OF INCORPORATION OR ORGANIZATION

Date of Incorporation (dd/mmm/yyyy)	
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4. CONTACT INFORMATION FOR APPLICANT

Primary Business Address			
Work Phone (1-xxx-xxx-xxxx)		Fax Phone (1-xxx-xxx-xxxx)	
Website Address		Email Address	

5. ADDRESS OF APPLICANT FOR SERVICE OF PROCESS

**Applicable if the applicant is NOT incorporated in Trinidad and Tobago**

Local Business Address			
Work Phone (1-xxx-xxx-xxxx)		Fax Phone (1-xxx-xxx-xxxx)	

6. CATEGORY OF REGISTRATIONS HELD

Type of Registration		Date of Registration
Broker Dealer	<input type="checkbox"/>	
Investment Adviser (only)	<input type="checkbox"/>	
Underwriter	<input type="checkbox"/>	
Reporting Issuer	<input type="checkbox"/>	

7. DESIGNATED OFFICER INFORMATION

Name (First Name, Middle Name, Last Name)	
Position in Organization	
Residential Address	
Home Phone (1-xxx-xxx-xxxx)	
Work Phone (1-xxx-xxx-xxxx)	
Mobile Phone (1-xxx-xxx-xxxx)	
Email Address	

8. DETAILS OF SECURITIES DISTRIBUTED BY APPLICANT

Type of Security	Issued by Applicant?	Registered with the Commission?	Status of Security(ies)
Equity	<input type="checkbox"/>	<input type="checkbox"/>	
Debt	<input type="checkbox"/>	<input type="checkbox"/>	
CIS	<input type="checkbox"/>	<input type="checkbox"/>	
Other	<input type="checkbox"/>	<input type="checkbox"/>	

9. NAME OF SUB-FUNDS TO BE DE-REGISTERED

*Only applicable to Collective Investment Schemes with multiple Sub-Funds*

Name of Sub-Funds to be De-Registered

10. REGISTRATION AND DISCIPLINARY HISTORY

Please answer the following questions in relation to the Applicant/Reporting Issuer/CIS. If your response is “yes” to any question, please provide full details in the space provided or as an attachment to this Form:

	Yes	No	Details
a) Is the Applicant/Reporting Issuer/CIS a respondent in any pending enforcement action being taken by the Commission?	<input type="checkbox"/>	<input type="checkbox"/>	
b) Is the Applicant/Reporting Issuer/CIS in default of any of its continuous disclosure obligations under the Securities Act 2012?	<input type="checkbox"/>	<input type="checkbox"/>	
c) Does the Applicant/Reporting Issuer/CIS have any outstanding registration, market access or other filing fees which are due to the Commission?	<input type="checkbox"/>	<input type="checkbox"/>	

#### 11. OTHER INFORMATION

Please provide any additional information required to establish the Applicant's/Reporting Issuer's qualification and suitability for de-registration

#### 12. DATE, CERTIFICATION AND SIGNATURE

I hereby certify that the statements and information contained in this form and any attachment hereto are true and correct to the best of my knowledge and belief and submitted in compliance with the provisions of the Securities Act, 2012. I understand that any misrepresentation, falsification or material omission of information on this application may result in a breach of the Securities Act, 2012.

<<Signature>>  
 <<Name>>  
 <<Position>>  
 Date:

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 <<Position>>  
 Date:

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 Date: