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TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION

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TTSEC and U.S.SEC

collaborate on training for
the securities industry



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FOREWORD



Professor Patrick Watson,
Chairman of TTSEC

“It is indeed my pleasure to welcome you to another issue of the Commission’s Quarterly Newsletter.”

It is indeed my pleasure to welcome you to another issue of the Commission’s Quarterly Newsletter. Since the last issue, the Commission has experienced some changes, one of the biggest being the departure of Mr. Norton Jack who was Chief Executive Officer (Ag). The Board and staff of the Commission appreciate Norton’s years of service to the Commission and wish him all the best in this new chapter of his career. I expect the new Chief Executive Officer to assume duties within the next few months. Until then, internal arrangements will be made to ensure the smooth flow of operations.

In September, I represented the Commission at the International Organization of Securities Commissions’ (IOSCO) Annual Conference in Luxembourg. As a member of the IOSCO Board until 2014, it is imperative that we attend and fully participate in all activities and lend our voice to the recommendations and resolutions. At this conference, I officially signed the document which allowed us to become a Full Signatory to the IOSCO Multilateral Memorandum of Understanding (MMOU) concerning Consultation, Cooperation and Exchange of Information. Although we were granted Full Signatory status since June 2013, the official signing was made at this Conference.

From September 16-20, the Commission with support from the United States Securities and Exchange Commission (U.S.SEC) hosted an Inspections and Compliance Training Programme which served as a training opportunity for staff of the Commission as well as some local and regional regulators. An Inspections and Compliance Seminar was held for local market actors on September 20 and served to assist them as they prepare for the introduction of on-site inspections. Both events were well attended and I have been advised that the feedback was indeed positive.

The updated draft of the By-laws and relevant forms were made available for comment with the deadline for receipt of comments being October 18. I do hope that all interested persons were able to submit their comments on time.

I commend the staff for the passion and determination that they display in the conduct of the Commission’s activities and assure you that we will continue to work with all stakeholders to achieve our goals and objectives.

In this issue, you will find information on the Inspections and Compliance Training Programme and Seminar, an interview with the U.S.SEC’s Assistant Director of International Affairs, an update on IOSCO, information regarding what constitutes a material change and the legislative provisions regarding on-site inspections.

If you have any concerns or questions about this issue, please do not hesitate to contact the Commission’s Corporate Communications, Education and Information Division.

I thank you for taking the time to read this Foreword and the subsequent articles.

Patrick K. Watson
Chairman

Disclaimer: The information in this Quarterly Newsletter is provided as a service to the market. It is designed to provide information of a general nature and should not be used as a substitute for professional consultation or advice in relation to a particular matter. If you have any questions about a specific matter, you should consult the relevant department at the Commission.



Cover Story

TTSEC and U.S. SEC collaborate on training for the securities industry



In December 2012, the legislation which governs the securities sector was repealed and replaced by The Securities Act, 2012 (“the Act”). The new provisions in this recently enacted legislation now give the Trinidad and Tobago Securities and Exchange Commission (TTSEC) the power to conduct on-site examinations of Self-Regulatory Organizations (SROs) and persons registered under Part IV of the Act. It is against this backdrop that the TTSEC with support from the United States Securities and Exchange Commission (U.S. SEC) hosted a four day *Inspections and Compliance Training Programme* and a one day *Inspections and Compliance Seminar* from September 16-20 in Port of Spain. These sessions were exceptional training and development opportunities for all regulators, securities market actors and other key players in the financial sector.

The *Inspections and Compliance Training Programme*, which targeted TTSEC staff and fellow securities regulators from the Caribbean aimed to:

- Provide the staff of the Commission with an opportunity to understand the intricacies of the inspections process; and
- Provide other regional regulatory bodies with opportunities for re-tooling in the area of on-site examinations.

Some key topics which were covered include:

- Objectives and expected outcomes of the inspections process;

- Risk-based regulation: A look at the risk assessment process;
- Conduct of on-site inspections; and
- Case studies of inspections of Broker-Dealer, Investment Adviser and Self Regulatory Organisations (SROs).

The Seminar on September 20, targeted 120 registrants, market actors and regulators from Trinidad and Tobago and provided attendees with information to assist them as they prepare for the introduction of on-site inspections at their respective entities.

Foreign facilitators included Kathleen Kelly, Ken Joseph and Ester Saverson Jr from the U.S. SEC; Dean Miller from the Financial Industry Regulatory Authority (FINRA) and Shuchane Johnson of the Jamaica Financial Services Commission. Local facilitators included Lyndon Paynter of the Trinidad and Tobago Stock Exchange Limited and Candice Huggins, Raphael Romany and Shenda Murray from the TTSEC.

The U.S. SEC and the TTSEC have enjoyed mutually rewarding collaborations in the past. Each year, since 2008, the USSEC has provided a technical team to facilitate the TTSEC’s Capital Market Development Workshop. Members of staff of the TTSEC also participate in training programmes offered by the USSEC which are conducted at their headquarters in Washington DC and regional offices in Chicago and New York.



TTSEC attends IOSCO Annual Conference in Luxembourg



TTSEC Chairman, Professor Patrick Watson greets Chairman of the IOSCO Board, Greg Medcraft.

Members of the International Organization of Securities Commissions (IOSCO) gathered in Luxembourg from September 16-20, to discuss ways to advance the work on global regulatory reform and the identification of emerging risks in securities markets. These meetings provided a timely opportunity for IOSCO to confirm its position as “the key global conference point on securities regulation for policy makers, industry and global regulators, thus ensuring investors are confident and informed, markets are fair, efficient and transparent and systemic risk is reduced.”

IOSCO Board Chair Greg Medcraft said: “**IOSCO is playing an increasingly important role in meeting the many challenges securities regulators face today. The G20 Leaders recognized our role at their recent meeting in St Petersburg.**”

Over the course of the week, Members:

- Discussed how to move forward with work requested by the G20 on key issues for securities markets, including OTC derivatives, financial benchmarks, credit rating agencies and shadow banking;
- Confirmed their determination to work together to identify emerging risks in a proactive and forward-looking way;
- Committed to IOSCO playing an increasingly

active role in promoting the finance of long-term investment through capital markets – in areas as diverse as corporate bond markets, securitization, SME finance and Islamic Finance.

- Discussed the need for further work to improve audit quality;
- Highlighted the growing importance of implementing IOSCO’s principles and recommendations to promote well regulated markets;
- Considered proposals to strengthen cross-border cooperation among regulators. Members approved new measures to ensure full compliance with the IOSCO Multilateral Memorandum of Understanding on cooperation and exchange of information (MMoU); and
- Approved further measures to reinforce the new streamlined structure in order to better reflect the interests of the IOSCO membership, from both developed and emerging markets.

The Growth and Emerging Markets Committee (GEM, formerly the Emerging Markets committee) established its strategic objectives for more effective representation and participation by GEM members in the IOSCO decision making process. These objectives include:

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Professor Watson formalises Trinidad and Tobago's Full Signatory status.

- **Promoting emerging market views at global regulatory discussions;**
- **Enhancing market development and regulatory capacity building;**
- **Deepening regulatory and policy work on emerging market issues;**
- **Strengthening communication among members.**

IOSCO Board members participated in a roundtable discussion on emerging risks related to cyber-crime and the major threats posed by cyber-crime to financial markets and investors. Additionally, this roundtable examined how IOSCO, as the key global reference body and standard setter for securities regulation, should tackle these threats.

The Board also agreed to begin working on a strategic plan for 2015-2020 (IOSCO 2020) which will define the outcomes that IOSCO seeks to achieve by 2020 and consequently establish the roadmap for meeting those outcomes. A key objective of this project will be to identify the resources that IOSCO needs to achieve its goals and the means to finance them. (Information courtesy Media Release MR/35/2013)

The TTSEC was represented at this Conference by its Chairman, Professor Patrick Watson and Director Corporate Services, Ms. Hazel Ramsingh-Persad.

Farewell to Mr. Jack



On September 02, staff of the Commission bid Au Revoir to Norton Jack, former General Counsel, General Manager (Ag.) and Chief Executive Officer (Ag.). Mr. Jack was sworn in as a Judge of the Supreme Court of Trinidad and Tobago on September 02, 2013.

Mr. Justice Norton Jack, as he is now officially called, assumed duties as General Counsel at the Commission on July 26. In December 2011, he was asked by the Board of Commissioners to assume the position of General Manager (Ag.) until the recruitment and selection of a new General Manager. In December 2012, following the enactment of the Securities Act, 2012 and the change in designation of the head of the Commission, Mr. Jack became the Commission's Chief Executive Officer (Ag.)

In a note to staff, the Commission's Chairman, Professor Patrick Watson indicated that "the Board of Commissioners ("the Board") wishes to take this opportunity to express its heartfelt gratitude to Mr. Jack for the level of commitment and dedication that he has exhibited as General Counsel, Deputy General Manager (Acting) and General Manager/Chief Executive Officer (Acting) over the past three years."

In an informal function on August 30, staff members also thanked Mr. Jack and expressed their gratitude for his assistance and dedication to the Commission. The Board of Commissioners, Management and staff of the TTSEC wish Mr. Justice Norton Jack all success in this new phase of his life.



Interview with U.S.SEC's Assistant Director of International Affairs

“Cooperation and technical assistance are important to the development of securities markets in the Caribbean and around the world.”

This was the view of Mr. Saverson Jr, who along with his colleagues from the U.S.SEC, were in Trinidad to facilitate a four day Inspections and Compliance Training Programme with staff of the Trinidad and Tobago Securities and Exchange Commission (TTSEC) and regulators from the region. A one day Seminar on the same topic was also facilitated with market actors. These programmes were timely because the new provisions in the recently enacted Securities Act 2012 give the TTSEC the power to conduct on-site examinations of Self-Regulatory Organizations (SROs) and persons registered under Part IV of the Act.

In an interview with Diké Noel of the TTSEC's Corporate Communications, Education and Information Division, Mr. Saverson stated that one of the roles of the Office of International Affairs, of which he is an Assistant Director, is to help countries with their regulatory policies and consequently implement robust regulatory structures through training programmes and the conduct of assessments. **These assessments and programmes are vital because they help to identify any gaps in regulatory programmes and to highlight the areas in which improvements may be required.** He indicated that this Inspections and Compliance Training Programme fits in perfectly with this mandate since the programme aims to provide both the TTSEC and other regional

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regulatory bodies with the basic tools to develop an On-Site Inspections Programme and an opportunity to understand the intricacies of the inspections process. He affirmed that **at the end of this session, participants would have developed a better understanding of the inspections process and thus, will now be better able to design an appropriate programme for their respective bodies.**

Mr. Saverson who is no stranger to Trinidad and Tobago and the region, indicated that not only is it vital to have a good relationship with fellow regulators in the areas of technical assistance but it is also important in the domain of information sharing. He stated categorically that “crime has no borders”. **It is therefore important to have a positive working relationship with all regulators, in the event that there is need to get specific information which can lead to successful investigations into a growing number of insider traders, fraudsters and other offenders.**

Since the TTSEC is now a Full Signatory to the International Organization of Securities Commission’s Multilateral Memorandum of Understanding (MMoU) concerning Consultation and Cooperation and the Exchange of Information, both the U.S.SEC and the TTSEC can consult, cooperate, and exchange information for securities regulatory enforcement purposes. In fact, this agreement provides a robust mechanism through which signatories share essential investigative material, such as beneficial ownership information, and securities and derivatives transaction records including bank and brokerage information.

The U.S.SEC, whose mission is to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation in the United States of America, is one of the more widely-known securities regulators. Mr. Saverson surmised that this may be due to the number of enforcement actions which once filed in court, are public. **“The number of actions brought, along with the publishing of those enforcement actions, sends a message that the U.S.SEC is serious about protecting investors, providing full and fair disclosure of information and maintaining fair, orderly and**

efficient markets that are free from market manipulations and fraud”. However, he stated that a number of the Commission’s activities such as on-site inspections are private and confidential and therefore not available to the media but remain an important component in the fight to protect investors. That confidentiality allows the U.S.SEC and the inspected entity to have a more open and frank conversation about what is needed to have high quality compliance procedures.

Mr. Saverson noted that the U.S.SEC cannot use the fines and penalties that are collected for operational expenses but they may be used to reimburse harmed investors. Any fines and penalties that are not used in this way, are turned over to the U.S. Treasury. This is to ensure that there is no appearance of impropriety regarding the use of enforcement to fund the securities regulator. The Financial Industry Regulatory Authority (FINRA) has more flexibility to use fines and penalties collected to fund investor education programmes.

The United States of America like most countries has its share of unsophisticated investors. Consequently, the U.S.SEC partners with other organizations including FINRA to develop and conduct investor education programmes for the investing public and outreach programmes to senior citizens, military families and young adults through school based curricula. The TTSEC’s approach to investor education is quite similar in that it incorporates all media (new, digital and traditional) along with tried methods such as direct interface and outreach.

The U.S.SEC and the TTSEC have enjoyed mutually rewarding collaborations in the past. Each year, since 2008, the U.S. SEC has provided a technical team to facilitate the TTSEC’s Capital Market Development Workshop. Members of staff of the TTSEC also participate in training programmes offered by the U.S.SEC which are conducted at their headquarters in Washington DC. **Mr. Saverson reiterated that the U.S. SEC remains committed to providing the TTSEC and other “young regulators” with the tools and resources to build capacity and further develop the securities market in their respective jurisdictions.**



The Issue of Material Changes

There should be full, accurate and timely disclosure of financial results, risk and other information which is material to investors' decisions.

- Principle 16 of the Objectives and Principles of Securities Regulation as promulgated by the International Organization of Securities Commissions ("IOSCO")



The Trinidad and Tobago Securities and Exchange Commission ("The Commission") operates a disclosure-based regulatory regime which focuses on the provision of information by reporting issuers to the general public in order to allow investors to assess the merit or demerits of any investment opportunity. In keeping with the IOSCO Principle 16, the **Securities Act, 2012 ("SA, 2012")** has strengthened the continuous disclosure requirements that were established in the **Securities Industry Act, 1995 ("SIA, 95")**. This article will focus on these requirements as they relate to material changes.

What is a Material Change?

Section 4 of the SA, 2012 defines a **material change** as: **" a change in the business, operations, assets, ownership or affairs of an issuer, the disclosure of which would be considered important to a reasonable investor in making an investment decision and includes a decision to implement such a change made by the board of directors of an issuer"**.

Simply put, a material change is any change that will affect the investment decision of a reasonable investor. It is important to note that this definition applies to all reporting issuers, including collective investment schemes.

Change in the basis for determining materiality

Under the SIA, 95, a material change was defined as:

"... a change in the business, operations, assets or ownership of an issuer that would reasonably be expected to have a significant effect on the market price or value of the securities of the issuer ..."

When comparing the definition of a material change under the SIA, 95 and the SA, 2012, it is clear that the basis for determining materiality has changed. **The SIA, 95 relied on a significant effect on the market price or value of the securities while the SA, 2012 relies on the effect on the investment decision of a reasonable investor.** The definition of material change in the SA, 2012 acknowledges that, while some changes to the business, operations, assets, ownership or affairs of a reporting issuer may not result in a change of its securities' price, this does not negate the fact that such information may affect an investor's decision.

Since the threshold of what constitutes materiality is decidedly lower under the SA 2012, the standard now depends on the specific set of facts involving the company.

Examples of Material Information may include:

- 1) Changes in the corporate structure such as changes to the board of directors or share ownership affecting control of the company;
- 2) Changes in capital structure such as dividend payments or planned repurchases or redemptions of securities;
- 3) Unexpected changes in the financial results for any period;

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- 4) Changes in business and operations such as a significant change in capital investment plans or any development that affects the company's resources, technology, products or markets;
- 5) Acquisitions/disposal of assets or acquisitions of other companies; and
- 6) Changes in credit arrangements such as the encumbering of the company's assets, defaults under debt obligations or agreements to restructure debt.

Further details on the above listing can be accessed via the Commission's website : www.ttsec.org.tt

Please note that this list is not exhaustive and does not in any way prohibit the Commission from concluding that an event, which has not been specifically stated in the list, shall qualify as a material change.

Material Change Disclosure Requirements

Section 64(1) of the SA, 2012 states that where a material change occurs, a reporting issuer shall:

- (a) within three days of the occurrence of the change, file a report with the Commission containing the nature and substance of the change;
- (b) within seven days of the occurrence of the change, publish a notice which discloses the nature and substance of the change in two daily newspapers of general circulation in Trinidad and Tobago; and
- (c) within seven days of the occurrence of the change, file with the Commission a copy of the notice published in accordance with the above.

For the purposes of Section 64(1)(b) and (c), the Commission considers that a "Notice" is any informational material which is published at the request of the reporting issuer in the exact form as drafted and issued for publication by the reporting issuer. This Notice should also be authorised by a senior officer of the reporting issuer.

It should be noted that where a "media release" or an excerpt of a presentation/interview by a reporter, journalist or other media personnel relating to a material change is published, the disclosure requirement of Section 64 would not be considered to be fulfilled.

Exemption to Material Change Disclosure Requirements

Subject to the Commission's approval, a Reporting Issuer may not be required to comply with the disclosure requirements of Section 64(1). In fact, Section 64(2) provides that a Reporting Issuer may not publish a notice regarding the material change if, within three days of the occurrence of the change, it advises the Commission of the material change and its reasons for the non-publication of the notice.

It should be noted that an exemption under Section 64(2) will only be considered where the reporting issuer is of the opinion that:

- (a) the disclosure required under Section 64(1) will be unduly detrimental to its interests; or
- (b) the disclosure required under Section 64(1) will be unwarranted.

Administrative Fine

The SA, 2012 allows the Commission to impose an administrative fine for the failure to file or publish a document as required under the Act. Section 156(2) provides for a fine of one thousand dollars per day for each day that the document remains outstanding after the expiration of the time prescribed (i.e. seven days after the occurrence of the change).

Proactive Approach

Given that the determination of a material change includes a degree of subjectivity, the Commission encourages a proactive approach toward the assessment of material changes. Accordingly, where a reporting issuer is uncertain whether a change is in fact material or in circumstances where it believes that Section 64(2) of the Act is applicable, it can solicit the Commission's guidance by emailing such queries to materialchanges@ttsec.org.tt.

It must be underscored that the standard of what constitutes materiality now depends on an assessment of a specific set of facts relevant to a reasonable investor's decision and therefore will be determined on a case by case basis.

We invite you to visit our website or contact the Division of Market Regulation and Surveillance for more information or further clarification.



Division of Policy, Research and Planning

The Impact of the 2013/2014 Budget on the Securities Industry



If one examines the past two Budget presentations by Finance and the Economy Minister, Senator the Honourable Larry Howai, one would realise that the central themes are growth and development and more specifically, diversification. The 2014 Budget presentation represents a continuation of the Government's primary objectives of stimulating economic growth in Trinidad and Tobago while navigating a troubled global economic landscape and promoting diversification away from a singular energy-centric commodity base. In his presentation, Minister Howai stated,

"I caution though that the uncertainties in the global economy warrant circumspection if we are to progress to that degree of consistency in growth necessary to fulfill our development objectives. It is requisite too that the public sector debt should remain at a sustainable level. Within this framework, we must recognise that the transformation of our economy from its present commodity base to one which is fully-diversified can only occur over time; but we have identified the growth sectors, assigned responsibility and developed plans for achieving our objective." (Government of the Republic of Trinidad and Tobago, 2013, p. 4)

Economic Overview

Before tackling the envisioned role of the financial services sector in achieving these objectives, it is important to review the previous year's economic and fiscal performance. The Honourable Minister stated that there has been positive economic growth for the country in the last four consecutive quarters. This economic recovery was largely attributed to substantive growth in the non-energy sector. Inflation was estimated to be 5.6 percent, which was an improvement from last year. Minister Howai attributed this improvement to lower food prices and the impacts gained from the removal of the Value Added Tax on food items as well as

the greater emphasis placed on food security. He also stated that the unemployment rate declined to "near full employment levels" of 5 percent. Mr. Howai further noted that the present administration was on course to bring the fiscal accounts into balance by 2016. There were noted increases in inward flows of private direct investment from US\$1.831 billion in 2012 to US\$2.527 billion in 2013. The current account of the balance of payments once again generated a surplus; further adding to the healthy economic and financial buffers being generated. Gross official reserves were estimated to be US\$9.4 billion or the equivalent of 12 months of import cover; and the Heritage and Stabilisation Fund stood at US\$5 billion. Finally, the net public sector debt stock was calculated to be 44.7 percent of Gross Domestic Product in 2013 (Government of the Republic of Trinidad and Tobago, 2013, pp. 12-13).

In relation to fiscal performance, it was outlined that projected revenue was estimated to be TT\$50.7 billion, expenditure of TT\$58.4 billion with a deficit of TT\$7.7 billion. The Finance Minister stated that his administration expected to end the year with a much lower deficit than was projected in the previous Budget. The main attributing factors were higher than expected revenues generated from both the energy and non-energy sectors as well as lower than expected expenditures.

The Securities Industry

The Minister of Finance and the Economy has recognised the importance of the role that the capital market can play within the economic development framework. Within the current year, the local capital markets have seen renewed interest with the listings of the CLICO Investment Fund and First Citizens Bank Limited, which most recently had a highly successful Initial Public Offering. However, in an effort to stimulate "less than encouraging" domestic capital market activity currently in existence, the Minister outlined a

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number of initiatives. First, he stated that there will be an Initial Public Offering of a newly established company into which the National Gas Company of Trinidad and Tobago will transfer the recently acquired 39 percent shareholding in Phoenix Park Gas Processors Company Limited. **There will also be an Initial Public Offering for the Trinidad and Tobago Mortgage Bank, an entity to be derived from the amalgamation of the Home Mortgage Bank and the Trinidad and Tobago Mortgage Finance Company Limited.** Furthermore, the Minister noted that his administration will begin the process of seeking strategic investors for the Vehicle Maintenance Company of Trinidad and Tobago; the National Helicopter Services Limited; the National Flour Mills Limited and the Point Lisas Industrial Port Development Corporation Limited. Whether this involves the first two enterprises following the same path taken by First Citizens Bank Limited is yet to be revealed (Government of the Republic of Trinidad and Tobago, 2013, p. 9).

Additionally, the Minister stated that there will be a redefinition in the qualifying capital base for the tax incentives available to Small and Medium Enterprises (SMEs) that wish to access capital financing via the Trinidad and Tobago Stock Exchange Limited. **This initiative will be done in conjunction with a number of other initiatives which seek to ensure that SMEs are able to become a significant contributor to economic growth.** The Minister also mentioned the Government's intention to *"raise the bar as far as the performance of our state enterprises is concerned"* (Government of the Republic of Trinidad and Tobago, 2013, p. 15). This was to be accomplished by selecting state enterprises to undertake independent credit ratings which will allow them to access the debt markets based on their own credit worthiness. He argued that the placing of requirements to improve their ratings and the regular evaluations by an independent ratings agency on an annual basis will assist in enhancing the quality of governance and performance within the sector (Government of the Republic of Trinidad and Tobago, 2013, p. 15). Despite the many challenges, the Commission is happy to see the initiatives being introduced to stimulate capital market development in Trinidad and Tobago.

The Trinidad and Tobago Securities and Exchange Commission applauds the establishment of a Task Force to undertake research and consultation in order to determine whether a single financial regulatory authority is the most feasible model for integrating and strengthening financial regulation and supervision in Trinidad and Tobago. The Minister stated that the Task Force will comprise representatives from the Central Bank of Trinidad and Tobago, the Securities and Exchange Commission, the Ministry of Finance and the Economy and other stakeholders in the financial sector (Government of the Republic of Trinidad and Tobago, 2013, p. 19). **The Commission looks forward to the convening of this special group to discuss this very pertinent topic.**

The TTSEC's Division of Disclosure Registration and Corporate Finance (DR&CF) is committed to ensuring that registrants are apprised of and understand the principal differences between the previous and existing governing legislation. As such, this article, like some of the previous articles from this Division, will focus on the key differences between the Securities Industry Act, 1995 ("the SIA 1995") and the Securities Act, 2012 ("the SA 2012") and will underscore the need for Broker-Dealers, Investment Advisers and Underwriters to ensure that certain individuals in their employ are registered with the Commission as Registered Representatives.

Section 51(2) of the SA 2012 states inter alia that:

"...an individual who is a senior officer or employee of a person required to be registered under subsection (1) and who engages in any act, action or course of conduct in connection with, or incidental to, the class of business activities for which a person registered under subsection (1) is engaged, shall register as a registered representative..."

In essence, this section of the Act mandates companies registered with the Commission to ensure that its employees or officers who carry on securities business are duly registered with the Commission as Registered Representatives. This requirement however does not extend to persons who are performing administrative functions for the Broker-Dealer, Investment Adviser and Underwriter.

Broker-Dealers, Investment Advisers and Underwriters will therefore need to make arrangements to ensure that the respective employees and officers are formally registered as Registered Representatives.

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Division of Disclosure, Registration and Corporate Finance (DR&CF)

Understanding the concept of a Registered Representative CONTINUED FROM PAGE 11

These Registered Representatives are only allowed to conduct the type of activities in the securities market that their employers are allowed to conduct. For example, a Registered Representative of an Investment Adviser will be limited to conduct the activities of an Investment Adviser only.

The actual forms and requirements for registration of Registered Representatives will be identified and set out in the Securities (General) By-Laws. These General By-Laws however are currently being finalised and are not yet in force. A version of these By-Laws and relevant forms were made available for comment: interested stakeholders were invited to submit their comments by October 18, 2013.

Until finalisation of the By Laws, applications for registration of Registered Representatives are being processed using the requirements for registration that existed under the SIA 1995. This is being done as an interim measure and pending the enactment of the General By-Laws. Registration as Registered Representatives is being processed on a case by case basis; applicants are required to state in their application the type of activities they intend to conduct as registered representatives.

With respect to the termination and suspension of Registered Representatives, due attention must be placed on Section 55 of the SA 2012. This Section states:

“(1) The registration of a Registered Representative is suspended on the date that the registration of the registrant under section 51(1) that sponsored his registration is suspended until such time that an application for reinstatement of the employer’s registration on the prescribed form has been

approved by the Commission.

- (2) The registration of a Registered Representative is terminated on the date that—
 - (a) the Registered Representative ceases to act on behalf of the registrant under section 51(1) that sponsored his registration; or
 - (b) the registration of the registrant under section 51(1) that sponsored his registration is terminated.
- (3) A Registered Representative shall not carry on securities business for any person unless such representative is employed by a registrant under section 51(1) whose registration status is active.”

In essence, Section 55 of the SA 2012 provides that Registered Representatives must be in the employ of a Registrant under Section 51(1) whose registration status is active. Should the registration of the Registrant under Section 51(1) be suspended, the registration of the Registered Representative is also suspended from that date until the registration of the Registrant under Section 51(1) is reinstated. It is important to note that the registration of a Registered Representative is terminated if either of the following occurs:

1. The Registered Representative is no longer employed by the registrant under Section 51(1) who sponsored his registration; or
2. The registration of the Registrant under Section 51(1) that sponsored his registration, is terminated.

The Commission continues to make itself available for any questions or concerns that may arise and you may direct these to 624 2991 ext 1225 or 1227.

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Trinidad and Tobago Securities and Exchange Commission
57-59 Dundonald Street, Port of Spain, Trinidad, W.I.
Phone: (868)-624-2991; 624-3017; 624-6708; 625-8508
Fax: (868)-624-2995
E-mail: ttsec@ttsec.org.tt Website: www.ttsec.org.tt

www.ttsec.org.tt

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COMMENTS OR SUGGESTIONS CAN BE FORWARDED TO:

Editor: Arlene Stephen - arlenes@ttsec.org.tt

Associate Editor: Dike Noel - diken@ttsec.org.tt

If you will prefer to receive this magazine via email, please send your email address to rachaehr@ttsec.org.tt or call 624-2991 Ext# 1259.

