



TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION

In the Matter of Section 155 (1A)(c) of the Securities Act, Chap. 83:02

and

In the Matter of an exemption of Trust-Form Collective Schemes from certain reporting and disclosure requirements under the Act and Guidelines, the delegation of exemptive powers to the Chief Executive Officer and certain matters related thereto.

ORDER OF THE COMMISSION

Dated this 13th day of November, 2018

WHEREAS:

1. The Trinidad and Tobago Securities and Exchange Commission's ("the Commission") Board of Commissioners (the "Board") at its meetings held on May 21, 2018 and July 9, 2018 considered the case for the exemption of Trust-Form Collective Investment Schemes ("Trust-Form CIS") which were registered or to be registered with the Commission as Reporting Issuers from certain reporting and disclosure requirements and matters related thereto;
2. The Staff of the Commission ("the Staff") has represented to the Board that:
 - (a) where a Collective Investment Scheme ("CIS") is constituted as a Trust and is being registered with the Commission, the Trust must be registered with the Commission as a Reporting Issuer in accordance with section 61 of the Securities Act, Chapter 83:02 ("the Act");
 - (b) the Trustee is ultimately responsible for the reporting and disclosure obligations on behalf of the Trust-Form CIS; and
 - (c) the exemptions to Trust-Form CIS from the reporting and disclosure obligations under the Act as identified below, are necessary to facilitate the registration of trust form CIS and the orderly operation of the CIS Market.

3. Pursuant to section 155(1A)(c) of the Act, if it considers it to be not contrary to the public interest the Commission may on its own motion or on an application by an interested person, make an order that any person be exempted from any requirement of this Act;
4. The Commission has delegated several of its powers to the Chief Executive Officer via an Order dated 21st July 2016, however the power to consider and grant the exemptions from Section 77 is not included in that Order;
5. Under Section 8 of the Act the Commission may by Order delegate any of its responsibilities, powers or functions except the power to make By-Laws and to hear appeals under Section 160 of the Act, to any senior officer of the Commission;
6. For the purposes of Section 8 of the Act, a “senior officer of the Commission” includes a person holding or acting in the office of Chief Executive Officer;

AND UPON:

7. The Board of Commissioners (“Board”) considering the representations made by the Staff of the Commission for the exemptions identified below in respect of Trust-Form CIS at its meeting held on May 21, 2018 and July 9, 2018;
8. The Board of Commissioners considering it appropriate and expedient for the purpose of the administration of the Act to delegate its powers under section 155 (1A) (c) of the Act to the Chief Executive Officer of the Commission in respect of application for exemptions from section 77 of the Act;
9. The Board of Commissioners being satisfied that the making of an Order for the delegated authority and exemptions identified below in respect of Trust-Form CIS being registered as Reporting Issuers under Section 61(1) of the Act will not adversely affect the rights of any person;
10. The Commission determining that the making of this Order is essentially procedural in accordance with Section 159(10) of the Act and does not require a hearing pursuant to Section 159 (1) of the Act.

IT IS HEREBY ORDERED THAT:

- I. Trust-Form CIS’s registered with the Commission as Reporting Issuer shall be required to comply with the substantive requirements of the Act and the Guidelines for Collective Investment Schemes dated July 2nd 2008, save and except for:
 - (i) The requirement in Section 65 of the Act regarding the preparing and filing of audited comparative financial statements within 90 days of the issuer’s financial year end. This exemption is granted subject to the CIS complying with the

- requirement in Section 63 of the Act, to file an annual report with the Commission within 120 days of the Trust-Form CIS' financial year end provided that the annual report contains the Trust-Form CIS' audited financial statements; and
- (ii) the requirement in Section 66 of the Act which requires the preparation and filing of interim financial statements. This exemption is granted subject to the Trust-Form CIS filing semi-annual interim financial statements instead of interim financial statements;
- II. Delegated authority is granted to the Chief Executive Officer of the Commission to execute the powers granted to the Commission under section 155(1A)(c) to consider and decide upon applications for exemption from Section 77 of the Act except in cases of a fundamental material change (or proposed fundamental material change) to as CIS as listed below:
- (i) A change to the fundamental investment objective of a CIS;
 - (ii) A change to the Auditor of a CIS;
 - (iii) A change to the Manager of a CIS, unless a successor Manager is an affiliate of the existing Manager;
 - (iv) A change to the methodology used to calculate the net asset value per security of the CIS;
 - (v) An increase in fees or expenses charged to the CIS, including, but not limited to, an increase in the management fees; and
 - (vi) The suspension and/or termination of the CIS.
- III. In cases of such fundamental material changes (or proposed fundamental material changes), the discretion to grant exemptions from section 77 of the Act shall lie with the Board and it shall be immediately notified of such applications for an exemption.
- IV. That applications for the exemptions from the requirement in Section 77 for the suspension of a distribution when a material change occurs in the affairs of a CIS (regardless of whether or not the fund is constituted as a trust) should be considered on a case by case basis and in making the recommendation on whether to grant an exemption from section 77 to the CEO or to the Board, the staff of the Commission will consider whether:
- (i) The CIS's trustee or custodian provided the Commission with written notification of the fundamental or material change forthwith; and
 - (ii) The change in question warrants the preparation, filing and receipting of an amended prospectus and the suspension of distribution in accordance with section 77;
- V. The following procedure for notification of Registrants of the Commission's decision shall be followed:

- i. The CIS' trustee or custodian be provided with the Commission's position in writing on whether the change triggers the substantive provisions of Section 77;
 - ii. Where the Commission determines that the change in question triggers the substantive provisions of Section 77, the distribution of the CIS shall cease until such time as an amended prospectus is received by the Commission.
 - iii. Where the Commission determines that the change in question does not trigger the substantive provisions of Section 77, it may direct the CIS' trustee or custodian to take such other measures as are reasonable to update the offering material in respect of the CIS and to inform current investors in the CIS about the change.
- VI. This Order shall be published in the Trinidad and Tobago Gazette and on the Commission's website. A Notice of the posting shall be published in two daily newspapers of general circulation in Trinidad and Tobago; and
- VII. This Order shall be effective from 9th July, 2018.

BY ORDER OF THE COMMISSION