



NEWSLETTER

JUL - DEC 2018

ISSUE # 22

YOU INVEST. WE PROTECT. EVERYONE BENEFITS!

Season's Greetings

FROM THE MANAGEMENT AND STAFF



Anti-Money Laundering
and Combating the
Financing of Terrorism

Pg.7



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Chairman's Message

Dear Valued Stakeholder,

As we enter fiscal 2019, the Commission is pleased to present to you the 22nd Issue of its Market Newsletter. In this Issue we focus on special projects and areas of specialisation within the Commission that continue to aid in developing our capacity to execute our mandate.

Significant areas of focus include: the Risk Supervisory Model, Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT), Robo Advisers and much more.

Also included in this special end-of-year publication is a survey. We want to hear your thoughts regarding our bi-annual market newsletter so that we can find the best means to communicate necessary information to you.

Once again I thank you for taking the time to peruse this publication and I look forward to your continued support of the work of the Commission.

Season's Greetings and Happy New Year to you and your families.

Douglas Mendes, QC
Chairman





DCEO's Message

Ms. Lystra Lucillio - Deputy Chief Executive Officer

TIME SURELY FLIES WHEN YOU'RE HAVING FUN.

At the Trinidad and Tobago Securities and Exchange Commission (Commission) for the year 2018, we have been assiduously working on strategic imperatives and reviewed our strategic plan. We focused on building our knowledge-base by developing our data and conducting analytics of the market and by enhancing the electronic data submission process from the market through the Micro and Macro Prudential Reporting Framework (MMRF). This led us to formally establish the Commission's bi-annual Market Bulletin in October, giving us the ability to share this knowledge with the market.

As a creature of statute, the Commission concentrated its efforts on the finalisation and implementation of legislative guidelines to aid the market. The Commission also focused on the development of formal instructions or guidelines, that are in accordance with the SA 2012 and other associated legislation, and which can be used to implement or utilise specific financial product types. A record of three guidelines were implemented in this period, namely the Repurchase Agreement Guidelines, the Anti-Money Laundering and Combating the Financing of Terrorism Guidelines and, the third one due for implementation in December, the Tax Information Exchange Agreements Act (TIEAA or commonly known as FATCA) Guidelines. This year also saw an increase in the number and types of hearings and enforcement matters handled by the Commission.

Investor education is fundamental to the work of the Commission and we increased our direct and indirect interaction with the investing public via our online resources (Facebook, LinkedIn, YouTube and our investor education website – InvestucateTT.com), Radio programs targeting specific financial topics, a tertiary level debate competition and over 20 outreach sessions. We have also noted the increase in activity and interest in Financial Technologies (FinTechs) and have participated on multiple panels on the topic, locally and regionally.

A comprehensive review of our strategic plan was conducted to determine the relevance of the identified strategic objectives. This resulted in a revision of the plan to remove activities which were no longer considered relevant, and maintain initiatives which the Commission would need to implement within a short time in order to support the evolving market. The strategic plan was thus extended to fiscal 2020 to allow for the completion of these imperatives.

As we prepare for 2019 the Commission will be focusing on:

- ***The enhancement of the legislative agenda specifically concerning the development of Collective Investment Schemes By-laws, Shelf Registration and Market Conduct Guidelines and general enforcement;***
- ***Development of a regulatory environment for FinTechs;***
- ***Enhanced Investor education inclusive of a mobile app;***
- ***Advancement of the Centralized Repository and Registration System for electronic registration and disclosure submissions;***
- ***Other regulatory revisions to enhance efficiency.***

Thank you for your continued contribution towards the development of our securities market and we look forward to working with you in the New Year. Together, we will continue to bolster our financial sector and ensure confidence in the market.

We at the Commission take this opportunity to wish you all, Seasons Greetings and All the Best for the New Year 2019 – “You Invest, We Protect, Everyone Benefits”.

Regards

Lystra Lucillio
Deputy Chief Executive Officer



THE RISK-BASED SUPERVISORY MODEL

Risk-based Supervision (RBS) is a combination of processes in which the risk profile of each regulated intermediary (firm) determines the entry requirements and supervisory program comprising off-site surveillance, targeted on-site inspections, prudential meetings, external audits and regulatory actions as warranted.¹

Registrants are no strangers to the term “risk-based supervision”, as the Division of Compliance and Inspections (C&I) introduced this approach to its supervisory function in 2014, with the commencement of compliance reviews (on-site inspections) in accordance with section 89 of the Securities Act, 2012. Section 89 was a new provision of the Act in keeping with one of the newest functions of the Commission, to “conduct such inspections, reviews and examinations of self-regulatory organisations, broker-dealers, registered representatives, underwriters, issuers and investment advisers as may be necessary for giving full effect to this Act”.

Key to the division’s ability to conduct these reviews in an efficient and effective manner, is to assess the risk profiles of individual firms through a process of risk scoring, to evaluate the likelihood of a negative event impacting a firm, clients, counterparties and the market. Among other things, the RBS seeks to assess senior management’s commitment to ensuring compliance, and focuses on management processes as opposed to specific transactions.

Prior to embarking on the on-site programme, and in its first year of operation, the division conducted a Risk Assessment Survey/Questionnaire (RAQ) among registered broker dealers, investment advisers, self-regulatory organisations and underwriters. This survey

sought to provide critical information to the Commission on its registrant base as this was not hitherto available, though it now forms a vital part of the risk-based framework being established.

The RBS framework comprises all the major tools used by the Commission to effectively execute its functions: the suite of key and supporting legislation – Securities Act, 2012, Securities (General) By-laws, the prudential standards imposed upon registrants, specific guidance/guidelines provided for activities within certain areas in the securities industry (e.g. CIS Guidelines – soon to be issued By-laws, AML/CFT Guidelines, etc.), as well as the division’s well developed on and off-site inspection programme.

The RAQ now forms an integral part of the RBS framework, as it aids decision making in allocating/prioritizing limited resources to areas of most need and will in future, with additional information/data, enable monitoring of systemic risk. Monitoring risk exposure is now a function of the Commission in the amended legislation, where the requirement is to: “**assess, measure and evaluate risk exposure in the securities industry**”.

In that regard, the Commission will establish biennial issues of the RAQ to ensure that registrants’ risk profiles are adequately updated or generated in the case of new entrants and thereafter continuously monitored. Such monitoring allows the examination of firms’ business strategies, treatment of clients, exposures and any changes to financial data, which is captured in the Commission’s Micro-Macro Prudential Reporting Framework. As such, staff of the Commission will be engaging registrants in this exercise soon, to begin the process of gathering this information.

¹ Toolkit for Risk based Supervision of Securities Market Intermediaries, Module 1 – Introduction to Risk Based Supervision, OICU-IOSCO, Capacity Building Online Toolkit



ISSUES WITH THE REGISTRATION OF TRUST FORM COLLECTIVE INVESTMENT SCHEMES AS REPORTING ISSUERS

The Commission has been facing certain challenges with the application of the Securities Act, 2012 (SA 2012) and the Securities (General) By-laws, 2015 (the By-laws) to the registration of Collective Investment Schemes (CIS) constituted via trust. These challenges are based on the fact that the SA 2012 contemplates that any “person” that distributes a security must be registered as a Reporting Issuer. The SA 2012 also contemplates that the definition of person includes a **“trust”**. As a consequence, any CIS that is constituted via trust must be:

- Registered with the Commission as a Reporting Issuer in accordance with Section 61(1) of the SA 2012; and
- Registered with the Commission as a security in accordance with Section 62(1) of the SA 2012.

Trusts however, were not considered to be “persons” under the Securities Industry Act, 1995 (“SIA 1995”) which was repealed and replaced by the SA 2012 on 31st December 2012. As a result, there was no requirement for the registration of a reporting issuer when the Commission registered CIS constituted as trusts under the SIA 1995.

Given the provisions of the SA 2012 now though, CIS that are constituted as trusts are required to be registered with the Commission as reporting issuers. Although the SA 2012 is clear that trusts are **“persons”**, it is difficult in practice to identify the legal person that should be registered as a

Reporting Issuer when considering applications for registration of mutual funds constituted as trusts. For instance, while the SA 2012 indicates that the Trustee would be required to sign the Distribution Statement in an application for registration of a CIS as a security under section 62, it does not specify who should sign the Registration Statement in support of the application for registration of the Reporting Issuer in respect of a fund constituted as a Trust Under section 61. Further, the SA 2012 does not expressly state who should be registered as a Reporting Issuer in respect of a mutual fund that is constituted as a Trust.

In addition, the SA 2012 is largely silent on the operations and general regulation of CIS. The continuous disclosure provisions contained in the SA 2012 are geared more towards the activities of traditional companies and not CIS constituted as trusts. The majority of the Commission’s regulatory framework for CIS is currently contained in the Commission’s Guidelines for Collective Investment Schemes which were issued in 2008. As a result, there are some differences in the regulatory requirements that a Reporting Issuer under the SA 2012 is required to comply with, versus the regulatory requirements that a CIS must comply with under the CIS Guidelines.

In summary, the regulatory framework for the local CIS industry is largely constrained by the inadequacy of the SA



2012 in relation to CISs, as well as the fact that the Commission is relying on the CIS Guidelines as its primary tool to outline the regulatory framework for the CIS industry. These issues will be addressed in the proposed Collective Investment Schemes By-Laws (the CIS By-laws) which are currently being drafted.

In the interim, and pending the introduction of the CIS By-laws, the Commission has determined that where a CIS is being registered with the Commission and that CIS is constituted as a Trust, then:

- The Trust must be registered with the Commission as a Reporting Issuer in accordance with Section 61 of the SA 2012;
- The Trustee would be responsible for signing the relevant registration forms as well as for the Trust's obligations under the SA 2012;
- The disclosures and reporting that are required under the SA 2012 shall be in respect of the Trust and not the Trustee.
- Collective Investment Schemes constituted via trust (Trust Form CIS) and registered as Reporting Issuers will be required to comply with the provisions of the SA 2012 and any supporting legislation as they relate to Reporting Issuers, save and except where the Commission indicates otherwise. These exceptions are outlined below:

A. Reporting and Disclosure Requirements:

i. Trust Form CIS will be exempted from Section 65 of the SA 2012 which requires the preparation and filing of Audited Annual Comparative Financial Statements within 90 days of the issuer's financial year end. This exemption will be granted subject to the CIS complying with the requirement to file an Annual Report with the Commission (in accordance with Section 63 of the SA 2012) within 120 days of CIS' financial year end provided that the Annual Report contains the CIS' Audited Financial Statements for the relevant financial year end; and

ii. The provisions of Section 66 of the SA 2012 requires Reporting Issuers to file Interim Financial Statements on a quarterly basis. Trust Form CIS however, will be required to prepare and file its Interim Financial Statements on a semi-annual basis instead of on a quarterly basis.

B. Other - The offering and legal constituent documents for Trust Form CIS' should contain the relevant disclosures regarding the preparation and filing of Annual Reports and Interim Financial Statements as stated at item A.

The foregoing is a temporary solution that the Commission has initiated in an effort to address the issues mentioned above. We stand ready to provide advice or guidance as we implement this initiative. Any applicants or interested persons are encouraged to contact us for further guidance or clarification.



DIVISION OF
LEGAL ADVISORY
& ENFORCEMENT

ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM (AML/CFT)

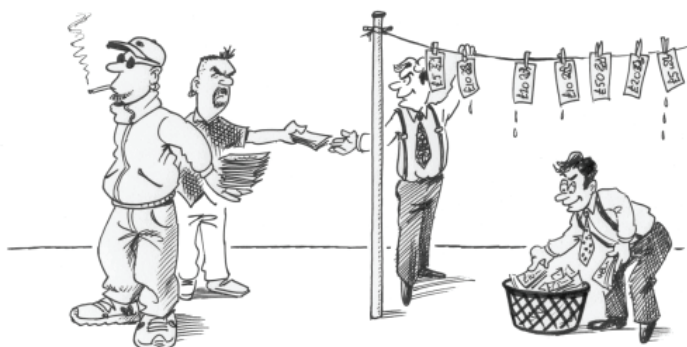
In 2018 the Commission continued its collaboration with the National Anti-Money Laundering Committee of Trinidad and Tobago (NAMLC) towards implementing a sound national policy for the combatting of Money Laundering and the Financing of Terrorism in Trinidad and Tobago. Through this forum, the Commission contributed to, inter alia, proposed amendments to the Proceeds of Crime Act and the Financial Obligations Regulations, which seek to enhance and improve the application of these pieces of legislation.

Staff of the Commission also supported the work of the Financial Action Task Force (FATF) and the Caribbean Financial Action Task Force (CFATF) through reviewing and providing feedback on several FATF and CFATF draft papers. This feedback has aided in shaping the outcome of FATF and CFATF policy and procedure.

The Commission also continued to work closely with the AML/CFT's Supervisory Working Group, which comprises the Commission, the Central Bank of Trinidad and Tobago and the Financial Intelligence Unit. Through this collaboration the Commission has also embarked upon measures that will enhance its processes with respect to the approvals of compliance officers.

During 2018 the Commission undertook to complete its review and revision of its AML/CFT Guidelines. These amendments are intended to improve the AML/CFT regulation and supervision of financial institutions under the Commission's purview, in light of updates to national legislation and international best practice.

As part of the review process, the Commission enhanced its stakeholder consultation on the amended guidelines by hosting outreach sessions with representatives of its registrants towards the middle of the consultation period. These sessions, which focused on the content of the draft amended guidelines, were carried out in an open forum format and facilitated candid feedback from the registrants. This interaction also served to pave the way for more informed submissions and comments on the draft document, by the closing date for submissions. It is intended that these amended Guidelines will be implemented before the end of the calendar year 2018.



ROBO-ADVISERS

The financial services industry has undoubtedly undergone “a tectonic shift” in how operations are handled. The rapid pace of technological change is a major driver behind this “sea-change” with automated advice tools being one element of change. One form of automated advice tools is Robo-Advisers which are digital platforms that provide automated, system-driven financial planning services with little to no human supervision. Generally, the services provided by Robo-Advisers are limited to portfolio management, i.e. allocating investments among various asset classes. Services such as estate and retirement planning, tax planning, cash-flow management and insuring risks are not normally addressed by these Robo-Advisers.



The first Robo-Adviser, Betterment, was launched during the Recession of 2008 and was viewed as a way for investors to engage in passive investing via a simple online interface. Since then, this market segment has changed dramatically. Estimates show that global assets under management in this market amounted to US\$371,429Mn in 2018. According to the statistics provider Statista, the global Robo-Advisers market is expected to achieve annual growth rates of 38% and increase its number of users to 122 million by 2022. Further, a report issued by the international accounting firm, Deloitte in 2016 stated the following noteworthy facts on the Robo-Advising market:

- i. Google search queries for “Robo-Adviser” (at the time of the report’s writing) yielded 423,000 results;
- ii. There were close to 100 Robo-Advisers in 15 countries; and
- iii. Future estimates for the assets under management by Robo-Advisory services were between US\$2.2 trillion and US\$3.7 trillion in 2020 and over US\$16 trillion by 2025.

This report also noted that the figure of US\$16 trillion in 2025 would make Robo-Advisory services firms approximately three times larger than the current assets managed by BlackRock, the present leading asset manager globally.

Anticipated growth rates in this market segment is expected to continue apace in the immediate future. While some see automated advice tools as eventually replacing traditional financial advisers, there has been an argument made that there will be a more symbiotic relationship between these industry players.

In anticipation of such an occurrence, the local supervisory authorities will have to collaborate to create a fully comprehensive regulatory framework for automated advice tools. While there is a solid foundation for its regulation, the TTSEC

will have to propose specific policies and guidelines for automated advice tools in accordance with section 7(j) of the Act. It has to be noted that there are a number of regulatory issues pertaining to automated advice tools that must be addressed by any proposed regulatory framework locally.

These areas include:

- (i) **Fiduciary Duty of Care for Automated Advice Providers;**
- (ii) **Client Profiling and On-Boarding;**
- (iii) **The Review of Algorithms and their Methodologies;**
- (iv) **The Suitability of Recommendations;**
- (v) **Conflicts of Interest that may arise from Recommendations; and**
- (vi) **The Development of Effective Compliance Programs.**

One of the most important aspects of any regulatory framework pertains to the development of an effective review mechanism for the evaluation of the Robo-Adviser’s compliance program. This will ensure that potential players in the marketplace are abiding by the standards set forth in the framework. The implementation of a regulatory framework of this nature would require collaboration amongst all stakeholders, inclusive of the Central Bank of Trinidad and Tobago and the Financial Intelligence Unit of Trinidad and Tobago.

The TTSEC has to be vigilant in creating an environment that balances fostering financial innovation as well as upholding its investor protection mandate. While there are currently no automated advice tools such as robo-advisers operating within Trinidad and Tobago, it is more likely a matter of when, than if, automated advice tools will enter the local securities industry. Whether there are fully automated advisory platforms or hybrid models, automated advice tools will eventually play some part in shaping the development of the financial services industry in Trinidad and Tobago.

THE CORPORATE COMMUNICATIONS, EDUCATION AND INFORMATION (CCEI)

JULY – DEC 2018

The Corporate Communications, Education and Information (CCEI) Division coordinated and executed several projects and activities during this period. Some of these included:

Investor Education OUTREACH

Investor Education Outreach Activities

The Commission facilitated the following Investor Education Outreach Sessions:

- Point Fortin's Finest (Junior & Senior groups) (2)
- Trinidad and Tobago Housing Development Corporation (HDC)
- Public Services Credit Union (Arima, Tobago and San Fernando)
- Conducted a 'Train the Trainers' Workshop – Secondary School Teachers
- TTARP's 25th Anniversary Expo
- Amalgamated Workers' Union



World Investor Week

The Trinidad and Tobago Securities and Exchange Commission (TTSEC) as part of the Caribbean Working Group representing 16 jurisdictions across the Caribbean, and supported by the International Forum For Investor Education (IFIE), has launched a Caribbean Regional video initiative to present Voices of the Caribbean: **"Empowering the Caribbean toward Financial Independence and Resilience"** in celebration of World Investor Week 2018, held in October.

Each jurisdiction developed investor education messages aimed at targeting specific life stages – Youth, early working years, middle aged and retirees.

The joined Caribbean voices can be viewed here. ►



Mrs. Rachael Codrington-Indar leads a session at Atlantic's Point Fortin's Finest vacation camp



Ms. Arlene Stephen conducts an IE Session with PSCU Tobago



Members of the AWU engaged during a presentation by Mrs. Rachael Jennings



TTSEC Team fully engaged at TTARP's 25th Anniversary Exhibition



Secondary school teachers engaged during the "Train the Trainers" session



Team Hugh Wooding show off their winnings



Winning team Hugh Wooding Law School and second placed winner Team Institute of Law and Academic Studies pose with TTSEC and BATT management representatives



Mr. Hadyn Gittens, CEO, TTSEC, Ms. Lystra Lucillio, DCEO TTSEC, with second placed winner Team ILAS, Corene Procope, Remond Bonne-Smith and Sydney Riley, and Mrs. Kelly Bute-Seaton, Executive Director, BATT

'Clash of the Debate Titans' – Tertiary Debate Competition

The Trinidad and Tobago Securities and Exchange Commission (TTSEC) was pleased to once again host this year's 'Clash of the Debate Titans' tertiary level debate competition, 2018. This year we partnered with several financial and tertiary institutions, to focus mainly on a financial and economic debate competition. Partnering with the TTSEC are: Arthur Lok Jack Global School of Business (ALJGSB), Bankers Association of Trinidad and Tobago (BATT), Central Bank of Trinidad and Tobago (CBTT), Cipriani College of Labour & Co-Operative Studies, the Mutual Fund Association of Trinidad and Tobago and the Trinidad and Tobago Stock Exchange Limited (TTSE). This year we say congratulations to the Hugh Wooding Law School for winning the competition and copping this year's Champion and Challenge trophies. The Institute of Law and Academic Studies placed second in the competition. To learn more visit our Facebook page or check out our media release.

The Division also developed a new brochure which aimed to simplify the Securities Act, 2012 (the Act) and outline the differences from the SIA 1995. 'Decoding the Securities Act' is designed to help persons better understand 'the Act' and its legal requirements.



SEC MARKET NEWSLETTER SURVEY

This market newsletter is intended to provide general updates and reminders from the Commission with regard to its operations and requirements from the market. As such the Commission welcomes and values your feedback in completing this short survey. Your input in the way we communicate and what we communicate to the market, is important in helping to ensure that we have a fair, transparent and fully disclosed securities market. Click **HERE** to complete the survey. It will only take two minutes.



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