Welcome Address to the Participants in the forum on Disclosure

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Crowne Plaza, Port of Spain

ADDRESS BY-

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TRINIDAD AND TOBAGO SECURITIES & EXCHANGE COMMISSION

Good morning ladies and gentlemen and welcome.

It is indeed heartening to see the turnout this morning to what we at the Securities and Exchange Commission consider to be a very important event in our calendar as we meet to discuss one of the key issues of securities regulation.

As you are aware, this Forum has its genesis in the concern expressed by the Commission for what appears to be a casual and perhaps cavalier approach to the subject of compliance with the Securities Industry Act, 1995 (the SIA). As I have elsewhere mentioned, in 2004 the Commission issued notices to 82 market participants including reporting issuers, securities firms, investment advisers and other market participants concerning their failure to file standard reports in accordance with section 66 and By-Laws 55 and 56 of the SIA. The Notices required parties to show cause as to why the Commission should not impose penalties, as provided under the Act, for failure to file annual reports, financial statements and interim financial statements within the time frames specified by the Act.

The Commission subsequently imposed penalties amounting to some $1.2 million, on 62 of these participants. In accordance with the requirements of the Act, these penalties were payable to the Treasury, with the Commission acting, on appointment by the Auditor General, as collector of the penalty payments.

At the time, the Commission received a flood of complaints about the harshness and unfairness of its action and some persons commented that a mere rap on the knuckles and a reminder were all that were necessary in the circumstances. The Commission then noted that in the past it had resorted to a number of reminders to market participants of their obligations to file on time. Further, in October 2003 the Commission had published in the daily press a Notice reminding reporting issuers, and market participants in general, of their obligations to file their required statements on time.

We at the Commission therefore felt that, [although our action to impose penalties may have been considered harsh and unfair by some, would have resulted in a greater level of compliance than had been observed in 2004 following, as it did, the publication of the Notice in October 2003.

We have unfortunately been seriously disappointed by the response of the market. Our review of the level of compliance with reporting responsibilities over the period June 2004 – the cut off date for the issuance of Notices in 2004 – to March 2005 has revealed that 70 participants have failed to meet their reporting compliance responsibilities for that period. This total includes – and I emphasize the details here – 70 of the 82 participants to whom notices were sent in 2004, and 56 of the 62 participants on whom monetary penalties were imposed in 2004.

The level of continued non-compliance revealed by these statistics is nothing short of alarming and can only be described as being perhaps indicative of a view among participants that the issue of compliance with the Act is a minor one and of little or no consequence.

The Commission decided to host this Forum as one element of a strategy that it has developed to attempt to secure greater compliance among market participants not only with their filing obligations, but also with all of their obligations under the Act, including disclosure and continuous disclosure obligations, and those related to market behaviour. But for this morning we shall focus on disclosure obligations, and Mr. Bazil will speak extensively about these later.

Our strategy for improving compliance includes the following:

- The hosting of this Forum which provides an opportunity for other participants as well as interested parties such as external auditors, to share with you some of their approaches and strategies that are designed to facilitate compliance;
- The issuing of Notices to non-compliant participants in the same way as we did in 2004, leading to hearings in which the Commission will determine whether or not to impose penalties in each case and the value of any such penalties;
- The issuing, for a short while, of reminders to participants about approaching deadlines for filing the required reports;
- The revision of the legislation to ensure that the penalties that may be imposed in these circumstances carry higher, more significant values than currently apply.

We are hopeful that these approaches will result in more compliant behaviour by our market participants and that they will begin to take a more responsible approach to satisfying their obligations under the Act.

It may be appropriate at this stage to review briefly the importance of disclosure filings to the capital market process and to the regulation of that process.

Disclosure in Capital Markets

Capital markets are based on the exchange between investors and companies of cash invested with the expectation of a return or dividend and information on the progress and performance of their investment. The payment of a dividend once or twice a year is not enough and is not the whole contract. Investors need to know, on a continuing basis, what is happening with the entities in which they have invested and to make decisions on how those developments affect their investments and their decisions to remain invested in the particular security. This principle holds true whatever the type of security in which the investor has invested – equities, bonds or other forms of debt, derivatives, mutual funds, and whatever other types of securities the market develops and offers for investment.

Consequently, the failure to make timely disclosures on annual, semi-annual and continuous bases could be considered to be tantamount to defrauding investors. It is for this reason that disclosure has been established as one of the principal pillars of securities regulation.

Along with disclosure, there are two additional major pillars. The first is the requirement to register with securities regulators the market actors, the issuers of securities and the securities that are issued to the public. The second pillar is the obligation of market participants to maintain the highest integrity in market behaviour and of the regulator to consistently monitor such behaviour and to prosecute those who depart from the canons of good behaviour.

The prompt and full disclosure of material events and of annual and half-yearly performance of investments constitutes good market behaviour. The failure to do so is a contravention of the canons of such behaviour and a contravention of the Act.

The Trinidad and Tobago Securities and Exchange Commission will continue to work towards encouraging greater compliance with the disclosure as well as other requirements of the Act, and this Forum and our overall strategy are testimony to our willingness to help participants in their efforts to comply. But we shall also continue our programme of enforcement in this area, and indeed, in other areas in which we discover that participants in the market are failing to live up to their obligations arising from their contracts with the investing public.

I thank you for your attendance and participation in this Forum.

Thank You.