



TRINIDAD AND TOBAGO GAZETTE (EXTRAORDINARY)

VOL. 52

Port-of-Spain, Trinidad, Friday 4th October, 2013—Price \$1.00

No. 129

1919



DRAFT SECURITIES (GENERAL) BY-LAWS, 2013 - STATEMENT OF SUBSTANCE AND PURPOSE

The Trinidad and Tobago Securities and Exchange Commission (“the Commission”) has drafted these proposed By-Laws for issuance pursuant to section 148(1) of the Securities Act, 2012.

These draft Securities (General) By-Laws, 2013 are intended to address:

- certain obligations that Commissioners and Staff of the Commission are required to meet under the Securities Act, 2012; and
- some of the more critical measures for the registration, operation, continuous reporting and record keeping requirements of registrants and self-regulatory organizations under the Securities Act, 2012.

The proposed Forms referred to in text of the By-Laws are available on the Commission’s website.

Hard copies of both the Forms and Draft By-Laws are available upon request from the Commission.

Members of the public are invited to provide feedback on the draft By-Laws by submitting written comments addressed to:

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General Counsel (Ag.)
Trinidad and Tobago Securities and Exchange Commission
57 - 59 Dundonald Street
Port of Spain

or via electronic mail to the following address: sa2012@ttsec.org.tt.

Comments should be sent to the Commission no later than **4:00 pm on Friday October 18, 2013**.

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SECURITIES (GENERAL) BY-LAWS, 2013

**PART I
PRELIMINARY**

- | | |
|-----------------------------------|---|
| Citation | 1. These By-Laws may be cited as the General By-Laws. |
| Interpretation Act No. 17 of 2012 | 2. In these By-Laws, “Act” means the Securities Act, 2012, as amended from time to time. |
| Financial Statements | <p>3. The financial statements required under the Act and these By-Laws shall -</p> <ul style="list-style-type: none"> (a) be prepared in accordance with financial reporting standards. (b) include, but are not limited to- <ul style="list-style-type: none"> (i) a statement of financial position; (ii) a statement of comprehensive income; (iii) a statement of changes in equity; (iv) a statement of cash flows; (v) notes, comprising a summary of significant accounting policies and other explanatory information; (vi) a statement of financial position as at the beginning of the earliest comparative period when an entity applies an accounting policy retrospectively or makes a retrospective restatement of items in its financial statements, or when it reclassifies items in its financial statement; and (vii) any other statement or financial information that may be associated with the industry of operation. (c) unless otherwise provided for in these By-laws, be certified - <ul style="list-style-type: none"> (i) for interim financial statements, by the directors of the registrant or self-regulatory organization, and the certification shall be evidenced by the manual or facsimile signature of the Chief Executive Officer or other senior officer duly authorised by the Board of Directors to sign on behalf of the registrant or self-regulatory organization on Form 11; or (ii) for annual financial statements, by the manual or facsimile signatures of two directors of the registrant or self-regulatory organization duly authorized to signify the certification on Form 11 |
| Fees - Schedule 1 | 4. The fees payable under the Act and these by-Laws are those set forth in Schedule 1. |
| Forms - Schedule 2 | 5. The forms referred to in these By-Laws, unless specifically noted to the contrary, are those contained in Schedule 2 and such forms shall be used in all cases to which they are applicable, and may be modified as directed by the Commission to meet other cases. |

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|---|--|
| Fit and Proper Requirements – Schedule 3 | 6. The fit and proper criteria referred to in the Act and these By-Laws are those set forth in Schedule 3. |
| Prescribed definitions | <p>7. For purposes of the Act-</p> <p>(a) "accountant" means an individual who is a member in good standing with the Institute of Chartered Accountants of Trinidad and Tobago or such other body and meets any other requirements as the Commission may approve;</p> <p>(b) "advising representative" means a person employed by or acting for, a registrant registered under section 51(1)(a) or (b), who performs the activities of an investment adviser on behalf of his employer;</p> <p>(c) "associate representative" means a person employed by, or acting for, a registrant registered under section 51(1) who:</p> <ul style="list-style-type: none"> (i) is supervised by an advising representative, brokering representative, or underwriting representative; and (ii) performs the class of business activities for which such registrant is registered. <p>(d) "brokering representative" means a person employed by or acting for, a registrant registered under section 51(1)(a), who performs the activities of a Broker-Dealer on behalf of his employer.</p> <p>(e) "Former By-laws" means the Securities Industry By-laws, 1997 repealed these General By-laws.</p> <p>(f) "underwriting representative" means a person employed by or acting for, a registrant registered under section 51(1)(a) or (c), who performs the activities of an Underwriter on behalf of his employer.</p> |
| Market capitalization of approved foreign issuers | <p>8. (1) For purposes of section 69(1)(a) of the Act, the prescribed market capitalization is five hundred million dollars and shall be equal to the aggregate market value of the outstanding equity securities of the issuer calculated by multiplying -</p> <ul style="list-style-type: none"> (a) the total number of equity securities of each class outstanding on the day the issuer became a reporting issuer under the Act, by (b) the closing price of each class of equity securities outstanding on the principal foreign securities exchange upon which such equity securities are traded on the day set forth in paragraph (1)(a), or the immediately preceding day on which trading took place on such foreign securities exchange if the class of equity |

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DRAFT SECURITIES (GENERAL) BY-LAWS, 2013—STATEMENT OF SUBSTANCE AND PURPOSE—Continued

securities did not trade on the last day of the most recently completed financial year of the foreign issuer.

(2) For purposes of section 80(2)(c) of the Act, the prescribed market capitalization is five hundred million dollars and shall be equal to the aggregate market value of the outstanding equity securities of the issuer calculated by multiplying -

(a) the total number of equity securities of each class outstanding on the relevant date, by

(b) the closing price of each class of equity securities outstanding on the principal foreign securities exchange upon which such equity securities are traded on the relevant date, or the immediately preceding day on which trading took place on such foreign securities exchange if the class of equity securities did not trade on the relevant date.

Standards of solvency

9. (1) For purposes of reviewing the solvency of any person required to be registered under the Act and these By-Laws, a person has failed to observe standards of solvency when, at any time, there are reasonable grounds to believe that -

(a) the person is unable to pay its liabilities as they become due or;

(b) the realizable value of the assets of the person is less than the aggregate of -

(i) its liabilities; and

(ii) the stated capital of its securities.

(2) In addition to the standards of solvency required by paragraph (1), the Commission may require a person required to be registered under the Act and these By-Laws to maintain such minimum level of capital as it may deem necessary.

PART II

THE TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION

Division 1 - Conduct

Application

10. (1) By-Laws 11 and 12 apply to each member of the Commission, the Chief Executive Officer, and each officer, clerk or other person who is employed by the Commission or who holds office or an appointment under the Act and these By-Laws or any person to whom any authority has been delegated by the Commission.

(2) By-Laws 11 and 12 do not apply to transactions in personal promissory notes or securities issued by or guaranteed by a government entity.

General conduct

11. No person to whom this By-Law applies shall -

(a) engage directly or indirectly in any personal business transaction or private arrangement for personal profit which accrues from or is based upon his official position or authority

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TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
 DRAFT SECURITIES (GENERAL) BY-LAWS, 2013—STATEMENT OF SUBSTANCE AND PURPOSE—Continued

or upon confidential or non-public information which he gains by reason of such position or authority;

(b) act in a manner that might result in or create the appearance of -

(i) a public office being used for private benefit, gain or profit;

(ii) having received preferential treatment other than as provided for in the Act;

(iii) a loss of independence or impartiality of such person, or

(iv) a loss of public confidence in the integrity of the Commission;

(c) divulge or release, in advance or otherwise, confidential, non-public or official information to any person unless authorized under the Act;

(d) divulge or release at any time after the termination of his office, appointment or employment with the Commission, or the completion of any matter delegated to him, confidential, non-public or official information to any person unless authorized under the Act;

(e) act as an official in a matter in which the person has a material direct or indirect personal interest whether pecuniary or not;

(f) be involved, directly or indirectly, in any business or financial affairs which may conflict with his duties or responsibilities; or

(g) without the written permission of the Chairman, or in the case of a Commissioner the Minister, hold office in or be a director of a reporting issuer, other than a non-profit or charitable issuer.

Reporting to the Minister
or Commission

12. (1) At the time of taking office or employment with the Commission, a person referred to in By-Law 10(1) shall provide a report disclosing his direct and indirect beneficial ownership of, or control or direction over, securities of registrants and self-regulatory organizations -

(a) in the case of members of the Commission, to the Minister; and

(b) in the case of all other such persons to whom this By-Law applies, to the Chairman of the Commission.

(2) Each member of the Commission shall report to the Minister, and every other person to whom this By-Law applies shall report to the Chairman of the Commission, within five business days from the day on which a change takes place in his direct or indirect beneficial ownership of, or control or direction over, securities of a reporting issuer, disclosing -

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TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
 DRAFT SECURITIES (GENERAL) BY-LAWS, 2013—STATEMENT OF SUBSTANCE AND PURPOSE—Continued

(a) his direct and indirect beneficial ownership of, or control or direction over, securities of a reporting issuer, at the end of that month; and

(b) the change or changes that occurred during that month.

(3) Where the change in ownership in paragraph (2) relates to an interest in a collective investment scheme, each member of the Commission shall report to the Minister, and every other person to whom this By-Law applies shall report to the Chairman of the Commission within such time as the Commission may direct.

(4) The Minister may require a person to dispose of his beneficial interest in a security acquired as a result of a violation of this By-Law.

Disclosure of interest

13. Every person referred to in By-Law 10(1) who -

(a) has any interest in a security of a reporting issuer, or any personal interest in any issuer or project that is the subject of, or part of the subject of any matter assigned to him as part of, his duties; or

(b) had prior employment or other relationship to any person or project which may prejudice or affect his work, independence or impartiality on any assignment, shall -

if he is a member of the Commission, advise the Minister, or in any other case, advise the Chairman of the Commission.

Division 2 - Filings with the Commission

Filing of documents with Commission

14 (1) Documents required to be filed with the Commission shall be filed by -

(a) mailing or delivering two paper copies of such documents to the address of the Commission as notified by the Commission from time to time in the Trinidad and Tobago Gazette, on the website of the Commission or in two daily newspapers; or

(b) providing to the Commission an electronic version of such documents in a format as may be notified by the Commission from time to time in the Trinidad and Tobago Gazette, on the website of the Commission or in two daily newspapers.

(2) A document filed with the Commission under paragraph (1)(a) shall be deemed to be filed on the day which is the earlier of its actual receipt by the Commission and the day which such document is postmarked.

(3) A document filed with the Commission under paragraph (1)(b) shall be deemed to be filed on the day on which it is received by the Commission.

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TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
DRAFT SECURITIES (GENERAL) BY-LAWS, 2013—STATEMENT OF SUBSTANCE AND PURPOSE—Continued

PART III
THE TRINIDAD AND TOBAGO STOCK EXCHANGE
AND OTHER SELF-REGULATORY ORGANIZATIONS

Application for
registration as a self-
regulatory organization

- 15.** (1) Application for registration, renewal or re-instatement as a self-regulatory organization under Part III of the Act shall be made on Form No. 1.

(2) Every self-regulatory organization shall have a designated person responsible for the discharge of its obligations under the Act who shall be the primary contact with respect to all matters related to the Commission and who shall be a senior officer of the self-regulatory organization.

Prescribed records for
self-regulatory
organizations

- 16.** (1) A self-regulatory organization shall prepare and keep -

(a) in the case of a self-regulatory organization that is a securities exchange, a record of all orders or transactions in securities effected through the facilities of that securities exchange and the record shall identify the buying and selling broker-dealers, the price, quantity and account numbers of the buyers and sellers of the securities;

(b) in the case of a self-regulatory organization that is a securities exchange, a record of all granting, refusal or restrictions on membership, including the reasons for granting, refusing or imposing conditions on the applicant;

(c) in the case of a self-regulatory organization that is a clearing agency, records that provide an audit trail of transactions cleared and settled through its facilities including the time the transaction was cleared and settled, the name and quantity of the security and the time of the transaction, identities and where appropriate the roles of the parties to the transaction;

(d) an annual report containing a management discussion and analysis and its annual audited comparative financial statements;

(e) an annual audited report on the operations and financial conditions of a contingency fund or a settlement assurance fund maintained by the self-regulatory organization;

(f) a record of all disciplinary matters involving members of the self-regulatory organization, detailing the nature of the matter, the names of members involved and the actions taken; and

(g) a record of all written complaints made against the self-regulatory organization or a member regardless of whether any disciplinary action is taken, detailing the nature of the complaint, the names of the members involved, and the action taken, if any.

(2) A self-regulatory organization shall file with the Commission the reports required by By-Law 16(1)(d) and (e) within one hundred and twenty days of its financial year end.

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TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
DRAFT SECURITIES (GENERAL) BY-LAWS, 2013—STATEMENT OF SUBSTANCE AND PURPOSE—Continued

**PART IV
REGISTRANTS**

Division 1 - General

Regulatory capital **17.** For the purposes of these By-Laws, “regulatory capital” means-

- i. cash or cash equivalents held in a financial institution;
- ii. money market accounts of a collective investment scheme in Trinidad and Tobago;
- iii. the market value of securities of the Government of Trinidad and Tobago less ten percent; or
- iv. such other form as approved by the Commission;

which is free and clear of any encumbrances.

Designated Person **18.** (1) Every registrant registered under 51(1) of the Act, reporting issuer and self-regulatory organization shall have a designated person who shall be the primary contact with respect to all matters related to the Commission and, where applicable, shall be a senior officer.

(2) Every registrant registered under 51(1) of the Act, reporting issuer and self-regulatory organization shall notify the Commission of the person designated under paragraph (1) within three months of the coming into force of these By-Laws.

(3) Where a registrant is an entity constituted in trust form, the trustees or such other persons as may be approved by the Commission shall be responsible for the discharge of its obligations under the Act.

Division 2 - Registration under Section 51 of the Act

Application for registration as a broker-dealer **19.** (1) Every applicant for registration, renewal or reinstatement to conduct the business activities of a broker-dealer shall -

(a) be a company incorporated in Trinidad and Tobago or incorporated in any other designated foreign jurisdiction and registered in Trinidad and Tobago as an external company under the Companies Act 1995;

(b) have as its primary business an activity for which registration is required under section 51(1)(a) of the Act;

(c) not have direct or indirect interests which may conflict with or be likely to affect the conduct and integrity of its business as a broker-dealer;

(d) satisfy the minimum capital requirements applicable to its class of business as set forth in By-Law 28(1);

(e) have at least two brokering representatives registered under By-Law 22 who each have at least three years securities related work experience; and

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(f) pay the relevant fee;

(g) be fit and proper.

Deemed registration

(2) A person registered as a broker-dealer is deemed to be registered as an investment adviser.

Prescribed activities of a Broker-Dealer

(3) A broker-dealer may perform the activities of an underwriter provided that:

- (a) the applicant has in its employ at least one underwriting representative registered under By-Law 22;
- (b) the applicant pays the relevant fee;
- (c) the applicant satisfies the minimum capital requirements set forth in By-Law 28(1); and
- (d) the applicant meets any other conditions as the Commission may require

(4) An application for registration under paragraph (1) shall be made on Form No. 2A.

Application for registration as investment advisor

20. (1) Every applicant for registration, renewal or reinstatement to conduct the business activities of an investment adviser shall -

(a) if an individual -

- (i) be at least twenty-one years of age;
- (ii) have a degree or professional qualification in economics, banking, law, accountancy, business administration, chartered secretaryship, finance or such other qualification or training from a university or other educational institution recognized by the Commission;
- (iii) have at least three years securities related work experience;
- (iv) pay the relevant fee; and
- (v) be fit and proper;

(b) if a company -

- (i) be a company incorporated in Trinidad and Tobago or incorporated in any other designated foreign jurisdiction and registered in Trinidad and Tobago as an external company under the Companies Act, 1995;
- (ii) have as its primary business an activity for which registration is required under section 51(1)(b) of the Act;
- (iii) not have direct or indirect interests which may conflict with or be likely to affect the conduct and integrity of its business as an investment adviser;

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TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
 DRAFT SECURITIES (GENERAL) BY-LAWS, 2013—STATEMENT OF SUBSTANCE AND PURPOSE—Continued

Exemptions from
 investment adviser
 registration requirement

(iv) have at least two advising representatives registered under By-Law 22 who each have at least three years securities related work experience;

(v) pay the relevant fee; and

(vi) be fit and proper.

(2) Subject to paragraph (3), the following persons may perform the business activities of an investment adviser without registration under Part IV of the Act -

(a) an insurance company registered under the Insurance Act and any director, officer or employee thereof;

(b) a financial institution and any director, officer or employee thereof;

(c) an attorney-at-law or an accountant;

(d) a publisher of, or writer for, a newspaper, news magazine, or business or financial publication that is of general and paid circulation, distributed only to subscribers to it for value or to purchasers of it, who -

(i) gives advice as an investment adviser either as such publisher or writer only, or as such publisher or writer and as an attorney-at-law or an accountant;

(ii) discloses in the publication any direct or indirect beneficial ownership or other interest which he has in any of the securities in respect of which he gives investment advice;

(iii) discloses in the publication that he is not a registered investment adviser with the Commission; and

(iv) receives no commission or other consideration, directly or indirectly, from the issuer of the securities, or any affiliate or associate of the issuer of the securities, in respect of which the investment advice given.

(3) The exemption under paragraph (2) is available to a person only if the performance of the services as an investment adviser is solely incidental to his principal business or occupation as stated in that paragraph.

(4) An application for registration under paragraph (1)(a) shall be made on Form No. 2B.

(5) An application for registration under paragraph (1)(b) shall be made on Form No. 2A.

Application for
 registration as an
 underwriter

21. (1) Every applicant for registration to conduct the business activities of an underwriter shall -

(a) be a company incorporated in Trinidad and Tobago or incorporated in any other designated foreign jurisdiction and

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TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
 DRAFT SECURITIES (GENERAL) BY-LAWS, 2013—STATEMENT OF SUBSTANCE AND PURPOSE—Continued

registered in Trinidad and Tobago as an external company under the Companies Act, 1995;

(b) have as its primary business an activity for which registration is required under section 51(1)(c) of the Act;

(c) not have direct or indirect interests which may conflict with or be likely to affect the conduct and integrity of its business as an underwriter;

(d) satisfy the minimum capital requirements set forth in By-Law 28(1);

(e) have at least two underwriting representatives registered under By-Law 22 who each have at least three years securities related work experience;

(f) pay the relevant fee; and

(g) be fit and proper.

Permissible activities of an underwriter

(2) An underwriter may perform the business activities of an investment adviser without registration so long as the performance of the activities of an investment adviser is solely incidental to his functions as an underwriter.

(3) An application for registration under paragraph (1) shall be made on Form No. 2A.

Registration of Registered Representatives

22. (1) Every individual to whom section 51(2) of the Act applies, shall be registered in one or more of the following categories:

(a) an advising representative;

(b) a brokering representative;

(c) an underwriting representative; or

(d) an associate representative.

(2) A registrant under Section 51(1) of the Act shall submit a list of all registered representatives in its employment on Form No. 3A and pay the relevant fee upon its application to register, renew or reinstate under the section 52(1) of the Act.

(3) Where a registrant employs a registered representative subsequent to an application under paragraph (2), it shall submit Form No. 3A in respect of that new registered representative and pay the relevant fee.

(4) The functions of a registered representative shall be restricted to the category of registration for which he is registered.

(5) For each registered representative in its employ, a registrant under section 51(1) of the Act shall maintain records evidencing that the registered representative meets the criteria set forth in By-Law 23.

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 DRAFT SECURITIES (GENERAL) BY-LAWS, 2013—STATEMENT OF SUBSTANCE AND PURPOSE—Continued

Requirements for
 registration of
 Registered
 Representatives

23. (1) Every senior officer, agent or employee who is to be registered under By-Law 22(1)(a),(b) or (c) shall:

(a) complete Form No. 3B.

(b) be an individual of at least twenty-one years of age;

(c) have a degree or professional qualification in economics, banking, law, accountancy, business administration, chartered secretaryship, finance or such other qualification or training from a university or other educational institution recognized by the Commission;

(d) have a least two years working experience in a field specified in paragraph (d); and

(e) be fit and proper.

- (2) A senior officer, agent or employee applying for registration under By-Law 22(1)(d) shall:

(a) complete Form No. 3B;

(b) be an individual of at least twenty-one years of age;

(c) be fit and proper;

(d) be under the direct supervision of a registered advising, brokering or underwriting representative who is authorised to perform the class of activities for which the associate representative is being supervised.

Application for
 sponsored broker-dealer
 or investment adviser

24. (1) Every applicant for registration under section 51(5) of the Act shall -

(a) be an individual of at least twenty-one years of age;

(b) not be a resident of Trinidad and Tobago;

(c) not be registered to conduct the activities under section 51(1) of the Act or be the senior officer or employee of a registrant registered under section 51(1) of the Act;

(d) be registered as an individual in the category of investment adviser or broker-dealer (or equivalent or similar category) under the securities legislation of a designated foreign jurisdiction, which registration shall be in good standing and not revoked, suspended or cancelled by the competent securities regulatory authority in the designated foreign jurisdiction;

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(e) at the time of the application not be the subject of any disciplinary proceedings by any self-regulatory organization or competent securities regulatory authority in any jurisdiction;

(f) be an employee, or senior officer of a broker-dealer or investment adviser (or equivalent or similar) registered under the securities legislation of a designated foreign jurisdiction, which registration shall be in good standing and not revoked, suspended or cancelled by the competent securities regulatory authority in the designated foreign jurisdiction; and

(g) be fit and proper.

(2) An application for registration under paragraph (1) shall be made on Form No. 4 and accompanied by -

(a) a letter from a broker-dealer or investment adviser registered under section 51(1) of the Act wherein the broker-dealer or investment adviser agrees to sponsor the applicant for registration under section 51(5) of the Act;

(b) evidence of due registration in good standing in a designated foreign jurisdiction required under paragraph (1)(d) and 1(f); and

(c) the relevant fee.

Liability of sponsoring market actor

(3) The broker-dealer or investment adviser, identified in paragraph (2)(a) shall be responsible for the discharge of the obligations of an applicant under section 51(5) of the Act and these By-Laws in respect of the activities which the applicant conducts in the securities market in Trinidad and Tobago.

Time limit on activities

(4) A person registered under section 51(5) of the Act shall not engage in the business and activities of a broker-dealer or investment adviser in Trinidad and Tobago for more than thirty days in any one calendar year.

Division 3 - Registration under Section 54 of the Act

Approval of Substantial Shareholders

25. (1) An application for approval under section 54 of the Act shall be made on Form No. 5.

(2) In determining whether an applicant should be approved to become a substantial shareholder under section 54 of the Act, the Commission shall take into account:

(a) if an individual, whether he:

(i) is at least twenty-one years of age; and

(ii) is fit and proper.

(b) if an entity, whether it is fit and proper.

Division 4 - Registration and Distribution Statements under Section 61 and 62

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- Registration Statement **26.** (1) A registration statement under section 61(1) or a revised registration statement under section 61(2) of the Act shall be in the form set out as Form No. 8 and shall be accompanied by such documents as the Commission may require and the relevant fee.
- (2) The notification of a limited offering pursuant to section 6(1)(4)(a) and 62(9)(a)(i) of the Act shall be in the form as set out as Form No. 20.
- Distribution Statement **27.** A distribution statement required under section 62(2) of the Act shall be in the form set out as Form No. 9 and shall be accompanied by such documents as the Commission may require and the relevant fee.

PART V

OBLIGATIONS OF REGISTRANTS AND SELF-REGULATORY ORGANIZATIONS

Division 1 – Registrants under Section 51(1) of the Act and self-regulatory organizations

- Capital requirements and notification **28.** (1) A registrant registered under section 51(1) of the Act as a broker-dealer or underwriter shall maintain at all times capital levels as follows -
- (a) in the case of a broker-dealer -
- (i) that only conducts the business of effecting transactions in securities for the account of others, minimum capital of two million dollars, of which at least one million dollars shall be regulatory capital;
- (ii) that conducts the business of effecting transaction in securities for the account of others or buying and selling securities for his own account and who holds himself out as willing to buy and sell securities at prices specified by him, minimum capital of five million dollars, of which at least two million dollars shall be regulatory capital;
- (b) in the case of a broker-dealer that also conducts the activities of an underwriter, minimum capital of six million dollars, of which at least three million shall be regulatory capital; and
- (c) in the case of an underwriter, minimum capital of five million dollars, of which at least two million dollars shall be regulatory capital;
- (2) The capital levels set forth in paragraph (1) are the prescribed levels of capitalization for purposes of section 57(1)(f) of the Act.
- (3) The capital levels that shall be applied to registrants specified in this By-Law may be determined by the Commission in accordance with international standards and modified from time to time by Order of the Commission.
- Quarterly Calculation of Capital Requirements **29.** (1) A registrant registered under section 51(1) of the Act as a broker-dealer or underwriter shall deliver to the Commission within thirty business days following the end of each quarterly period in the financial year of such registrant -
- (a) a statement -

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Record keeping by
 registrants

- (i) setting forth the capital levels of the registrant as at the last day of the end of such quarterly period; and
 - (ii) setting forth the calculation utilized to determine the capital levels disclosed in paragraph (1)(a)(i); and
 - (b) a certificate of a senior officer of the registrant confirming the accuracy of the statement required by paragraph (1)(a).
30. (1) A registrant registered under section 51(1) of the Act shall maintain records in a manner that permits it to be provided promptly to the Commission and that -
- (a) clearly record all of its business transactions and financial affairs that are conducted in Trinidad and Tobago;
 - (b) permit the timely creation and audit of financial statements and other financial information required to be filed or delivered to the Commission;
 - (c) permit the determination of the registrant's capital position;
 - (d) demonstrate compliance with the registrant's capital and insurance requirements;
 - (e) demonstrate compliance with the registrant's policies and procedures, including internal control procedures;
 - (f) permit the identification and segregation of client assets, cash, securities and other property;
 - (g) identify all transactions conducted on behalf of the registrant and each of its clients, including the parties to the transaction and the terms of purchase or sale.
 - (h) provide an audit trail for -
 - (a) client instructions and orders; and
 - (b) each trade transmitted or executed for the account of a client or the registrant;
 - (i) permit the creation of account activity reports for clients;
 - (j) demonstrate compliance with client account opening requirements;
 - (k) document correspondence and other communication with clients;
 - (l) document complaints and disciplinary matters;
 - (m) document compliance and supervisory actions taken by the registrant; and
 - (n) demonstrate compliance with the registrant's obligations under the Act and these By-Laws.
- (2) The books and records required to be kept in accordance with the Act and these By-Laws shall be kept in Trinidad and Tobago and in English language.

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- Adequate precautions and access
31. A registrant or self-regulatory organization may only record or store information using adequate mechanical, electronic or other devices if -
- (a) the method used is not prohibited by law;
 - (b) the registrant or self-regulatory organization takes adequate precautions, appropriate to the methods used, to guard against falsification of, or tampering with, the information recorded or stored; and
 - (c) the registrant or self-regulatory organization provides a means for making the information available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the information.
- Records of original entry
32. A registrant registered under section 51(1) of the Act as a broker-dealer or underwriter shall keep records of original entry which shall contain an itemized daily record of -
- (a) all purchases and sales of securities;
 - (b) all receipts and deliveries of securities including certificate numbers;
 - (c) all receipts and disbursements of cash;
 - (d) all other debits and credits;
 - (e) the account for which each transaction was effected;
 - (f) the name of the securities to which each transaction recorded applies, their class or designation, and their number or value;
 - (g) the unit and aggregate purchase or sale price, if any; and
 - (h) the trade date and the name or other designation of the person from whom the securities were purchased or received or to whom they were sold or delivered.
- Ledgers
33. A registrant registered under section 51(1) of the Act as a broker-dealer shall keep ledgers or other records which shall reflect -
- (a) in detail, the assets, liability and capital accounts and the income and expenditure accounts;
 - (b) securities in transfer;
 - (c) dividends and interest received;
 - (d) securities borrowed and securities loaned;
 - (e) money borrowed and money loaned, together with a record of related collateral and substitutions in the collateral; and
 - (f) securities that the registrant should have, but has not received, or has failed to deliver.
- Ledger account
34. Ledger accounts of a registrant required to be kept by By-Law 33 shall be itemized separately showing -
- (a) each cash and margin account of each client;

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- (b) all purchases, sales, receipts and deliveries of securities and commodities for the account; and
- (c) all other debits and credits to the account.
- Securities record 35. A registrant registered under section 51(1) of the Act as a broker-dealer shall keep a securities record which shall show separately for each security, as at the trade date or settlement date -
- (a) all long and short positions, including securities in safekeeping, carried for the account of the registrant or for the account of clients;
- (b) the location of all securities sold long, and the position offsetting securities sold short; and
- (c) in all cases, the name or designation of the account in which each position is carried.
- Order and instructions 36. A registrant registered under section 51(1) of the Act as a broker-dealer shall keep a record of each order and any other instructions given or received, for the purchase or sale of securities, whether executed or not, and shall show with respect to each order and instruction -
- (a) its terms and conditions;
- (b) any modification or cancellation of it;
- (c) the account to which it relates;
- (d) where it is placed by an individual, other than -
- (i) the person in whose name the account is operated; or
- (ii) the individual who is duly authorized to place orders or instructions on behalf of a client that is a company,
- the name or designation of the individual placing it;
- (e) its time of entry and, where applicable, a statement that it is entered under the exercise of a discretionary power of the registrant or an employee of the registrant;
- (f) the price at which it was executed; and
- (g) the time of its execution or cancellation.
- Confirmation and notice 37. A registrant registered under section 51(1) of the Act as a broker-dealer shall keep a record of confirmations and notices which shall consist of -
- (a) a copy of every confirmation for each purchase and sale of securities required by section 109 of the Act; and
- (b) a copy of every notice of all other debits and credits of securities cash and other items for the accounts of clients.
- Cash and margin account 38. A registrant registered under section 51(1) of the Act as a broker-dealer shall keep a record of cash and margin accounts which shall show, with respect to each cash account and margin account for each client -
- (a) the name and address of the beneficial owner of the account and of the guarantor, if any;

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- (b) where the trading instructions are accepted from a person other than the client, written authorization or ratification from the client naming that person; and
- (c) in the case of a margin account, an executed margin agreement containing the signature of the beneficial owner and the guarantor, if any, and any additional information prescribed, but in the case of a joint account or an account of a company, the record is required only in respect of the person duly authorized to transact business for the account.
- Option records
- 39.** A registrant registered under section 51(1) of the Act as a broker-dealer shall keep an options record which shall show -
- (a) all puts, calls, spreads, straddles and other options granted or guaranteed by the registrant or in which he has any direct or indirect interest; and
- (b) the identification of the securities to which the put, call, spread, straddle or other option relates.
- Quarterly record
- 40.**
- Audited annual comparative financial statements of registrants
- 41.** (1) A registrant registered under section 51(1) of the Act shall deliver to the Commission within ninety days of the end of each financial year of such registrant audited annual comparative financial statements relating separately to:
- (a) the period that commenced on the date of incorporation or organization and ended as of the close of the first financial year or, if the registrant has completed a financial year, the last financial year; and
- (b) the period covered by the financial year immediately preceding the last financial year, if any.
- (2) No person shall be appointed to act as the auditor of a registrant under this clause unless such person is a member in good standing of the Institute of Chartered Accountants of Trinidad and Tobago or such other body and meets any other requirements as the Commission may order.
- (3) The Commission, may, where the report of the auditor required by paragraph (2) is qualified in any respect, take any action that it deems necessary until the matters giving rise to the qualified audit report are resolved.
- (4) The auditor shall, where he in the course of performing his duties required by paragraph (2) is of the opinion that a matter could give rise to a qualification in the audit report on the financial statements, provide notice to the Commission immediately and deliver a copy of the notice promptly to the registrant.
- (5) The notice required in paragraph (4) shall contain complete details about the circumstances giving rise to the notice.
- Interim Financial Statements
- 42.** (1) A registrant registered under section 51(1) of the Act shall file with the Commission, an interim financial statement -

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(a) where the registrant has not completed its first financial year, for the period commencing with the beginning of that financial year and ending six months before the date on which that financial year ends;

(b) where the reporting issuer has completed its first financial year, for the periods commencing after the end of its last completed financial year and ending six months after that date and a comparative financial statement to the end of the corresponding periods in the last financial year.

(2) The interim financial statement required under paragraph (1) shall be filed with the Commission within sixty days of the end of the period to which they relate.

(3) No interim financial statement needs be filed under paragraph (1) for any period that is less than six months.

(4) An interim financial statement filed under paragraph (1) need not include an auditor's report, but if an auditor has been associated with that statement, his audit report or his comments on the unaudited financial information shall accompany the statement.

Financial statements to
customer by registrants

43. A registrant registered under section 51(1) of the Act shall -

(a) when requested by a client -

(i) forthwith provide the client with a copy of the most recently prepared audited financial statements of the registrant, as delivered to the Commission or filed with the self-regulatory organization of which the registrant is a member; and

(ii) a list of the names of the senior officers of the registrant, prepared and certified as of a date not more than thirty days before the request; and

(b) inform its clients on every statement of account or by other means approved by the Commission that the audited financial statements referred to in paragraph (a) are available on request.

Education and training

44. A registrant registered under section 51(1) of the Act shall develop, implement and maintain education and training programs for its employees, senior officers and other agents that are reasonably necessary to ensure that its business as a registrant is conducted ethically and in accordance with industry practice.

Standards of investment
for filing

45. (1) A registrant registered under section 51(1) of the Act shall develop written policies that maintain standards ensuring fairness in the allocation of investment opportunities among its clients.

(2) A registrant registered under section 51(1) of the Act shall deliver a copy of its policies developed pursuant to paragraph (1) to the Commission and shall provide a copy of these policies to each client at the time he becomes a client of the registrant.

Statements of accounts

46. (1) Where a client has a debit or credit balance with a registrant registered under section 51(1) of the Act as a broker-dealer, or a registrant registered under section 51(1) of the Act as a broker-dealer is holding securities of a

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client, the registrant shall send a statement of account to that client at the end of each month in which the client effects a transaction.

(2) Where a registrant registered under section 51(1) of the Act as a broker-dealer is holding funds of a client or securities on a continuing basis, the registrant shall forward, not less than once in every three months, a statement of account to the client showing any debit or credit balance and the details of any securities held.

(3) A statement of account sent under paragraphs (1) or (2) shall indicate clearly which securities are held for safekeeping.

Acknowledgement of
 record entry transfers in
 contract

47. A registrant registered under section 51(1) of the Act as a broker-dealer shall obtain a written acknowledgment from each client that any securities beneficially owned by the client may be kept by means of record entries with a clearing agency.

Branch offices

48. (1) In accordance with section 56(6) of the Act, a registrant shall apply for the registration of a new branch office, where it proposes to conduct the categories of business for which it is registered at that branch office, on Form No. 7 which shall be accompanied by such documents as the Commission may require and the relevant fee.

(2) The Commission may, approve a branch office in Trinidad and Tobago, on such terms and conditions as it considers appropriate.

(3) The Commission shall refuse to approve a branch office in Trinidad and Tobago where it is not in the public interest to grant such an approval.

Division 2 – Registrants under Section 61 of the Act

Filing of annual report

49. For purposes of section 63(a) of the Act, an annual report of a reporting issuer shall –

(a) contain the annual comparative financial statements;

(b) contain a management discussion and analysis and such other information as the Commission may require; and

(c) be filed with the Commission annually within one hundred and twenty days of the financial year end of the reporting issuer.

Material change reports

50. For the purposes of section 64(1)(a) of the Act, the prescribed report is a report on Form No. 10.

Annual comparative
 financial statements

51. (1) For purposes of section 65(1) of the Act, the annual comparative financial statements of a reporting issuer shall be audited and shall be filed with the Commission annually within ninety days of the financial year end of the reporting issuer.

Collective investment
 schemes – Annual
 comparative financial
 statements

(2) In addition to the requirements set forth in By-Law 3, the annual comparative financial statements of a reporting issuer that is a collective investment scheme shall include a statement of changes in net assets attributable to holders of redeemable shares.

Collective investment
 schemes – Interim
 financial statements

(3) In addition to the requirements set forth in By-Law 3, the interim financial statements of a reporting issuer that is a collective investment scheme shall

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include a statement of changes in net assets attributable to holders of redeemable shares for the periods specified in section 66(1) of the Act.

(4) Notwithstanding paragraphs (2) and (3) the content of the financial statements for a reporting issuer that is a collective investment scheme may be varied or amended in such manner as may be determined by the Commission from time to time.

(5) The annual and interim comparative financial statements of a reporting issuer that is a collective investment scheme shall be certified -

(a) if the reporting issuer is organized or constituted as a company, by the directors of the reporting issuer, and the approval shall be evidenced by the manual or facsimile signatures of two directors duly authorized to signify the approval;

(b) if the reporting issuer is organized or constituted as a trust, by the trustees of the reporting issuer, and the approval shall be evidenced by the manual or facsimile signature of two trustees duly authorized to signify the approval; and

(c) if the reporting issuer is organized or constituted other than as a company or a trust, by any two persons authorized to sign on behalf of the reporting issuer, and the approval shall be evidenced by the manual or facsimile signature of two such persons duly authorized to signify the approval.

Certification of annual and interim comparative financial statements for collective investment schemes

Management Discussion and Analysis

52. (1) The management discussion and analysis of a reporting issuer shall include a discussion of the following items for the financial year of the reporting issuer for which the management discussion and analysis is being prepared, and a comparative discussion for the financial year immediately preceding such financial year -

(a) the overall performance of the reporting issuer including -

(i) its year-end financial condition, its results of operations, and cash flows;

(ii) general industry and economic factors affecting the reporting issuer; and

(iii) changes in the business during the financial year and how those changes have impacted financial condition and performance;

(b) the results of operations for the reporting issuer, including;

(i) net sales or revenues for the financial year, including the impact of new goods or services and factors affecting changes in sales;

(ii) cost of sales;

(iii) expenditures in the financial year including research and development, administration and marketing costs, and other material expenses;

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- (iv) trends, commitments, events, risks or other factors that the reporting issuer believes may materially affect the future results of operations of the reporting issuer; and
 - (v) unusual or infrequent factors or transactions which affected results of operations for the financial year;
- (c) the liquidity position of the reporting issuer, including -
- (i) the cash and cash equivalents of the reporting issuer in both the short and long term, and the sufficiency of such cash and cash equivalents to meet planned goals and objectives;
 - (ii) working capital requirements;
 - (iii) working capital deficiencies, and the reporting issuer's plans to deal with such deficiencies;
 - (iv) the impact of balance sheet items or cash flows on the liquidity or working capital position of the reporting issuer; and
 - (v) defaults on any debt obligations and the effect of such defaults on the reporting issuer;
- (d) the capital resources of the reporting issuer including -
- (i) the amount, nature and purpose of capital expenditures required;
 - (ii) the sources of funds to meet capital requirements; and
 - (iii) sources of financing for the reporting issuer, including sources that have been arranged but not yet used;
- (e) material transactions between the reporting issuer and its affiliate, including -
- (i) identification of the affiliate of the reporting issuer;
 - (ii) determination of the transaction price; and
 - (iii) the on-going relationship between the reporting issuer and the affiliate of the reporting issuer; and
- (f) accounting policies of the reporting issuer, including -
- (i) all changes in accounting policies during the financial year, the reason for such change, and the policy currently adopted by the reporting issuer; and
 - (ii) accounting policies which are critical to the reporting issuer in that they required judgements, estimates or uncertainties where the use of different judgements, estimates or uncertainties may result in materially different amounts reported in the financial statements of the reporting issuer.

(2) Notwithstanding paragraph (1), a management discussion and analysis of a reporting issuer may discuss such other matters which the reporting issuer reasonably believes are necessary for a full, true and complete understanding

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of the financial results, financial position and future prospects of the reporting issuer.

(3) Notwithstanding paragraph (1), a reporting issuer is not required to make disclosure of any matter in a management discussion and analysis which is not material to the reporting issuer, or which is inapplicable given the business and operations of the reporting issuer.

(4) A management discussion and analysis shall be prepared in plain language and in a format that is easy to read and understand.

Acceptable accounting principles

53. For purposes of sections 65(1) and 66(1) of the Act for a reporting issuer that is an approved foreign issuer, any body of accounting principles that would be permitted to be used by the approved foreign issuer under the securities laws of a designated foreign jurisdiction in which the approved foreign issuer is subject to foreign disclosure requirements shall be considered financial reporting standards for purposes of the Act and these By-Laws.

Filing of material sent to security holders or filed abroad

54. (1) Every reporting issuer shall file with the Commission in the manner prescribed -

(a) a copy of all material sent by the reporting issuer to its security holders pursuant to the Act and these By-Laws; and

(b) all elective information not already filed with the Commission, whether in the same or a different form.

(2) For purposes of paragraph (1)(b), "elective information" means information that is filed with or delivered to:

- a) a government of another jurisdiction;
- b) a financial regulator of another jurisdiction; or
- c) a securities exchange of another jurisdiction;

on the basis that it is material to investors but does not include information that is specifically required to be filed or delivered in the other jurisdiction by the terms of the applicable law or, rules or regulations of the securities exchange.

(3) Any document or information required to be filed with the Commission as a result of paragraph (1) shall be filed with the Commission forthwith after the reporting issuer sends the information referred to in paragraph (1)(a) to its security holders.

(4) Information that is filed with the Commission pursuant to paragraph (1)(b) and that has been filed on a confidential basis in all other jurisdictions in which it is filed, shall be kept confidential so long as it remains confidential in all those other jurisdictions.

Proxy solicitation

55. (1) For purposes of section 68 of the Act-

(a) the prescribed form of proxy is Form No. 12;

(b) the prescribed form of proxy circular is Form No. 13; and

(c) the prescribed form of dissident proxy circular is Form No. 14.

Notification of changes

56. (1) For the purposes of section 56(4) of the Act, the prescribed events are those set forth in Schedule 4.

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(2) For registrants registered under section 51(1) of the Act, the prescribed time for notifications to be sent to the Commission in accordance with section 56(4) of the Act shall be seven days from the date of the occurrence of the prescribed event.

(3) For registrants registered under section 61(1) of the Act, the prescribed time for notifications to be sent to the Commission in accordance with section 56(4) of the Act shall be fourteen days from the date of the occurrence of the prescribed event, unless where otherwise indicated.

(4) Notwithstanding subsection (3), the prescribed time for the notification to be sent to the Commission with respect to subsection (e) of Schedule 4 of these By-Laws shall be quarterly within five business days of the end of the quarter.

PART VI
 MARKET CONDUCT AND REGULATION

- | | |
|---|---|
| Trading confirmations | <p>57. The confirmation of a trade required by section 109 of the Act shall contain the following information -</p> <ul style="list-style-type: none"> (a) whether or not the registrant acted as principal or agent; (b) the price at and the consideration for which the sale or purchase was effected; (c) the commission charged in connection therewith and any other charges incurred; (d) the date and time at which the purchase or sale took place; and (e) the name of the market upon which the trade took place. |
| Client accounts | <p>58. For the purposes of section 107(1)(a) and (b) of the Act, the time within which payment shall be made into the client account shall be three business days.</p> |
| Trades conducted other than through a securities exchange | <p>59. For the purposes of section 86 of the Act, the prescribed report is a report on Form No. 21 which shall be filed with the Commission within ten business days following the end of each quarterly period in the financial year of the registrant.</p> |
| Separate supervision of accounts and pooling | <p>60. A registrant registered under section 51(1) of the Act shall ensure that the account of each client is supervised separately and distinctly from the accounts of other clients.</p> |
| Segregation of client securities | <p>61. (1) Securities that are held by a registrant for a client pursuant to an agreement between the registrant and the client and that are unencumbered shall be kept apart from all other securities and be identified as being held for a client in the records of a registrant required to be kept under By-Laws 30 to 40.</p> |

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- (2) Securities that are held under paragraph (1) may be released only on an instruction from the client and not solely because the client has become indebted to the registrant.
- (3) A registrant registered under section 51(1) of the Act solely as an investment adviser shall not keep securities, for, or on behalf of, a client.
- Improper use of client assets **62.** No registrant under section 51(1) shall make improper use of client's securities or funds, such as borrowing, lending, pledging or otherwise using funds or securities without the client's written authorization.
- Know your client **63.** (1) A registrant under Section 51(1) of the Act must take reasonable steps to -
- (a) establish the identity of a client and, where there may be cause for concern, the reputation of the client;
 - (b) ascertain whether the client is a senior officer of a reporting issuer;
 - (c) ensure that it has sufficient personal and financial information about a client to enable it to meet its regulatory obligations when it-
 - (i) makes a recommendation to the client;
 - (ii) accepts an instruction to trade from the client;
 - (iii) makes a discretionary purchase or sale of securities on behalf of the client; and
 - (d) establish the creditworthiness of a client, if the registrant is financing the client's acquisition of a security.
- (2) If the client is an entity, to comply with the obligation under paragraph (1)(a), the registrant must establish:
- (a) the nature of the client's business;
 - (b) the identity of any directors; and
 - (c) any person who owns ten percent or more of the paid-up share capital of the entity
- (3) The registrant must make reasonable efforts to keep the information required under this By-Law up to date.
- Suitability obligation **64.** (1) By-Law 63(1) does not apply to a broker-dealer in respect of a trade executed by him on the instructions of another registrant or a financial institution.
- (2) Pursuant to section 98(1)(a) of the Act, if a client instructs a registrant under 51(1) or (5) to buy, sell or hold a security and in the registrant's opinion, acting reasonably, following the instruction would not be suitable for the client, the registrant must inform the client of the registrant's opinion and must not buy or sell the security unless the client instructs the registrant to proceed nonetheless.

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TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
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- Discretionary Trading **65.** (1) A registrant registered under section 51(1) of the Act as a broker-dealer may not execute any trade for a client unless the registrant has the client's prior authorization for the transaction.
- (2) A registrant registered under section 51(1) of the Act as a broker-dealer, may only execute investment discretion over a client's account if –
- (a) it has entered into a written agreement with the client granting such authority; and
- (b) the agreement has been signed and approved by a senior officer of the registrant prior to the first transaction for the client.
- Executing order name or code **66.** Where a registrant registered under section 51(1) of the Act as a broker-dealer opens and trades on an account on behalf of a client and executes the orders of a client in its own name or identifies the client by means of a code or symbol, a registrant who transacts business with another registrant concerning those orders shall establish the credit worthiness of the other registrant but need not otherwise determine the suitability of a trade for the client of the other registrant.
- Supervision, compliance and risk management systems **67.** (1) A registrant must establish, maintain and apply a system of controls and supervision sufficient to –
- (a) provide reasonable assurance that the entity and each individual acting on its behalf complies with the Act and these By-Laws and any other law dealing with anti-money laundering and combating the financing of terrorism.
- (b) manage the risks associated with its business in conformity with prudent business practices.
- (2) The system of controls referred to in paragraph (1) must be documented in the form of written policies and procedures.
- Complaints **68.** A registrant shall establish effective complaints handling systems and procedures to ensure that –
- (a) adequate records of complaints, including a central register, are established and maintained;
- (b) all complaints are responded to within a reasonable timeframe;
- (c) all written complaints are responded to in writing; and
- (d) reasonable efforts are undertaken to ensure that each complaint is effectively and fairly resolved.

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PART VII

CONFLICTS OF INTEREST

Division 1 - Registrants Conflicts of Interest

Related parties of registrants

69. (1) For purposes of By-Laws 70 to 74 -

"related party of a registrant " means, in respect of a registrant registered under section 51(1) of the Act, any person -

(a) who beneficially owns, or exercises control or direction over, securities, which constitute in the aggregate more than thirty percent of the outstanding securities of any class or series of voting securities of the registrant;

(b) who would, upon the conversion or exchange of any security or the exercise of any right to convert or exchange securities into voting securities or to acquire voting securities or securities convertible or exchangeable into voting securities, beneficially own or exercise control or direction over, securities, which constitute in the aggregate more than thirty percent of the outstanding securities of any class or series of voting securities of the registrant;

(c) where, the registrant beneficially owns, or exercises control or direction over, outstanding securities which constitute in the aggregate more than thirty percent of the outstanding securities of any class or series of voting securities of the person; or

(d) where, the registrant, upon the conversion or exchange of any security or the exercise of any right to convert or exchange securities into voting securities or to acquire voting securities or securities convertible or exchangeable into voting securities, would beneficially own or exercise control or direction over, securities, which constitute in the aggregate more than thirty percent of the outstanding securities of any class or series of voting securities of the person.

(2) Notwithstanding paragraph (1), a person is not a related party of a registrant solely because the registrant, acting as an underwriter and in the ordinary course of its business, owns securities issued by the person in the course of a distribution.

Conflict of interest rules statement

70. (1) Every registrant registered under section 51(1) of the Act shall prepare and deliver annually to the Commission a conflict of interest rules statement in the Form No. 23 at the time it delivers its audited financial statements to the Commission.

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 DRAFT SECURITIES (GENERAL) BY-LAWS, 2013—STATEMENT OF SUBSTANCE AND PURPOSE—Continued

(2) A registrant registered under section 51(1) of the Act shall provide free of charge a copy of its current conflict of interest rules statement to each of its clients at the time he becomes a client of the registrant.

(3) In the event of any material change in the information required to be contained in the conflict of interest rules statement, the registrant shall -

(a) forthwith prepare and deliver to the Commission a revised conflict of interest rules statement containing the information required by paragraph (1); and

(b) within thirty days of the delivery of the revised conflict of interest rules statement to the Commission, provide to each of its clients a copy thereof.

Limitations on trading -
 related parties of
 registrants

71. (1) No registrant registered under section 51(1) of the Act shall, as principal or agent, trade in or purchase a security from, or on behalf of, any client, where the security is issued by the registrant or a related party of the registrant.

(2) A registrant is not subject to the prohibition in paragraph (1) if -

(a) the registrant has, before entering into an agreement of purchase and sale respecting the security, delivered its current conflict of interest rules statement to the client, and all changes in such information required by By-Law 69(3) to be included in the conflict of interest rules statement; or

(b) the client is purchasing as principal and is either a registrant or is a related party of the registrant.

Limitations on advising -
 related parties of
 registrants

72. (1) No registrant registered under section 51(1) of the Act shall provide investment advice to any person where the security that is the subject of the investment advice is issued by the registrant or a related party of the registrant.

(2) A registrant registered under section 51(1) of the Act is not subject to the prohibition in paragraph (1) if before providing the investment advice -

(a) the registrant delivers its current conflict of interest rules statement to the person receiving the investment advice, and all changes in such information required by By-Law 70(3) to be included in the conflict of interest rules statement; and

(b) the registrant discloses in writing the relationship between the registrant and the related party of the registrant to the person receiving the investment advice.

(3) Paragraph (1) does not apply if -

(a) the person receiving the investment advice is a registrant registered under section 51(1) of the Act or a related party of the registrant;

(b) the investment advice given by the registrant under section 51(1) of the Act--

(i) is solely incidental to a trade or purchase of the security carried out by the registrant; and

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DRAFT SECURITIES (GENERAL) BY-LAWS, 2013—STATEMENT OF SUBSTANCE AND PURPOSE—Continued

(ii) no fee is charged for the investment advice other than the usual and customary commission for the trade or purchase; or

(c) By-Law 73 applies.

Limitations on the exercise of discretion – related party of a registrant

73. (1) No registrant registered under section 51(1)(a) of the Act shall in respect of any account or portfolio over which it has discretionary authority, purchase or sell, a security on behalf of such account or portfolio where the security is issued by the registrant or a related party of the registrant.
- (2) A registrant registered under section 51(1) of the Act is not subject to the prohibition in paragraph (1) if –
- (a) prior to the purchase or sale of the security on behalf of the account or portfolio the registrant delivers its current conflict of interest rules statement to the client whose account or portfolio the registrant has discretionary authority over, and all changes in such information required by By-Law 70(3) to be included in the conflict of interest rules statement; and
- (b) the registrant has obtained the specific and informed written consent of the client to purchase or sell the security for or from his account or portfolio.
- (3) Paragraph (1) does not apply if the client is a registrant under section 51(1) of the Act or a related party of the registrant.
- (4) No registrant under section 51(1) of the Act shall make a loan from any account or portfolio of a client over which it has discretionary authority.

Confirmation and reporting of transactions in securities of a related party of a registrant

74. (1) The written confirmation of a transaction required by By-Law 37 shall in the case of a security issued by the registrant or a related party of the registrant, state that the security was issued by the registrant or a related party of the registrant.
- (2) Any report, other than the written confirmation required by By-Law 37, sent or delivered by a registrant to a client respecting any trade or purchase of a security made by the registrant with, from or on behalf of the client, including a trade or purchase of a security for an account or portfolio of the client over which the registrant has discretionary authority, shall in the case of a security issued by the registrant or a related party of the registrant, state that the security was issued by the registrant or a related party.

**PART VIII
DISTRIBUTIONS**

Advertisements in connection with a distribution

75. For purposes of section 74 of the Act, an advertisement used in connection with a distribution, in addition to the requirements of the Act –
- (a) shall contain the following statement:
- “The Trinidad and Tobago Securities and Exchange Commission has not in any way evaluated the merits of the securities offered hereunder and any representation to the contrary is an offence.”;* and
- (b) shall not contain any fact not disclosed in a prospectus for which a receipt has been issued by the Commission.

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- Advertisement in connection with certain exempt distributions
76. For purposes of the exemptions provided for in section 79(1)(l)(i) of the Act an advertisement announcing the completion of an exempt distribution under such paragraphs shall contain -
- (a) the name of the issuer to which the distribution relates;
 - (b) the names of all registrants registered under section 51(1) of the Act which have participated in the distribution; and
 - (c) a statement that the distribution has been completed and that the advertisement is appearing as a matter of public record only.
- Risk disclosure statement for asset-backed securities
77. The risk disclosure statement required by section 79(2) of the Act shall be in Form No. 15.
- Legends
78. For purposes of section 79(3) of the Act, the certificate for a security distributed under an exemption contained in section 79(1)(a), (k), (l), or (m) of the Act shall contain the following legend -
- “Unless permitted under the securities legislation of Trinidad and Tobago, the holder of these securities shall not trade the securities before [insert the date that is six months and a day after the distribution date].”*
- Submission to jurisdiction for approved foreign issuers
79. (1) For the purposes of section 80(1)(a)(i) of the Act, the form for certification that an issuer is an approved foreign issuer shall be Form No. 16.
- (2) For the purposes of section 80(1)(a)(v) of the Act, the form of submission to jurisdiction and appointment of agent for service of process shall be in Form No. 17.
- (3) Form No. 17 shall be submitted to the Commission annually by the approved foreign issuer until six years after the repayment or maturity of any securities distributed by the approved foreign issuer in Trinidad and Tobago.
- (4) Where the name or address of the person appointed as agent for service of process for an approved foreign issuer under section 80(1)(a)(v) of the Act changes, the approved foreign issuer shall submit a revised Form 17 to the Commission within thirty days of the change.
- (5) For the purposes of section 80(1)(b)(ii) of the Act, the addendum to the prospectus or offering document of an approved foreign issuer shall be Form No. 18.
- Marketing restrictions for prospectus offerings
80. No person shall, in connection with the marketing of or solicitation of interest in the distribution of a security by means of a prospectus, make any

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oral or written representation or disclose any fact to any person with respect to the issuer or the securities being distributed under the prospectus which is not contained in the prospectus for which a receipt has been issued by the Commission.

Advice to individual
accredited purchasers

81. For purposes of section 79(1)(l)(iii)(B) of the Act, a person prescribed is a brokering representative, advising representative or underwriting representative.

Post-Distribution
statements

82. A post-distribution statement filed with the Commission under section 84 of the Act shall be in Form No. 19.

**PART IX
SIMPLIFIED CLEARING FACILITIES**

Notice to clearing
agency of closing of
securities register

83. For purposes of section 130(1) of the Act an issuer shall give the clearing agency no less than seven days notice of its intention to close its securities register or fix a record date.

**PART X
DEALINGS BY PERSONS CONNECTED WITH ISSUERS**

Report by persons
connected to a reporting
issuer

84. (1) The report required to be filed with the Commission under section 136 (1) or (2) of the Act shall be made in Form No. 22.

**PART XI
CONTINGENCY FUND**

Definitions and
Application

85. (1) In this Part-

"customer" or "claimant" means any individual, partnership or body corporate, except that the following shall not be regarded as claimants:

- (a) a member of a self-regulatory organization;
- (b) a person alleging a loss who is the holder of thirty per cent or more of the issued capital of the defaulting member of the self-regulatory organization;
- (c) other broker-dealers in securities being businesses which hold themselves out to the general public to be making a

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market in securities and investment by purchasing and selling on their own account as principals;

"fund" means a contingency fund required to be maintained pursuant to section 47(1) of the Act;

"self-regulatory business" includes investment business arising from -

(a) the purchase or sale in either a principal or agent capacity through the facilities of a self-regulatory organization;

(b) investment management and advice; or

(c) any such activities as the self-regulatory organization may from time to time determine;

"trustees" means the trustees of a fund.

(2) This Part applies only to a fund.

(3) A registrant registered under section 51(1) of the Act as a broker-dealer shall participate in and contribute to a fund prescribed in this Part, and shall contribute to such fund, the amount required by the fund or a self-regulatory organization.

- | | | |
|--------------------------|------------|---|
| Purpose of fund | 86. | A fund shall be used solely for the purpose of providing compensation to customers who suffer financial loss as a result of the insolvency, bankruptcy or default of a member of a self-regulatory organization that is a securities exchange up to a maximum of seventy five thousand dollars per claimant in any one calendar year, provided that a self-regulatory organization may increase that maximum from time to time. |
| Administration of fund | 87. | (1) A fund shall be vested in and managed by a board of trustees appointed by the self-regulatory organization.

(2) A board of trustees of a fund shall comprise at least three members. |
| Contribution to the fund | 88. | (1) A fund shall be financed by contributions from members of the self-regulatory organization on the following basis:

(a) a minimum of one per cent of the commissions of the member for the year, payable on the member's monthly commissions in an amount not less than one hundred dollars per month shall be paid into the fund;

(b) payments of contributions shall be made on or before the sixteenth day following the end of each month; and

(c) the self-regulatory organization may from time to time upon the approval of the Commission vary the level of contributions to the fund and also from time to time specify what is to be the total sum comprised of such contributions, with or without any accretions to the size of the fund arising from the investment by the trustees of any part thereof.

(2) When any member defaults in payment of contributions as stipulated in paragraph (1), the following provisions shall apply: |

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- (a) the member shall provide written reasons for the delay in respect of the payment of the contribution;
- (b) if payment is not made within three business days of the date on which it falls due, then the matter shall be referred to the board of directors for action against the member; and
- (c) interest at the existing commercial bank rate shall be charged on the contribution in respect of which the member is in default.
- Accounting for the fund **89.** The trustees shall maintain appropriate accounting records for the fund and submit annual accounts to the self-regulatory organization.
- Appointment of auditors **90.** (1) A self-regulatory organization shall appoint an auditor to perform annual audits on the fund.
- (2) The auditors shall prepare an annual report on the accounts of the fund which shall be available for inspection by members of the self-regulatory organization and the self-regulatory organization shall file a copy of the report with the Commission forthwith.
- Scope of the fund **91.** (1) Payment out of the fund shall only be considered if a defaulting member has failed to meet a financial obligation to a customer and the loss of the customer arose from a transaction resulting from self-regulatory business which would normally be evidenced by a contract note issued by a member of the self-regulatory organization.
- (2) A claim shall only be valid if the customer suffered a loss arising from the transaction of self-regulatory business which was conducted with or through a member of the self-regulatory organization or has lost cash or securities for which the member was accountable including cash or securities held by a nominee company established by the members.
- (3) A claim for consequential economic loss shall not be a valid claim.
- (4) Where a claim is in respect of securities which have been improperly dealt with, the trustees shall value such securities at the market quotation of the securities at the time of the default by the member, but the trustees shall not replace misappropriated securities and compensation shall always be paid in cash.
- Procedure **92.** (1) A claim shall be made in writing by the customer or an agent acting on his behalf.
- (2) The trustees shall exercise their best efforts to obtain a statement of facts from the member in relation to whom a claim is made.
- (3) A claim shall only be considered if the trustees are satisfied that the relevant transactions had been carried out on behalf of a customer of a member of a self-regulatory organization involved in the transaction giving rise to the claim
- (4) The trustees may obtain information from such sources as may be considered relevant in the evaluation of claims.

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(5) Every effort shall be made to settle claims within three months provided that the loss falls within the limit set by the self-regulatory organization from time to time.

(6) Without prejudice to the right of the trustees to pay only such percentage of a claim as they in their absolute discretion may think fit, the trustees may decline to compensate the customer for any portion of the loss which they may consider appropriate by reason of any negligence on the part of the customer in relation to the transaction giving rise to the loss.

(7) For the avoidance of doubt, in no case is there any legal right to compensation or any duty on the part of the trustees to award compensation with respect to any claim and a payment from a fund as an *ex gratia* payment.

(8) No member of a self-regulatory organization shall take any proceedings in any court with respect to anything done or omitted to be done by the trustees in the exercise of their absolute discretion in the administration of a fund, or the application of its assets unless that member refers the decision of the trustees to the self-regulatory organization and the self-regulatory organization gives its decision thereon.

Power of trustees

93. (1) The trustees may establish a trust account executed under a deed of trust.
- (2) The trustees may incorporate income realized through investments as part of the fund.
- (3) A fund may be retained partly or wholly in the form of cash or may be invested or reinvested in such interest bearing securities as the trustees may from time to time deem appropriate.
- (4) The trustees may pledge any or all of the securities in the fund to secure the payment of any borrowing effected by the trustees, the proceeds of which are to be used to settle claims of the fund.
- (5) The trustees may examine all claims made against the fund for authenticity and shall accept all legitimate claims made against the fund.
- (6) The trustees may make proposals to the board of the self-regulatory organization in respect of the operation of the fund.
- (7) The trustees shall require all claimants to do or concur in doing or permitting to be done in respect of the fund, at the expense of the fund all such acts and things as may be necessary or reasonably required for the purpose of -
- (a) enforcing rights and remedies to which the claimant is entitled; or
 - (b) obtaining relief or indemnity for the claimant from other parties to which the fund shall be or would become entitled or subrogated upon its paying for, or making good, any loss suffered by the claimant as a result of the default of a member of the self-regulatory organization.

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(a) is a connected party of the registrant or self-regulatory organization;

(b) beneficially owns or controls, directly or indirectly five per cent or more of the shares or other securities of the registrant or self-regulatory organization or of any of its affiliates;

(c) is indebted to the registrant or self-regulatory organization or any of its affiliates other than by virtue of a fully collateralized loan; or

(d) has within two years immediately preceding the appointment of the audit entity, been a receiver, receiver-manager, liquidator or trustee in bankruptcy of any affiliate of the registrant or self-regulatory organization other than a subsidiary or affiliate acquired through a realization of security.

(2) For the purposes of paragraph 1(a), a person is a connected party of a registrant or self-regulatory organization if the person:

(a) is a senior officer of the registrant or self-regulatory organization; or

(b) is a senior officer of—

(i) an affiliate of the registrant or self-regulatory organization; or

(ii) an entity who beneficially owns, directly or indirectly, or exercises control or direction over voting securities of the registrant or self-regulatory organization, or a combination of both, carrying more than ten per cent of the votes attached to all voting securities of the reporting issuer outstanding.

Limit on timeframe of Auditor for SRO or registrants

99. A member of an audit entity shall not be the audit partner, having primary responsibility for the audit of a registrant or self-regulatory organization for a period of more than five consecutive years.

Restrictions on activities provided by Auditors to SRO or registrants

100. The auditor of a registrant or self-regulatory organization shall not provide to that registrant or self-regulatory organization—

(a) book-keeping or other services related to its accounting records or financial statements;

(b) financial information systems design and implementation services;

(c) actuarial services;

(d) internal audit outsourcing services; or

(e) such other non-audit related services as the Commission may specify.

Appointment of Auditor by the Commission

101. Where the Commission is not satisfied with the audited annual financial statements or report of the auditor appointed by a registrant or self-

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DRAFT SECURITIES (GENERAL) BY-LAWS, 2013—STATEMENT OF SUBSTANCE AND PURPOSE—Continued

- regulatory organization, the Commission may appoint another auditor to conduct an independent audit and shall fix the remuneration to be paid to the auditor by the registrant or self-regulatory organization.
- Notification in respect of auditors **102.** A registrant or self-regulatory organization shall forthwith give written notice, together with reasons, to the Commission if-
- (a) it intends to terminate the appointment of its auditor before the expiration of its term of office;
 - (b) it intends to replace an auditor at the expiration of its term with a different auditor; or
 - (c) an auditor ceases to be an auditor of the registrant or self-regulatory organization in circumstances otherwise than those set out in paragraphs (a) and (b).
- Notice on resignation of Auditor **103.** The auditor of a registrant or self-regulatory organization shall forthwith give written notice to the Commission if he-
- (a) resigns before the expiration of his term of office; or
 - (b) does not seek re-appointment,
- together with reasons for such resignation or decision not to seek re-appointment.
- Notice of removal of Auditor **104.** Where the auditor of a registrant or self-regulatory organization is to be removed as a result of a disagreement with the senior officers of a registrant or self-regulatory organization, the auditor shall submit to the registrant or self-regulatory organization, and to the Commission, a written statement setting out the nature of the disagreement.
- Appointment of Replacement Auditor **105.** (1) Where the auditor of a registrant or self-regulatory organization has resigned or the appointment of the auditor has been revoked, no person shall accept an appointment as auditor of that registrant or self-regulatory organization until the person has requested and received from the auditor who has resigned or whose appointment as auditor has been revoked, a written statement of the circumstances and reasons for such resignation or why, in the opinion of the former auditor, his appointment was revoked.
- (2) Notwithstanding paragraph (1) a person may accept an appointment as auditor of a registrant or self-regulatory organization if, within fifteen days after a request under the subsection is made, no reply from the former auditor is received.

PART XIII

TRANSITIONAL PROVISIONS

- Capital Requirements **106.** (1) A person who is deemed to be registered under section 53(1)(a) to (d) of the Act, shall comply with the capital requirements of By-Law 28 within twelve months from the date of the coming into force of these By-Laws.

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TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
 DRAFT SECURITIES (GENERAL) BY-LAWS, 2013—STATEMENT OF SUBSTANCE AND PURPOSE—Continued

- (2) Until twelve months from the coming into force of these By-Laws, a person referred to in paragraph (1) shall comply with the capital requirements, for the category of business for which they were registered, in accordance with By-Law 12 of the Former By-Laws.
- Interim Financial Statements** **107.** (1) Notwithstanding the obligations stated under By-Law 42(2), a registrant to whom By-Law 42 applies shall not be in breach of the subsection if the interim financial statement for the relevant financial period is filed with the Commission within three months of the coming into force of these By-Laws.
- Quarterly Calculation of Capital Requirement** **108.** (1) Notwithstanding the obligations stated under By-Law 29(1), a registrant to whom By-Law 29 applies shall not be in breach of the subsection if the quarterly calculation capital requirement for the relevant quarter is filed with the Commission within three months of the coming into force of these By-Laws.
- Auditor Requirement** **109.** A registrant or a self-regulatory organization shall comply with the requirements of By-Laws 96 to 99 at the earlier of twelve months from the coming in the force of the By-Laws or the expiration of the term of the appointment the auditor who was appointed by the registrant prior to the coming into force of these By-Laws.
- Management Discussion and Analysis** **110.** The obligations stated in By-Law 16(1)(d) and By-Law 49(b) regarding the inclusion of a management discussion and analysis in the annual report to be filed with the Commission shall not take effect until the registrant's first financial year ending after on the day that is six months after the date on which these By-Laws come into force.
- Trade Reports** **111.** Notwithstanding the obligations stated under By-Law 59, a registrant to whom By-Law 59 applies shall not be in breach of the subsection if the trading report for the relevant quarter is filed with the Commission within three months of the coming into force of these By-Laws.
- Standards of Investment for filing** **112.** The obligations stated in By-Law 45(2) regarding the delivery of a copy of and the filing of a copy of written policies with the Commission shall not take effect until the day that is six months after the date on which these By-Laws come into force.
- Notifications** **113.** Notwithstanding the obligations stated under By-Law 56, a registrant to whom By-Law 56 applies shall not be in breach of the subsection if the prescribed event in Schedule 4 occurs within three months of the coming into force of these By-Laws provided that the Commission is notified as soon as practicable but no later than three months of the occurrence of the prescribed event.
- Fees** **114.** (1) Subject to paragraph (3), a person who is required to pay a fee set forth in Schedule 1 shall comply with the requirement within twelve months of the date of coming into force of these By-laws;
 (2) Where a person was subject to an equivalent fee under the Former Act such person shall be required to pay the fee prescribed in the Former Act until the expiry of such twelve month period.
 (3) Where a person was not registered as a market actor, reporting issuer or self-regulatory organization under the Former Act immediately before the coming into force of the Act, such person would be required to pay the fee set forth in Schedule 1 upon the coming into force of these By-laws.

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TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
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SCHEDULE 1

FEES

<i>Proposed Registration and Renewal Fees for Registrants</i>		
	Initial	Renewal
Reporting Issuer	8,000	8,000
Broker Dealer	25,000	25,000
Broker-Dealer also conducting business as an Underwriter	30,000	30,000
Underwriter	20,000	20,000
Investment Adviser - Corporation	15,000	15,000
Investment Adviser - Individual	10,000	10,000
Registered Representative - per individual	1,000	1,000
Sponsored Broker-Dealer or Investment Adviser	5,000	n/a
Substantial shareholder - per shareholder	1,000	n/a
Branch Office - per office	3,000	3,000

<i>Proposed Registration and Renewal Fees for Self-Regulatory Organizations</i>		
	Initial	Renewal
Self-Regulatory Organization - Clearing Agency	50,000	the higher of \$30,000 or 0.02% of the profits of the clearing agency in the prior financial year
Self-Regulatory Organization - Stock Exchange	50,000	0.02% of value of transactions in each year based on audited financial statements

<i>Proposed Registration Fees for Securities</i>	
Filing of a Registration Statement	1,000
Market Access Fees for Securities (including close end CISs)	0.01% of the value of the funds raised subject to a minimum of \$1,000
Market Access Fees for open end CISs	0.01% of the value of funds raised in previous year (based on Audited accounts)

<i>Proposed Filing Fees</i>	
Filing of Prospectus	17,500
Filing of Information Memorandum	10,000
Filing of takeover bid-circular or Issuer Bid Circular	15,000
Filing of a Notice of Change or Notice of Variation under the Take-Over By-Laws	1,000

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TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
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<i>Other Proposed Fees</i>	
Inspection of and Extracts of Register	Nominal fee of \$100 per visit plus \$3.00 p/page copied
Application for de-listing a security from a SRO that is a Securities Exchange	1,000
Application for de-registration as a Reporting Issuer	1,000

<i>Proposed Inspection and Examination Fees</i>	
Compliance review	No Fee at this time
Examinations of Market Actors	No Fee at this time
Costs associated with an investigation	No Fee at this time

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TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
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SCHEDULE 2

FORMS

See separate document available at
www.ttsec.org.tt

TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
DRAFT SECURITIES (GENERAL) BY-LAWS, 2013—STATEMENT OF SUBSTANCE AND PURPOSE—Continued

SCHEDULE 3

FIT AND PROPER REQUIREMENTS

- 1) In furtherance of its functions, the Commission is charged with the responsibility of assessing the requirements of persons conducting regulated activities. This Schedule sets out the criteria which will be considered by the Commission when assessing the fitness and propriety of an applicant for a regulated activity. The integrity and competence of directors, executives, and significant shareholders are critical to the achievement of the objectives of effective supervision. The Commission will grant approval for persons to perform regulated activity only if satisfied that they are fit and proper. Once approved, persons are expected to remain fit and proper. This is not a definitive list of all matters which would be relevant to the determination of fitness and propriety and thus should be read and considered in conjunction with the applicable sections of the Securities Act, 2012 and the Securities (General) By-Laws 2013.
- 2) For the purposes of this Schedule, “regulated activity” means the activity carried on or proposed to be carried on by the person that is required to be registered under the Act.
- 3) In considering whether a person is fit and proper for the purposes of any provision of the Act or these By-Laws, the Commission shall, in addition to any other matter that the Commission may consider relevant, have regard to-
 - (a) the financial status or solvency of the person;
 - (b) the educational or other qualifications or experience of the person, having regard to the nature of the functions that, if the application is allowed or granted, the person will perform;
 - (c) the ability of the person to carry on the regulated activity competently, honestly and fairly; and
 - (d) the reputation, character, reliability and financial integrity, of the person;
 - (e) where the person is an individual, the individual himself; or
 - (f) where the person is an entity, the entity and any senior officer or significant security holder of the entity.
- 4) Without limiting the generality of subsection (3), the Commission may in considering whether a person is fit and proper, take into account -
 - (a) any enforcement action or other decision made in respect of the person by the Commission or any other regulatory authority or disciplinary action taken by a professional body in respect of that person including but not limited to:
 - i. whether the person has been expelled from the Stock Exchange, any other self-regulatory organization, or otherwise disqualified by a professional body in relation to any trade, business or profession ;
 - ii. whether the person’s registration to conduct securities or other forms of financial business has been revoked by a securities regulator or any other financial regulatory authority;
 - iii. whether the person has been charged or convicted of an offence under the Act or the Former Act;

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TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
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- (b) where the person is an individual-
- a. his competence and soundness of judgement for fulfilling the responsibilities of that position, to the diligence with which he is fulfilling or likely to fulfil those responsibilities and to whether the interests of investors, clients or potential investors or clients are, or are likely to be, in any way threatened by his holding that position;
 - b. whether the person has an employment record which leads the Commission to believe that the person carried out an act of impropriety in the handling of his employer's business;
 - c. whether the person has been the subject of an investigation conducted by a regulatory or criminal investigative body while he was a senior officer of that company;
 - d. whether the person has been barred from working or otherwise holding a position of a senior officer within an entity which conducts business in the financial or securities industry of Trinidad and Tobago or elsewhere by the Commission, another regulator or court of law; and
 - e. whether he has engaged in or been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence or soundness of judgement; and
- iv. whether the person was a senior officer of a company which was:
- A. disqualified by any professional or regulatory body in relation to any trade, business or profession while he was a senior officer of that company; and
 - B. the subject of an investigation conducted by a regulatory or criminal investigative body while he was a senior officer of that company;
- (c) any information in the possession of the Commission, whether provided by the person or not, relating to -
- i. The person,
 - ii. Any person who is or is to be employed by or associated with the person for the purposes of the regulated activity for which registration is granted or the application is made;
 - iii. Any other person who will be acting for or on behalf of the person in relation to the related activity;
 - iv. Where the person is an entity which is part of a group of companies -
 - A. Any other entity in the same group of companies; or
 - B. Any significant security holder or senior officer of any other entity in the group of companies; and
 - v. The financial integrity of the person including but not limited to -
 - A. whether the person has a receiving or bankruptcy order made against the person and whether such order remains undischarged;
 - B. whether the person has been charged at the time of the application, or been convicted at any time, of an offence involving fraud or dishonesty;

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- (d) where the consideration relates to an application for registration under section 51(1) or as a self-regulatory organization, or to a current registrant of the Commission, excluding a reporting issuer, whether the person has established effective internal control procedures and risk management systems to ensure compliance with all applicable regulatory requirements; and
 - (e) The state of affairs of any other business that the person carries on or proposes to carry on.
- 5) In addition to the standard of solvency required by By-Law 9 of the Securities (General) By-Laws, 2013, the Commission may require a person to maintain such minimum level of capital as may be prescribed and varied from time to time.
- 6) The failure by a person to meet any one of the criteria set out in this Schedule may not lead to an automatic refusal of an application, revocation of an authorisation, withdrawal of an exemption or other regulatory action by the Commission. The significance and relevance of a person failing to satisfy the Commission that a specific criteria is met depends on;
- a. the seriousness of and surrounding circumstances resulting in the person not meeting the criteria;
 - b. the relevance of the failure by the person to meet the specific criteria to the duties that are or are to be performed and the responsibilities that are to be assumed by the person; and
 - c. the passage of time since the failure by the person to meet the specific criteria.

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TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
DRAFT SECURITIES (GENERAL) BY-LAWS, 2013—STATEMENT OF SUBSTANCE AND PURPOSE—Continued

SCHEDULE 4

List A - Changes Requiring Notification by Registrants Registered under Section 51(1) of the Act

For the purposes of section 56(4) of the Act and By-Law 56, a registrant registered under section 51(1) of the Act shall notify the Commission on Form No. 6 of any of the following in relation to the registrant-

- (a) the presentation of a petition for the winding up of the registrant or the summoning of any meeting to consider such a winding-up;
- (b) the application by another person for the appointment of a receiver, administrator or trustee of the registrant;
- (c) the appointment of inspectors by a domestic or foreign regulatory authority to investigate the affairs of the registrant;
- (d) any claims on or material changes to the indemnity insurance arrangements of the registrant;
- (e) any hiring, resignations or dismissals, retirements of senior officers, designated persons, or registered representatives by or from the registrant or an individual in charge of the operations of any branch office of the registrant and in the case of dismissals, the reason therefor;
- (f) where the registrant becomes aware that any of its senior officers, registered representatives has been charged or convicted of fraud or other dishonesty;
- (g) any material breakdown of administrative or control procedures, including breakdowns of computer systems or other problems resulting or likely to result in failure to maintain proper records, and the steps that the registrant proposes to take to correct the problem;
- (h) the date on which the registrant proposes to cease to carry on business for which registration is required under the Act and the reasons for the cessation;
- (i) a breach by the registrant of the requirements regarding financial resources, maintenance of any prescribed capital requirement under the Act and these By-Laws, books and records and risk management and internal controls, together with details of the steps that it is taking to remedy the breach;
- (j) where a change has been made to the ending date of the financial year of the registrant;
- (k) where the registrant has reason to believe that it may be unable to submit financial statements required under the Act and these By-laws within the prescribed time period;
- (l) where the registrant has reason to believe that it may be unable to pay its annual renewal fees to the Commission;
- (m) the failure of any bank or other entity with which the registrant has deposited or to which it has passed client money, and for these purposes 'failure' means the appointment of a liquidator, receiver, administrator or trustee in bankruptcy or any equivalent procedure in the relevant jurisdiction;
- (n) where the registrant is party to any legal proceeding in Trinidad and Tobago or elsewhere, and the actual or contingent claim, or any amount claimed or disputed by or against the registrant in relation to its business is likely to exceed 10% of its financial resources;
- (o) the closing or relocation of a branch office which was approved under section 56(6) of the Act and in the case of the opening of any branch office in Trinidad and Tobago, the name of the person in charge thereof; or
- (p) any change in the registered name, registered address or contact information of the registrant.

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TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
DRAFT SECURITIES (GENERAL) BY-LAWS, 2013—STATEMENT OF SUBSTANCE AND PURPOSE—Continued**SCHEDULE 4 - Continued****List B - Changes Requiring Notification by Reporting Issuers Registered under Section 61(1) of the Act**

For the purposes of Section 56(4) of the Act and By-Law 56, a registrant registered under section 61 of the Act shall notify the Commission on Form No. 6 of the following in relation to the reporting issuer:

- (a) any hiring, resignations or dismissals, retirements of senior officers, designated persons by or from the reporting issuer and in the case of dismissals, the reason therefor;
- (b) the repayment, maturity of, or default of payment on any security issued by the reporting issuer other than a reporting issuer that is a collective investment scheme;
- (c) where a change has been made to the ending date of the financial year of the reporting issuer;
- (d) where the reporting issuer has reason to believe that it may be unable to submit financial statements required under the Act and these By-Laws within the prescribed time period;
- (e) where the reporting issuer is party to any legal proceeding, in Trinidad and Tobago or elsewhere, and the actual or contingent claim, or any amount claimed or disputed by or against the reporting issuer in relation to its business is likely to exceed 10% of its financial resources;
- (f) any change in the registered name, registered address or contact information of the reporting issuer; or
- (g) any change in the constating documents of the reporting issuer