

**Country Review: Republic of Trinidad and Tobago
IOSCO Objectives and Principles of Securities
Regulation
Detailed Assessment of Implementation**



OICU-IOSCO

**THE BOARD
OF THE
INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS**

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Glossary

AC	Assessment Committee
AML/CFT	Anti-Money Laundering and the Combating of Terrorist Financing
BATT	Banker's Association of Trinidad and Tobago
C&I	Division of Compliance and Inspections
CARTAC	Caribbean Regional Technical Assistance Centre
CBTT	Central Bank of Trinidad and Tobago
CCEI	Division of Corporate Communications, Education and Information
CEO	Chief Executive Officer
CIS	Collective Investment Schemes
CIS Guidelines	Guidelines for Collective Investments Schemes 2008
COSRA	Council of Securities Regulators of the Americas
CSD	Corporate Services Division
DCEO	Office of the Deputy Chief Executive Officer
DPP	Office of the Director of Public Prosecutions
DR&CF	Division of Disclosure, Registration and Corporate Finance
FIUTT	Financial Intelligence Unit of Trinidad and Tobago
FSAP	Financial Sector Assessment Program
HR Manual	Human Resources Policies and Procedures Manual 2007
HRM	Human Resource Management Department
IA Officer	International Affairs Officer
IFRS	International Financial Reporting Standards
IM	Information Management
IMF	International Monetary Fund
IOSCO	International Organization of Securities Commissions
LA&E	Division of Legal Advisory and Enforcement
MMoU	Multilateral Memorandum of Understanding (IOSCO)
MoFE	Ministry of Finance and the Economy
MoU	Memorandum of Understanding

New By-Laws	Securities (General) By-Laws 2015
MR&S	Division of Market Regulation and Surveillance
Policy Guidelines 11.1	Policy Guideline 11.1 – Mutual Funds – Distribution of Securities of Foreign Mutual Funds in Trinidad and Tobago
PPS	Promotion Presentation Standards for Collective Investment Schemes
PR&P	Division of Policy Research and Planning
SA 2012	Securities Act 2012
SIA 1995	Securities Industry Act 1995
SIFI	Systemically Important Financial Institution
SRO	Self-regulatory organization
TTSE	Trinidad and Tobago Stock Exchange
TTSEC	Trinidad and Tobago Securities and Exchange Commission
UTC	Trinidad and Tobago Unit Trust Corporation

I. SUMMARY

KEY ISSUES

Principles Relating to the Regulator

Operationally the Trinidad and Tobago Securities and Exchange Commission (TTSEC) appears to act independently of government, though this is constrained by (near-total) reliance on government funding with very limited input by the TTSEC to the funding process. Independence may be weakened also by the ability of the Minister of Finance to appoint a Board member and by the practice (which does not appear to be legally required) that the Ministerial Committee for Monitoring Remuneration Arrangements in the Public Sector approve the operational structure of the TTSEC executive. The Minister of Finance has the ability to seek information from the TTSEC, which may include regulatory information.

Recent changes to securities legislation in 2012 have strengthened the inspection and enforcement powers of the TTSEC. The TTSEC faces challenges with internal capacity and capability to perform these new functions and it is very much in the formative stages of implementation. Some regulatory processes, notably consideration of prospectuses, are overly complicated and require multiple levels of assessment, leading to substantial delays in offers coming to market.

The TTSEC has not developed significant processes for the identification, measurement, and analysis of risks, although plans being developed in conjunction with the Central Bank may address these to some extent.

Principles for the Enforcement of Securities Regulation and Principles for Cooperation in Regulation

The TTSEC's powers of inspection may need to be strengthened – it can carry out on-site inspections on reasonable notice, and can visit without notice only with judicial warrant.

New inspection powers are not yet fully implemented. The TTSEC has taken a good approach to initial risk assessments of market participants, and needs to continue to build capability and capacity in respect of its inspection powers.

Market perceptions of the TTSEC's enforcement function are in great need of improvement as there are some negative perceptions, including of the regulator's independence. The TTSEC should seek closer cooperation with the Office of the Director of Public Prosecutions (DPP), and should formalise and publish compliance and enforcement policies to give greater transparency to its enforcement work.

Principles for Collective Investment Schemes

Comprehensive reform is needed to the Collective Investment Schemes (CIS) framework, which is not fit for purpose, and has been created largely through guidelines within a legislative framework designed for broker-dealers and investment advisers. The guidelines, although indirectly enforceable, do not appear to be treated as binding rules by some parts of the industry.

There are insufficient legal provisions for segregation and custody of assets. Rules on disclosure and reporting by CIS issuers are also weak and inconsistent. The same conclusion applies to rules for asset valuation and pricing.

CIS's domiciled in Trinidad and Tobago are mainly directly or indirectly invested in by Trinidad and Tobago resident retail investors. The review has outlined two specificities of the Trinidad and Tobago CIS market which are:

- that the market is largely dominated by one systemically important CIS Operator which was created by statute in 1981; and
- that the investment opportunities offered to CIS Operators in relation to debt/equity securities from issuers based in Trinidad and Tobago are rather limited and that as a consequence of this the active management of CIS is in fact relatively restricted.

In terms of findings, the review has outlined important structural deficiencies in several areas governing the CIS domain in light of the IOSCO related CIS/CIS Operator related Principles 24 to 27. Key concerns are:

- The fact that there is no CIS/CIS Operator specific licensing regime under the Securities Act 2012 (SA 2012). At the time of the assessment, CIS and CIS Operators were licensed under the catch-all categories of broker-dealers and reporting issuers under the SA 2012, which do not take into account specificities related to the CIS domain.
- The existing regulatory provisions are insufficient in terms of form, i.e. they are primarily covered strictly by instruments that are only enforceable by the TTSEC in an indirect manner (e.g. the CIS Guidelines); and in terms of substantive legal provisions, i.e. key aspects that a full-fledged CIS/CIS Operator regime should cover are either very limited or non-existent.
- The TTSEC's initial and ongoing supervision is very limited and the existing regulatory provisions are only partially enforced by the TTSEC. Some major market participants operate under exemptions from key aspects of the existing regime.
- The on-site review has further outlined a lack of ongoing surveillance of the CIS sector by the TTSEC as well as important procedural and operational deficiencies at the level of the industry players themselves.

The extensive deficiencies and vulnerabilities were identified by the TTSEC in the Self-Assessment prepared for this review. In light of these deficiencies, the Review Team designed the review of the CIS/CIS Operator Principles as an initial and general assessment of the CIS/CIS Operator legislative, regulatory and supervisory framework in place in Trinidad and Tobago at the time of the assessment, rather than a detailed assessment of implementation of each Principle.

The Recommended Action Plan of this report therefore outlines high-level legislative and regulatory improvements for immediate consideration by the TTSEC and the government of Trinidad and Tobago. The objective is to provide a high-level roadmap for ensuring medium-term effective compliance with the IOSCO CIS/CIS Operator related Principles.

II. INTRODUCTION

In 2012, the Assessment Committee (AC) of the International Organization of Securities Commissions (IOSCO) was established as part of IOSCO's 2010 Strategic Direction Review. This Review recommended that an AC be established to organize and structure a program to assess implementation of *IOSCO Objectives and Principles of Securities Regulation* (IOSCO Principles) across the IOSCO membership. The Review also provided guidance on how the assessment program might be structured.

As part of its mandate, the AC is therefore responsible for conducting Country Reviews of jurisdictions whose regulation of securities is not part of the International Monetary Fund (IMF) or World Bank Financial Sector Assessment Programs (FSAP). These Country Reviews, which are part of the AC's core responsibilities, involve reviewing Self-Assessments prepared by IOSCO

member jurisdictions of their level of implementation of IOSCO Principles using the IOSCO *Methodology for Assessing Implementation of the IOSCO Objectives and Principles of Securities Regulation* (Methodology).

Specifically, the AC reviews will:

- evaluate the status of compliance of IOSCO Principles by the jurisdiction;
- identify gaps in the implementation of IOSCO Principles; and
- recommend, through a roadmap, how issues of significance and materiality to IOSCO Principles, identified by the review, might be addressed.

The reviews are to be carried out by Review Teams comprised of current, practicing regulators from member organizations.

In July 2015, IOSCO published the first Country Review conducted by IOSCO’s AC.

This report represents the second Country Review conducted by IOSCO’s AC. This review was conducted on the **Republic of Trinidad and Tobago** (Trinidad and Tobago) and the **Trinidad and Tobago Securities and Exchange Commission** (TTSEC) and seeks to achieve the above-mentioned goals.

The assessment of the Trinidad and Tobago was carried out by a Review Team of three regulators nominated by member organizations from developed and emerging markets and a member of the IOSCO Secretariat who collectively brought a broad range of current knowledge and practical expertise to the task. The Review Team was made up of the following members: Ms. Raluca Tircoci-Craciun (IOSCO Secretariat), Mr. Liam Mason (FMA New Zealand), Mr. Laurent van Burik (Luxemburg CSSF) and Ms. Sharon Kelly (Québec AMF). The Review Team leader was Mr. Liam Mason. Financial support to conduct the project was provided by the Trinidad and Tobago authorities.

The Review Team wishes to thank the management and staff of the TTSEC for the collaborative and professional approach they brought to the review process and the large volume of work they completed in preparing the Self-Assessment and responding to the numerous and, in many cases, complex questions the Review Team raised.

Particular thanks go to Mr. C. Wainwright Iton, Chief Executive Officer, Mr. Patrick K. Watson, Chairman of the TTSEC Board, Mr. Horace Mahara, member of the Board, and TTSEC management and staff for organizing and coordinating the process efficiently and with grace and good humor. The AC would also like to thank the three member organizations who volunteered staff members to form the Review Team and others who provided support.

III. INFORMATION AND METHODOLOGY USED FOR THE ASSESSMENT

Early on in the process, the TTSEC and the Review Team agreed that this assessment would not entail a full assessment of all 38 IOSCO Principles. More specifically, it was agreed that the final scope of the assessment would only encompass the following 18 IOSCO Principles:

Principles to be Assessed	IOSCO Principles
Principles relating to the Regulator	Principles 1 -8
Principles for the Enforcement of Securities Regulation	Principles 10-12

Principles for Cooperation in Regulation	Principles 13-15
Principles for Collective Investment Schemes	Principles 24-27 ¹

The primary source document that the assessors relied on for the assessment was a Self-Assessment prepared by a task force set up by the TTSEC, comprising members from all operational departments relevant to the regulation of securities markets.

The assessment structure followed the Methodology developed by IOSCO and used by the IMF and World Bank when conducting assessments under the FSAP. The TTSEC provided answers to a series of Key Questions under each Principle, the purpose of which is to identify potential gaps, inconsistencies, weaknesses, and areas where further powers may be necessary, and as a basis for framing priorities for enhancements or reforms to existing laws, rules and procedures.

The Review Team conducted its review of the *Principles relating to the Regulator*, *Principles for the Enforcement of Securities Regulation* and the *Principles for Cooperation in Regulation* based on the above-described Methodology and provided ratings for each of those Principles.

Notwithstanding this, it should be noted that the approach required for assessment of the *Principles for Collective Investment Schemes* (CIS Principles) was somewhat different. As is noted in the report, Trinidad and Tobago does not have specific legislation for the regulation of Collective Investment Schemes (CIS) and CIS Operators as envisaged by the IOSCO Principles. As such, the Review Team has concluded that Principles 24-27 are Not Implemented. The Review Team has approached this aspect of the review with the intention of providing a general assessment of the CIS/CIS Operator legislative, regulatory, and supervisory framework in place in Trinidad and Tobago at the time of the assessment, with a view to providing a high-level roadmap for ensuring medium-term effective compliance with the IOSCO CIS Principles.

The TTSEC advised that the main sources of information it used in undertaking the Self-Assessment were relevant legislation and practices regarding the regulation of securities and investments, the regulatory and surveillance arrangements adopted by TTSEC, and systems and procedures adopted by firms in complying with the legislation and other public or non-public documents.

The methodology used by the Review Team was a combination of desk-based research, meetings with various stakeholders, external reports and Trinidad and Tobago's 2015 Self-Assessment. Additional main sources used and relied on by the Review Team in conducting this assessment include the following legislation:

1. The Securities Act 2012
2. Securities (General) By-Laws 2015
3. Guidelines for Collective Investment Schemes 2008
4. Promotion Presentation Standards for CIS
5. Proposed Securities Prospectus By-Laws 2007
6. Policy Guideline 11.1 Mutual Funds – Distribution of Securities of Foreign Mutual Funds in Trinidad and Tobago / Amendment to Policy Guideline 11.1 Mutual Funds – October 11, 2007

¹ Principle 28 was not within the scope of this assessment.

7. Anti-Money Laundering and the Combating of Terrorist Financing Guidelines (AML/CFT) 2011
8. Proceeds of Crime Act 2000
9. Regulatory Handbook for the Cooperation and Mutual Exchange of Information
10. Securities Industry Practice Rules (Hearings and Settlements)2008
11. The Trinidad and Tobago Securities Industry Act 1995
12. Securities Industry By-Laws, 1997
13. Trinidad and Tobago Stock Exchange Rules (updated June 6, 2011)

The TTSEC delivered the first draft of the Self-Assessment to the IOSCO AC in April 2015.

Throughout the course of 2015, the Review Team developed a better and deeper understanding of the regulatory framework and operational capabilities of the TTSEC through written questions and answers supported by documentary evidence including copies of the laws, regulations, and guidance.

A conference call was held between the Review Team and TTSEC representatives on August 27, 2015. In September 2015, a three-day meeting was held in Port of Spain, Trinidad and Tobago, between the Review Team and representatives of the TTSEC. Meetings were also held with, amongst others, representatives of the Trinidad and Tobago Stock Exchange (TTSE), the Central Bank of Trinidad and Tobago, the Securities Dealers Association of Trinidad and Tobago, mutual fund companies and the Ministry of Finance and the Economy. Discussions were frank and open and provided significant additional information and clarifications to assist the Review Team in its final deliberations.

The Review Team followed the approach laid down by IOSCO which requires that the assessment be based on the current situation, at the time of the assessment. Any proposed changes would not be used as a reason to alter the assessment of implementation and therefore would not be reflected in the assessment rating given to a Principle. The Review Team has however commented on current and planned initiatives that, if fully and effectively implemented, may lead to enhanced ratings.

The Review Team was also conscious of the IOSCO requirement to not only look at the legal and regulatory framework in place, but also at how it has been implemented in practice. This involves making judgments on supervisory practices and determinations on whether they are sufficiently effective. Among other exercises, such a judgment involves a review of the inspection programs for different types of supervised entities, the cycle, scope and quality of inspections, as well as assessing how the TTSEC follows up on findings, including by using enforcement actions.

Throughout the entire process, the Review Team received excellent cooperation and engagement from the TTSEC. Staff, management and the Board seemed willing to acknowledge both areas of shortcomings in the current regulatory framework and initiatives for strengthening this framework.

The Review Team would like to thank the TTSEC and its staff for their full cooperation and willingness to engage in discussions on the many complex issues covered by the methodology.

IV. INSTITUTIONAL AND REGULATORY STRUCTURE

Trinidad and Tobago is a unitary twin island state, with a parliamentary democracy modelled on the UK Westminster System. In 1976, Trinidad and Tobago adopted a republican Constitution replacing

the British Monarch with a President elected by Parliament as the country's Head of State. The general direction and control of the government rests with the Cabinet, led by a Prime Minister who is answerable to Parliament. Essentially, there are three arms of government: 'the Executive', 'the Legislature' and 'the Judiciary'.

Market Structure

The main financial sector regulators in Trinidad and Tobago are:

- the TTSEC, which regulates the securities sector;
- the **Central Bank of Trinidad and Tobago** (CBTT), which regulates the banking, insurance, pension and credit union sectors; and
- the **Financial Intelligence Unit of Trinidad and Tobago** (FIUTT), which implements the anti-money laundering and the combating the financing of terrorism policies in Trinidad and Tobago.

As mentioned above, the focus of this report is on the TTSEC and on the Trinidad and Tobago securities sector.

Regulatory Framework

The TTSEC was established as a body corporate by virtue of the Securities Industry Act, 1995 (SIA 1995). It is mandated by the Government of Trinidad and Tobago and reports to the Ministry of Finance and the Economy. The TTSEC is the sole regulator of the securities industry in Trinidad and Tobago and is responsible for the administration of the SA 2012 as well as the oversight and regulation of the securities industry.

In 2012, the SIA 1995 was repealed and replaced by the SA 2012 as the governing legislation for the securities industry of Trinidad and Tobago.

The SA 2012 came into force on December 31, 2012 as:

“An Act to provide protection to investors from unfair, improper or fraudulent practices; foster fair and efficient securities markets and confidence in the securities industry in Trinidad and Tobago; to reduce systemic risk, to repeal and replace the Securities Industry Act, Chap. 83:02 and for other related matter.”

Under the SA 2012, the TTSEC is vested with the requisite powers to enable it to discharge a number of mandated functions, including maintaining surveillance over the securities industry, registration, authorization and regulation of self-regulatory organizations (SROs), securities, market actors and issuers, the protection of the integrity of the market against abuse and promoting conditions to ensure the orderly growth and development of the market.

The TTSEC is responsible for ensuring that all obligations to be applied by participants in the securities industry are contained in SA 2012 and its subsidiary legislation, including By-Laws as set forth in section 148 of the SA 2012. These associated By-Laws are meant to be interpretive tools that outline the application of the primary legislation. They outline the obligations of market actors, contain prescribed forms and provide guidance.

In 2014, the SA 2012 was further amended by the Securities (Amendment) Act, 2014, which was assented to on September 10, 2014. Salient changes were made to sections of the SA 2012 dealing with forms, offences, solicitation of expressions of interest, limited offerings, the concept of “location of trade” and risk assessment.

To reflect the changes to the SA 2012, the By-Laws were also required to be amended. As such, pursuant to SA 2012, the TTSEC drafted the Securities (General) By-Laws 2015 (New By-Laws) which came into effect on April 28, 2015.

The New By-Laws expand upon certain requirements and procedures contained in the SA 2012 in relation to:

- the requirements that must be met to be registered under SA 2012;
- the disclosure obligations applicable to reporting issuers and other registrants;
- the internal operations of the TTSEC and the operations of SROs;
- business conduct and practices required of registrants and SROs; and
- standards of conduct for auditors of registrants.

TTSEC's Mission and Vision Statements

The TTSEC's Mission is expressed to be an effective regulator fostering confidence in the securities industry. Its Vision is to protect investors, promote and enable the growth and development of the securities industry by nurturing fair, efficient and transparent securities markets, cooperating with other regulators and mitigating systemic risk.

TTSEC's Core Activities

The TTSEC has three core activities:

- **The registration of all market actors and the securities that they offer.** This includes the registration of all SROs, securities companies, brokers, dealers, traders, underwriters, issuers and investment advisers.
- **Ensuring the orderly, fair and equitable trading in the securities market.** The TTSEC ensures that market actors comply with their continuous disclosure obligations, conducts routine surveillance of stock market activity, conducts investigations of possible breaches of the SA 2012, and conducts investigations of customer complaints against registered market actors.
- **Enforcement of the legislation which governs the functioning of the industry.** The TTSEC promotes market integrity by making and enforcing rules through the use of orders, guidelines and by-laws as well as establishing and monitoring standards in the market which include codes of conduct, prudential criteria and corporate governance.

In addition to these core activities, the TTSEC's functions, as outlined in section 6 of the SA 2012, are to:

- (a) advise the Minister on all matters relating to the securities industry;
- (b) maintain surveillance over the securities industry and ensure orderly, fair and equitable dealings in securities;
- (c) register, authorize or regulate, in accordance with this Act, self-regulatory organizations, broker-dealers, registered representatives, underwriters, issuers and investment advisers, and control and supervise their activities with a view to maintaining proper standards of conduct and professionalism in the securities industry;

- (d) regulate and supervise the timely, accurate, fair and efficient disclosure of information to the securities industry and the investing public;
- (e) conduct such inspections, reviews and examinations of self-regulatory organizations, broker-dealers, registered representatives, underwriters, issuers and investment advisers as may be necessary for giving full effect to this Act;
- (f) protect the integrity of the securities market against any abuses arising from market manipulating practices, insider trading, conflicts of interest, and other unfair and improper practices;
- (g) educate and promote an understanding by the public of the securities industry and the benefits, risks, and liabilities associated with investing in securities;
- (h) co-operate with and provide assistance to regulatory authorities in Trinidad and Tobago, or elsewhere;
- (i) ensure compliance with the Proceeds of Crime Act, any other written law in relation to the prevention of money laundering and combating the financing of terrorism or any other written law that is administered or supervised by the TTSEC;
- (j) create and promote such conditions in the securities industry as may seem to it necessary, advisable or appropriate to ensure the orderly growth, regulation and development of the securities industry and to further the purposes of this Act;
- (k) co-operate with other jurisdictions in the development of a fair and efficient securities industry; and
- (l) assess, measure and evaluate risk exposure in the securities industry.

TTSEC Organizational Structure

The TTSEC has a Board of Commissioners that is made up of no more than nine nor fewer than five members including the Chairman, the Deputy Chairman, an attorney-at-law of at least ten years standing and a representative from the Ministry of Finance and the Economy. The TTSEC's current Board of Commissioners is made up of eight Commissioners.

The TTSEC's organizational structure provides for 94 positions. There were 93 filled positions as at September 22, 2015 (permanent and contract positions) in 3 Offices and 11 Divisions/Departments as described below.

Office of the Chief Executive Officer (CEO)

The CEO is responsible for the regulation of the securities industry to ensure the stability of the financial system and the protection of investors. As such, the CEO must advise the Minister of Finance and the Board of Commissioners on all matters relating to the regulation of the securities industry. The CEO is mandated to provide overall management and administration of the TTSEC's operations and the development and implementation of corporate policies and initiatives in furtherance of the TTSEC's objectives as identified by its Board of Commissioners. The Office of the CEO provides operational and communication links between the Board of Commissioners and the Management and staff of the TTSEC in the furtherance of the TTSEC's objectives.

In terms of securities regulation, the main responsibilities of the CEO include:

- overseeing the preparation of primary and subsidiary legislation (including guidelines, by-laws and interpretations of the SA 2012), setting out the rules and regulations by which the industry is governed;

- investigating all events of market abuse, unfair treatment of customers, failure to observe the securities law and other market and securities law contraventions; and
- enforcing the law in respect of all cases of market abuse, customer abuse and other contraventions by ensuring that all such abuses are brought before the TTSEC for hearing and imposition of penalties.

Office of the Deputy Chief Executive Officer (DCEO)

The Office of the DCEO assists the CEO in managing and directing the activities of the TTSEC, develops, plans, and implements goals and objectives consistent with the TTSEC's mission, vision, strategic plan and key performance measures. The DCEO:

- utilizes performance planning techniques to identify, establish, achieve, and measure progress towards meeting the TTSEC's goals and objectives;
- undertakes a leadership role in the development of the TTSEC and its image as an effective regulator of the capital market; and
- represents the TTSEC as required in appropriate regional and international regulatory fora, and in particular takes a leadership role in the implementation and operation of international regulatory agreements.

Office of the General Counsel

The Office's key functions include a focus on the corporate strategic and tactical legal initiatives as well as the management of the TTSEC's legal function.

The General Counsel:

- provides continuing counsel and guidance on legal matters and on legal implications of all matters;
- serves as key lawyer/legal advisor on all major business transactions, including acquisitions, divestitures and joint ventures;
- decides on selection, retention, management and evaluation of all external counsel;
- assumes ultimate responsibility for ensuring that the TTSEC conducts its business in compliance with applicable laws and regulations.

The TTSEC's organizational structure is also made up of the following divisions and departments:

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

The DR&CF's primary responsibility is to ensure that securities, issuers of securities, and market intermediaries are duly registered with the TTSEC. Securities must be registered with the TTSEC prior to distribution to the public. The registration of securities is meant to ensure that adequate information about the security to be distributed as well as the issuer thereof is provided to potential investors in the issue. Market intermediaries and issuers must also go through a registration process before they can offer their services to members of the public. The registration of these persons is meant to ensure these persons are fit and proper to provide services in the securities industry.

The DR&CF:

- reviews and processes applications of registrants and SROs;

- reviews documentation to ensure compliance with the law and best practice;
- reviews the content of prospectuses, offering circulars or any form of solicitation, advertisement or announcement by which securities are offered for sale to the public;
- reviews financial statement filings from registrants and SROs and assesses among other things the financial solvency of registrants and SROs;
- maintains a register of securities registered by the TTSEC;
- makes recommendations to the TTSEC for the suspension/revocation of registration when persons no longer satisfy the registration requirements; and
- identifies trends and issues that are likely to have an impact on the securities industry and makes appropriate policy recommendations.

Division of Market Regulation and Surveillance (MR&S)

The primary function of the MR&S is to monitor the local capital market with a view to ensuring compliance with the SA 2012 and relevant provisions of other subsidiary legislation. Although the SA 2012 was passed on December 31, 2012, the Division will be guided by the SIA 1995 for all matters that were receiving its attention prior to December 31, 2012. Matters engaging the MR&S's attention from December 31, 2012 onwards are considered in accordance with the SA 2012.

The MR&S:

- maintains surveillance over the local, regional and international financial sector, (especially in the securities market);
- ensures that market participants comply with their continuous disclosure obligations and reviews compliance with prudential and reporting standards;
- directs inquiries into suspected illegal market manipulation and/or brokerage activities;
- monitors the operations of all SROs registered by the TTSEC in order to determine their compliance with the applicable Acts and Rules that govern their participation in the Trinidad and Tobago capital market; and
- investigates customer complaints against market actors.

The MR&S conducts surveillance of trading activities manually with the aid of an internally developed trading system (discontinued in December 2014) and database which receives and reports on trading activities.

The Staff of MR&S also monitor trading by persons with knowledge of non-public information. Consequently, the MR&S also:

- monitors major announcements from companies;
- reviews trading in shares of those companies immediately prior to and after such announcements to ascertain whether there might be instances of illegal insider trading, market manipulation and other types of market abuse; and
- monitors any announcement of or trading activity which triggers a take-over attempt of a listed company by another, in order to ensure that not only is such a transaction executed within the relevant securities law, but also that investors are not disadvantaged by the take-over.

Division of Compliance and Inspections (C & I)

The SA 2012 empowered the TTSEC to conduct compliance reviews (on-site inspections) of SROs and persons registered as broker-dealers, investment advisers, underwriters and reporting issuers.

In January 2014, the TTSEC formally established the C&I to determine whether market intermediaries or SROs are complying with the provisions of the SA 2012, the Proceeds of Crime Act 2000, the Anti-Terrorism Act 2005, any written law in relation to the prevention of money laundering and combating the financing of terrorism, or any other law that is administered by the TTSEC. Its main responsibilities are:

- the conduct of on-site inspections of registrants and SROs, whether routine, for cause or sweep inspections (registrants include: SROs and persons registered under Part IV of the SA 2012, i.e. broker-dealers, investment advisers, reporting issuers and underwriters);
- to make recommendations with respect to the issuance of compliance directions, directing a registrant to take measures that are necessary to remedy any course of conduct that is contrary to generally accepted standards of conduct or prudent operation and behavior; and
- referral of matters for legal enforcement in instances where a person fails to take measures as directed in a compliance direction.

C&I's major objectives are to:

- ensure that registrants are operating in compliance with the legislation;
- help identify compliance problems and areas of emerging risk, which if they occur can adversely affect investors; and
- review allegations of improper practices.

Division of Legal Advisory and Enforcement (LA&E)

The LA&E lends support to the other divisions of the TTSEC and to the public. The functions of the LA&E include, but are not limited to:

- provision of legal opinions and advice to the divisions and departments at the TTSEC as they perform their functions;
- interpretation and advice on the application of the legislation, guidelines and other laws and regulations that impact the securities industry;
- review of documentation accompanying the registration of securities;
- drafting/vetting of contracts on behalf of the TTSEC;
- sitting on external and internal committees on projects and initiatives that impact the organization;
- reviewing/proposing amendments to the securities legislation/guidelines, examining and analysing local and international securities laws and precedents for applicability to issues engaging the TTSEC's attention;
- provision of legal advice to investigators appointed pursuant to section 150 of the SA 2012;
- liaise with external counsel, negotiate settlements and represent the TTSEC at administrative hearings before the TTSEC's Hearing Panel and in litigation before the High Courts; and

- investigate complaints received by the TTSEC and initiates administrative or civil action against registrants or any person in relation to the contravention of securities legislation, or makes recommendation for referrals to the DPP or the Commissioner of Police with respect to the more egregious matters.

Division of Policy Research and Planning (PR&P)

The PR&P provides research, planning and policy formulation capabilities to all departments as they relate to the capital market, local and international economies, securities regulation and associated matters that engage the attention of the TTSEC. The PR&P houses a Library which is designed for in-house use and compiles articles on capital markets and institutions. Its main goal is to support the work of the staff of the TTSEC.

Division of Corporate Communications, Education and Information (CCEI)

The CCEI's mandate is to promote informed investor decisions and the TTSEC's role as regulator, through all aspects of corporate communications such as public education and communication. The CCEI is also responsible for performing the TTSEC's public relations functions. The division coordinates an investor education program designed to provide investors and potential investors with suitable information to guide informed decisions.

Division of Corporate Services (CSD)

The CSD is responsible for managing and executing all the administrative functions of the TTSEC including: administration/operations, property management, procurement, records management, health and safety, fleet management and security services for the TTSEC.

Division of International Affairs

Given the heightened role and participation required by the TTSEC as a result of its IOSCO Board membership, the division was created as a functional area, under the Office of the CEO, to facilitate regional and international matters.

A major responsibility of the International Affairs Officer (IA Officer) is to keep the TTSEC abreast of all research and policy developments regionally and internationally with respect to the securities industry. All incoming communiqués/requests from regional and international organizations are received and evaluated by the IA Officer. The matters often require the input of multiple areas and it is on that basis that cross-functional teams are constituted to review the matters, with each team member lending their expertise to the process.

The IA Officer is also responsible for conducting research and analytical reviews on regional and international activities that are of direct relevance to the operations of the TTSEC. The IA Officer manages the collection, use and dissemination of data related to the IOSCO, Inter-American Regional Committee, Council of Securities Regulators of the Americas (COSRA), Caribbean Group of Securities Regulators and other regional and international organizations relevant to the work of the TTSEC.

Internal Audit Department

The Internal Audit Department provides an independent, objective assurance and consulting function that adds value to the TTSEC by providing analyses, recommendations, counsel and information concerning the various activities and objectives of the TTSEC consistent with its mandate and good corporate governance.

In order to assist the TTSEC to achieve its objective, the Internal Audit Department is responsible for:

- conducting annual enterprise risk assessments;
- assessing the TTSEC's internal controls systems;
- reviewing the development of new systems to ensure compliance with policies and procedures, laws and regulations;
- performing value added process analyses;
- providing advice to management;
- conducting risk based audits;
- reporting to the Board of Commissioners on compliance with all relevant laws, regulations and commitments.

Information Management Division (IM)

The IM assesses, develops, manages and supports the technology and data requirements of the TTSEC's internal and external users by establishing performance measures, business processes, business continuity planning and support, digital and online communications, telecommunications, enterprise resource planning and project management.

Human Resource Management Department (HRM)

The HRM is responsible for planning and executing a range of human resource strategies with line managers and plans, co-ordinates and implements the human resource management infrastructure that mutually satisfies both corporate objectives and employee needs.

The HRM is also mandated under the SA 2012 to ensure that persons appointed to the TTSEC comply with section 14 of the SA 2012 and By-Law 8 of the Securities Industry By-Laws, 1997.

Strategic Plan 2014-2018

The TTSEC's Strategic Plan 2014-2018 is built around the following three overarching objectives:

- to improve the operational efficiency and effectiveness of the TTSEC;
- to develop a positive corporate identity; and
- to foster the development of the Securities Industry.

V. OVERVIEW OF THE CAPITAL MARKETS

Key Stakeholders

To fulfil its mandate, the TTSEC works closely with:

1. The **Ministry of Finance and the Economy** (MoFE).
2. The **Central Bank of Trinidad and Tobago** (CBTT).
3. The **Financial Intelligence Unit of Trinidad and Tobago**: responsible for overall anti-money laundering and the combating the financing of terrorism (AML/CFT) administration.

4. The **Trinidad and Tobago Stock Exchange Limited** (the Stock Exchange or the TTSE), which operates as a securities exchange and is one of two SROs; and
5. The **Trinidad and Tobago Central Depository** (the Central Depository), which operates as a clearing agency and is one of two SROs. The Central Depository is a wholly owned subsidiary of the Stock Exchange.
6. **Registrant Associations:** The Securities Dealers Association of Trinidad and Tobago; Bankers Association of Trinidad and Tobago (BATT); Association of Trinidad and Tobago Insurance Companies; Library Association of Trinidad and Tobago and the Mutual Fund Association of Trinidad and Tobago.
7. **The Investing Public:** The TTSEC conducts investor education sessions with various groups, including schools, etc.

One of the ways that the TTSEC seeks to achieve its mandate to foster the development of the securities industry is through collaboration with the above-mentioned stakeholders. The TTSEC aims to facilitate open and continuous dialogue with its stakeholders to provide greater clarity on legislative requirements and developments.

Self-Regulatory Organizations

As listed above, there are currently two SROs that are authorized by the TTSEC in Trinidad and Tobago: (1) the Stock Exchange, which operates as a securities exchange; and (2) the Central Depository, which operates as a clearing agency and is a wholly owned subsidiary of the Stock Exchange.

Both organizations establish rules of eligibility, as outlined in their rules of governance and supporting listing and participation agreements that must be satisfied in order for individuals or firms to participate in any significant securities activity on the Stock Exchange with clearing of the transactions facilitated through the Central Depository.

The Securities Market in Trinidad and Tobago

The securities market consists of CIS, equity, debt and securitized instruments. For fiscal 2014, funds managed by CIS Operators were estimated at TT\$46.33 billion and the value of equities market as measured by its market capitalization was valued at TT\$109.71 billion.

The following four categories of instruments are currently registered and distributed in the securities market in Trinidad and Tobago: equities; debt instruments; CIS; and securitized instruments.

The following table provides a breakdown of the categories of instruments and their corresponding value registered by the TTSEC during the fiscal year 2014.

Categories of Securities Registered with the Commission, 2013 and 2014

Class of Securities	As at September 30, 2014		As at September 30, 2013	
	Number of Issues	Value of Securities in TT\$Mn	Number of Issues	Value of Securities in TT\$Mn
Debt Securities	14	10,150.95	17	15,830.28
Securitised Instruments	3	1,019.63	10	3,606.41
Equities	25	54.49	19	5,554.29
Collective Investment Schemes ³	3	*	3	*
Total	45	11,225.07	49	24,990.98

Source: Trinidad and Tobago Securities and Exchange Commission

Further, as at March 2015, the market value of the equities market (market capitalization) is estimated to be TT\$109.36 billion and funds under management held by CIS Operators were estimated to be TT\$46.81 billion.

Registrants and SROs Registered with the TTSEC

As at March 2015, there were 218 registrants and two SROs on the TTSEC's register.

The following table provides a breakdown of registrants by the class of registration as at March 31, 2015.

Class of Registration	As at March 31, 2015
Registrants	
Registered Representatives	62
Investment Advisers	19
Broker-Dealers	46
Reporting Issuers	90
Underwriters	1
Total Registrants	218
Self-Regulatory Organizations	2
Total Registrants and Self-Regulatory Organizations	220

CIS Sector

As at December 31, 2014, there were 61 active CISs licensed in Trinidad and Tobago. The total assets under management of those CIS's amounted to approximately TT\$47 billion (i.e. approximately US\$7 billion).

It should be noted that the investment opportunities for CIS's are rather limited given the small amount of securities issued by Trinidad and Tobago issuers in which CIS's can actually invest.

Another feature of the CIS market is that it is largely dominated by a single player which was established by statute in 1981. The Review Team was informed that a high percentage of Trinidad and Tobago families have savings with this CIS Operator, which has been identified by the CBTT as being of systemic importance.

VI. PRINCIPLE-BY-PRINCIPLE ASSESSMENT OF IMPLEMENTATION: MAIN FINDINGS AND RECOMMENDATIONS FOR ACTION

The purpose of the assessment is primarily to ascertain whether the legal and regulatory securities markets requirements of the country and the operations of the securities regulatory authorities in implementing and enforcing these requirements in practice meet the standards set out in the IOSCO Principles.

The assessment is to be a means of identifying potential gaps, inconsistencies, weaknesses and areas where further powers and/or better implementation of the existing framework may be necessary and used as a basis for establishing priorities for improvements to the current regulatory scheme.

The assessment of the country's observance of each individual Principle is made by assigning to it one of the following assessment categories: fully implemented, broadly implemented, partly implemented, not implemented and not applicable.

The IOSCO Methodology provides a set of assessment criteria to be met in respect of each Principle to achieve the designated benchmarks. The Methodology recognizes that the means of implementation may vary depending on the domestic context, structure, and stage of development of the country's capital market and acknowledges that regulatory authorities may implement the Principles in many different ways.

- A Principle is considered ***fully implemented*** when all assessment criteria specified for that Principle are generally met without any significant deficiencies.
- A Principle is considered ***broadly implemented*** when the exceptions to meeting the assessment criteria specified for that Principle are limited to those specified under the broadly implemented benchmark for that Principle and do not substantially affect the overall adequacy of the regulation that the Principle is intended to address.
- A Principle is considered ***partly implemented*** when the assessment criteria specified under the partly implemented benchmark for that Principle are generally met without any significant deficiencies.
- A Principle is considered ***not implemented*** when major shortcomings (as specified in the not implemented benchmark for that Principle) are found in adhering to the assessment criteria specified for that Principle.
- A Principle is considered ***not applicable*** when it does not apply because of the nature of the country's securities market and relevant structural, legal and institutional considerations.

TABLE 1: SUMMARY IMPLEMENTATION OF THE IOSCO PRINCIPLES – MAIN FINDINGS

Principle	Rating	Findings
<p>Principle 1. The responsibilities of the Regulator should be clear and objectively stated.</p>	<p>FI</p>	<p>The TTSEC’s responsibilities are clear and objectively stated. The TTSEC has discretion to interpret its own authority and the interpretative process is transparent.</p>
<p>Principle 2. The Regulator should be operationally independent and accountable in the exercise of its functions and power.</p>	<p>PI</p>	<p>Although the TTSEC appears to operate in practice as an independent agency free from political or commercial interests, certain features of the legal framework and current structures might pose a risk to the independence of the TTSEC, in particular:</p> <ul style="list-style-type: none"> • The TTSEC’s dependence on subventions from the government and the potential instability of funding provided to it. • The current structure, including the requirement under the SA 2012 that the Board of Commissioners include a standing representative of the MoFE, does not provide sufficient assurance that the TTSEC is adequately shielded from political interest. • Substantial changes to the organizational structure are approved by the Ministerial Committee for Monitoring Remuneration Arrangements in the Public Sector. • The SA 2012 currently allows the Minister to request information on any aspect of administration within 14 days. • The TTSEC’s remuneration arrangements are determined by a Ministerial Committee of which the Minister of Finance and the Economy is the Chairman.
<p>Principle 3. The Regulator should have adequate powers, proper resources and the capacity to perform its functions and exercise its power.</p>	<p>PI</p>	<p>Following the strengthening of its powers in 2012, the TTSEC faces challenges with internal capacity and capability to perform its new inspection functions.</p> <p>Some regulatory processes seem to be overly complicated and require multiple levels of approvals, leading to substantial delays in offers coming to market.</p> <p>The level of financial resources does not recognize the difficulty of attracting and retaining experienced and skilled staff.</p>

<p>Principle 4. The Regulator should adopt clear and consistent regulatory processes.</p>	<p>BI</p>	<p>The TTSEC does not publicly report on situations where it has exercised, or refused to exercise its exemption and modification powers for the provisions of the SA 2012. In this regard, there are insufficient checks and balances to ensure that the TTSEC consistently applies its powers and discharges its functions.</p> <p>Although section 147 of the SA 2012 requires the TTSEC to consult on draft Guidelines, it does not mandate any formal process to be followed for this consultation, in terms of the timeframes and method of consultation. In practice the TTSEC appears to have adopted effective consultation practices. As a matter of transparency the TTSEC should consider formalising and publishing the process it will follow for consultation on Guidelines.</p>
<p>Principle 5. The staff of the Regulator should observe the highest professional standards, including appropriate standards of confidentiality.</p>	<p>BI</p>	<p>There is potential for concern in terms of the makeup of the Board of Commissioners and access by the Minister to confidential information, though in practice this access does not appear to be used to impinge on security of information held by the TTSEC.</p>
<p>Principle 6. The Regulator should have or contribute to a process to monitor, mitigate and manage systemic risk, appropriate to its mandate.</p>	<p>NI</p>	<p>The TTSEC has made good strides in attempting to develop expertise regarding risk measurements and analysis relevant to systemic risk; however, a considerable amount of work remains.</p> <p>The TTSEC must work to develop significant processes for the analysis of risks as well as for monitoring, mitigating and managing systemic risk.</p>
<p>Principle 7. The Regulator should have or contribute to a process to review the perimeter of regulation regularly.</p>	<p>NI</p>	<p>Although the TTSEC issues guidance where regulatory weaknesses are identified, there is currently no formalized process through which the TTSEC reviews unregulated products, markets, market participants and activities.</p>
<p>Principle 8. The Regulator should seek to ensure that conflicts of interest and misalignment of incentives are avoided, eliminated, disclosed or otherwise managed.</p>	<p>FI</p>	<p>The TTSEC identifies and evaluates conflicts and misaligned incentives across the range of its regulatory responsibilities, including during policy and rule-making processes and when undertaking compliance and oversight functions.</p>

<p>Principle 9. Where the regulatory system makes use of Self-Regulatory Organizations (SROs) that exercise some direct oversight responsibility for their respective areas of competence, such SROs should be subject to the oversight of the Regulator and should observe standards of fairness and confidentiality when exercising power and delegated responsibilities.</p>	<p>Not Assessed</p>	
<p>Principle 10. The Regulator should have comprehensive inspection, investigation and surveillance power.</p>	<p>PI</p>	<p>The TTSEC has comprehensive inspection, investigation, and surveillance powers, but lacks the ability to conduct on-site inspections of regulated firms without giving prior notice.</p>
<p>Principle 11. The Regulator should have comprehensive enforcement power.</p>	<p>FI</p>	<p>The TTSEC's enforcement powers are comprehensive.</p>
<p>Principle 12. The regulatory system should ensure an effective and credible use of inspection, investigation, surveillance and enforcement power and implementation of an effective compliance program.</p>	<p>PI</p>	<p>The TTSEC is developing a comprehensive supervision plan. Early progress is encouraging, including use of risk assessment data to prioritize supervision work. The number of inspections undertaken to date is quite low.</p> <p>The TTSEC has not yet made significant use of its enforcement powers in relation to serious breaches of securities laws. New compliance order and administrative fining powers have not been used, and the TTSEC does not have an enforcement policy that sets out its approach to the use of its compliance and enforcement tools. Market perception of the TTSEC as an enforcement agency is not high, due largely to the lack of publicly available information about enforcement activity.</p>
<p>Principle 13. The Regulator should have authority to share both public and non-public information with domestic and foreign counterparts.</p>	<p>FI</p>	<p>The TTSEC has broad authority to share information on request or on its own volition.</p>
<p>Principle 14. Regulators should establish information sharing mechanisms that set out when and how they will share both public and non-public information with their domestic and foreign counterparts.</p>	<p>FI</p>	<p>The TTSEC is a signatory to the IOSCO MMoU and to several memoranda of understanding with domestic and regional authorities. It has established domestic information-sharing processes.</p>
<p>Principle 15. The regulatory system should allow for assistance to be provided to foreign Regulators who need to make inquiries in the discharge of their functions and exercise of their power.</p>	<p>FI</p>	<p>The TTSEC has authority to obtain and share information to assist overseas regulators in the discharge of their functions.</p>

<p>Principle 16. There should be full, accurate and timely disclosure of financial results, risk and other information that is material to investor’s decisions.</p>	<p>Not Assessed</p>	
<p>Principle 17. Holder of securities in a company should be treated in a fair and equitable manner.</p>	<p>Not Assessed</p>	
<p>Principle 18. Accounting standards used by issuer to prepare financial statements should be of a high and internationally acceptable quality.</p>	<p>Not Assessed</p>	
<p>Principle 19. Auditor should be subject to adequate levels of oversight.</p>	<p>Not Assessed</p>	
<p>Principle 20. Auditor should be independent of the issuing entity that they audit.</p>	<p>Not Assessed</p>	
<p>Principle 21. Audit standards should be of a high and internationally acceptable quality.</p>	<p>Not Assessed</p>	
<p>Principle 22. Credit rating agencies should be subject to adequate levels of oversight. The regulatory system should ensure that credit rating agencies whose ratings are used for regulatory purposes are subject to registration and ongoing supervision.</p>	<p>Not Assessed</p>	
<p>Principle 23. Other entities that offer investor analytical or evaluative services should be subject to oversight and regulation appropriate to the impact their activities have on the market or the degree to which the regulatory system relies on them.</p>	<p>Not Assessed</p>	
<p>Principle 24. The regulatory system should set standards for the eligibility, governance, organization and operational conduct of those who wish to market or operate a collective investment scheme.</p>	<p>NI</p>	<p>The legal and regulatory regime applicable to CIS/CIS Operators does not provide for a proper and adequate licensing regime nor for adequate and sufficient standards regarding eligibility, governance, organization and operational conduct applicable to CIS and CIS Operators.</p> <p>On this basis, the current regime fails to provide a sufficient level of investor protection and requires reforms to be put in place. This is mainly because:</p> <ul style="list-style-type: none"> (i) the regime in place does not provide for a CIS/CIS Operator specific licensing regime which adequately addresses the specificities of this industry; and (ii) the substantive legal provisions are rather limited and from a formal perspective covered mainly by the CIS Guidelines

		<p>which are only indirectly enforceable (as opposed to rules enacted under legislation and/or by-laws) and which are not applied in a systematic and comparable manner by all actors in the market nor by the TTSEC.</p> <p>It should be noted that any reassessment of the implementation status of Principle 24 requirements would require effective implementation of the reforms recommended in this Report.</p>
<p>Principle 25. The regulatory system should provide for rules governing the legal form and structure of collective investment schemes and the segregation and protection of client assets.</p>	<p>NI</p>	<p>The legal and regulatory provisions in place in relation to the legal form and structure of collective investment schemes are very limited and also uncertain on some aspects, and mostly covered by the current CIS Guidelines which are only indirectly enforceable.</p> <p>The same finding applies in relation to segregation and protection of client assets requirements for CIS.</p> <p>As such, aspects covered by Principle 25 should be included in the global reform to be put in place in relation to CIS/CIS Operators regime generally, as further indicated in this report.</p> <p>It should be noted that any reassessment of the implementation status of Principle 25 requirements would require effective implementation of the reforms recommended in this Report.</p>
<p>Principle 26. Regulation should require disclosure, as set forth under the principles for issuer, which is necessary to evaluate the suitability of a collective investment scheme for a particular investor and the value of the investor’s interest in the scheme.</p>	<p>NI</p>	<p>Matters material to the value of investing in a CIS, in terms of disclosure to investors and potential investors, are currently governed, to a limited extent, by the CIS Guidelines.</p> <p>The CIS Guidelines contain some generic disclosure provisions, but these allow significant discretion in their application, limiting comparability of schemes. The changes proposed for Principle 24 should be accompanied by corresponding disclosure requirements.</p> <p>It should be noted that any reassessment of the implementation status of Principle 26 requirements would require effective implementation of the reforms recommended in this Report.</p>

<p>Principle 27. Regulation should ensure that there is a proper and disclosed basis for asset valuation and the pricing and the redemption of units in a collective investment scheme.</p>	<p>NI</p>	<p>The requirements under the methodology regarding asset valuation as well as pricing and redemption issues, are currently not sufficiently addressed by the rules applicable to CIS and CIS Operators under mainly the CIS Guidelines.</p> <p>On this basis, requirements under Principle 27 should be included in the global reform in terms of form and substance of the CIS and CIS Operator regime generally identified in this report in relation to Principles 24 to 27 inclusive.</p> <p>It should be noted that any reassessment of the implementation status of Principle 27 requirements would require effective implementation of the reforms recommended in this Report.</p>
<p>Principle 28. Regulation should ensure that hedge funds and/or hedge funds managers/advisor are subject to appropriate oversight.</p>		<p>Not Assessed</p>
<p>Principle 29. Regulation should provide for minimum entry standards for market intermediaries.</p>		<p>Not Assessed</p>
<p>Principle 30. There should be initial and ongoing capital and other prudential requirements for market intermediaries that reflect the risks that the intermediaries undertake.</p>		<p>Not Assessed</p>
<p>Principle 31. Market intermediaries should be required to establish an internal function that delivers compliance with standards for internal organization and operational conduct, with the aim of protecting the interests of clients and their assets and ensuring proper management of risk, through which management of the intermediary accepts primary responsibility for these matters.</p>		<p>Not Assessed</p>
<p>Principle 32. There should be procedures for dealing with the failure of a market intermediary in order to minimize damage and loss to investor and to contain systemic risk.</p>		<p>Not Assessed</p>
<p>Principle 33. The establishment of trading systems including securities exchanges should be subject to regulatory authorization and oversight.</p>		<p>Not Assessed</p>

Principle 34. There should be ongoing regulatory supervision of exchanges and trading systems which should aim to ensure that the integrity of trading is maintained through fair and equitable rules that strike an appropriate balance between the demands of different market participants.	Not Assessed
Principle 35. Regulation should promote transparency of trading.	Not Assessed
Principle 36. Regulation should be designed to detect and deter manipulation and other unfair trading practices.	Not Assessed
Principle 37. Regulation should aim to ensure the proper management of large exposures, default risk and market disruption.	Not Assessed
Principle 38. Securities settlement systems and central counterparties should be subject to regulatory and supervisory requirements that are designed to ensure that they are fair, effective and efficient and that they reduce systemic risk.	Not Assessed
Fully Implemented (FI), Broadly Implemented (BI), Partly Implemented (PI), Not Implemented (NI), Not Applicable (NA)	

TABLE 2: RECOMMENDED ACTION PLAN TO IMPROVE IMPLEMENTATION OF THE IOSCO PRINCIPLES

Principle	Recommended Action
1	—
2	<p>In terms of the Board composition, the TTSEC should consider putting in place a formal arrangement or a Memorandum of Understanding (MoU) setting forth the exact duties and responsibilities, including an appropriate confidentiality regime, of the representative of the MoFE in what concerns his/her roles at the Ministry and as Commissioner of the TTSEC.</p> <p>In terms of funding, the Government of Trinidad and Tobago and the TTSEC should explore ways to secure the stability of the TTSEC's funding to enable the TTSEC to better meet its regulatory and operational needs and limit, where possible, its dependence on the government.</p>
3	The Government of Trinidad and Tobago should ensure that the TTSEC's funding is sufficient to meet the current and future regulatory and supervisory challenges, as resulting from their laws and regulations.

	<p>The TTSEC should aim at allocating more resources to reach sufficient levels of proactive supervision of all types of entities under its supervision. The TTSEC should continue to seek to hire staff with specialized expertise.</p>
4	<p>The TTSEC should consider developing a written procedure for the publication of draft Guidelines for public comment.</p> <p>The TTSEC should consider formalizing the documentation regarding the exercise of discretionary or exemptive powers with a view to filling any knowledge gaps created when there is a departure of key members of staff. A formalized process will provide needed knowledge transfer going forward.</p> <p>The TTSEC should consider putting in place a formal internal checks and balances procedure in terms of exercising, or refusing to exercise, its exemption and modification powers. This will ensure that the TTSEC is consistently applying its powers and discharging its functions.</p>
5	<p>The TTSEC should consider putting in place a formal arrangement or an MoU setting forth the exact duties and responsibilities, including an appropriate confidentiality regime for the representative of the MoFE regarding what concerns his/her roles at the Ministry and as a TTSEC Commissioner.</p>
6	<p>The TTSEC should develop a framework for monitoring, mitigating and managing systemic risk. A new provision to identify and address the systemic risk factors in the SA 2012 is also recommended.</p> <p>To further develop the TTSEC's efforts to identify, mitigate and manage systemic risk, the TTSEC could also consider within its broader mandate, the following additional principles that are also related to reducing systemic risk. These include:</p> <ul style="list-style-type: none"> • Reviewing the perimeter of regulation (Principle 7); • Conflicts of interest (Principle 8); • Cooperation and information-sharing with other regulators (Principles 13-15).
7	<p>The TTSEC should have clear responsibilities in relation to reviewing the regulatory perimeter and develop a process to do so to encourage the identification and assessment of risks.</p> <p>The TTSEC should develop robust arrangements to conduct comprehensive analyses of potential risks emerging from unregulated products and entities in the Trinidad and Tobago securities market and to take necessary measures, where appropriate. The recent signing of MoUs with the CBTT and the FIUTT is a good first step in seeking to promote information sharing among the relevant regulators on various regulatory issues. These relationships, and others, should be pursued and further strengthened.</p> <p>Arrangements to review the perimeter of regulation should:</p> <ul style="list-style-type: none"> • entail a holistic and systematic analysis of entities, products, markets, market infrastructures and activities across securities markets that could be the source of systemic risk or that could raise concerns about the regulatory perimeter. The analysis should use a combination of quantitative and qualitative tools; • involve the systematic and robust analysis of accessible, reliable and good quality data (including micro- and macro-economic data and market intelligence) either collected by the securities regulator or sourced from other agencies or parties (including prudential supervisors); • include mechanisms to assist in understanding the evolving functioning of securities markets; • involve engagement with market participants to better understand emerging

	<p>risks, systemic and otherwise. This engagement may take the form of surveys, formal consultations, informal roundtables, individual meetings, etc.;</p> <ul style="list-style-type: none"> • include documentation about the work performed in assessing potential systemic risks at each stage of the assessment process, and documentation about the status of steps taken to mitigate identified risks; • allow for periodic reassessment of procedures and outcomes; and • provide for policy and/or regulatory actions, where appropriate in the context of the regulatory mandate, based on the assessments conducted. <p>In addition to the general arrangements set out above, the TTSEC should:</p> <ul style="list-style-type: none"> • be systematically involved in identifying, prioritizing and determining the scale and scope of emerging risks from different entities, activities, markets and products in financial markets that could serve as the basis for deciding whether and what type of regulatory action or intervention is warranted; • proactively go beyond existing regulatory boundaries to identify potential risks. <p>It should be recognized that different approaches may be required to discern and assess different types of risks; just as having a single perspective may not prove effective, having only one risk approach similarly may not suffice. For example, a different approach may be warranted for known risks that are being re-evaluated, as opposed to emerging risks being considered for the first time, particularly if they are emerging outside of the regulatory perimeter.</p> <p>The plans being developed in conjunction with the CBTT are a good first step towards achieving this and these plans should be further defined and developed.</p> <p>The partnership between the TTSEC and the National AML Committee to conduct a National Risk Based Assessment to assess the parameters of its regulatory framework is a positive step and should be formalized.</p> <p>To support the effectiveness of the risk arrangements outlined in these recommendations, TTSEC should have appropriately skilled and adequate human and technical resources in this area.</p>
8	—
9	Not Assessed
10	The TTSEC should seek amendment to its inspection powers to enable it to conduct inspections of regulated entities (including SROs) without notice.
11	—
12	<ul style="list-style-type: none"> • Continued development of the TTSEC’s supervisory approach should incorporate a formal mechanism for challenging and validating risk assessment survey data with intelligence obtained from on-site inspections and other regulatory activity. • Inspection manuals and policies should be adopted that are tailored specifically for CISs. • Capacity and capability of the inspections team should be a focus, to enable more inspections to be conducted. • Significant new regulatory rules (such as recommended for CISs) should be

	<p>implemented through directly enforceable means, such as legislation or by-laws, rather than through guidelines.</p> <ul style="list-style-type: none"> • Where guidelines continue to be used as a significant regulatory tool the TTSEC should publicly signal its approach to enforcing compliance with these, and should make use of its compliance direction powers to achieve this. • The TTSEC should develop, publish, and implement a comprehensive enforcement policy that sets out its approach to using the range of compliance and enforcement tools available to it. This should include the circumstances in which it will use its administrative fining powers, and its approach to assessing fines for the range of breaches to which this power can be applied. • The TTSEC should explore mechanisms for greater cooperation with the DPP, such as an MoU. This could include awareness-raising programs concerning the importance of securities law enforcement and should enable the TTSEC to give public notice when it has referred a matter to the DPP for consideration.
13	—
14	—
15	—
16-23	Not Assessed
24-27	<p>The legal and regulatory regime applicable to CIS Operators/CISs should be fundamentally revised as a matter of urgency, so to ensure compliance with these Principles and ultimately so to ensure that proper CIS investor protection will be in place in Trinidad and Tobago in a short to medium term.</p> <p>Such reform should address formal aspects, so to ensure that adequate legal and regulatory tools (e.g. legislation and/or by-laws as opposed to guidelines or any other form of associated guidelines) are used when defining the revised regime, to ensure enforceability of the rules put in place. In terms of changes to be operated from a formal perspective, the revised regime to be put in place should include aspects currently covered by the current CIS Guidelines, but should replace those by provisions which are directly enforceable and which provide legal certainty.</p> <p>In terms of substantive rules, a proper and CIS/CIS Operator specific licensing regime should be put in place with appropriate standards for eligibility, governance, organization and operational conduct applicable to CIS and CIS Operators. Adequate rules should also be put in place with respect to:</p> <ul style="list-style-type: none"> • the legal form and structure of CIS (including providing legal certainty of the rights of the investors invested in CIS trust-type structures domiciled in Trinidad and Tobago); • disclosure rules specific to CIS, to allow proper evaluation of the suitability of a given CIS and of the value of the investor’s interest in CIS; and • appropriate disclosure of asset valuation, unit pricing and redemptions of shares or units in CIS. <p>The revamp of the CIS/CIS Operator regulatory framework should further clarify the segregation rules applicable to the safekeeping of CIS assets. Such rules should require that CIS assets are held in a manner that ensures adequate segregation from</p>

	<p>the proprietary assets of the CIS manager and/or trustee and the designated custodian, and that the trustee cannot be the custodian and/or depositaries of the CIS nor that the custodian can delegate the custody back to the trustee or the CIS manager. In this context, the regime should clarify asset registration requirements in light of the different types of CIS structures. Potential tax issues that might prevent effective re-registration of CIS assets in compliance with the regime should be clarified.</p> <p>When revising the CIS/CIS Operator regime, Trinidad and Tobago should take into consideration the IOSCO Principles and Methodology in relation to CIS and CIS Operators, as well as some of the more recent IOSCO reports on CIS-related topics, such as the January 2012 report on <i>Principles on Suspensions of Redemptions in Collective Investment Schemes</i>, the March 2013 report on <i>Principles of Liquidity Risk Management for Collective Investment Schemes</i>, the May 2013 report on <i>Principles for the Valuation of Collective Investment Schemes</i> as well as the November 2015 report on <i>Standards for the Custody of Collective Investment Schemes' Assets</i>.</p> <p>The TTSEC should ensure that its staff is properly trained on the revised regime and that the revised regime will be applied in a consistent and effective manner with respect to all market players. Furthermore, the TTSEC should continue to deploy effective off- and on-site inspections of the CIS market players and ensure that any findings are subject to follow-up with the relevant market players so to ensure swift and coherent compliance across all market players. Regulation should ensure that CISs are actually managed in compliance with applicable rules and in the best interests of investors, and should present a trustworthy CIS industry. When putting in place the reforms, consideration should also be given to the eligibility criteria/role and duties of CIS auditors as well as ensuring forward pricing of CIS generally.</p> <p>On a medium-term basis, consideration should be given to CIS type schemes that currently exist in the local market and which are not currently captured by the perimeter of CIS/CIS Operator regulations (for example, employment-based pension schemes) so to ensure that those are also properly regulated and supervised in the interest of effective investor protection. Furthermore, Trinidad and Tobago might also consider the introduction of a hedge fund regime that would respect the general additional requirements spelled out under Principle 28 in relation to hedge funds.</p>
28-38	Not Assessed

VII. PRIORITY RECOMMENDED ACTIONS

A large proportion of the Trinidad and Tobago public has investments in CISs. The review highlighted widespread deficiencies in the legislative and supervisory regime for these investment vehicles. The broad level of public participation in CISs means that these deficiencies raise serious investor protection concerns. The Review Team recommends that immediate steps be taken to strengthen the regulation of CISs and CIS Operators, including both the legislative framework and the capacity and capability of the TTSEC to supervise CISs and CIS Operators.

The Review Team also recommends that priority be given to reforms that will enable the TTSEC to adopt more efficient processes for core regulatory activities and to provide it with more security in relation to its funding.

These priority actions are detailed below.

Reforms Relating to TTSEC Practices

The Review Team heard repeated concerns from market participants and from TTSEC personnel about the processes employed for the approval of draft prospectuses for public offerings. The complexity of these processes, driven in part by the legislative approval requirements for draft prospectuses and also by the practice of the TTSEC, appears to have led to lengthy delays in the time needed for offers to come to market. These delays may be such as to jeopardize participation in the public markets, especially for debt offerings. Consideration should be given, as a matter of priority, to reforms that will enable the TTSEC to adopt a more streamlined process for allowing offers to come to market.

Priority should also be given to reforms, in practice or legislation, that will provide the TTSEC with greater medium-term stability for its funding. The TTSEC is currently subject to an annual budget cycle for the great majority of its funding, and has very limited participation in this process. This has the potential to hamper any long-term planning on the part of the TTSEC.

Reforms Relating to Collective Investment Schemes

Considering global best practices as well as the interests of all stakeholders, including more specifically the retail investors in Trinidad and Tobago who invest in the local CIS market, the Review Team recommends the implementation of the following measures with a view to improving the legal and regulatory framework under which CISs operate and ultimately to ensure a sustainable growth of the Trinidad and Tobago mutual fund sector.

The recommendations below are of a very general nature. The Review Team, in agreement with the TTSEC, considers that a proper assessment of the CIS regime applicable in Trinidad and Tobago can reasonably be performed only once those general aspects have been addressed. As such, the review carried out on the CIS Principles was performed with respect to the overall principles set forth by the IOSCO Principles and Methodology (e.g. standards for those involved in the operation of CIS, client asset protection aspects, CIS disclosure requirements as well as general aspects regarding asset valuation and pricing and redemption of CIS units/shares) rather than focusing in detail on each of the individual key questions under Principle 24 to Principle 27 inclusive (Principle 28 was not included in the review).

The review has focused on the general reform areas to be worked on, but not on the means by which the required changes should actually be implemented. In relation to Principle 28, it should be noted that certain market players with whom the Review Team met, expressed the view that the Trinidad and Tobago capital markets would benefit from having a CIS regime that would allow for products that could host strategies going beyond mere mutual funds strategies, which the current CIS Guidelines do not allow.

Based on the review performed according to the above considerations, the Review Team has identified the following proposed areas of improvement which should be worked on as a matter of priority. Both the TTSEC as well as the CIS Operators/stakeholders with whom the Review Team met, have shown an understanding of the current weaknesses and have demonstrated strong support to a major reform of the current CIS regime in terms of nature and substantive rules.

Proposed Areas of Improvement – CIS Regime

1. Introduction of a proper CIS/CIS Operator tailor-made licensing regime.

At the time of the assessment, CIS Operators were required to hold a Broker-Dealer license, and CISs were authorized for distribution to the public under the general Reporting Issuer registration regime. In terms of licensing the CIS Operator/CIS, this regime does not take into account the specific requirements that a CIS Operator/CIS should meet, in addition to others, it does not address the requirements of IOSCO Principles 24 and 25. It bears noting that the recent Securities (General) By-Laws, 2015 introduced regulation that also impacts the licensing regime for CIS Operators. However, the changes generally affect all **registrants** and do not put in place a regime that specifically addresses requirements in relation to CIS Operators or CIS authorization.

2. Globally enhance the legal framework applicable to CISs from the perspective of substantive legal provisions applicable to CISs and CIS Operators.

At the time of the assessment, key aspects relating to CISs were not embedded in legal provisions, but in:

- CIS Guidelines adopted in 2008²;
- Guidelines or Proposed By-Laws which exist in draft format since 2007/2008 but which have not been enacted (e.g. *Guidelines on Corporate Governance for all Issuers of Securities*, *Code of Conduct for Businesses Guidelines*); as well as
- Principles for guidance of the securities industry under Article 6(b) of the SIA 1995 – now Article 7(1)(a) of the SA 2012 (e.g. *Promotion Presentation Standards for CIS* or the *Policy Guideline 11.1 – Mutual Funds – Distribution of Securities of Foreign Mutual Funds in Trinidad and Tobago*); or
- under the CIS Guidelines themselves (e.g. *Checklist for Prospectuses of CIS*).

Furthermore, certain key aspects of a CIS/CIS Operator regime, are not covered at all under the current legal and regulatory framework. In the context of the revamp of the CIS regime, specific attention should be given to aspects relating to asset segregation requirements, CIS valuation, liquidity management aspects, as well as requirements for procedures such as investment restriction or net asset value (NAV) breach situations. Conflicts of interest are to be addressed (in addition to other aspects by potentially requiring an effective second level control regime on daily operations which allow for an effective and truly independent review level). The appointment/duties/surveillance of CIS auditors should also be revised and clarified. Attention should also be given to system requirements applicable to the various actors contributing to CIS operations and that, in light of the requirements under Principle 25, the nature and the rights of investors of trust-type CISs are to be clarified. Consideration might also be given to potential

² As per the SA 2012, any Guidelines, including the CIS Guidelines, *shall not be regarded as a statutory instrument* and do not have force of law — any failure to comply could be considered as an unsafe and unsound practice under the SA 2012.

changes to investment restrictions so as to take into consideration the limited amount of investment opportunities available to domiciled CISs investing in debt and equity securities issued by Trinidad and Tobago issuers. These different aspects should be put in place so as to globally enhance the level of investor protection, which is the key driver of the requirements under Principles 24 to 27 of the IOSCO Principles and Methodology.

At the time of the assessment, there was almost no ongoing supervision in relation to CIS Operators and CISs, and the very few inspections performed had highlighted major deficiencies which are to be addressed by the assessed players as a matter of urgency. Given the size of the Trinidad and Tobago CIS industry combined with the fact that the CISs are largely subscribed to by non-institutional/retail investors who are residents of Trinidad and Tobago, there is a need to put in place an effective ongoing supervision regime together with the revamp of the CIS legal regime described above.

Given that the CIS regime in place at the time of the assessment outlined deficiencies in relation to almost all key questions in Principle 27, a specific focus should also be to implement regulations establishing a proper and disclosed basis for asset valuation, the pricing and the redemption of units/shares in a CIS.

On the authorization and ongoing surveillance side, the TTSEC should ensure that any revised and more specific and detailed CIS regime put in place will be applied consistently across all players and that no exemptions are being granted to any players.

When making changes to the CIS regulatory regime, the Review Team recommends that the following specific IOSCO reports be taken into account, since they specifically address some CIS-related aspects.

In relation to Principle 24, the IOSCO report on *Principles of Liquidity Risk Management for Collective Investment Schemes*; in relation to Principle 25, the IOSCO report on *Standards for the Custody of Collective Investment Schemes' Assets*; and in relation to Principle 27, the IOSCO reports on *Principles on Suspensions of Redemptions in Collective Investment Schemes*, *Policy Recommendations for Money Market Funds*, as well as *Principles for the Valuation of Collective Investment Schemes*.

It should further be noted that beyond mere securities law aspects, there are certain tax rules that are currently applicable directly and indirectly to CISs which might need to be looked at as part of the reform of the CIS and CIS Operator regulatory regime. In doing so, this would prevent such tax considerations from potentially hindering the effective implementation of changes made to the CIS/CIS Operator regimes (e.g. stamp duty aspects that might prevent re-registration of securities in the name of a properly designated custodian).

Discussions between the Review Team and certain industry players during the on-site visit have further highlighted that certain CIS-type collective investment vehicles are being offered to investors outside of the existing CIS regime and thereby avoiding authorization and supervision by the TTSEC (e.g. employment-based pension schemes). As a result, in the context of the CIS/CIS Operator reform, attention should also be given to the perimeter of regulation with a view to ensuring that all relevant CIS-type vehicles are actually captured by the revised regime being put in place.

VIII. THE RESPONSE OF THE AUTHORITIES

The Trinidad and Tobago Securities & Exchange Commission (TTSEC) wishes to thank IOSCO and more specifically the Assessment Committee and members of the Review Team for the hard work and dedication that resulted in the publication of this ‘Country Review: Republic of Trinidad & Tobago IOSCO Objectives and Principles of Securities Regulation Detailed Assessment of Implementation’.

This is the Assessment Committee’s second country review and the TTSEC is honoured to be the first country from the Inter American Regional Committee (IARC) to have completed this exercise.

The Assessment Committee must be commended for the methodology used in completing the Review. Starting the Review with the host country completing a detailed questionnaire, on how it has implemented the IOSCO Principles and Objectives is a masterstroke, which proved to be a monumental learning experience for staff at the TTSEC. We all have a more profound understanding of these Principles and their application.

The TTSEC accepts the validity of the Review Team’s major findings related to gaps in our implementation of Principles in the following areas:

1. “Independence” of the Regulator. Even though we are ninety percent (90%) funded by the government and the Ministry of Finance and the Economy has a representative on the Board, the Commission regulates and supervises the sector without governmental interference.
2. Comments related to the ability to carry out an inspection without notice are noted, as are those related to the need to “develop significant processes for the identification, measurement, and analysis of risks”.
3. Principles for Collective Investment Schemes: Efforts have already begun to ensure that the appropriate law/by-laws are drafted to ensure that the TTSEC becomes compliant with Principles 24 to 28 in the shortest possible time.

Overall the TTSEC found the entire exercise to be hugely rewarding and commits to perusing the path to full compliance with all the relevant Principles at earliest.

IX. DETAILED ASSESSMENT

TABLE 3: DETAILED ASSESSMENT OF IMPLEMENTATION OF THE IOSCO PRINCIPLES

Principles Relating to the Regulator	
Principle 1	The responsibilities of the Regulator should be clear and objectively stated.
Description	<p><u>Responsibilities and Powers</u></p> <p>The primary role of the TTSEC is to regulate the securities industry and all related matters in Trinidad and Tobago. The TTSEC is the sole regulator responsible for securities regulation.</p> <p>The TTSEC is responsible for protecting investors from unfair, improper or fraudulent practices; fostering fair and efficient securities markets and confidence in the securities industry in Trinidad and Tobago; reducing systemic risk; and for other related matters.</p> <p>The TTSEC's authority, powers and responsibilities are clearly defined and transparently set out in sections 6 and 7 of the SA 2012, giving it all such responsibilities as may be necessary to perform its duties and functions under the SA 2012.</p> <p>More specifically, section 6 of the SA 2012 clearly defines the primary responsibilities of TTSEC towards the securities market as follows, to:</p> <ul style="list-style-type: none"> (a) advise the Minister on all matters relating to the securities industry; (b) maintain surveillance over the securities industry and ensure orderly, fair and equitable dealings in securities; (c) register, authorize or regulate, in accordance with this Act, self-regulatory organizations, broker-dealers, registered representatives, underwriters, issuers and investment advisers, and control and supervise their activities with a view to maintaining proper standards of conduct and professionalism in the securities industry; (d) regulate and supervise the timely, accurate, fair and efficient disclosure of information to the securities industry and the investing public; (e) conduct such inspections, reviews and examinations of self-regulatory organizations, broker-dealers, registered representatives, underwriters, issuers and investment advisers as may be necessary for giving full effect to this Act; (f) protect the integrity of the securities market against any abuses arising from market manipulating practices, insider trading, conflicts of interest, and other unfair and improper practices; (g) educate and promote an understanding by the public of the securities industry and the benefits, risks, and liabilities associated with investing in securities; (h) co-operate with and provide assistance to regulatory authorities in Trinidad and Tobago, or elsewhere; (i) ensure compliance with the Proceeds of Crime Act, any other written law in relation to the prevention of money laundering and combating

the financing of terrorism or any other written law that is administered or supervised by the TTSEC;

- (j) create and promote such conditions in the securities industry as may seem to it necessary, advisable or appropriate to ensure the orderly growth, regulation and development of the securities industry and to further the purposes of this Act;
- (k) co-operate with other jurisdictions in the development of a fair and efficient securities industry; and
- (l) assess, measure and evaluate risk exposure in the Securities Industry.

Furthermore, in order to carry out its functions as an oversight regulatory body, under section 7 of the SA 2012, the TTSEC has the **power to**:

- (a) formulate principles for the guidance of the securities industry;
- (b) treat with such matters as may be referred to it by any person from time to time;
- (c) register and regulate market actors in accordance with this Act;
- (d) monitor the solvency of registrants that are entities of the securities market and self-regulatory organizations and take measures to protect the interest of investors where the solvency of any such person is in doubt;
- (e) adopt measures to supervise and minimize any conflict of interest that may arise in the case of registrants or self-regulatory organizations and where appropriate other market actors;
- (f) review, approve and regulate takeovers, amalgamations and all forms of business combinations in accordance with this Act or any other written law in all cases in which it considers it expedient or appropriate to do so;
- (g) review the contents of prospectuses and issue receipts therefor, and review any form of solicitation, advertisement or announcement by which securities are proposed to be distributed;
- (h) take enforcement action against any person for failing to comply with this Act;
- (i) recommend By-Laws to the Minister;
- (j) formulate, prepare and publish notices, guidelines, bulletins and policies describing the views of the TTSEC regarding the interpretation, application, or enforcement of the SA 2012;
- (k) make orders;
- (l) monitor the risk exposure of registrants and self-regulatory organizations and take measures to protect the interest of investors, clients, members and the Securities Industry;
- (m) undertake such other activities as are necessary or expedient for giving full effect to the SA 2012; and
- (n) do all things and take all actions which may be necessary, expedient, incidental or conducive to the discharge of any of its functions and the exercise of powers under the SA 2012.

For the purposes of the administration of the SA 2012, under section 8, the TTSEC may, by order, **delegate any responsibility, power or function** conferred on it by the SA 2012 to any: Commissioner; senior officer of the TTSEC; or SRO registered under the SA 2012. However, the TTSEC may not delegate its powers to make By-Laws or hear appeals for review under section 160 of the SA 2012.

The breadth of the TTSEC's legislative oversight is clearly outlined in Part II of

the SA 2012 and further described below.

Interpretation of Authority

The TTSEC's decision-making authority with respect to exercising statutory power (including its authority to make decisions) is clearly defined in the SA 2012.

In discharging its functions, the TTSEC has **the power to interpret its authority** under section 7(1)(j). The TTSEC's criteria for interpreting its authority are clear and transparent and are largely based on the plain meaning of the statute and available legislative history as related to the securities industry and market participants. More specifically, the TTSEC has the power to formulate, prepare and publish notices, Guidelines, bulletins and policies describing the views of the TTSEC regarding the interpretation, application, or enforcement of the SA 2012.

The TTSEC may also, in consultation with the Minister and under section 146 of the SA 2012, issue Guidelines on any matter it considers necessary to:

- give effect to the SA 2012;
- enable the TTSEC to perform its functions;
- aid compliance with the Proceeds of Crime Act, any other written law in relation to the prevention of money laundering and combating the financing of terrorism or any other written law which may be administered or supervised by the TTSEC which may be in force from time to time; and
- regulate the market conduct of market actors.

These Guidelines are made available to the public via the TTSEC's website.

The Guidelines issued under this section are not considered to be statutory instruments but, rather, guidance. Although contraventions of a Guideline do not constitute an offence, the TTSEC can still take action under section 90 and issue compliance directions.

Upon recommendation of the TTSEC and in accordance with section 148 of the SA 2012, the Minister may make By-Laws on numerous matters related to carrying out the purpose of the SA 2012. The interpretative process for the issuance of new By-Laws is transparent and not subject to abuse. The TTSEC, in accordance with section 149 of the SA 2012, must publish proposed By-Laws at least thirty (30) days before the proposed effective date as well as publishing:

- a copy of any By-Law that it proposes to recommend to the Minister;
- a concise statement of the substance and purpose of the proposed By-Law; and
- a reference to the authority under which the By-Law is proposed.

The proposed By-Law(s) must be published in the Government's Gazette and either: (i) two daily newspapers in Trinidad and Tobago; or (ii) a posting on the TTSEC's website and issue a notice of same in two daily newspapers.

After a proposed By-Law is published as described above, the TTSEC provides a "reasonable" opportunity to interested persons to make representations with respect to the proposed By-Law. In this context, "reasonable" may be

considered to be a time limit that would allow the parties sufficient time to provide the TTSEC with the relevant information, without unduly prolonging prohibited activity or due process in a manner that may adversely affect the market. In practice, the TTSEC would provide an initial period of 2-3 weeks while granting requests for extensions as per the relevant circumstances.

While there is **no written procedure for the publication of draft Guidelines for public comment**, under section 147, prior to making or amending the above-mentioned Guidelines, the TTSEC in consultation with the Minister, will issue draft Guidelines or draft amendments thereof and consult with the market actors and other relevant stakeholders who may be affected by the draft Guideline or amendment.

This procedure, which mandates that the TTSEC consult with the Minister, market actors and other relevant stakeholders before a Guideline is implemented, appears to achieve the desired outcome. As such, it has been the practice of the TTSEC to follow the same procedure as contained in section 149 of the SA 2012.

In cases where there is urgency regarding an opinion of the TTSEC, any matter proposed to be dealt with in Guidelines or by an amendment thereof, the TTSEC shall issue the Guidelines or amendment thereof, without following the process referred to above. In this case, these Guidelines would be effective for 90 days, unless replaced by Guidelines issued, following consultation with the Minister, as described above.

The SA 2012 further prescribes that the decision making processes are guided by principles of segregation, accountability and the removal of conflicts of interest. For example, there is a defined procedure under section 18(3) for the review of decisions that have been made by the TTSEC if it is found that a conflict of interest occurred during the deliberation of matters.

Under the SA 2012, there are provisions for review of administrative decisions of the TTSEC – both as to their merits and on legality. These provisions include an opportunity for persons who are aggrieved by said decisions to make representations to the TTSEC and include the right to be represented by an Attorney-at-law.

Decisions of the TTSEC can be reviewed by two methods:

- (a) judicial review; or
- (b) appeals to the High Court under section 161 of the SA 2012.

Both methods serve to scrutinize the exercise of the TTSEC's powers and to dissuade the abuse of discretion.

A judicial review is a review of any administrative decision or any failure to act by a functionary such as a Minister or Permanent Secretary or Board of a public body such as the TTSEC.

An appeal to the High Court under section 161 is an appeal against a particular decision of the TTSEC where an applicant regulated by the TTSEC felt aggrieved.

	<p><u>Enforceability</u></p> <p>The TTSEC can undertake such other activities as necessary or expedient for giving full effect to the SA 2012 (section 7(1)(n)). It is empowered to seek remedies and levy sanctions inclusive of the issuance of compliance directions (section 90), administrative sanctions (sections 57-59) and Orders (sections 154-156) in respect of non-compliance with the SA 2012.</p> <p>There are a number of breaches of SA 2012 that can have criminal consequences. The TTSEC, by virtue of section 150 of the SA 2012, has the power to conduct investigations and section 169 gives the TTSEC the power to refer matters to the DPP. It is the DPP who will make a determination on whether or not criminal proceedings should be pursued and sanctions will ultimately be imposed by the High Court of Trinidad and Tobago.</p>
Assessment	Fully Implemented
Comments	<p>The TTSEC is the sole regulator responsible for securities regulation in Trinidad and Tobago. The TTSEC's responsibilities are clear and objectively stated and it has discretion to interpret its own authority and the interpretative process is transparent.</p> <p>The TTSEC has adopted a transparent policy for the publication of its Guidelines, circulars and directives including any relief instruments. The interpretative process is transparent enough to preclude situations in which an abuse of discretion can occur.</p> <p>The TTSEC's decision-making authority with respect to exercising statutory power (including its authority to make decisions) is clearly defined in the SA 2012.</p>
Principle 2	The Regulator should be operationally independent and accountable in the exercise of its functions and power.
Description	<p><u>Independence</u></p> <p>The conduct of the TTSEC's day-to-day functions, such as licensing reviews and recommendations, monitoring and surveillance of markets and intermediaries, oversight and inspections, are all carried out by the TTSEC through established procedures.</p> <p>The procedures by which the TTSEC can make decisions are clearly and transparently stated in the laws and the TTSEC is not subject to written directions from any government minister with respect to its day-to-day operations.</p> <p>Further, the head and governing board of the regulator are subject to mechanisms intended to protect independence, such as: procedures for appointment; terms of office; and criteria for removal.</p>

Consulting with the Minister of Finance and the Economy

The SA 2012 requires that the Minister approve the appointment of a CEO, the external auditors and the recommendation of Commissioners to the President of the Republic of Trinidad and Tobago.

Subject to the approval of rules, the TTSEC is not required to consult with the Minister or any other government minister with respect to the execution of its functions relative to the day-to-day administration of the SA 2012.

Upon request of the Minister, the TTSEC is required to advise the Minister on all matters relating to the securities industry.

Furthermore, the Minister has the authority to approve rules for the TTSEC, relating to:

- the calling of and conduct of business at meetings of the TTSEC;
- prescribing the procedure for appeals of decisions of SROs and reviews of decisions of a delegate;
- the establishment of a code of conduct governing the activities of Commissioners and the officers and employees of the TTSEC in order to avoid conflicts of interest and other practices that the TTSEC considers undesirable;
- any other matter, whether or not required by this Act, relating to the organization, procedure, administration or practice of the TTSEC; and
- procedures for the initiation and holding of hearings by the TTSEC.

The TTSEC is required to consult with the Minister on regulatory policy matters relating to the issuance of guidelines and the issuance of By-Laws. Furthermore, under the SA 2012, the TTSEC is also required to consult with the Minister with respect to the issuance of By-Laws and Guidelines.

Guidelines

However, with respect to the issuance of Guidelines, the TTSEC may, without consultation, issue Guidelines where the matter proposed to be dealt with becomes urgent. Guidelines issued in this manner are effective for a period of 90 days, unless replaced by Guidelines for which the Minister has been consulted and which were subject to the procedure for the issuance of Guidelines as outlined in the SA 2012.

By-Laws

The Minister is given the authority to make By-Laws on the recommendation of the TTSEC relating to various matters inclusive of prescribing standards of practices and business conduct for registrants.

Where necessary the TTSEC can recommend new legislation and/or changes to existing legislation and develop By-laws and Guidelines to accompany existing legislation.

Once drafted, the policy cycle of approval for new legislation or amendments to existing legislation is as follows:

- sent for consultation by relevant stakeholders;

- reviewed by the Office of the Chief Parliamentary Counsel, then by the Legislative Review Committee who will forward it to Cabinet for approval and once approved by Cabinet it will be laid in Parliament for debate.

Where such process is not followed by the TTSEC, any aggrieved party has the right to appeal the action by the TTSEC to the High Court.

Board of Commissioners

The TTSEC's Commissioners are appointed under a procedure that is set out in the SA 2012. Commissioners are appointed by the President of the Republic of Trinidad and Tobago to preserve the independence of appointments to the governing board.

The President may also appoint a temporary Commissioner to replace any of the non-executive Commissioners where a vacancy is created due to illness, absence or incapability. The temporary Commissioner must have qualifications or experience similar to those of the Commissioner for whom he is appointed to act.

Although the TTSEC may have ad hoc Commissioners, whose role is to provide specific expertise required by the TTSEC on a temporary basis (they cannot serve for more than one year), the TTSEC does not currently have any such Commissioners.

The President may, on the advice of the Minister, appoint no more than three persons as ad hoc Commissioners, with such experience as may be required by the TTSEC and for a period not exceeding one year (section 10(7)). These ad hoc Commissioners shall be in addition to and not a replacement for the five to nine Commissioners which the TTSEC is required to have.

The criteria and procedure for disqualification or removal of a Commissioner are clearly defined in section 11 and section 12 of the SA 2012, respectively.

The terms of office and the remuneration of Commissioners are also set out in the SA 2012. Commissioners shall be appointed by the President for a three-year term and shall be eligible for reappointment (section 12(1)). Remuneration and allowances for the office of Commissioner shall be fixed by the President as may be determined from time to time (section 12(5)).

Board Composition

The TTSEC's Board of Commissioners must be made up of between five and nine Commissioners, one of whom is appointed as the Chairman of the Board. The Board must include:

- (a) an attorney-at-law of at least ten years standing; and
- (b) a senior officer from the MoFE.

The TTSEC's current Board meets these requirements with eight (8) Commissioners, including three attorneys-at-law with at least 10 years' standing and a senior officer of the MoFE.

The TTSEC's Commissioners are responsible for all the TTSEC's functions, as

set out in section 6 of the SA 2012 using the powers referred to in section 7 of the SA 2012. More specifically, the primary responsibility of the TTSEC towards the securities market is to:

- (a) advise the Minister on all matters relating to the securities industry;
- (b) maintain surveillance over the securities industry and ensure orderly, fair and equitable dealings in securities;
- (c) register, authorize or regulate, in accordance with this Act, self-regulatory organizations, broker-dealers, registered representatives, underwriters, issuers and investment advisers, and control and supervise their activities with a view to maintaining proper standards of conduct and professionalism in the securities industry;
- (d) regulate and supervise the timely, accurate, fair and efficient disclosure of information to the securities industry and the investing public;
- (e) conduct such inspections, reviews and examinations of self-regulatory organizations, broker-dealers, registered representatives, underwriters, issuers and investment advisers as may be necessary for giving full effect to this Act;
- (f) protect the integrity of the securities market against any abuses arising from market manipulating practices, insider trading, conflicts of interest, and other unfair and improper practices;
- (g) educate and promote an understanding by the public of the securities industry and the benefits, risks, and liabilities associated with investing in securities;
- (h) co-operate with and provide assistance to regulatory authorities in Trinidad and Tobago, or elsewhere;
- (i) ensure compliance with the Proceeds of Crime Act, any other written law in relation to the prevention of money laundering and combating the financing of terrorism or any other written law that is administered or supervised by the TTSEC;
- (j) create and promote such conditions in the securities industry as may seem to it necessary, advisable or appropriate to ensure the orderly growth, regulation and development of the securities industry and to further the purposes of this Act;
- (k) co-operate with other jurisdictions in the development of a fair and efficient securities industry; and
- (l) assess, measure and evaluate risk exposure in the Securities Industry.

Furthermore, in order to carry out its functions as an oversight regulatory body, under section 7 of the SA 2012, the TTSEC and its Commissioners have the **power to:**

- (a) formulate principles for the guidance of the securities industry;
- (b) treat with such matters as may be referred to it by any person from time to time;
- (c) register and regulate market actors in accordance with this Act;
- (d) monitor the solvency of registrants that are entities of the securities market and self-regulatory organizations and take measures to protect the interest of investors where the solvency of any such person is in doubt;
- (e) adopt measures to supervise and minimize any conflict of interest that may arise in the case of registrants or self-regulatory organizations and where appropriate other market actors;
- (f) review, approve and regulate takeovers, amalgamations and all forms of business combinations in accordance with this Act or any other written

law in all cases in which it considers it expedient or appropriate to do so;

- (g) review the contents of prospectuses and issue receipts therefor, and review any form of solicitation, advertisement or announcement by which securities are proposed to be distributed;
- (h) take enforcement action against any person for failing to comply with this Act;
- (i) recommend By-laws to the Minister;
- (j) formulate, prepare and publish notices, guidelines, bulletins and policies describing the views of the TTSEC regarding the interpretation, application, or enforcement of the SA 2012;
- (k) make orders;
- (l) monitor the risk exposure of registrants and self-regulatory organizations and take measures to protect the interest of investors, clients, members and the Securities Industry;
- (m) undertake such other activities as are necessary or expedient for giving full effect to the SA 2012; and
- (n) do all things and take all actions which may be necessary, expedient, incidental or conducive to the discharge of any of its functions and the exercise of powers under the SA 2012.

Some of the above-mentioned functions/powers of the TTSEC are delegated to senior officers of the TTSEC in accordance with section 8 of the SA 2012. The **main duties** retained by the Board of Commissioners are:

- (a) registration of market actors and new securities;
- (b) taking enforcement action against any person for failing to comply with the SA 2012;
- (c) reviewing, approving and regulating takeovers, amalgamations and all forms of business combinations in accordance with the SA 2012;
- (d) making Orders;
- (e) making By-Laws; and
- (f) hearing appeals against a decision in accordance with section 160 of the SA 2012.

Declaration of Interest in Matters before the TTSEC

A Commissioner or other person, who has a direct or indirect interest in a matter before the TTSEC, is required to declare his/her interest to the TTSEC and shall not be present at any deliberations regarding his/her declared interest. It is further stipulated that the TTSEC, in the absence of the Commissioner/attendee, determine whether the interest declared constitutes a conflict of interest. If a conflict of interest is declared, the Commissioner/attendee shall not take part in any deliberations or vote on the matter, and shall further recuse himself/herself during such deliberations (section 18(3)).

After a decision has been made if it is found that a conflict of interest exists, the Commissioner/attendee must declare the conflict to the TTSEC at the earliest opportunity. If the TTSEC determines that the deliberations were influenced by the Commissioner/attendee, the TTSEC must revisit the matter and decide whether the decision in which the Commissioner/attendee participated should be rescinded, varied or confirmed.

The process for the declaration of interest in matters before the TTSEC is clearly defined in the SA 2012.

Role of the Representative from the Ministry of Finance and the Economy

The senior officer from the MoFE that is appointed to the Board of the TTSEC does not have any specific role under the SA 2012, but has the same duties, powers and responsibilities as all other Commissioners.

Issuing Sanctions

The SA 2012 provides for various types of sanctions, all of which are required to be approved by the Board of Commissioners. Section 157 of the SA 2012 gives the procedure for an Order. The Minister is not involved in any steps for imposing a sanction nor can he or she overrule a sanction.

Prior to the making of an adverse decision or finding against a person, the TTSEC is required to provide all persons directly affected by the Order with an opportunity to be heard. Orders must also be published in the Government's Gazette, and either: (i) two daily newspapers in Trinidad and Tobago; or (ii) a posting on the TTSEC's website and issue a notice of same in two daily newspapers.

Funding

The TTSEC receives the majority of its funding through subventions from the government of Trinidad and Tobago, while additional fees are earned from registration fees paid by its registrants. The fees collected and retained by the TTSEC amount to approximately 11% of the annual total revenues of the TTSEC and these are in respect to fees for:

- the registration of securities;
- the registration or renewal of registration of registrants (Reporting Issuers, Underwriters, Investment Advisers, and Broker-Dealer);
- the registration and renewal of registrations for SROs; and
- miscellaneous fees such as fees applicable to de-listings and filings.

Administrative fines imposed by the TTSEC in the exercise of its powers under the SA 2012 are not retained by the TTSEC. These fines are paid into the general revenue of Trinidad and Tobago and may be recovered by the State as a civil debt.

It bears noting that the fees currently imposed on registrants are based on the level of development of the securities market in 1997 and are not reflective of the current development trends. Accordingly, the New By-Laws, which came into force in May 2015, have revised the current fee structure.

The TTSEC is not allowed to build reserves. Any unused money at the end of the fiscal period is returned to the Consolidated Fund.

Annual Budget

The TTSEC's Disclosure, Registration and Corporate Finance Division is responsible for the preparation of the TTSEC's Annual Budget and obtaining internal approvals from the CEO and Audit and Finance Committee for onward submission to the Minister. The standard timeframe for delivery to the Minister is 31 March. This procedure is detailed in the TTSEC's *Procedure for the*

Compilation and Dissemination of the Annual Budget. Divisional budget holders are accountable for expenses (operating and capital) and income under their management. Those designated with this responsibility are required to supply DR&CF with the estimated expenditure and income for the TTSEC's annual budget.

If there are any excess funds in any one area and the CEO sees it fit, funds can be re-allocated. However, this must be necessary and justified.

Members of the public, through the Public Accounts Committee of the Parliament, can challenge the TTSEC's execution of accounts and the expenditure for previous years.

Once the Ministry approves the subvention, the TTSEC can utilize the funds for the period as it sees fit. The TTSEC is given a fixed amount for the period, that is allocated to its budget, with fixed costs receiving full allocation of funds required and the variable costs being allocated on a pro rata basis.

There is nothing in the SA 2012 which specifically allows the Minister to intervene in the use of the TTSEC's budgetary allocation, although section 31(7) does allow the Minister to request information on any aspect of administration (which would include the utilization of resources) within 14 days. However, this section does not require the Minister's approval for the utilization of funds derived from the sources set out in the SA 2012.

In respect of financial matters, the SA 2012 outlines the following requirements for the TTSEC:

- Details pertaining to what the TTSEC can use its funds.
- Requirement for the TTSEC to keep proper books of accounts.
- Requirement for the TTSEC to prepare financial statements within four months of the end of each financial year.
- Requirement to ensure that its books and accounts are audited and copies provided to each Commissioner and the Minister.
- Requirement to have an audit committee.

Protection from Legal Liability

The SA 2012 protects a Commissioner or an employee or agent of the TTSEC from legal liability in relation to an act done in good faith in the performance of a duty or in the exercise of a function or power of the TTSEC under the SA 2012.

Accountability

The TTSEC is accountable to the Minister on an ongoing basis, this is provided for in the SA 2012 and includes the following:

- (a) The TTSEC is required to publish a comprehensive annual report, outlining the activities of the TTSEC including audited accounts, which is to be tabled in Parliament within four months of the end of its financial year. The SA 2012 also requires that the annual report shall be made available to the public within fourteen (14) days after it has been laid in Parliament.

	<p>(b) The Minister may at any time request that the TTSEC provide him or her with information concerning any aspect of its administration of the SA 2012 and the TTSEC shall provide the information requested within fourteen (14) days of the request. The submission of the requested information however is subject to limitations on the disclosure of confidential information as contained in the SA 2012.</p> <p>In addition, any person (including members of Parliament) can make a request for access to documents held by TTSEC pursuant to the provisions of the Freedom of Information Act, 1999 except for documents that are exempt.</p> <p><i>Annual Reports</i></p> <p>The TTSEC is mandated to prepare an Annual Report that is laid in the Parliament. Members of the public can also access a copy of these at the TTSEC's offices and/or via its website. The Annual Report contains detailed information about TTSEC's structure and operations, including expenditure, number of person employed by the TTSEC, training exercises carried out for staff, institutional developments and projected outcomes, where applicable.</p> <p>In addition, the SA 2012 governs the procedures to be followed by the TTSEC with regard to the preparation of its financial statements, bookkeeping practices, appointment of an auditor and the appointment of an audit committee whose membership includes Commissioners.</p> <p>TTSEC may appoint, hire or retain an expert to advise it on the development of specific policies, By-Laws or other regulatory proposals of the TTSEC or a SRO and the expert shall formulate and report his/her views to the TTSEC in writing and the TTSEC may, if it thinks fit, make it available to the public.</p> <p><i>Regulator's Receipt and Use of Funds Subject to Review or Audit</i></p> <p>The TTSEC keeps proper accounts and prepares annual financial statements that are audited by an external auditor, who is a member of the Institute of Chartered Accountants of Trinidad and Tobago who is appointed by the TTSEC with the approval of the Minister. Upon completion of the audit, copies of the audited financial statements are sent to every member of the TTSEC, the external auditor and the Minister.</p> <p>The TTSEC is also required to convene an Audit Committee from its membership comprised of not less than three Commissioners and must exclude temporary or ad hoc Commissioners. This Committee is required to review the annual financial statements required before they are approved by the TTSEC.</p> <p>The TTSEC must also give an account of its expenditure to the Public Accounts Committee of the Parliament of Trinidad and Tobago as required.</p>
Assessment	Partly Implemented
Comments	Although the TTSEC appears to operate in practice as an independent agency free from political or commercial interests, certain features of the legal framework and current structures might pose a risk to the independence of the TTSEC, in particular:

	<ul style="list-style-type: none"> • The TTSEC’s dependence on subventions from the government and the potential instability of funding provided to it. The TTSEC’s funding is highly dependent on subventions from the government (89% of its annual budget). Furthermore, the Government of Trinidad and Tobago’s budget allocation is on a one-year cycle, which makes it difficult for the TTSEC to plan ahead and to implement specific aspects of its strategic plan. Consequently, there is a high concern that the TTSEC’s funding is not stable and continuous, making it difficult to meet its regulatory and operational needs. • The current structure, including the requirement under the SA 2012 that the Board of Commissioners include a standing representative of the Minister of Finance and the Economy, does not provide sufficient assurance that the TTSEC is adequately shielded from political interest. Furthermore, although the Commissioner who is an officer of the MoFE has the same legal duties, powers and responsibilities as all other Commissioners, the fact that the role and responsibilities of this Commissioner vis à vis her position with the MoFE is not defined in the SA 2012 or in any agreement or understanding between the TTSEC and the Ministry is of some concern in terms of independence. • The organizational structure must be approved by the Cabinet of the Government of Trinidad and Tobago (see also comments under Principle 3). • The SA 2012 currently allows the Minister to request information on any aspect of the TTSEC’s administration of the SA 2012, and this must be provided within 14 days. • The TTTSEC’s remuneration arrangements are determined by a Ministerial Committee of which the Minister of Finance and the Economy is the Chairman (see also comments under Principle 3).
Principle 3	The Regulator should have adequate power, proper resources and the capacity to perform its functions and exercise its power.
Description	<p><u>Powers</u></p> <p>The TTSEC has extensive and wide-ranging powers.</p> <p>The conduct of the TTSEC’s day-to-day functions, such as the registration of persons engaged in the securities market, the registration of securities products, enforcement, supervision and inspection activities, etc. are all determined by the TTSEC through established procedures and the SA 2012.</p> <p>In order to carry out its function as an oversight regulatory body, under section 7 of the SA 2012, the TTSEC has the power to:</p> <ul style="list-style-type: none"> (a) formulate principles for the guidance of the securities industry; (b) treat with such matters as may be referred to it by any person from time to time; (c) register and regulate market actors in accordance with this Act;

- (d) monitor the solvency of registrants that are entities of the securities market and self-regulatory organizations and take measures to protect the interest of investors where the solvency of any such person is in doubt;
- (e) adopt measures to supervise and minimize any conflict of interest that may arise in the case of registrants or self-regulatory organizations and where appropriate other market actors;
- (f) review, approve and regulate takeovers, amalgamations and all forms of business combinations in accordance with this Act or any other written law in all cases in which it considers it expedient or appropriate to do so;
- (g) review the contents of prospectuses and issue receipts therefor, and review any form of solicitation, advertisement or announcement by which securities are proposed to be distributed;
- (h) take enforcement action against any person for failing to comply with this Act;
- (i) recommend By-Laws to the Minister;
- (j) formulate, prepare and publish notices, guidelines, bulletins and policies describing the views of the TTSEC regarding the interpretation, application, or enforcement of the SA 2012;
- (k) make orders;
- (l) monitor the risk exposure of registrants and self-regulatory organizations and take measures to protect the interest of investors, clients, members and the Securities Industry;
- (m) undertake such other activities as are necessary or expedient for giving full effect to the SA 2012; and
- (n) do all things and take all actions which may be necessary, expedient, incidental or conducive to the discharge of any of its functions and the exercise of powers under the SA 2012.

For the purposes of the administration of the SA 2012, under section 8, the TTSEC may, by order, **delegate any responsibility, power or function** conferred on it by the SA 2012 to any: Commissioner; senior officer of the TTSEC; or SROs registered under the SA 2012. However, the TTSEC may not delegate its powers to make By-Laws or hear appeals for review under the SA 2012.

The breadth of the TTSEC's legislative oversight is clearly outlined in Part II of the SA 2012.

Enforcement Powers

The SA 2012 provides the TTSEC with a wide breadth of facilitative, regulatory and enforcement powers necessary to sufficiently discharge its functions as the regulator of the securities industry.

These powers include:

- the authority to register and/or approve of persons engaged in the securities market on such terms and conditions as it deems fit;
- the authority to register securities products;
- enforcement powers, such as the suspension of registration, warnings, and censures;
- revocation of registration;
- Compliance Directives;

- make Orders;
- supervision and inspection powers, such as: provision of information to the TTSEC; Compliance Reviews; Power to obtain information and documents; and
- the authority to make: Regulations; Guidelines; By-Laws; and Investigations.

The SA 2012 and its subsidiary legislation provide the TTSEC with the authority to investigate breaches and potential breaches of the SA 2012 and to enforce compliance with the said legislation where necessary. More specifically, the SA 2012 gives the TTSEC power to take enforcement action against any person for failing to comply with the SA 2012. Further, the TTSEC's investigative powers are clearly defined in the SA 2012 which includes the examination and enquiry into the affairs of a person and assets, liabilities, debts, undertakings and obligations of that person or any other person acting on his behalf.

The TTSEC can also enforce compliance with the issuance of Compliance Directions if it deems that a registrant or SRO is committing or is about to commit an act that is against generally accepted standards or prudent operation and behaviour during the course of its business; and may directly or indirectly be prejudicial to the interest of investors.

In addition to the sanctions and enforcement actions stated above, the SA 2012 provides the TTSEC with the ability to seek further redress through High Court civil actions and empowers it to seek orders of the High Court where a person has failed to comply with or is in breach of the SA 2012 or an Order of the TTSEC.

The TTSEC may also make orders in the public interest for a person to comply with or cease contravening, or that the senior officer of the entity cause the entity to comply with or cease contravening the SA 2012, an order of the TTSEC or a rule, direction, decision or order made under a rule of a SRO.

Upon conclusion of an investigation, if the TTSEC determines that there is a criminal breach of the law, it can refer matters to the DPP for prosecution.

Administrative Sanctions

The civil and criminal penalties associated with the various breaches of the SA 2012 are contained in the SA 2012. More specifically, the TTSEC may make orders for administrative fines not exceeding TT\$500,000 where it determines that a person is in breach of the SA 2012 or an order of the TTSEC and considers it to be in the public interest.

Funding

The TTSEC observes that it currently has a stable and continuous source of funding which is sufficient to meet its regulatory and operational needs.

The TTSEC receives the majority of its funding (89%) through subventions from the government of Trinidad and Tobago, while additional fees are earned from registration fees paid by its registrants.

The fees collected and retained by the TTSEC amount to approximately 11% of

the annual total revenues of the TTSEC and these are in respect to fees for:

- the registration of securities;
- the registration or renewal of registration of registrants (Reporting Issuers, Underwriters, Investment Advisers, and Broker-Dealer);
- the registration and renewal of registrations for SROs; and
- miscellaneous fees such as fees applicable to de-listings and filings.

Administrative fines imposed by the TTSEC in the exercise of its powers under the SA 2012 are not retained by the TTSEC. These fines are paid into the general revenue of Trinidad and Tobago and may be recovered by the State as a civil debt (section 156(5)).

It bears noting that the fees currently imposed on registrants are based on the level of development of the securities market in 1997 and are not reflective of the current development trends. Accordingly, the New By-Laws, which came into force in May 2015, have revised the current fee structure.

Annual Budget

For the purpose of obtaining allocation from the government, the TTSEC prepares an annual budget along the lines of recurrent and non-recurrent expenditures for the period in question. Recurrent expenditure pertains to the administrative and other operating costs to be incurred by the TTSEC while non-recurrent expenditure tends to focus on capital related expenses e.g. purchase of a building or other assets etc.

Notwithstanding the foregoing, the monthly recurrent subventions received from the government are not required to be strictly applied as budgeted. Accordingly, the TTSEC can affect the operational allocation of resources once funded.

Staffing

The TTSEC, with the Board's approval, has discretion in setting limits on the number of staff necessary for the performance of its responsibilities and functions. However, these numbers must fall within the organization structure as approved by Cabinet. Any changes to the organizational structure of the TTSEC must be submitted to and approved by Cabinet.

In 1997, the Cabinet of the Government of Trinidad and Tobago created 25 contract positions for the newly established Securities and Exchange Commission. These included key positions of CEO, General Counsel, Director, Legal, Advisory & Enforcement, Director, Regulation, Director of Research and Financial Research Officers. Over time, the TTSEC's staffing needs have been analyzed on the basis of its legislation, By-Laws, its strategic plan and Divisional/Departmental functions.

On the basis of this analysis, the TTSEC has since filled its key positions of CEO, DCEO and staffed its newly created Division of Compliance and Inspections with positions at the Director, senior professional and professional levels.

Senior professional and professional levels in the Market Regulation and Surveillance Divisions have also been filled. The positions of Human Resource

Manager and Internal Audit Manager have also been created along with additional positions for the Disclosure, Registration & Corporate Finance Division, Legal, Advisory and Enforcement Division and Records Management Department.

As at September 22, 2015, the TTSEC has 93 positions, 91 of which are filled:

As at September 22, 2015

Divisions/Department/Levels	Filled Positions	Total Positions
EXECUTIVE LEVEL		
Office of the CEO	2	2
Office of the DCEO	2	2
Office of the General Counsel / Corporate Secretary	2	2
DIVISIONS		
Internal Audit	2	2
Policy, Research and Planning	6	7
Market, Regulation & Surveillance	7	7
Disclosure, Registration and Corporate Finance	14	15
Corporate Services	10	10
Records Management Unit (Corporate Services)	8	8
Information Management	6	7
Corporate Communications, Education and Information	4	4
International Affairs	1	4
Legal Advisory and Enforcement	10	11
Human Resource Department	4	4
Compliance and Inspections	8	8
Total Positions	86	93

Remuneration

The TTSEC's remuneration arrangements are determined by a Ministerial Committee of which the Minister of Finance and the Economy is the Chairman. The TTSEC's pay scales for staff (support to managerial levels) are more in line with non-revenue generating public sector entities. Their senior executive structure is filled by incumbents on three (3) year contracts. Total reward for the executive and director levels, while above those in most public sector entities, is not in line with the more competitive remuneration packages of private sector companies in the financial sector.

	<p>The staff turnover in the TTSEC for the periods 2012/2013 and 2013/2014 were 11.1% and 6.8% respectively. All existing employees have an opportunity to complete an exit interview, providing the TTSEC with insights into individuals' primary reasons for leaving the TTSEC. During those periods, the primary reasons revealed were access to career path opportunities and personal reasons.</p> <p><i>Training</i></p> <p>The TTSEC employs substantial resources in the area of training and development. The TTSEC places considerable importance on providing specialized and ongoing training to staff to enable them to effectively carry out the TTSEC's mandate given the increasingly complex nature of the securities markets, both locally and internationally.</p> <p>Additionally, as part of the annual year-end staff appraisals, the TTSEC performs a training needs analysis to determine its Continuing Professional Development Program for Staff.</p> <p><i>Governance Practices</i></p> <p>The TTSEC has a Strategic Plan that outlines its internal governance structure and delegations of responsibilities. It is reviewed every year and covers the role of the TTSEC, TTSEC's regulatory role, accountabilities, and key priorities. It also contains an overview of the TTSEC's stakeholders and an organizational chart for the TTSEC covering areas of responsibilities.</p> <p>In addition, the TTSEC's staff is guided by the TTSEC's Human Resource Manual. This manual outlines, in addition to other areas, matters such as standards for business conduct and the process for disciplinary action.</p> <p><i>Investor Education</i></p> <p>The TTSEC is responsible for educating and promoting the public's understanding of the securities industry and the benefits, risks, and liabilities associated with investing in securities. In carrying out this role, the TTSEC develops and conducts Investor Education Programs which specifically target the general public. The TTSEC has also previously partnered on similar initiatives with the National Financial Literacy Program for Trinidad and Tobago.</p> <p>The TTSEC's Investor Education Program focuses on providing citizens with information on the role and function of the TTSEC, the rights and responsibilities of investors, making wise investment decisions and safeguarding against scams and other fraudulent activities. In order to ensure that its citizens are educated and empowered the TTSEC has made some great strides in diversifying the Investor Education Program.</p>
Assessment	Partly Implemented
Comments	<p>Following the strengthening of its powers in 2012, the TTSEC faces challenges with internal capacity and capability to perform its new inspection functions.</p> <p>Although the SA 2012 provides the TTSEC with broad powers of delegation,</p>

	<p>these do not appear to be widely used in relation to regulatory powers. Some regulatory processes, notably consideration of draft prospectuses, appear to be overly complex and involve multiple layers of approval. This has led to substantial delays in offers coming to market and it is the impression of some market participants that this contributes to offers being placed in private rather than public markets.</p> <p>The level of financial resources does not recognize the difficulty of attracting and retaining experienced and skilled staff.</p> <p>The TTSEC should explore mechanisms to ensure that the TTSEC can retain sufficient expertise across the organization, including by reviewing staff salary conditions. Secondments/internships from industry could be also considered.</p> <p>Additional structural limitations are caused by the fact that the organization structure must be approved by the Cabinet of the Government of Trinidad and Tobago and that the TTSEC’s remuneration arrangements are determined by a Ministerial Committee of which the Minister of Finance and the Economy is the Chairman.</p> <p>The TTSEC has an innovative Investor Education Program that provides much needed information to the public at large. Further development of these initiatives would be welcome.</p>
<p>Principle 4</p>	<p>The Regulator should adopt clear and consistent regulatory processes.</p>
<p>Description</p>	<p><u>Clear and Consistent Regulatory Processes</u></p> <p>The TTSEC does not have specific rule making power under the SA 2012. All regulations to be applied by participants in the securities industry are contained in the SA 2012 and its subsidiary legislation (By-Laws), which are approved by the Legislature (the Parliament of Trinidad and Tobago), subject to specific procedures. The procedure to be followed for the passage of By-Laws is clearly and transparently set forth in the SA 2012 and is therefore publicly available.</p> <p>In specific instances, the SA 2012 clearly and transparently sets out the procedure by which the TTSEC can execute the powers granted to it under the SA 2012. For example, the SA 2012 outlines clear and equitable procedures to be followed with respect to:</p> <ul style="list-style-type: none"> • the issuance of compliance directives; • the issuance of Guidelines; • the issuance of By-Laws; • the conduct of investigations by the TTSEC; • requests for information and documents; • the issuance of orders; and • the procedures for hearing. <p>Notwithstanding the above, the SA 2012 empowers the TTSEC to interpret its authority in relation to the procedures to be followed. More specifically, the SA 2012 provides that the TTSEC can do all things, take all actions, which may be necessary, expedient, incidental or conducive to the discharge of any of its functions and the exercise of its powers under the SA 2012.</p>

More specifically, the TTSEC has the power to formulate, prepare and publish notices, guidelines, bulletins and policies describing the views of the TTSEC regarding the interpretation, application, or enforcement of the SA 2012.

Where no clearly defined procedure has been cited in the SA 2012, the TTSEC relies on business conduct rules and manuals such as the Hearing and Settlement rules and the Examinations and Investigations manuals, which were developed on the basis of actions to be pursued under the SA 2012. The TTSEC staff also rely on guidance given by the TTSEC by way of Guidelines and or Circular Letters in order to respond to and execute its functions. They also provide guidance to the TTSEC's registrants on regulatory matters.

The TTSEC may also, in consultation with the Minister, issue Guidelines on any matter it considers necessary to:

- give effect to the SA 2012;
- enable the TTSEC to perform its functions;
- aid compliance with the Proceeds of Crime Act, any other written law in relation to the prevention of money laundering and combating the financing of terrorism or any other written law which may be administered or supervised by the TTSEC which may be in force from time to time; and
- regulate the market conduct of market actors.

These Guidelines are made available to the public via the TTSEC's website.

Examples of Guidelines which have been issued are:

- Repurchase Agreements Guidelines;
- Anti-Money Laundering and the Combating of Terrorist Financing Guidelines;
- Collective Investment Schemes Guidelines;
- Requirements for the Content of Prospectuses Guidelines; and
- Employee Stock Compensation Plans Guidelines.

However, it bears noting that the above-mentioned Guidelines issued under this section are not considered to be statutory instruments but are, rather, considered to be guidance.

Consultation and Transparency

The TTSEC's criteria for interpreting its authority are clear and transparent. It is largely based on the plain meaning of the statute and available legislative history as related to the securities industry and market participants.

Where By-Laws are to be issued, the process is governed by a formal procedure set out in the SA 2012. More specifically, at least 30 days before the proposed effective date thereof the TTSEC shall publish:

- a copy of any By-Law that it proposes to recommend to the Minister;
- a concise statement of the substance and purpose of the proposed By-Law; and
- a reference to the authority under which the By-Law is proposed

in the Gazette and in two daily newspapers of general circulation in Trinidad and Tobago; or shall post on the website of the TTSEC and issue a notice in two daily newspapers of general circulation in Trinidad and Tobago notifying the public of such posting.

The TTSEC's website also provides links to its legislative regime. Legislation is posted in the Trinidad Gazette and is also available free of charge on the website of the Ministry of Legal Affairs.

After a proposed By-Law is published as described above, the TTSEC must provide a "reasonable" opportunity to interested persons to make representations with respect to the proposed By-Law. In this context, "reasonable" may be considered to be a time limit that would allow the parties sufficient time to provide the TTSEC with the relevant information, without unduly prolonging prohibited activity or due process in a manner that may adversely affect the market. In practice, the TTSEC would provide an initial period of 2-3 weeks while granting requests for extensions as per the relevant circumstances.

Where the TTSEC intends to issue Guidelines under the SA 2012 it is also required to publish draft Guidelines and to consult with the Minister, market actors, and other relevant stakeholders who may be affected by the draft Guidelines. In contrast to the procedure for By-Laws the statute does not prescribe a formal process that this consultation must follow.

In cases where there is urgency regarding an opinion of the TTSEC, any matter proposed to be dealt with in Guidelines or by an amendment thereof, the TTSEC shall issue the Guidelines or amendment thereof, without following the process referred to above. In this case, these Guidelines would be effective for 90 days, unless replaced by Guidelines issued, following consultation with the Minister, as described above.

Regard to the Costs of Compliance

In terms of having regard to the costs of compliance with regulation in the formulation of policy, the TTSEC does not apply an impact analysis test with respect to examining the likely impacts of proposed regulations and a range of alternative options which could meet the regulatory objectives. The process of formulating regulatory policy however, is informed by effective consultation with key market players in terms of the applicability and the likely impact of changes to their general operations.

Transparency and Confidentiality

Prior to the making of an adverse decision or finding against a person, the TTSEC is required to provide all persons directly affected by the Order with an opportunity to be heard. Upon making an Order in writing, the TTSEC must state the findings of fact on which the Order is based and the reasons therefor. A copy of the Order must be given to each person entitled to notice and who appeared at the Hearing and be published as necessary.

With regard to general administrative decisions of the TTSEC, that is, where a formal Order is not required to be produced such as where the TTSEC refuses to register, reinstate or renew the registration of an applicant, it must notify the applicant in writing of its decision giving its reasons for doing so.

All decisions of the TTSEC are subject to independent judicial review. A person directly affected by an adverse decision, finding or order of the TTSEC may make an appeal to the High Court. The appeal can be based on matters of law and fact (errors of law, lack of jurisdiction or breach of natural justice) or on merit (decisions of regulatory character e.g. whether to grant registration or an exemption from the law).

The High Court may make, or direct the TTSEC to make, any order that the TTSEC is authorized to make and which the High Court thinks just and proper. It may also remand the case to the TTSEC for further proceedings subject to any conditions it thinks fit.

The SA 2012 grants the TTSEC the power to accept or to deny an application for registration and to revoke the registration of a person registered with the TTSEC. The TTSEC has the discretion to refuse to register, renew or reinstate the registration of any applicant where same is not considered to be in the public's interest. In determining whether the public's interest is protected, the TTSEC considers whether the relevant criteria have been met. Where the TTSEC, after giving due consideration, determines that an applicant is not fit and proper for registration, it shall give the applicant an opportunity to be heard and provide said applicant with written reasons for its refusal to grant or renew said registration.

Where matters are to be referred to the DPP however, the person or persons who is/are the subject of the matter being referred shall be given reasonable notice of the TTSEC's intent to refer the matter and shall be given an opportunity to be heard.

Protection of Confidential Information

The SA 2012 prohibits any person (inclusive of the members of the TTSEC, its staff, management, Commissioners, agents etc.) from using or disclosing any confidential information other than for the administration of the SA 2012. "Confidential information", for the purposes of the SA 2012, means any information obtained as result of a person's relationship with the TTSEC in the course of his/her duties in the exercise of the TTSEC's functions under this Act or any other written law that is administered by the TTSEC but does not include information that is or has already been made available to the public (section 14(4)). As such, information obtained during the course of an investigation as well as any report prepared in respect of same is considered confidential information and is not generally disclosed.

The full text of a report of an investigation or any other information concerning an investigation may only be disclosed to the persons specified in the SA 2012, where the TTSEC is satisfied that the information will be treated as confidential by the person or agency to whom it is disclosed and used strictly for the purpose for which it was disclosed.

It should also be noted that, a report submitted to the TTSEC in relation to an investigation and or any other information obtained during the course of an investigation, are not considered to be documents which are expressly required to be filed with the TTSEC. Accordingly, the public availability of records/documents held by the TTSEC does not apply to investigative material. Notwithstanding that fact, the TTSEC considers the privacy principles

	<p>engendered in the SA 2012; where it intends to make public a report on, or other information concerning, an investigation, it may hold in confidence all or part of the report where it considers that:</p> <ul style="list-style-type: none"> • a person whose information appears in the document or instrument would be unduly prejudiced by disclosure of the information; and • the privacy interest of the person outweighs the public interest in having the information disclosed.
Assessment	Broadly Implemented
Comments	<p>The TTSEC consults with the public and other government bodies on new policy proposals through formal and informal consultation procedures.</p> <p>In matters where the TTSEC exercises its exemptive or discretionary powers, the TTSEC attempts to gather a statement of facts, allows affected parties to make representations, seeks legal interpretations of principles and/or consult with other local or international regulatory bodies.</p> <p>While this enables the TTSEC to use each decision as a precedent when similar applications arise in the future and distinguish the precedent when it is inapplicable, it is the Review Team’s understanding that there is limited documentation regarding the exercise of discretionary or exemptive powers, therefore, there is a gap created with respect to the application of “precedent” when there is a departure of key members of staff without the requisite transfer of knowledge.</p> <p>Additionally, the TTSEC does not publicly report on situations where it has exercised, or refused to exercise its exemption and modification powers for the provisions of the SA 2012. In this regard, there are insufficient checks and balances to ensure that the TTSEC consistently applies its powers and discharges its functions.</p> <p>Although section 147 of the SA 2012 requires the TTSEC to consult on draft guidelines, it does not, mandate a formal process to be followed for this consultation, in terms of the timeframes and method of consultation (in contrast to the statutory process required for draft By-Laws). In practice the TTSEC appears to have adopted effective consultation practices. As a matter of transparency the TTSEC should consider formalising and publishing the process it will follow for consultation on Guidelines.</p>
Principle 5	The staff of the regulator should observe the highest professional standards, including appropriate standards of confidentiality.
Description	<p>The TTSEC has developed a code of ethics and professional conduct for their staff that deals with issues of honesty and integrity; procedural fairness; prevention of conflict of interest and confidentiality.</p> <p><u>Avoidance of Conflicts of Interest</u></p> <p>The TTSEC has a wide-ranging list of appropriate standards of confidentiality</p>

as well as many directives to ensure that conflicts of interest are avoided.

The SA 2012 provides detailed guidance to avoid conflict of interest, including section 21 that states that the TTSEC may, with the approval of the Minister, make Rules:

- (a) respecting the calling of and conduct of business at meetings of the TTSEC;
- (b) prescribing the procedure for appeals of decisions of self-regulatory organizations and reviews of decisions of a delegate;
- (c) establishing a code of conduct governing the activities of Commissioners and the officers and employees of the TTSEC in order to avoid conflicts of interest and other practices that the TTSEC considers undesirable;
- (d) respecting any other matter, whether or not required by this Act, relating to the organization, procedure, administration or practice of the TTSEC; and
- (e) respecting procedures for the initiation and holding of hearings by the TTSEC.

Furthermore, the TTSEC's staff and its Commissioners are subject to a code of business conduct and to general and specific provisions of the SA 2012 and Part VII of the New By-Laws in respect of conflict of interest issues.

With regard to disclosure requirements for registrants in terms of conflicts of interest, under By-Law 67 of the New By-Laws, all registrants must prepare and file with the TTSEC a Conflict of Interest Rules Statement as set out in Schedule 3 of the SA 2012. This document serves to officially disclose any conflicts of interest as well as providing a list of related parties. Registrants are also required to provide a copy of this statement free of charge to each of its clients at the time he or she becomes a client of the registrant or within 60 days of the commencement of these By-Laws.

Declaration of Interest

The SA 2012 provides that a person (staff, Commissioners or agent appointed by the TTSEC) who may have an interest in a matter before the TTSEC, must declare his or her interest to the TTSEC and must absent him or herself during deliberations concerning his or her declaration of interest (section 18(1)). Subject to the declaration, the TTSEC shall determine whether this interest is sufficiently material so as to constitute a conflict of interest (section 18(2)). Where the TTSEC finds that the interest is such as to constitute a conflict of interest, the person attending the meeting of the TTSEC shall not take part in any deliberations or vote on that matter, and shall not be present during any deliberations with respect to that matter (section 18(3)).

If it is found that a conflict of interest exists after a decision has been made, the Commissioner/attendee must declare the conflict to the TTSEC at the earliest opportunity. Where the TTSEC determines that the deliberations were influenced by the Commissioner/attendee, the TTSEC must revisit the matter and decide whether the decision in which the Commissioner/attendee participated may be rescinded, varied or confirmed.

Further, a Commissioner or any other person who attends a meeting of the TTSEC and who whether directly or indirectly has an interest in a matter before

the TTSEC and fails to declare his interest is liable on summary conviction to a fine of TT\$500,000 and imprisonment for two years, unless he/she proves that he/she did not know that he/she had an interest in the matter which was the subject of consideration at the meeting of the TTSEC (section 18(5)).

Disqualification of Commissioner

The SA 2012 provides that a person shall not be appointed or continue to act as a Commissioner where:

- he/she is a registrant, an employee or senior officer of a registrant or self-regulatory organization (section 11(1)(a)) or he/she is an owner, security holder, director, senior officer, partner, employee or otherwise has a material pecuniary or proprietary interest in a registrant or self-regulatory organization (section 11(1)(b)). A person is considered to have a material pecuniary or proprietary interest where –
 - it may reasonably be expected to have a significant influence on the ability of the member to make an unbiased decision; or
 - the person has beneficial ownership of, or control or direction over more than ten per cent of the outstanding equity or voting securities of a registrant except as a trustee of a trust (section 11(2)).

Further, a Commissioner if receiving an interest as described above must disclose that interest to the TTSEC, in writing and within three months, or as soon as practicable, of the vesting of the interest coming to his/her knowledge absolutely dispose of the interest or resign (section 11(3)).

Confidentiality Undertaking

Upon assuming office at the TTSEC all employees and agents are required to sign a confidentiality undertaking.

Additionally, members of Staff and the Commissioners are prohibited from using confidential information which comes to their attention except where same is used to facilitate the administration of the SA 2012.

The SA 2012 provides that no person (inclusive of staff and Commissioners of the TTSEC) shall make use of or disclose any confidential information other than for the administration of the SA 2012 (section 14(1)). Under section 14(5) anyone who contravenes the aforementioned section is guilty of an offence and liable on summary conviction to a fine of TT\$600,000 and imprisonment for two years. Further, where staff is using information in accordance with the SA 2012, they are only permitted to disclose same to a select group of persons where the TTSEC is satisfied that information will be treated as confidential by the person or agency to whom it is disclosed and used strictly for the purpose for which it is disclosed (section 14(2)).

General Conduct

All staff and Commissioners of the TTSEC are required to adhere to general conduct rules under the SA 2012. Accordingly, staff and Commissioners shall not:

- engage directly or indirectly in any personal business transaction or private arrangement for personal profit which accrues from or is based upon his/her

official position or authority or upon confidential or non-public information which he/she gains by reason of his/her position of authority;

- act in a manner that might result in or create the appearance of –
 - a public office being used for private benefit, gain or profit;
 - a person receiving preferential treatment;
 - loss of independence or impartiality; or
 - loss of public confidence in the integrity of the TTSEC;
- divulge or release, in advance or otherwise, confidential non-public or official information to a person unless authorized under the SA 2012;
- act as an official in any matter in which he/she has a personal interest;
- be involved, directly or indirectly, in any business or financial affairs in respect of matters which may conflict with his/her official duties or responsibilities; or
- without the written permission of the Minister, hold office in or be a director of a reporting issuer, other than a non-profit or charitable corporation.

Similar sentiments are echoed in the TTSEC’s Human Resource Policies and Procedures Manual, 2007 (section 1). For example, section 1.3 states:

“Employees of the TTSEC must not directly or indirectly be involved in any business dealings that compete or conflict with the TTSEC’s interests. They must not place the TTSEC in a compromising or in a conflict of interest position.

Information and/or knowledge gained due to association with the TTSEC must not be used for personal or non-Commission business reasons. Such information or knowledge should also not be provided to persons outside the TTSEC, family members, friends or other staff who do not need the information in the normal course of their duties. If in doubt, seek the advice of a Director or the General Manager.

All property owned by the TTSEC must be used only for the purpose approved by Management. This includes all computer equipment and software. Unauthorized copying of material, videotapes, computer tapes, software etc. could place the TTSEC in breach of copyright laws and is strictly prohibited.

Employees and their families (i.e. spouse and children) are not allowed to engage directly or indirectly in any activity where personal profit can be accrued from or is based upon his/her official position or authority or upon confidential or non-public information that is gained by reason of such position or authority. Any financial interest in or with registrants of the TTSEC is strictly prohibited where that interest could place the employee or the TTSEC in a position of conflict of interest.

Friendship, family relationship or any other association or affiliation must not be of influence in meeting a registrant’s requirements or in recommending any action to be taken or not. Decisions must be made on a strict business basis.”

A breach of any of the above would result in consequences as laid out above.
Restriction on Trading in a Security

Staff and Commissioners are also bound by the business conduct rules of the

TTSEC as outlined in its HR Manual.

Disclosure for Financial Affairs or Interests

The TTSEC has restrictions on the holding of or trading in securities subject to the jurisdiction of the regulatory authority and/or requirements to disclose financial affairs or interests.

All employees and Commissioners of the TTSEC are required to provide a report disclosing his or her direct or indirect beneficial ownership of, or control or direction over, securities:

- in the case of Commissioners, to the Minister; and
- in the case all employees, to the Chairman of the TTSEC.

Employees and Commissioners are required to report their ownership at the time of taking office and subsequently within five business days from the day on which a change to their holdings occurs (By-Law 12 of the New By-Laws).

Confidentiality and Secrecy Provisions – Protection of Personal Data

The TTSEC's staff and Commissioners are required to observe requirements of a code of conduct regarding the appropriate use of information obtained in the course of the exercise of powers. More specifically, the TTSEC's staff and Commissioners are required to observe **the confidentiality provision** of section 14(1) of the SA 2012. As part of the confidentiality undertaking, it is generally understood that once staff is in possession of or has control over records containing confidential or personal information he/she shall treat all confidential information as being strictly private and confidential and shall take all steps necessary to prevent it from being disclosed or made public to any third party, associate (as defined in the SA 2012), or any person who has come into possession of such information by any means. Further, the TTSEC's HR Manual stipulates that employees and persons retained by the TTSEC shall not make use of any confidential information (documents, files, mail etc.) obtained as a result of their relationship with the TTSEC for their own benefit or advantage. Breaches in confidentiality are grounds for immediate termination.

The TTSEC reserves the right to take disciplinary action in cases of breaches of conduct or of the TTSEC's policy. The action taken will depend on the seriousness of the breach of conduct. Breaches of confidentiality, conflicts of interest, unauthorized use of information obtained as a result of employment, fraud, theft or activity involving moral turpitude will be subject to summary dismissal (section 16 of the HR Manual).

Under section 14(5) of the SA 2012 anyone who contravenes the aforementioned section is guilty of an offence and liable on summary conviction to a fine of TT\$600,000 and imprisonment for two years. Furthermore, where staff is using information in accordance with the SA 2012, they are only permitted to disclose same to a select group of persons where the TTSEC is satisfied that information will be treated as confidential by the person or agency to whom it is disclosed and used strictly for the purpose for which it is disclosed (section 14(2)).

Procedural Fairness

The TTSEC's staff is required to observe procedural fairness standards in performance of their functions. More specifically, the TTSEC has an obligation to afford procedural fairness when it proposes to make a decision which may adversely affect a person's rights, interest or legitimate expectations. In the event that the staff or Commissioners fail to do so then the person affected may challenge the decision by commencing court proceedings against the TTSEC.

As a matter of common law and in accordance with the Constitution, persons subject to an administrative decision shall be afforded procedural fairness. Accordingly, the TTSEC before making an adverse decision or finding, is required to provide a reasonable opportunity for that person or entity adversely affected to make either oral or written representations and shall give reasonable notice to that person or entity (section 157).

Additionally, section 159 offers persons affected by an Order of the TTSEC a similar opportunity to be heard prior to the making of an Order. This section further outlines the protections and rights of the attendees with respect to matters being heard by the TTSEC.

All decisions of the TTSEC are subject to independent judicial review. A person directly affected by an adverse decision, finding or Order of the TTSEC may make an appeal to the High Court (section 161(1)). The appeal can be based on matters of law and fact (errors of law, lack of jurisdiction or breach of natural justice) or on merit (decisions of regulatory character e.g. whether to grant registration or an exemption from the law). The High Court may make, or direct the TTSEC to make any Order that the TTSEC is authorized to make and which the High Court thinks just and proper. It may also remand the case to the TTSEC for further proceedings subject to any conditions it thinks fit (section 161(5) of the SA 2012).

The TTSEC is bound by the procedural rules and regulations outlined in the SA 2012. In specific instances, the SA 2012 clearly and transparently sets out the procedure by which the TTSEC can execute the powers granted to it under the SA 2012. For example, the SA 2012 outlines clear and equitable procedures to be followed with respect to:

- (a) the issuance of compliance directives (section 90);
- (b) the issuance of guidelines (section 147);
- (c) the issuance of By-Laws (section 149);
- (d) the conduct of investigations by the TTSEC (section 150);
- (e) requests for information and documents (section 151);
- (f) the issuance of Orders (section 157); and
- (g) the procedures for hearing (section 159).

Notwithstanding the above, the SA 2012 empowers the TTSEC to interpret its authority in relation to the procedures to be followed. More specifically, the SA 2012 provides that the TTSEC can do all things, take all actions, which may be necessary, expedient, incidental or conducive to the discharge of any of its functions and the exercise of its powers under the SA 2012 (section 7(1)(m)).

Where no clearly defined procedure has been cited in the SA 2012, the TTSEC relies on business conduct rules and manuals such as the hearing and settlement rules, the examinations and investigations manuals which were developed on

	<p>the basis of actions to be pursued under the SA 2012. The staff of the TTSEC also relies on the guidance given by the TTSEC by way of Guidelines and or Circular Letters in order to respond to and execute its functions.</p> <p><i>Investigations</i></p> <p>The TTSEC does not currently have any documented process which is followed with respect to the investigations of allegations of violations of the above standards. Notwithstanding the absence of a written internal policy, the TTSEC is guided by the principles of good industrial relations practice and natural justice, which dictates that before any disciplinary action or other sanction is instituted against the staff or Commissioners, an investigation must be conducted to determine the facts of the matter.</p> <p><i>Negotiations</i></p> <p>The HR Manual further states that prior to any disciplinary action being taken by the TTSEC, the employee will be informed of the complaint against him and given an opportunity to respond to said complaint.</p>
Assessment	Broadly Implemented
Comments	<p>The TTSEC staff, management and Commissioners appear to adhere to a strict code of ethics and professional conduct in terms of honesty and integrity; procedural fairness; prevention of conflict of interest; and confidentiality.</p> <p>However, the presence of a standing representative of the MoFE on the Board of the TTSEC could raise some concerns regarding confidentiality. More specifically, although the Commissioner who serves as the MoFE representative is deemed to have the same duties, powers and responsibilities as all other Commissioners, the fact that the role and responsibilities of this Commissioner at the TTSEC vis à vis her position with the MoFE are not defined in the SA 2012, is of some concern in terms of sufficient confidentiality.</p> <p>Furthermore, the fact that the Minister of Finance and the Economy is entitled, upon request, to have access to the minutes of the TTSEC or a committee thereof, and to receive from the TTSEC a copy of any of those minutes also raises some concern pertaining to confidentiality as does the Minister's ability to request at any time that the TTSEC provide him with information concerning any aspect of its administration of the SA 2012 and the TTSEC shall provide the information requested within 14 days.</p>
Principle 6	The Regulator should have or contribute to a process to monitor, mitigate and manage systemic risk, appropriate to its mandate.
Description	<p><u>Process to Identify and Monitor Systemic Risk</u></p> <p>Disclosure and business conduct oversight functions of the TTSEC contribute to a reduction in systemic risks within the context of the Trinidad and Tobago securities industry. However, the scope of the disclosure and conduct regulations is insufficient to mitigate or effectively manage systemic risk. There</p>

is no definition of systemic risk in the SA 2012 or other relevant legislation.

The Trinidad and Tobago securities market is considered to be in an emerging/developing state. The level of product development and innovation is low; however, because of its size, the level of interconnectedness between the banking and the capital market is high.

In this regard, and in an effort to promote greater regulatory cooperation, the TTSEC has recently signed MoUs with the Central Bank of Trinidad and Tobago (CBTT) and the Financial Intelligence Unit of Trinidad and Tobago (FIUTT) which formalize the channel of communication and aim to encourage the sharing of information.

These MoUs seek to promote communication and information sharing between the regulator and other domestic regulators who have responsibility for systemic stability with respect to efforts to reduce systemic risks.

More specifically, these MoUs also seek to promote information sharing regarding a multitude of regulatory issues including Anti-Money Laundering (AML) and the Combating of Terrorist Financing (CTF) (in the case of the FIUTT); and investor protection, avoidance of regulatory arbitrage and identifying and implementing fit and proper requirements for senior personnel or registered/licensed entities (in the case of the CBTT).

Additionally, under the SIA 1995, the TTSEC was severely restricted in its powers to conduct on-site reviews, which limited its ability to adequately assess the appropriateness of risk management systems utilized by its registrants. With the passage of the SA 2012, the TTSEC is currently in the process of filling this informational gap with respect to monitoring risks inherent among participants in the securities market.

Further, the TTSEC is also a member of a cross-regulatory task force (the Crisis Management Group) consisting of the CBTT, TTSEC, Deposit Insurance Corporation and MoFE which contributes to the development of a National Financial Crisis Management Plan for Systemically Important Financial Institutions (SIFIs). As part of the Crisis Management Group, the TTSEC meets with other regulators and stakeholders to discuss matters of systemic risks to the financial industry and approaches for the smooth mitigation of those risks. The objective of the Plan is to identify and map out each stakeholder's role in the execution of the Plan in managing a financial crisis in SIFIs. The work of the task force is ongoing.

Developing Expertise

The TTSEC is in the process of developing expertise regarding risk measurement and analysis of systemic risks. The TTSEC engaged the services of an external specialist consultant through the Caribbean Regional Technical Assistance Centre (CARTAC) who provided feedback on the sufficiency and applicability of the TTSEC's current capital requirements. Based on this, staff intends to develop a risk-based capital adequacy regime for registrants which is intended to augment the current static capital requirements with prudential requirements and which, in addition to other things, would improve the TTSEC's risk monitoring functions and create incentives for more appropriate risk management by registrants.

	<p>In addition, Compliance & Inspection (C&I) staff has been exposed to training in risk measurements and analysis relevant to systemic risk but as an interim measure takes into consideration risk measurements and analysis developed by the CBTT, for use with their licensees. The latter has been amended to suit firms operating in the securities industry.</p> <p>C&I also engaged a consultant who conducted a five-day training program for staff of the TTSEC which covered areas such as Corporate Governance, Internal Controls and Risk Management, and Cooperation and Exchange of Information.</p> <p>The C&I staff are currently working on implementing the recommendations of the consultant in respect of developing a more effective data collection, management and analysis structure in order to complete economic and financial analysis on registrants' financial performances, to assess their risk profiles during the pre-inspection planning stage (identifying some of the major risks faced by them: portfolio, entity and systemic risks).</p> <p>The analyses will capture information on assets and liabilities, capital and capital adequacy computation, foreign currency, interest rate risk policy and investment portfolio. Key ratios will also be identified, showing concentration, capital adequacy, earnings and profitability, self-dealing and related parties, asset quality, liquidity, etc.</p> <p>Implementation of these initiatives will enable the TTSEC to move towards more effective risk-based supervision.</p>
Assessment	Not Implemented
Comments	<p>While the TTSEC has made good strides in attempting to develop expertise regarding risk measurements and analysis relevant to systemic risk, a considerable amount of work remains.</p> <p>The TTSEC must work to develop significant processes for the analysis of risks as well as for monitoring, mitigating and managing systemic risk. Although the current plans being developed in conjunction with the CBTT and others as part of the Crisis Management Group are promising, there remain some essential steps to ensure the implementation of the proposed measures.</p> <p>It is therefore recommended that the TTSEC develop a framework for monitoring, mitigating and managing systemic risk. A new provision to identify and address the systemic risk factors in the SA 2012 would also be needed. To that extent, the TTSEC should implement as a matter of priority the current plans being developed with the CBTT et al.</p>
Principle 7	The Regulator should have or contribute to a process to review the perimeter of regulation regularly.
Description	<p>The TTSEC has developed an entity-specific risk assessment as part of its on-site compliance review framework with a view to identifying and assessing risk.</p> <p>Furthermore, the TTSEC recently partnered with the National AML Committee</p>

	<p>to conduct a National Risk Based Assessment. Based on the findings of the reviews conducted, the TTSEC will assess the parameters of its regulatory framework to determine where gaps may exist and make recommendations for guidance or legislative changes where applicable. There is, however, no formalised process through which this is conducted.</p> <p>The scope of current disclosure and conduct regulations to mitigate or effectively manage systemic risk falls under the disclosure provisions in Part V of the SA 2012, which detail the reporting requirements that reporting issuers must provide on a regular basis. The scope therefore ranges from regular disclosures to continuous oversight which is conducted by the divisions of MR&S and C&I and which are meant to identify, monitor and manage areas of risk in the market.</p> <p>The TTSEC has a process to review its past regulatory policy decisions on an “as needed” basis; however, there is no documented procedure which is followed for the assessment, initiation and/or conclusion of same.</p> <p>Exemptions are reviewed on a case-by-case basis with consideration given to changing circumstances and the past precedents set by the TTSEC. Additionally, work is currently ongoing with a view to amending the TTSEC’s policy and guidelines on AML/CFT pursuant to changes made to the Financial Action Task Force Recommendations, as well as market comments about the practicality of its implementation. A number of other guidelines have been tabled in order of priority for review by the TTSEC.</p> <p>There is currently no formalized process through which the TTSEC reviews unregulated products, markets, market participants and activities. However, the TTSEC has recently signed MoUs with the CBTT and the FIUTT, which seek to promote information sharing among the relevant regulators on various regulatory issues.</p> <p>In cases where the TTSEC identifies regulatory weaknesses or a risk to investor protection, market fairness, efficiency and transparency, it engages in the issuance of guidelines on an “as needed” basis and, where applicable, seeks to incorporate changes into the legislative framework. Staff worked alongside local legislative bodies in the development of the New By-Laws.</p> <p>Further, the TTSEC recently engaged the services of an external specialist consultant through the CARTAC with a view to developing a risk-based capital adequacy regime for registrants, which is intended to augment the current static capital requirements with prudential requirements. Further, the TTSEC is currently in the process of amending the Guidelines on Anti-Money Laundering and the Combating of Terrorist Financing and the Repurchase Agreement Guidelines.</p>
Assessment	Not Implemented
Comments	<p>The TTSEC has not developed significant processes for the identification, measurement and analysis of risks, although plans being developed in conjunction with the CBTT is a good first step towards achieving this.</p> <p>Regular reviews of products, markets, market participants and activities to identify and assess possible risks are not yet systematic in Trinidad and Tobago.</p>

	<p>The partnership between the TTSEC and the National AML Committee to conduct a National Risk Based Assessment to assess the parameters of its regulatory framework is a positive step; however, the absence of a formalized process through which this is conducted should be rectified. It is of the essence that such a process consists of the TTSEC regularly reviewing the perimeter of regulation to encourage the identification and assessment of risks. In doing so, they will be able to better ensure the protection of investors and the reduction of systemic risk.</p> <p>The TTSEC’s initiative to engage an external specialist through CARTAC to look into developing a risk-based capital adequacy regime for registrants has proved useful. Such a regime will go a long way in better protecting the market and should be further developed.</p> <p>The TTSEC acknowledges that they currently have no formalized process to review unregulated products, markets, market participants and activities. As such, there is a need to develop robust arrangements to conduct comprehensive analyses of potential risks emerging from unregulated products and entities in the Trinidad and Tobago securities market. The recent signing of MoUs with the CBTT and the FIUTT is a good first step in seeking to promote information sharing among the relevant regulators on various regulatory issues. These relationships should be further strengthened.</p> <p>It is important that the TTSEC deepen their approach for the identification of emerging risks by making more use of quantitative analysis.</p>
Principle 8	<p>The Regulator should seek to ensure that conflicts of interest and misalignment of incentives are avoided, eliminated, disclosed or otherwise managed.</p>
Description	<p>The TTSEC deals with conflicts of interest primarily through disclosure and compliance inspections. More specifically, the SA 2012 provides defence against misaligned incentives and a process for potential and actual conflicts of interest to be identified and evaluated.</p> <p>All registrants registered as a broker-dealer, underwriter or investment adviser are required to prepare and file with the TTSEC a Conflict of Interest Rules Statement at the time of their registration or when there is a material change to the previously filed Statement.</p> <p>By virtue of being classified as a “public document” filed with the TTSEC, this Statement filed by registrants is accessible by any person under the SA 2012. The SA 2012 also provides that a registrant 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.</p> <p>Clients are encouraged to file complaints with the TTSEC regarding mistreatment by registrants.</p> <p>Under the SA 2012, the TTSEC may prescribe standards for the conduct of broker-dealers and Underwriters registered with the TTSEC in relation to the custody or lending of money or securities held on behalf a client or investor. In this regard, the TTSEC is currently working on establishing a Code of Conduct</p>

for Business which will govern the conduct of its registrants.

The TTSEC requires that material changes that take place in the affairs of any person registered as a reporting issuer must be disclosed to the TTSEC and published in two daily newspapers of general circulation in Trinidad and Tobago. These material changes include: changes to senior officers (appointments and resignations); and waivers of corporate ethics and conduct rules for officers, directors and other key employees.

The TTSEC also requires that persons connected to reporting issuers must file a report upon becoming connected to the reporting issuer and when any change to his beneficial ownership of the securities of the reporting issuer takes place. This report as well as the material change report mentioned above are documents expressly required to be filed with the TTSEC and should be publicly available.

Furthermore, the SA 2012 prohibits registrants from recommending a trade in a security to any client unless he or she has disclosed in writing to any such person all conflicts of interest or potential conflicts of interest that he/she has, or may have, in respect of the security or the issuer of the security, etc.

In terms of monitoring compliance with the obligations of supervised entities with respect to conflicts of interest and misalignment of incentives, the TTSEC conducts weekly trade surveillance through the MR&S.

The TTSEC has recently been empowered to conduct compliance reviews of its registrants with the passage of the SA 2012. (The TTSEC's on-site activities were previously limited to the conduct of formal investigations under the then SIA 1995).

During the conduct of these routine on-site reviews, if or where conflict of interest issues become apparent to the staff, these shall be addressed by way of compliance directives, guidelines and other means such as amendments to the By-Laws. In addition to compliance reviews, where any other review or investigation unearths the existence of conflict of interest issues which contravenes the SA 2012, the TTSEC may issue compliance directives and other enforcements actions (i.e. administrative fines or sanctions) against a registrant or SRO. The TTSEC may also consult with other local regulators with respect to managing conflicts of interest where the protection of investors is concerned. However, significant conflicts of interest among regulated entities or misaligned incentives have not come to the attention of the TTSEC by way of complaints or otherwise.

Additionally, a registrant registered as a broker-dealer, underwriter or investment adviser is prohibited from recommending a trade in a security to any client unless he/she has reasonable grounds for believing that the trade is suitable for the client and discloses in writing to any such person all conflicts of interest or potential conflicts of interest that he/she has, or may have, in respect of the security of the issuers. Such conflicts of interest include any matters which may arise from:

- his/her holdings of securities of the issuer as beneficial owner;
- any compensation arrangement with any person;
- his/her acting as underwriter in any distribution of securities of the issuer in the three years immediately preceding; or

	<ul style="list-style-type: none"> any direct or indirect financial or other interest in the security or the issuer of the security held by the registrant.
Assessment	Fully Implemented
Comments	Generally speaking, the TTSEC identifies and evaluates conflicts and misaligned incentives across the range of its regulatory responsibilities, including during policy and rule-making processes and when undertaking compliance and oversight functions. Furthermore, public consultations provide a forum for issues to be identified and to help to form an appropriate regulatory response in this area.
Principles for Self-Regulation	
Principle 9	Where the regulatory system makes use of Self-Regulatory Organizations (SROs) that exercise some direct oversight responsibility for their respective areas of competence, such SROs should be subject to the oversight of the Regulator and should observe standards of fairness and confidentiality when exercising powers and delegated responsibilities.
Not Assessed	
Principles for the Enforcement of Securities Regulation	
Principle 10	The Regulator should have comprehensive inspection, investigation and surveillance power.
Description	<p>The 2012 Act has strengthened the inspection and investigation powers of the TTSEC. The TTSEC has extensive powers, including to:</p> <ul style="list-style-type: none"> conduct on-site compliance inspections on a routine basis or in the course of an investigation (in each case, with reasonable notice unless a Court order is obtained); review books and records of registrants and SROs; carry out investigations into any breach of the SA 2012; oversee trading activity on the stock exchange. <p>Under the New By-Laws regulated entities are required to maintain comprehensive records for a period of at least six years, including records of client identity, trading activity, and records of transactions that permit tracing of funds in and out of brokerage and bank accounts. The TTSEC has power to access these records under the SA 2012.</p> <p>Investigations can be carried out by an investigator appointed by the TTSEC. Until recently, this function was mostly outsourced to professional firms. Investigations are now led by TTSEC.</p>

Assessment	Partly Implemented
Comments	The rating reflects the fact that routine on-site inspections cannot be conducted without notice. All other aspects of this Principle had been implemented.
Principle 11	The Regulator should have comprehensive enforcement powers.
Description	<p>The TTSEC has comprehensive powers to investigate and enforce breaches of securities law.</p> <p><u>Investigations</u></p> <p>The TTSEC has powers of investigation under section 150 of the SA 2012. An appointed investigator has extensive powers to obtain records and other evidence relating to trading, financial affairs, communications, and property relating to an investigation. This information can be obtained from the subject of the investigation or any third party. Investigations can relate to regulated or unregulated persons.</p> <p><u>Enforcement</u></p> <p>The SA 2012 has strengthened the enforcement options available to the TTSEC. Court orders can be obtained where any person has failed to comply with the SA 2012 or any order of the TTSEC (section 162). These include orders to:</p> <ul style="list-style-type: none"> • direct a person to comply with or to cease the conduct which constitutes the breach; • direct senior officers of the entity to cause the entity to comply with or to cease the conduct which constitutes the breach; • freeze the assets of the person or a portion of the assets of that person or entity; • order restitution or disgorgement of profits; • restrain the conduct complained of; • require disclosure of any information; • require compliance with the SA 2012; • set aside a transaction; or • where necessary in the public interest or for the protection of investors, appoint a receiver or manager over the property of any person (including a registrant or self-regulatory organization). <p>The TTSEC itself has power to make administrative orders (section 155) requiring any person to comply with (or cease contravening) any provision of the SA 2012, any order of the TTSEC, or rules or decisions of any recognized SRO. These orders can also require or prohibit the publication of any relevant information, can prohibit any individual from acting as a senior officer of a registrant or SRO and can suspend or cancel the registration of any person. Failure to comply with an order of the TTSEC under this section is a criminal offence, carrying liability for a fine of up to TT\$5 million or imprisonment for up to five years.</p>

The SA 2012 imposes criminal liability for a range of breaches of securities law, including:

- failing to register as a registrant or SRO;
- providing misleading information in connection with registration as a registrant;
- misleading statements in prospectuses and other offer documents;
- market manipulation;
- insider trading;
- failing to obtain approval as substantial shareholder of a registrant;
- non-compliance with financial reporting and audit obligations;
- non-compliance by broker-dealers with client account requirements;
- failing to comply with order of the TTSEC.

These offences carry penalties of fines between TT\$500,000 and TT\$10 million and imprisonment of up to 10 years. Senior officers and supervisory staff who are implicated in offending can also be criminally liable.

Criminal Proceedings are Taken by the Director of Public Prosecutions

The TTSEC has power to impose administrative fines, up to TT\$500,000, for breach of any provision of the SA 2012, By-Laws under the SA 2012, or any Order of the TTSEC. Administrative fines of up to TT\$500,000 can be ordered by the TTSEC in lieu of prosecution for most of the specific offences listed above. Any person served with a notice of these administrative fines can either pay the fine or defend the equivalent charge in Court. The TTSEC also has power to issue warnings and reprimands to regulated entities.

Affected individuals can take private civil actions for liability arising from:

- misleading statements in prospectuses or other offer documents;
- insider trading;
- market manipulation.

The specific civil liability provisions of the SA 2012 do not derogate from any private actions available in contract or tort. The TTSEC, with the leave of the High Court, can take up actions on behalf of issuers or affected persons.

The SA 2012 also allows the TTSEC to obtain orders from the High Court to require compliance with any provision of the SA 2012 or By-Laws under the SA 2012.

The TTSEC has authority to order suspension of trading in any security if it considers the market is uninformed, where suspicious trading has occurred, or for other reasons in the public interest.

	<p><u>Ability to Reconstruct All Securities and Derivatives Transactions</u></p> <p>The TTSEC has broad powers to obtain any relevant information relating to transactions in securities under section 151 of the SA 2012. This includes the ability to directly obtain banking records.</p> <p>The New By-Laws include obligations on all SROs and registrants to maintain records, including records required to identify:</p> <ul style="list-style-type: none"> • clients of registrants (including senior officers and beneficial owners of clients); • all client assets and securities; • 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; • persons authorized to trade on any account; • brokers who conducted any trading activity; • detailed records of trading activity, including date, time, volume, and price. <p><u>Beneficial Ownership Information</u></p> <p>Registrants are required to identify and maintain records of beneficial owners of accounts under the Financial Obligations (Amendment) Regulations 2014 and the TTSEC’s AML/CFT guidelines. The TTSEC’s powers to obtain information under section 151 of the SA 2012 allow it to obtain information regarding beneficial ownership of clients or securities.</p> <p><u>Ability to Take Statements or Testimony</u></p> <p>Under section 151 of the SA 2012, if it considers it necessary or desirable for the performance of its functions the TTSEC has power to compel any person to appear before the TTSEC or a person specified by it to provide information orally or in writing and can require this information to be given on oath or affirmation.</p>
Assessment	Fully Implemented
Comments	
Principle 12	The regulatory system should ensure an effective and credible use of inspection, investigation, surveillance and enforcement powers and implementation of an effective compliance program.
Description	<p><u>Inspections</u></p> <p>Since December 2012 the TTSEC has had authority to carry out on-site inspections of registrants under the SA 2012 (principally investment advisers and broker-dealers). Inspections focus on sufficiency of controls, procedures, systems, competence, and resources required to fulfill trading, settlement, and compliance obligations under the SA 2012.</p>

The TTSEC is currently in the process of conducting initial inspections of registrants. The TTSEC undertook a thorough initial risk assessment survey of its registrants and SROs in 2013, in order to prioritize inspections. This was updated and carried out again in 2014. The first inspection of an SRO was conducted in December 2013 (including assessment of the SRO's own inspection program for members). Seven inspections were carried out in 2014 and four had been undertaken in the period up to October 2015. The TTSEC has undertaken joint inspections with staff of the CBTT of an entity subject to dual supervisory oversight.

The SA 2012 also permits the TTSEC to conduct inspections in response to intelligence or complaints received. No inspections have been carried out on this basis to date.

Surveillance

The TTSEC does not currently operate an automated system to identify unusual transactions on the authorized stock exchange. The TTSEC will be replacing its trading platform at the end of 2017, and the TTSEC will look to obtain an automated surveillance system once this is done. Volume of trading on the TTSE is low, averaging around 57 trades per day in 2015, among the 36 listed companies.

The TTSEC has direct, real-time access to the trading and settlement systems used by the exchange and obtain a direct feed of all trading data. Routine post-trading analysis is carried out on a daily and weekly basis based on historical trading patterns in each security. Trades by company insiders are identified and additional analysis is carried out as necessary. The operations department of the TTSE also maintains surveillance of daily trading activities and publishes trades by company insiders.

This surveillance gave rise to four inquiries being initiated in the period October 2013 – November 2014. One of these gave rise to a formal investigation, which has not yet been publicly reported.

Enforcement Actions

A number of enforcement actions have been taken by the TTSEC in relation to filing breaches, with fines being levied in the period 2011–2014 as follows:

- 2011 TT\$1,412,500.00
- 2012 TT\$320,000.00
- 2013 TT\$70,000.00
- 2014 TT\$111,500.00

Four investigations have been conducted since 2011 into suspected fraudulent or manipulative practices – two resulted in the TTSEC obtaining Court orders for injunctions and disgorgement of profits. In the same period five cases have been referred to the DPP, which is responsible for criminal prosecutions in Trinidad and Tobago. No progress has been reported on these cases.

Assessment	Partly Implemented
Comments	<p>The TTSEC is in the early stages of implementing a new supervision program, using the enhanced powers in the SA 2012. A small number of inspections only have been carried out to date. These have resulted in recommendations for improvements to several firms. Capacity and capability in the supervision team should be strengthened to allow for the development of an effective compliance program. Inspection manuals and procedures have been developed for broker-dealers and investment advisers (as these are the statutory categories of registrant), but there is not a tailored inspection program for firms that operate as collective investment schemes.</p> <p>The use of a risk assessment survey has provided a useful starting point for a risk-based supervision program. This will be further enhanced if the TTSEC's supervision program includes a formal process to use intelligence gathered from inspections to challenge and validate the information provided by firms that participated in the survey. The compliance team is making use of joint inspections with CBTT supervisors to help to build capability. This will need to be a continuing focus for the regulator.</p> <p>The new enforcement powers of the TTSEC have not been used to any significant extent. The regulator has broad powers to impose administrative fines, including for serious offending. These powers have not yet been used, and the TTSEC has not yet developed a policy for use of these powers, including a policy for assessment of maximum fines in serious cases.</p> <p>The majority of enforcement actions have related to less serious filing related charges, which appears to be reflected in market perceptions of the regulator. There is widespread concern among market participants that some serious cases are not actively prosecuted. At least in part this impression is exacerbated by factors beyond the control of the regulator, including judicial process and a lack of visible process with cases referred to the DPP.</p> <p>The use of guidelines as the principal regulatory tool for the CIS sector has created an impression among some market actors that the standards contained therein are not mandatory, despite the TTSEC having a power to enforce guidelines through compliance directions (failure to comply with which can result in criminal liability). Where guidelines are used as a significant regulatory tool the TTSEC should signal its willingness to enforce compliance with these.</p> <p>Development, publication, and implementation of a formal enforcement policy, setting out the TTSEC's approach to use of its enforcement powers, could improve public perception of the regulator's willingness to undertake significant enforcement action. Use of administrative fining powers would assist to provide more effective and timely deterrence messages for the market and investors.</p> <p>Development of an MoU with the DPP, potentially including awareness</p>

	raising of the importance of securities law enforcement, could improve cooperation and information sharing with that department, and may lead to improved resolution of cases referred for prosecution or a clearer understanding of the willingness of the DPP to take prosecutions relating to securities law.
Principles for Cooperation in Regulation	
Principle 13	The Regulator should have authority to share both public and non-public information with domestic and foreign counterparts.
Description	<p><u>Domestic</u></p> <p>The TTSEC has broad powers to share information under section 19 of the SA 2012, with the CBTT, the FIUTT, or any other regulatory agency or entity in Trinidad and Tobago, as well as to enter into MoUs with these agencies.</p> <p>Information provided by the TTSEC to other agencies is subject to confidentiality provisions set out in section 14 of the SA 2012. This limits the onward disclosure of such information and restricts its use to the administration or enforcement of the SA 2012 or similar overseas legislation. Failure to comply with these confidentiality requirements is an offence.</p> <p><u>International</u></p> <p>Section 19(2) of the SA 2012 provides the TTSEC with power to share information with foreign counterparts.</p> <p>Information provided to or by the TTSEC under arrangements with overseas regulators is subject to the same confidentiality provisions as information shared with domestic agencies.</p> <p>No ministerial or other governmental approval is required for the TTSEC to share information with either domestic or foreign agencies. Information can be shared on an unsolicited basis or arising from a request.</p>
Assessment	Fully Implemented
Comments	
Principle 14	Regulators should establish information sharing mechanisms that set out when and how they will share both public and non-public information with their domestic and foreign counterparts.

Description	<p><u>Domestic</u></p> <p>Section 19(3) of the SA 2012 empowers the TTSEC to enter into MoUs with any domestic regulatory agency or other entity for the purpose of the SA 2012.</p> <p>The TTSEC has signed MoUs with the CBTT, the FIUTT, and the TTSE. All of these memoranda allow for the provision of mutual assistance in the enforcement of relevant laws and for the sharing of information.</p> <p><u>International</u></p> <p>Section 19(4) empowers the TTSEC to enter into MoUs with overseas regulatory bodies.</p> <p>The TTSEC is a full signatory to the IOSCO MMoU (since 2013) and has also signed an MoU with regional counterparts in the Caribbean Group of Securities Regulators.</p>
Assessment	Fully Implemented
Comments	As noted under Principle 12, the TTSEC should consider information sharing and cooperation agreement with the DPP, given the role that agency plays in the enforcement of domestic securities laws.
Principle 15	The regulatory system should allow for assistance to be provided to foreign regulators who need to make inquiries in the discharge of their functions and exercise of their powers.
Description	<p>Section 151 of the SA 2012 expressly allows the TTSEC to use its information-gathering powers to assist in the administration of securities laws or the regulation or supervision of the securities industry in another jurisdiction. This includes powers to require any person to provide information and to appear before the TTSEC or a person specified by it to provide testimony. There is no need for the TTSEC to have an independent interest in a matter for it to use these powers.</p> <p>Since becoming a full signatory to the IOSCO MMoU in 2013 the TTSEC has received one request for assistance from an overseas regulator, and was able to provide the information.</p>
Assessment	Fully Implemented
Comments	

Principles for Issuers	
Principle 16	There should be full, accurate and timely disclosure of financial results, risk and other information that is material to investor's decisions.
Not Assessed	
Principle 17	Holder of securities in a company should be treated in a fair and equitable manner.
Not Assessed	
Principle 18	Accounting standards used by issuer to prepare financial statements should be of a high and internationally acceptable quality.
Not Assessed	
Principles for Auditors, Credit Ratings Agencies, and Other Information Service Providers	
Principle 19	Auditors should be subject to adequate levels of oversight.
Not Assessed	
Principle 20	Auditors should be independent of the issuing entity that they audit.
Not Assessed	
Principle 21	Audit standards should be of a high and internationally acceptable quality.
Not Assessed	
Principle 22	Credit rating agencies should be subject to adequate levels of oversight. The regulatory system should ensure that credit rating agencies whose ratings are used for regulatory purposes are subject to registration and ongoing supervision.

Not Assessed	
Principle 23	Other entities that offer investor analytical or evaluative services should be subject to oversight and regulation appropriate to the impact their activities have on the market or the degree to which the regulatory system relies on them.
Not Assessed	
Principles for Collective Investment Schemes	
Principle 24	The regulatory system should set standards for the eligibility, governance, organization and operational conduct of those who wish to market or operate a collective investment scheme.
Description	<p><u>General Information about CIS</u></p> <p>The term “collective investment scheme” (CIS) is defined at section 4(1) of the SA 2012 as follows:</p> <p><i>“collective investment scheme’ means any arrangement with respect to property of any description including money —</i></p> <p>(i) <i>the purpose or effect of which is to enable persons taking part in the arrangement, whether by becoming owners of the property or any part of it, or otherwise to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income; and</i></p> <p>(ii) <i>that does not invest—</i></p> <p style="padding-left: 40px;">(a) <i>for the purpose of exercising or seeking to exercise control of an issuer, other than an issuer that is itself a collective investment scheme; or</i></p> <p style="padding-left: 40px;">(b) <i>for the purpose of being actively involved in the management of any issuer in which it invests, other than an issuer that is itself a collective investment scheme”</i></p> <p>Although the SA 2012 does not define the term “mutual fund”, the terms “CIS” and “mutual fund” are used interchangeably in Trinidad and Tobago.</p> <p>In Trinidad and Tobago, CISs are structured as either:</p> <p>Unit Trust Schemes – These are CIS that are created by trust. In simple terms a trust arises where a vehicle is created in which a person, in whom responsibility for the property is vested, is compelled to hold the property for the benefit of another person, or for some purposes other than his own. The beneficiary of the trust does not have an interest in the particular assets but merely enjoys a collective beneficial ownership of</p>

the assets in the trust fund, together with a right, as against the trustee (the person charged with responsibility for holding the property), to receive repayment of monies equivalent to the portion of the trust fund attributable to his fractional interest.

The duties, responsibilities and requirements of the Trustee are specified within the relevant Trust Law and by the terms of a Declaration of Trust or Trust Deed which is commonly entered into with a manager. The property of the unit trust scheme is held by the trustee for the benefit of the unitholders in the scheme; or

Corporations – In this structure, CISs vest their property in a corporate entity. These CISs are legal persons incorporated under the relevant company legislation for the purpose of holding securities by way of investment. Unlike the unit trust scheme, a corporate CIS is a separate legal entity from its participants and is a limited liability vehicle. Participants in the scheme are shareholders of a limited liability company and benefit from the limited liability.

The participants in a corporate CIS do not have a direct legal or beneficial interest in the property of the scheme except where the CIS is being wound up. In such an instance they are entitled to the residual assets after the senior creditors of the company have settled their claims.

Generally, a CIS will retain the services of different professionals in order to conduct its operations.

The typical service providers for a CIS (however structured) include:

An Investment Manager – An entity responsible for: the execution of the scheme's investment strategy; advises on the acquisition and disposition of the scheme property; calculates the price of the scheme unit; and issues and purchases units from the public.

A Servicer/Paying Agent/Administrator – Keeps a record of the scheme participants for the purpose of making distributions to them.

A Trustee/Custodian – Responsible for the property of the CIS and ensuring that it is managed in the interest of the beneficiaries. The trustee/custodian is given a fiduciary responsibility for the custodianship, servicing and the investment management of the unit trust scheme's/corporation property. A trustee/custodian may, where he does not possess the requisite expertise in the areas of custodianship, servicing or investment management, delegate authority to persons with the requisite expertise for the execution of these functions. It should be noted that a trustee/custodian may not delegate the fiduciary responsibility for the performance of the functions and is still liable under the law for breach of duty owed to scheme participants by any persons to whom he delegates authority.

General Information about the Regulatory Framework

The SIA 1995 was proclaimed in 1997 ushering in a new regime in the securities market in Trinidad and Tobago and giving birth to the TTSEC.

In December 2012, the SIA 1995 was repealed and replaced by the SA 2012. The SA 2012 came into operation on 31 December 2012.

The Securities (Amendment) Act, 2014 was assented to on September 10, 2014. Changes were made to sections of the SA 2012 dealing with: forms, offences, solicitation of expressions of interest, limited offerings and the concept of “location of trade”.

All obligations to be applied by participants in the securities industry are contained in the SA 2012 and its subsidiary legislation (By-Laws) which are approved by the Legislature (the Parliament of Trinidad and Tobago), subject to specific procedures being followed. Pursuant to the SA 2012, the TTSEC drafted proposed Securities (General) By-Laws 2015 (the New By-Laws) which were laid in Parliament on 17 April 2015 and came into force on 29 May 2015. The New By-Laws expand upon certain requirements and procedures contained in the SA 2012 Act in relation to:

- the requirements that must be met to be registered under the SA 2012;
- the disclosure obligations applicable to reporting issuers and other registrants;
- the internal operations of the TTSEC and the operations of SROs;
- business conduct and practices required of registrants and SROs; and
- standards of conduct for auditors of registrants.

The New By-Laws affected TTSEC registrants that are Brokers, Investment Advisers, Securities Companies, Traders and Underwriters – see Notice to all Registrants, dated 29 May 2015.

Eligibility Criteria

Within the Trinidad and Tobago market, there are many CISs with thousands of investors, both directly as unitholders/shareholders and more indirectly as pension funds. For the purposes of the domestic regulatory framework however, the TTSEC’s oversight does not extend to CISs that are:

- pure contracts of insurance;
- pension schemes; and
- commodity pools.

At the time of this assessment, 61 CISs were active in Trinidad and Tobago (as at 31 December 2014). The majority of these CISs are structured as trusts. The CISs that are structured as corporations are CISs which are domiciled in other countries but offered for sale in Trinidad and Tobago.

Regulatory History

CISs predate the establishment of the TTSEC. The first CIS was introduced in Trinidad and Tobago when the government enacted the Unit Trust Corporation Act in 1981. This Act created the Trinidad and Tobago Unit Trust Corporation (UTC) which was authorized under that Act, to establish Unit Trust Schemes “...for the purpose of providing

facilities for participation by members of the public in the income, profits, and gains that may be derived from the acquisition, holding, management or disposal of securities...”.

The UTC is currently the largest mutual fund Operator in the country with approximately 42% (as at January 2015) of the industry’s funds under its management. After the creation of the UTC, various commercial banks in the country began offering CISs for sale. Prior to the establishment of the TTSEC in 1997, the Operators of the Mutual Funds were subject to the oversight of the CBTT.

When the TTSEC was established in 1997 under the SIA 1995, it became the regulator of the securities market.

CISs and the SIA 1995

The concept of CIS was not defined in the SIA 1995 nor were adequate provisions made for its regulation with the 1995 regulatory framework. One possible reason for the omission is that the form was not yet prevalent in the country at the time of enactment of the securities legislation. At that time, and as mentioned above, Trinidad and Tobago’s only recognized CIS (a unit trust scheme) was managed by the UTC – an investment manager whose composition, role and functioning were already governed by statutory instrument.

Notwithstanding the foregoing, section 65(1A) of the SIA 1995 sought to recognize units of a unit trust scheme as securities and formally establish that these securities were subject to a prospectus requirement and registration with the TTSEC. Section 65(1A) of the SIA 1995 stated: “*a unit issued by a unit trust scheme, or a mutual fund, in accordance with the terms of a prospectus for which a receipt has been issued by the TTSEC, is deemed to be registered with the TTSEC.*”

In Trinidad and Tobago, a trust is not defined in the Interpretations Act to be a legal person. The implication of this omission for the regulation of CISs was that sections 64(2) and 66 of the SIA 1995, which made provision for registration as a reporting issuer and subjugation to a prescribed continuous reporting regime of the SIA 1995, did not apply to the CIS that were structured as unit trust schemes.

Although the SIA 1995 was designed to impose a requirement for issuers of securities to be registered with the TTSEC as reporting issuers, this requirement did not apply to the majority of the CISs for which units were registered as securities under the SIA 1995. As a consequence, these CIS were not bound by the continuous disclosure requirements that were imposed on reporting issuers by virtue of section 66 of the SIA 1995, or By-Laws promulgated under that legislation.

If said CISs were registered following the TTSEC’s due process, the TTSEC would register same through the issuance of a receipt for the prospectus covering the distribution of those securities in accordance with section 65(1A) of the SIA 1995. During the registration process, the TTSEC would ensure that the manager and person distributing the CIS was duly registered with the TTSEC as a Securities Company in accordance with section 53 of the SIA 1995.

Guidelines for Collective Investment Schemes

In 2008 the TTSEC introduced its Guidelines for Collective Investment Schemes (CIS Guidelines). The CIS Guidelines are meant to bring the regulation of CISs in Trinidad and Tobago to the level of international best practice and adopt a mixture of disclosure and substantive regulation approach. They set out the requirements that apply to CISs and address the following areas:

- continuous reporting which seeks to bring all mutual fund managers and trustees under similar continuous reporting requirements;
- nomenclature rules which ensures that mutual funds do not mislead investors with regards to their investment strategies by use of their names;
- prospectus disclosure which seeks to ensure that adequate disclosure of general risks and those associated with mutual funds specific investment strategies are communicated to investors, both existing and potential;
- performance measurement and advertising which ensures that mutual funds do not mislead investors by communicating false performance claims; and
- fund governance which seeks to ensure that there is adequate separation of functions between the trustee, the custodian, the investment manager and the distributor.

Given the structure of the TTSEC's regulatory framework, the Operator of the CIS will need to be registered with the TTSEC as a Broker-Dealer. This registration requirement is meant to ensure that the persons performing the functions of a Broker-Dealer have the capacity and ability to perform those functions in relation to the CIS.

Persons marketing a CIS may be any person permitted by the TTSEC to provide investment advice. This includes both Broker-Dealers and Investment Advisers.

When registering representatives to conduct the business of the Broker-Dealers, the TTSEC requires that the representatives, under By-Law 22 of the New By-Laws, provide proof of having a degree or professional qualification in economics, banking, law, business administration, chartered secretary-ship, finance or such other qualification or training from a university or other educational institution recognized by the TTSEC. In addition to this requirement, representatives are also required to show proof of having at least two (2) years working experience in the fields previously outlined.

Further, Guideline 12 of the CIS Guidelines identifies certain requirements that apply in relation to the persons performing the function of a Manager in respect of a CIS. Among other things, this Guideline stipulates the scope of the Manager's function and states that the persons performing these functions shall exercise the "*degree of care, diligence and skill that a reasonably prudent person*" would exercise in the discharge of their functions in relation to CISs. Guideline 10 also specifies that separate and distinct entities must perform the functions of

the Manager, and the Trustee or Custodian of a CIS. At present there is no requirement for a Broker-Dealer to have appropriate identification, monitoring and management of risks. As a Broker-Dealer, the Operator of the CIS will be required to ensure that it has established effective internal control procedures to ensure compliance with all applicable regulatory requirements. With the establishment of C&I, the TTSEC will conduct ongoing reviews, on a risk based approach, of the internal controls and compliance arrangements of its registrants.

The TTSEC recognizes the operation and marketing of a CIS as transacting in securities business and as such persons conducting such business will be required to be registered as a Broker-Dealer in accordance with section 51 of the SA 2012. Further, in accordance with section 51(2) any person wishing to register with the TTSEC as a Broker-Dealer must submit an application for the registration of at least one Registered Representative who will be responsible for the discharge of the Broker-Dealer's business.

As a requirement of registration, applicants are required to meet certain fit and proper criteria which are broadly outlined at section 52(6) of the SA 2012. The provisions contained under section 52(6) empower the TTSEC when considering the initial application for approval and continuing operation of a Broker-Dealer to consider amongst other criteria:

- the ability of the representative of the Broker-Dealer to perform his proposed business efficiently, honestly and fairly;
- the character, financial integrity and reliability of the person; and
- the educational and other qualifications and experience of the Registered Representative.

The fit and proper criteria are further expanded under By-Law 6 and Schedule 2 of the New By-Laws. The TTSEC, in considering the standards of eligibility of a Broker-Dealer, will have regard to the following:

- (i) 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;
- (ii) the ability of the person to carry on the regulated activity or execute its fiduciary duty, competently and fairly;
- (iii) the reputation, character, reliability and financial integrity, of the person;
- (iv) the financial status or solvency of the person;
- (v) where the person is an individual, the individual himself; or where the person is an entity, the entity and any senior officer or significant security holder of the entity.

Guideline 12 of the TTSEC's CIS Guidelines sets out the standard of care for the Operator of a CIS. This Guideline requires CIS Operators to have an agreement or declaration of trust which would provide that these Operators:

- (i) exercise the powers and discharge the duties of their office honestly, in good faith and in the best interests of the CIS; and

- (ii) exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

One of the fit and proper requirements for registration as a Broker-Dealer outlined at section 52(6) of the SA 2012 is that the TTSEC must consider the ability of the person to perform his proposed business efficiently, to comply with the requirements of the SA 2012. In addition, in order to be registered as a Broker-Dealer, the applicant will be required to have a minimum number of Registered Representatives in its employ. These Registered Representatives in turn must meet certain fit and proper requirements – one of which is the possession of appropriate academic qualifications. Finally, applicants for registration as Broker-Dealers must meet certain minimum capital requirements.

The TTSEC has drafted an initial Code of Conduct for Businesses Guidelines which contemplates ensuring that registrants are adequately resourced to manage their business activities and can accommodate any temporary absences of key personnel.

In accordance with Guideline 6(1) of the CIS Guidelines, an applicant wishing to register a CIS must provide documentary evidence demonstrating that an investment of at least TT\$5 million has been made in the securities of the CIS.

Guideline 6(2) of the CIS Guidelines also requires that the CIS Operator set aside a minimum of TT\$2 million to off-set the initial set up expenses of the CIS.

The capital requirements above are separate and apart from those imposed on a Broker-Dealer as a result of its registration with the TTSEC.

The TTSEC's draft Code of Conduct for Businesses proposes that:

- (i) Registrants should ensure that they have financial and operational capabilities which would protect its operations.
- (ii) Registrants' internal control procedures are designed to reasonably protect its operations and clients from financial loss arising from theft, fraud, other dishonest acts, professional misconduct or omissions.

There are effective mechanisms for assessing compliance at the points of initial registration, renewal of registration or reinstatement of registration. Based on the current application of the securities legislation, the regulatory system provides that CIS Operators must be registered with the TTSEC in order to provide those services to the CIS. At each point of registration, the staff of the TTSEC assess whether the applicant is fit and proper for registration. The fit and proper criteria, in addition to other things, incorporates a review of the applicant's honesty and integrity; human and technical resources and financial capacity.

There are also regulatory mechanisms which allow for ongoing monitoring of compliance. One such mechanism is the TTSEC established procedure for reviewing and adjudicating on complaints coming to its attention in relation to its registrants. This mechanism, in

addition to other factors, allow for ongoing assessments of the character (*honesty and integrity*), capabilities and financial capacity of registrants under the TTSEC's oversight. Complementary to this, the New By-Laws provide that a registrant shall also establish effective complaints handling systems and procedures which ensure that records of complaints are maintained and responded to in writing in a timely manner (By-Law 65). Such records will be subjected to both off-site and on-site review by TTSEC staff as the need arises and/or as part of the recently commenced routine compliance reviews performed by C&I.

Section 56(4) of the SA 2012 requires Broker-Dealers to provide the TTSEC with notice of certain events in a timely manner. These events are outlined in Schedule 3 of the New By-Laws and provide for ongoing disclosure by way of notifications to be filed with the TTSEC in relation to:

- (i) any hiring, resignation, dismissal or retirement of a senior officer or registered representative by or from a registrant;
- (ii) any material breakdowns of administrative or control procedures, including technical failures;
- (iii) where the registrant becomes aware that any of its senior officers or Registered Representatives has been charged or convicted of fraud or any other offence involving dishonesty; and
- (iv) a breach by the registrant of the requirements regarding financial resources, maintenance of any prescribed capital, risk management and internal controls.

The CIS Guidelines are drafted in such a way to ensure investor protection is maximized by focusing on references of due care and diligence performed by the CIS Operator. The CIS Guidelines also identify a checklist for the registration and submission of the Prospectus which ensure maximum compliance by the applicant or the CIS otherwise they can be denied registration with the TTSEC.

The CIS Guidelines are complemented by Associated Guidelines, which refers to any guidelines issued by the TTSEC in relation to the regulation of CISs or CIS Operators such as:

- Promotion Presentation Standards for Collective Investment Schemes (PPS);
- Policy Guideline 11.1 – Mutual Funds- Distribution of Securities of Foreign Mutual Funds in Trinidad and Tobago (Policy Guidelines 11.1).

Foreign CIS Registration in Trinidad and Tobago

Foreign CISs are not exempted from the registration requirements of the TTSEC under the local securities legislation. Consideration is however given regarding the initial and ongoing disclosure requirements applicable to foreign CISs. These requirements are defined in the TTSEC's Policy Guidelines 11.1.

If the TTSEC is of the view that the CIS conforms to the following criteria set out in Guideline 4.1 of the Policy Guidelines 11.1, it may exercise its powers under the SA 2012, including its public interest

discretionary functions and grant approval to a foreign CIS for distribution provided:

- it is generally reputable;
- its home jurisdiction has a recognized securities regulatory body with which it is:
 - registered;
 - under the obligation to file disclosure documents, and
 - required to comply with the financial reporting requirements which satisfy acceptable accounting guidelines;
- that all documents required for dissemination, filing or use in Trinidad and Tobago under the policy are in English; and
- that it appoints an agent (“the Agent”) who:
 - is a registrant under section 51(1) of the SA 2012, and
 - shall represent the foreign CIS in the matters specified in the policy.

The TTSEC must also be satisfied that the disclosure regime with which the foreign CIS will be complying with under its home jurisdiction is sufficient (i.e. either of a higher regulatory framework or one which is at least on par with the local framework).

In considering whether the home jurisdiction has a recognized securities regulatory body, cooperation agreements with its regulatory counterparts in other jurisdictions will be considered by the TTSEC. The existence of such agreements will form part of the TTSEC’s criteria when assessing whether it will recognize a foreign regulator and by extension the associated regulatory framework as being sufficient to grant certain exemptions to the foreign CIS.

Where approval is granted to a foreign CIS to distribute its securities to local investors, they are subjected to ongoing disclosure requirements under Policy Guidelines 11.1. These Guidelines attempt to harmonize the initial and ongoing regulatory requirements in an effort to reduce duplicative effort by regulatory bodies and undue regulatory burden on foreign CIS providers. For instance, the foreign CISs are required to file the same prospectus that would have been filed with its home regulators and any changes thereafter would also be required to be filed with the TTSEC.

Supervision and Ongoing Monitoring

In accordance with its mandates and powers under sections 6(c) and 7(c) of the SA 2012, the TTSEC registers, authorizes and regulates issuers of a CIS and other Broker-Dealers who market and operate CISs.

Corporate form CISs have always been subject to the requirement to register as a Reporting Issuer. Trust form CISs, however, were not in the past required to be registered as Reporting Issuers. The sole registration requirement for CISs was to have a receipt issued for the CIS prospectus. With the passage of the SA 2012 a Trust became incorporated into the definition of an entity and as such all CISs are now required to be registered as Reporting Issuers.

As a result of the New By-Laws, all issuers of CISs will be registered with the TTSEC as Reporting Issuers in accordance with section 61(1) and the units/shares of the CISs will also be registered as securities in accordance with section 62(2).

The TTSEC is responsible for initiating enforcement action against any person who fails to comply with the SA 2012 and has clearly defined powers in support of its mandate (sections 6(e) and 7(h)).

The TTSEC conducts off-site surveillance with respect to CISs through informational requests and off-site reviews for compliance with the SA 2012 and/or its associated Guidelines. Additionally, and as previously discussed, the TTSEC has recently been empowered with the ability to conduct on-site inspections and may exercise this power in the public interest as the need arises (section 89). Such on-site inspections however, are limited to inspections/reviews of books, records and operations of persons registered with the TTSEC.

In the event that a CIS Operator through inadvertence or prior limitations was not registered with the TTSEC, the TTSEC may also launch an investigation into the affairs of said person for the purposes of the administration of the SA 2012. The TTSEC has the legislative authority to launch an investigation where it is of the belief that:

- a person has contravened the SA 2012;
- a person is contravening the SA 2012;
- a person is about to contravene the SA 2012; or
- to assist with the administration of securities laws or the regulation and supervision of the securities industry in another jurisdiction.

The TTSEC can apply all remedial actions available to it under the SA 2012, including sanctions and penalties, to CISs and its Operators for breaches of the SA 2012 and supporting By-Laws and Guidelines (see text relating to Principle 1). CISs that are registered with the TTSEC as reporting issuers, are required (under sections 63, 65 and 66 of the SA 2012) to file annual reports, audited comparative financial statements and quarterly interim financial statements with the TTSEC.

Further, all CISs are required by Guidelines 28-30 of the CIS Guidelines to file with the TTSEC certain financial statements and other reports on their portfolio allocation and activity in subscriptions and redemptions. Guideline 28 requires CISs to file with the TTSEC within 120 days of their financial year end the following:

- (1) an income statement prepared in accordance with IFRS;
- (2) a balance sheet prepared in accordance with IFRS;
- (3) a statement of investment portfolio;
- (4) a statement of portfolio transactions;
- (5) a statement of changes in net assets; and
- (6) a statement of cash flows prepared in accordance with IFRS.

Under Guidelines 29 and 30, CISs are required to:

- File with the TTSEC, and publish within 60 days of the end of

each six month period of its operation, the reports lists in (1)-(5) above together with a volume report.

- File with the TTSEC a monthly volume report detailing the subscription, redemption, number of unitholders and total assets under management held by the CIS per month.

The monthly volume reports are reviewed and analyzed by TTSEC staff, and a monthly report on activity is submitted to the TTSEC Board for their attention.

Service providers for the CIS such as the Operators and distributors need to be registered with the TTSEC as Broker-Dealers in order to perform those functions for the CIS. As a consequence, these Broker-Dealers must file financial statements as well as reports confirming their capital levels with the TTSEC on a periodic basis. These statements and reports are reviewed at least at the point of renewal of registration of the Broker-Dealer to ensure that the entities continue to meet the requirements to maintain their registration with the TTSEC.

In addition, C&I reviews the financial statements of each registrant that it inspects. These inspections are conducted on a risk assessed basis.

Service providers for CISs such as the Operators, managers and distributors will be required to be registered with the TTSEC as Broker-Dealers. All Broker-Dealers will be subject to on-site inspections that are conducted by C&I. Under section 89 of the SA 2012, the TTSEC has the power to conduct compliance reviews of its registrants. Currently the TTSEC is utilizing a risk-based approach in prioritizing which Broker-Dealers will be the subject to on-site inspections. C&I has developed a risk-based approach and conducts periodic inspections on registrants, including persons who operate CISs, depending on the registrant's risk profile. Since the establishment of the C&I, the TTSEC has inspected the largest CIS Operator in terms of funds under management and has two more inspections of CIS Operators scheduled for 2015. In addition to the risk ranking methodology developed by C&I to schedule its reviews, should the TTSEC receive a tip in relation to the operations of a CIS and or its Operators, the TTSEC (as mentioned in Principle 12) may commission the launch of a formal investigation into the affairs of the relevant party or utilize the section 89 reviews to determine whether there is legitimacy to the information provided.

In terms of changes to a licensed CIS, Guideline 25 of the CIS Guidelines outlines the types of changes which require the prior approval of the investors of the CIS before the change is exercised by the manger or CIS Operator and these include:

- a change to the fundamental investment objectives of the CIS;
- a change to the auditor of the CIS;
- a change to the manager, unless the successor manager is an affiliate of the existing manager;
- a change to the methodology used to calculate the NAV per security of the CIS;
- an increase in fees or expenses charged to the CIS including, but not limited to, an increase in management fees; and
- the suspension and/or termination of the CIS.

Under section 77 of the SA 2012 where a material change occurs and information regarding same would have been required to be included in the prospectus at the time at which the prospectus was prepared, the Operator must file an amended prospectus with the TTSEC. If an amended prospectus is required to be filed with the TTSEC, the distribution of securities under the prospectus must cease until such time as the TTSEC has issued a receipt for the amended prospectus.

Further, under By-Law 53 of the New By-Laws, CIS Operators are required to file certain changes, in accordance with section 56(4) of the SA 2012 within seven days of the occurrence of the change. These changes include:

- the application by another person for the appointment of a receiver, administrator or trustee of the registrant;
- any hiring, resignation, dismissal, or retirement of a senior officer, designated person, Registered Representative or an individual in charge of the operations of any branch office of the registrant, by or from the registrant and in the case of a dismissal, the reason therefor;
- the date on which the registrant proposes to cease to carry on business for which registration is required under the SA 2012 and the reasons for the cessation;
- 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.

CIS Operators are subject to record keeping requirements under section 87 of the SA 2012. Among other requirements of section 87, they are required to make and keep such books, records and other documents in such form and for such periods as are reasonably necessary in the conduct of their business and operations, including documentation of compliance with the SA 2012 and the proper recording of their business transactions, financial affairs and the transactions that they execute on behalf of others.

Further, By-Law 29 of the New By-Laws requires registrants to maintain records that clearly record all of their business transactions and financial affairs that are conducted in Trinidad and Tobago. By-Law 31 specifically outlines the records that are required to be kept by CIS Operators (registered as Broker-Dealers).

Records required to be kept under By-Laws 31-38 relate to transactions involving CIS assets and all transactions in CIS shares or units or interests, including the following:

- all purchases and sales of securities;
- all receipts and deliveries of securities including certificate numbers;
- the unit and aggregate purchase or sale price, if any, in detail;
- the assets, liability and capital accounts and the income and expenditure accounts;

- securities in transfer;
- securities that the registrant should have but has not received or has failed to deliver;
- the location of all securities sold long, and the position offsetting securities sold short;

The New By-Laws require that registrants maintain records in a manner that permits them to be provided promptly to the TTSEC and such records shall:

- permit the determination of the registrant's capital position;
- permit the identification and segregation of client assets, cash, securities and other property;
- 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;

Where a CIS is going to be distributed solely in another jurisdiction it is not required to be registered in Trinidad and Tobago. Also, where a CIS will be distributed in Trinidad and Tobago and another jurisdiction, registration is applicable in all jurisdictions according to the jurisdiction's law. The TTSEC's registration process does not impact nor is it impacted by another jurisdiction's registration process.

Conflicts of Interest and Operational Conduct

At present, there are no provisions requiring a CIS Operator to seek to minimize potential conflicts of interest and to ensure that any conflicts are identified and properly managed.

However, this is contemplated in the proposed Code of Conduct for Businesses (Guideline 15).

The TTSEC is currently in the process of drafting Guidelines with respect to conduct by its registrants. Notwithstanding the current stage of development however, the legislation and the existing CIS Guidelines do contain the following provisions:

- Segregation of functions – Part VII of the CIS Guidelines states that the manager of a CIS cannot function as the custodian or trustee for the Fund. This separation attempts to ensure that the interests of unitholders/shareholders of the CIS are appropriately managed and safeguarded through appropriate segregation of functions.
- Acting in the best interest of clients – section 98 of the SA 2012 prohibits Operators of a CIS from recommending a trade in a CIS to a client unless he/she discloses in writing to any such person all conflicts of interest or potential conflicts of interest that he/she has, or may have, in respect of the security or the issuer of the security, including any conflict or potential conflict of interest arising from –
 - (i) his/her holdings of securities of the issuer as beneficial owner;

- (ii) any compensation arrangement with any person;
- (iii) his/her acting as underwriter in any distribution of securities of the issuer in the three years immediately preceding; or
- (iv) any direct or indirect financial or other interest in the security or the issuer of the security held by the registrant.

Subsection (2) of the same section of the SA 2012, also provides some guidance with respect to the publication of research containing a recommendation and disclosures necessary to manage conflicts of interest:

“Where a registrant registered under section 51 publishes a research report which is not prepared for a specific client and which recommends generally a trade in security, that research report—

- (a) shall contain the information required in subsection (1)(b); and*
- (b) is exempt from the requirement outlined in subsection (1)(a).”*

By-Laws 29-38 of the SIA By-Laws imposed operational conduct standards for CIS Operators with respect to confirmation of trade to the client, provision of financial information to the client, standards of investments for filing and separate supervision of accounts and pooling. These provisions have been carried over into the New By-Laws (By-Laws 54-65) with additional requirements which include Know Your Customer, discretionary trading and supervision, compliance and risk management systems standards.

The CIS Guidelines promote that all Trustees, Managers, and Custodians, as well as other parties, conduct or act in such a way which is in accordance with fair treatment. The CIS Guidelines focus on the degree of care to be taken by the Operators in a specific case or instance.

As per the time of the self-assessment, the regulatory system does not legislate or otherwise mandate any general and/or specific obligations regarding best execution. It should be noted however, that although there are a significant number of CISs registered with the TTSEC, only three are exchange traded CISs (i.e. listed for trading with the TTSE). Section 96(1) of the SA 2012 prohibits a Broker-Dealer (i.e. a CIS Operator) who has discretionary authority over an account of another from effecting trades that are excessive in volume and frequency for the person whose account he/she has discretionary authority over.

The regulatory system also does not include any general and/or specific obligations regarding underwriting arrangements.

The regulatory system addresses the issue of due diligence with respect to recommending and the selection of investments. Where conflicts of interest exist, there are specific disclosures to be made prior to recommending securities (for investment purposes) by the Operators of a CIS. Additionally, By-Law 61(2) of the New By-Laws mandates that a suitability assessment be performed by a CIS Operator, prior to the execution of trades for or on behalf of its clients. In other words, the CIS Operator must be satisfied that the proposed investment is suitable for the CIS or any other client. Further, Guideline 12 of the CIS Guidelines

requires CIS Operators to exercise good faith and due diligence in the discharge of their duties. Accordingly, in making any investment decision, the CIS Operator must exercise the degree of care and diligence that a reasonably prudent person would exercise in the circumstances.

In relation to fees and expenses, both the SA 2012 and the CIS Guidelines address the issue of fees and expenses. The disclosure required by CIS Operators, prior to recommending securities to its clients, will minimize some of the conflicts, including those arising from the receipt of fees or other benefits, which may arise with respect to a CIS Operator's duty to act in the best interest of investors.

A CIS or its Operator is only entitled to be paid fees or be indemnified out of the CIS's property for its liabilities or expenses where same is provided for in the CIS's constituent documents. The practice has been that, a CIS cannot levy a fee on a member unless such an action is provided for in its constituent documents or otherwise approved by the investors of a CIS (see Guidelines 23 and 25(e) of the CIS Guidelines).

The CIS Guidelines also require that fees and expenses charged directly or indirectly to a CIS must be for amounts reasonably incurred in connection with the administration and management of the CIS. Further, none of the fees and expenses of the formation or initial organization of a CIS, or of the preparation and filing of the initial prospectus of the CIS, shall be charged directly or indirectly to that CIS or holders of securities in that CIS (Guideline 24 of the CIS Guidelines).

Delegation

The regulatory system does not provide/prescribe:

- A clear indication of circumstances under which delegation of the core functions of a CIS Operator is allowed. Notwithstanding the above, it should be noted that although delegation of the manager's responsibilities is unconditional/unrestricted, Guideline 12 of the CIS Guidelines provides that the CIS Operator (manager) will be held ultimately responsible for any losses arising out of a failure of any person retained by the manager to discharge any of the manager's responsibilities to the CIS. Guideline 12 of the CIS Guidelines prescribes that the agreement under which a person acts as a CIS Operator must provide that the CIS Operator will be held responsible for any losses arising out of its failure or out of the failure of any person retained by it to discharge its responsibilities to the CIS. The agreement must also provide that the CIS Operator or any person retained by it will exercise the powers and discharge the duties of its office honestly, in good faith and in the best interest of the CIS.
- That the CIS Operator retains adequate capacity and resources and have in place suitable processes to monitor the activity of the delegate and evaluate the performance of the delegate.
- Requirements for or prohibitions against the termination of and subsequent re-delegation of the CIS Operator's responsibilities to multiple parties.
- Requirements for disclosure to investors in relation to delegation

	<p>arrangements.</p> <ul style="list-style-type: none"> • For the delegation of the CIS Operator’s responsibilities. • The ability of the CIS Operator to delegate its responsibilities in respect of a CIS. To the extent, however, that the CIS Operator delegates its functions to another entity, that entity would be considered to be a “market actor” under the SA 2012 (see definition at section 4(1)). Section 87 of the SA 2012 provides that all market actors must maintain adequate records of their activities and make these available to the TTSEC. As a consequence, the TTSEC should have access to records even if the CIS Operator delegates some its functions in respect of the CIS. <p>Within the TTSEC, DR&CF deals with the registration and continuous disclosure (financial statements, prospectus amendments) of CISs. Surveillance of the CIS Operators is done by C&I, ongoing supervision with respect to marketing material of CIS Operators is performed by the MR&S and basic analysis of the CIS itself is done by the PR&P.</p> <p>In relation to on-site inspections, the inspections planned:</p> <ul style="list-style-type: none"> • in 2015 – 8 broker dealers (5 performed at the time of the assessment); and • in 2016 – 3 broker dealers and 3 investment advisers. <p>These figures do not include any ongoing monitoring conducted by the division on completed inspections to ensure that risks are being managed and recommendations are implemented by registrants. To date, the inspection team has completed on-site inspections of two mutual fund providers, which has a total of nine funds currently distributed within Trinidad and Tobago, accounting for 63% of the total CIS market. A more recent on-site is currently being undertaken on another provider of four mutual funds.</p> <p>An inspection of the largest CIS Operator in terms of funds under management was conducted jointly with the CBTT since the registrant has been designated a SIFI by the Government of Trinidad and Tobago. SIFIs are regulated by the CBTT, but this entity is principally regulated by the TTSEC since it is registered as both a Reporting Issuer and Broker-Dealer as is the case of any CIS and/or CIS Operator. During this review some significant areas of weakness were identified.</p>
Assessment	Not Implemented
Comments	<p>The Review Team performed a general review of the CIS regime in place at the time of the assessment, rather than a detailed assessment of implementation of each of the Principles 24 to 27.</p> <p>The main findings that have raised concerns with the Review Team are the following:</p> <ul style="list-style-type: none"> • There is no proper CIS and CIS Operator licensing regime, since under the current framework CIS Operators are licensed under

the Broker-Dealer regime which appears to be a catch-all category of registrants under the SA 2012 and with respect to CIS themselves under the Reporting Issuer regime. None of these regimes takes into account CIS and CIS Operators specificities in an adequate manner.

- The majority of the limited substantive provisions in relation to CIS are embedded in the CIS Guidelines, which can only be enforced indirectly. Furthermore, industry compliance with the CIS Guidelines is limited and exemptions to key aspects of those CIS Guidelines have in practice been granted to some players in the market.
- Other elements of the CIS regulations are only in draft form and have not been properly enacted. For example:
 - The Guidelines on Corporate Governance for all Issuers of Securities, which are referred to in the CIS Guidelines were in draft form at the time of the assessment and the TTSEC confirmed to the Review Team that it was not anticipated that they would be approved for issuance before the end of 2015.
 - The Code of Conduct for Businesses Guidelines were in draft form at the time of the assessment and the TTSEC did not anticipate that they would be approved for issuance in the foreseeable future.
- The ongoing off- and on-site supervision of CIS and CIS Operators is very limited.

Based on the above, the Review Team considers that although certain fundamental aspects required in relation to standards for the eligibility, governance, organization and operational conduct of those who wish to operate or market a CIS, as required under Principle 24, are stated in the documentation remitted to the Review Team, the CIS framework needs to be substantially and fundamentally revised.

Such a revamp should focus on putting in place a proper and CIS specific CIS and CIS Operator licensing regime, which is embedded in legislative and regulatory tools which can be properly enforced in a direct manner.

Furthermore, the regime put in place should be applied in a consistent manner to all CIS Operators and no exemptions should be granted. It is also considered that the important concentration of CIS with one single Operator, which can be explained historically, raises concerns in terms of investor protection, amongst others, because of the:

- absence of adequate rules regarding conflicts of interest and business conduct aspects,
- level of exemptions granted with respect to the current regulatory provisions to this player, and
- operational and procedural deficiencies identified during recent off-/on-site inspection of that player in the context of a joint inspection performed by the CBTT and the TTSEC.

<p>Principle 25</p>	<p>The regulatory system should provide for rules governing the legal form and structure of collective investment schemes and the segregation and protection of client assets.</p>
<p>Description</p>	<p><u>Legal Form/Investors' Rights</u></p> <p>CISs are required to submit a prospectus to the TTSEC which must be approved at the time of registration under section 73 of the SA 2012. The CIS Guidelines set out requirements for the contents of the prospectus. These requirements are contained under Schedule 1 of the CIS Guidelines. Schedule 1 Chapter 4 prescribes that the legal structure of the CIS must be disclosed and the principal implications for the securities holders be made known.</p> <p>Chapter 3 also requires that the prospectus contains “<i>a discussion of the risks and other investment considerations that are specific to an investment, in particular the CIS, and which would be considered as material risk by a prospective investor in making an investment decision.</i>”</p> <p>The responsible regulatory authority is the TTSEC.</p> <p>The CIS Guidelines require the separation of functions of the CIS, that is, the trust, custodial and investment management services, to ensure the segregation and protection of client assets. The TTSEC reviews prospectus documents to ensure that such arrangements are maintained. This review will also be carried out when C&I conducts an on-site inspection of the CIS Operator.</p> <p>The present regulatory system does not provide for investors to be notified before changes take effect.</p> <p>Any person wishing to distribute securities in Trinidad and Tobago must file a Prospectus with the TTSEC in accordance with section 73 of the SA 2012 unless an exemption has been sought and granted under section 79. The contents of the Prospectuses are guided by Schedule 1 of the CIS Guidelines. Any material content related changes require an amended Prospectus be filed with, and approved by, the TTSEC under section 77 of the SA 2012. This amended Prospectus must contain “<i>particulars of that material change or material fact as the case may be, together with the prescribed fee.</i>”</p> <p>The CIS Guidelines places nomenclature and borrowing limits on CISs under Guidelines 8 and 18-21, respectively. Guideline 8 ensures that the name attached to the CISs are not misleading in terms of the investment strategy employed by the CISs. Money market funds with the term “money market” in its name are required to hold no less than 90% of its portfolio of assets invested in any or all of: (i) cash; (ii) cash equivalents; and (iii) evidence of indebtedness, other than cash equivalents, that have remaining terms of maturity of not more than one year. Further, CISs with the term “Bond” included in its name are required to hold no less than 70% of its portfolio assets invested in bonds, debentures, note or similar instruments that have an original tenor of more than one year.</p>

CISs with names that suggest the pursuit of a particular investment strategy are required to have no less than 80% of the fund's assets invested in pursuit of that strategy.

CISs are also subjected to borrowing limits under Guideline 21 which states that a CIS cannot borrow cash or non-cash or provide a security interest over any of its portfolio assets unless the transaction is temporary and is for the purpose of accommodating requests for the redemption of securities while the CIS effects an orderly liquidation of portfolio assets. In these circumstances the outstanding amount of all borrowings cannot exceed 5% of the portfolio of assets at the market value at the time of the borrowing.

The content of prospectuses as outlined by Schedule 1 of the CIS Guidelines Chapter XII requires that prospectuses include a list of all investment restrictions imposed on the CIS inclusive of those other than what is contained under the Guidelines. At the point of registration the inclusion of this requirement is verified. Ongoing monitoring to ensure that the restrictions are being followed is done via:

- the disclosure of a Statement of Investment Portfolio (Guideline 31). This statement would include the name of each issue of security, the aggregate market and face value of each security as well as the coupon or yield of same. This information would allow the TTSEC to verify that the CISs are maintaining their restrictions as set out in the Prospectuses. It should be noted that at present this statement is not actively submitted by CISs to the TTSEC. The information to be submitted under this statement is currently under review by the TTSEC;
- the conduct of compliance reviews and the issuance of compliance directives; and
- if the TTSEC receives complaints/tips and wishes to undertake reactive surveillance based on internal referrals from other divisions, to detect and investigate compliance breaches, it can initiate a desk-based review. Once a breach has been detected, the matters are referred to LA&E for enforcement action where applicable.

The TTSEC collects all service provider agreements, which are reviewed in conjunction with the prospectus for the CIS. The agreements collected include but are not limited to – Distributor Agreement, Manager Agreement and Declaration of Trust.

Separation of Assets/Safekeeping

At present the regulatory system does not provide for the segregation of client assets and investor rights.

Any cash received by the principal distributor of securities of a CIS for investment in, or on the redemption of, securities of the CIS must be accounted for separately and deposited in a Trust account(s) established and maintained in accordance with Part XV of the CIS Guidelines. This cash may only be co-mingled with cash received by the distributor for the

sale, or on the redemption, of securities of the CIS. Further, the distributor may only withdraw cash from the Trust account(s) for the purpose of:

- remitting to the CIS the net amount to be invested in securities of the CIS;
- remitting to the relevant person, redemption or distribution proceeds being paid on behalf of the foreign CIS; or
- paying fees and expenses that are payable by a holder of securities of a CIS in connection with the purchase, conversion, holding, transfer or redemption of securities of the CIS.

Similar provisions exist for foreign CISs distributed in Trinidad and Tobago in Part XIX of the CIS Guidelines.

The CIS Guidelines provide for the portfolio assets of a CIS to be held by a Custodian and ensure that the Custodian provides the standard of care and responsibility for any losses that may occur arising out of the failure of the Custodian to exercise or discharge its duties (Guidelines 14 and 16). Further, Guideline 17 specifically provides that assets not registered in the name of the CIS must be registered in the name of the Custodian of the portfolio assets with designation in the records of the Custodian sufficient to demonstrate the beneficial ownership of the portfolio assets is vested in the CIS. The Custodian can deposit the portfolio assets with a clearing agency provided that the records of the clearing agency show sufficient designation of the beneficial ownership of the assets is vested in the CIS.

However, Guideline 10 of the CIS Guidelines stipulates that the Operator of a CIS cannot act as the Trustee or Custodian of the CIS. Where an affiliate of the Operator acts as the Trustee or Custodian of the CIS the majority of the board of the affiliate must not consist of directors or be managers of the Operator's board.

In order to qualify as a CIS Custodian, an entity must be licensed under the Financial Institutions Act, 2008. Licensees include banks and non-bank financial institutions which are incorporated or otherwise continued in Trinidad and Tobago under the Companies Act or a foreign financial institution with a branch office in Trinidad and Tobago.

Under the provisions contained in the SA 2012 and the CIS Guidelines it is further clarified that:

- Protection against losses or insolvency is provided for by the inclusion in the CIS Guidelines of qualifying requirements for Manager/Custodians in terms of status or resources (Guidelines 11 and 15). This ensures that capable and qualified management systems are in place to protect the client assets. Guideline 12 addresses the standard of care which would ensure that the CIS is managed with a certain degree of due diligence and good faith.
- Periodic Inspections/Compliance Reviews/Oversight of Custodians: Early signs of insolvency may be discovered by this mechanism as provided for in sections 87-90 of the SA 2012.

	<ul style="list-style-type: none"> • Inadequate record keeping is a key risk identified around the custody of client assets. This would be satisfied by the proper maintenance of records. Guideline 39 makes provision for a CIS maintaining complete and accurate records of names, addresses as well as the number, class and other details of registered holders of the CIS. • Separation of assets from the assets of management, related entities, other schemes and the Custodian itself. Guidelines 17 and 26 are relevant. Guideline 26 makes provision for the separate accounting for cash received for a CIS by a distributor of the CIS. <p>In relation to the orderly winding up of a CIS business, the TTSEC may revoke the registrant’s registration and apply to the Court for a receiver/manager to be appointed.</p> <p>In terms of requirements for prior notice/approval by investors when a change takes effect, there are no proper requirements. Guideline 25 states that where specific changes with respect to the structure and organization of a CIS occur, the prior approval from registered holders is required. However, the definitive list of changes outlined in Guideline 25 does not include changes which affect the “investors rights” <i>per se</i> nor does it require notification of other changes (which affect investors rights) to be disclosed to investors prior to changes occurring. Furthermore, there are no provisions in legislation or the CIS Guidelines for investors to redeem from a CIS, without cost, after a material change occurs, unless the constituent documents for the CIS specify otherwise.</p>
Assessment	Not Implemented
Comments	<p>The Review Team performed a general review of the CIS regime in place at the time of the assessment, rather than a detailed assessment of implementation of each Principle.</p> <p>From the Review Team’s point of view, it is considered that although certain fundamental aspects in relation to the requirement that regulation should require disclosure (as set forth under the IOSCO Principles for Issuers), which is necessary to evaluate the suitability of a CIS for a particular investor and the value of the investor’s interest in the CIS (as required under Principle 25), are stated in the documentation remitted to the Review Team, a majority of those provisions are not reflected in properly enacted legislation or regulation. Furthermore, the current regime lacks substantive provisions, specifically in relation to requirements under Principle 25 regarding certainty on the interests of participants in CIS and their related rights.</p> <p>The current regime should also be revised from the perspective of separation of assets/safekeeping requirements, so to introduce clear rules in relation to safekeeping and recordkeeping of CIS assets to ensure the physical and legal integrity of the CIS assets. In this context, the rules to be put in place should be of a directly enforceable and mandatory nature and clearly spell-out a regime which ensures that CIS assets are at all</p>

	<p>times readily identifiable in the custodian's books and records as belonging to a given CIS.</p> <p>The rules should further ensure that in practice the custodian is effectively separate from that entity and that no co-mingling of the CIS assets with the own assets of the CIS Operator, its trustee or the appointed custodian can occur throughout the custody chain. Guidance in relation to the regime to be put in place is provided by the November 2015 IOSCO report on <i>Standards for the Custody of Collective Investment Schemes' Assets</i>.</p>
<p>Principle 26</p>	<p>Regulation should require disclosure, as set forth under the principles for issuer, which is necessary to evaluate the suitability of a collective investment scheme for a particular investor and the value of the investor's interest in the scheme.</p>
<p>Description</p>	<p>The objective of a prospectus regarding the distribution of the securities of a CIS is:</p> <ul style="list-style-type: none"> • to provide information concerning the CIS that an investor needs in order to make an informed investment decision; and • to provide full, true and plain disclosure of all material facts relating to the CIS and the securities to be distributed. <p>Given the importance of a prospectus to an investor's ability to make an informed decision, there are numerous requirements, contained within the legal framework (i.e. the SA 2012 and its associated CIS Guidelines) in respect of same.</p> <p><u>General Prospectus Requirements</u></p> <p>The CIS Guidelines are used in conjunction with all other applicable legislation or guidelines administered by the TTSEC such as the SA 2012, and the New By-Laws, but no specific investor rights are legislated by way of law/guidelines.</p> <p>Furthermore, the regulatory system does not specifically require offering documents to contain information on the rights of investors with the exception of the investor's right to withdraw from an agreement to purchase securities issued by way of a prospectus. It should be noted however that this information is usually included in the Declaration of Trust Agreement as market practice.</p> <p>Section 73 of the SA 2012 requires that in order for a security to be distributed within Trinidad and Tobago, a prospectus must be filed with and receipted by the TTSEC. A CIS Operator who receives an order or subscription for a CIS offered by way of a distribution, must also send or deliver to such person a prospectus, or amended prospectus, as the case may be, within two business days after the order or subscription is received (section 75(1) of the SA 2012). Further, a person shall not solicit the purchase or sale of a security by way of advertisement in connection with a distribution of a security unless a receipt for the prospectus has been issued by the TTSEC (section 74(1) of the SA</p>

2012).

Where a receipt has been issued for a prospectus filed with the TTSEC under section 73 in respect of a proposed distribution of securities and there is a material change and/or a material fact occurs, the issuer is required to file with the TTSEC an amended prospectus containing particulars of that material change or material fact, as the case may be, and every prospectus thereafter sent or delivered to any person shall include the amended prospectus (section 77(1) of the SA 2012).

TTSEC's CIS Guidelines and PPS further expands upon the content and disclosure required for a prospectus as well as conduct/operating requirements for CISs.

Content Requirement for a Prospectus – Information Material to Valuations

The CIS Guidelines require that the methodology for calculating the NAV of a CIS be included in the prospectus for the CIS. In addition to the methodology, the frequency of the valuation as well as the circumstances, if any, under which there would not be a valuation are also required to be documented (Chapter 6 of Schedule 1 Form No. 1 of the CIS Guidelines).

In relation to fees and expenses of a CIS, the CIS Guidelines require that the prospectus for a CIS must contain a summary of all fees and expenses payable directly by the CIS and/or by holders of securities in the CIS. The management expense ratio of the CIS for the last four completed financial years of the CIS, or if the CIS has not completed four financial years, for each completed financial year since the organization or constitution of the CIS is to be documented in the prospectus, inclusive of the methodology for calculating same and any assumptions made (Chapter 8 of Schedule 1 Form No. 1 of the CIS Guidelines).

Guidelines 22 and 23 of the CIS Guidelines further require a CIS and/or its Operators to calculate the NAV and the management expense ratio for a CIS in accordance with the methodology set forth in the most recently filed prospectus, including any amended prospectus, of the CIS for which a receipt has been issued by the TTSEC.

Fundamental Changes Requiring the Prior Approval of Holders of a CIS

Guideline 25 of the CIS Guidelines requires that CIS holders must be informed of, and approve, specific changes to be undertaken by a CIS. As such, where any of the following changes are to take effect, the prior approval of the registered holders of the securities is required:

- a change to the methodology used to calculate the NAV per security of the CIS; and
- an increase in fees or expenses charged to the CIS, including, but not limited to, an increase in management fees.

Information Relative to the Importance and Location of a Prospectus

According to the PPS, all media releases, advertisement and promotional material in relation to a CIS shall include the disclaimer “*important information concerning the investment goals, risks, charges and expenses is contained in the prospectus. Investors should carefully consider these before investing*” (Standard 2.1). Additionally, a statement containing information as to where a prospectus can be located must be given.

The instructions for the prospectus disclosure requirements for a CIS requires that the “*disclosure must be understandable to readers and presented in an easy to read format. If technical terms are required, clear and concise explanations should be included*”.

Part XVI of the CIS Guidelines prescribes the requirements for the Financial Statements and Management Discussion of Performance for a CIS. More specifically, Guidelines 28-30 specify what types of reports must be contained in the CIS’s Annual Comparative Financial Statements, Semi-Annual Reports, and Monthly Reports, respectively. Guidelines 31-35 further specify what types of information should be presented in the CIS’s financial statements and Volume Reports and Guideline 38 prescribes what must be included in the Management Discussion of Performance.

In addition to the above, Schedule 1 of the CIS Guidelines contains a form which prescribes the prospectus disclosure requirements for CISs. The form specifies the format for the prospectus and includes what disclosures and disclaimers must be made by the CIS Operator.

Schedule 1 Chapter 5 of the CIS Guidelines prescribes the prospectus requirements with respect to the investment objectives and investment strategies of the CIS. Further Chapter 5 subsection 5 requires that the prospectus contain a “*brief statement of the suitability of the collective investment scheme for particular investors, describing the characteristics of the investors for whom the collective investment scheme may or may not be an appropriate investment*”. The statement must also include “*the level of investor risk tolerance that would be appropriate for an investment in the collective investment scheme.*”

Chapter 3 of Schedule 1 also requires that the prospectus contain a discussion of the risks and other investment considerations that are specific to that CIS, including what a potential investor would consider material risks.

Schedule 1 Chapter 8 sets out the prospectus requirements as they relate to the fees and expenses. The prospectus must include a summary of the fees payable by both the CIS and holders of the securities of the CIS. It must also include the management expense ratio for the last four completed financial years, or if the CIS has not completed four financial years, for each completed financial year since the CIS was constituted, as well as the methodology used by the CIS Operator to calculate the said expense ratio, including all assumptions used.

Schedule 1 Chapter 1 of the CIS Guidelines requires that the prospectus

include the date of issuance on its cover page.

Schedule 1 Chapter 4 requires that the prospectus include a description of the legal structure of the CIS, that is, whether it is organized as a company/corporation, unit trust or trust as well as the principal implications to a holder of securities of the CIS resulting from its structure.

Schedule 1 Chapter 10 of the CIS Guidelines requires that a statement of rights be included in the prospectus. The statement, which is set out in By-Law 8 of the Proposed Prospectus By-Laws (which are not yet in force) is as follows:

“The Securities Act, [2012], as amended, and the by-laws thereunder, provide purchasers with the right to withdraw from an agreement to purchase securities. This right may be exercised within two business days after receipt of a prospectus or any amendment. The securities legislation further provides a purchaser with remedies for rescission or damages if the prospectus or any amendment contain a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation. The purchaser should refer to the Securities Act, [2012], as amended and the by-laws thereunder, for the particulars of these rights or consult with a legal adviser.”

Schedule 1 Chapter 1 of the CIS Guidelines requires that the name of the manager of the CIS be included on the cover page of the prospectus. Chapter 2 subsection 3 states that a directory must be included in the prospectus which, among other things, contains the names and telephone number of the manager of the CIS as well as the names and business addresses of the individual principally responsible for managing the CIS, the trustees of the CIS, the directors of the CIS.

Further, Schedule 1 Chapter 4 of the CIS Guidelines stipulates that the prospectus must include information on, inter alia, the following persons:

- the manager;
- the director(s) or trustee(s); and
- the principal distributor of the securities of the CIS.

For each of the persons listed above, the prospectus must:

- briefly describe the services that are provided to the CIS;
- disclose the person’s address;
- disclose the fees paid to the persons for services provided to the CIS.

Schedule 1 Chapter 6 of the CIS Guidelines stipulates that the prospectus of a CIS must state the methodology used by the manager to calculate the NAV per security of the CIS including all assumptions used, the frequency of the valuation and the circumstance under which there would not be a valuation.

Further, Guideline 28 of the CIS Guidelines requires that published audited annual comparative financial statements include, inter alia, a statement of change in net assets prepared in accordance with

Guideline 22.

Schedule 1 Chapter 13 of the CIS Guidelines requires that the prospectus include instructions describing how to subscribe for, or purchase, the securities of the CIS being distributed under the prospectus. The address(es) where completed subscriptions must be sent, as well as instructions as to whom payment must be made, must also be stated.

Schedule 1 Chapter 9 of the CIS Guidelines prescribes that the prospectus must include the annual comparative financial statements of the CIS, filed with the TTSEC, for each of the three most recently completed financial years that have ended more than 90 days before the date of the prospectus. The prospectus must also include the interim financial statements of the CIS, filed with the TTSEC, for the most recently completed interim period that has ended more than 60 days before the date of the prospectus.

According to Schedule 1 Chapter 11 of the CIS Guidelines, the prospectus must include a list and the key particulars of the material organizational or constituent documents of the CIS. A material organizational or constituent document is defined as a contract or agreement that can reasonably be regarded as material to a prospective investor and includes, but is not limited to, any agreement with the manager, investment adviser, custodian or principal distributor of the CIS. The key particulars include:

- the date of the contract;
- the parties to the contract;
- the general description of the nature of the contract; and
- the termination provisions.

Further, the prospectus must state a reasonable time and place in Trinidad and Tobago at which the material organizational or constituent documents may be inspected, without charge, during the period in which the securities under the prospectus are being distributed.

The fundamental investment objectives of the CIS, inclusive of information that describes the principal features of the CIS and how it is distinguished from other CIS, must be contained in the prospectus. If the CIS primarily invests in, or intends to primarily invest in, a particular geographic location, economic sector, or particular types of issues, a statement to that effect is to be included in the prospectus, immediately following the description of the fundamental investment objectives. In addition to the fundamental investment objectives, the prospectus must state the principal investment strategies that the CIS intends to use to meet its investment objectives. This includes, but is not limited to, the investment approach, philosophy and style or technique by which the investment adviser to the CIS selects or intends to select securities for the portfolio assets of the CIS (Schedule 1 Chapter 5 of the CIS Guidelines).

Schedule 1 Chapter 3 of the CIS Guidelines states that the CIS prospectus should include a brief discussion of the risks and other investment considerations that are specific to an investment in the particular CIS and which would be considered as material risks by a prospective investor in making an investment decision.

Section 76(1) of the SA 2012 provides that a prospectus shall contain full and true disclosure in plain language of all material facts concerning the issuer and the securities to be distributed, and shall comply with the prescribed requirements. Schedule 1 Chapter 4 of the CIS Guidelines requires that affiliated entities, managers and advisers be identified in the offering document.

The TTSEC can refuse to issue a receipt for an offering document under circumstances as outlined under section 82 of the SA 2012. These circumstances include instances where the TTSEC determines that the prospectus or any document filed contains a misrepresentation, statements, promises, estimates or forecasts which are misleading, false or deceptive, fails to disclose any material fact which may be required under the SA 2012 or fails to comply with any requirement under the SA 2012. If the TTSEC considers that an offering document contains a misrepresentation, under section 154(1), it can issue an order instructing that all trading in connection with the distribution of units/shares of the CIS cease immediately and for a period specified by the Board of the TTSEC.

Every CIS prospectus must include a summary of the fees payable by both the CIS and holders of the securities of the CIS.

Where a prospectus does not meet the requirements of the CIS Guidelines, the TTSEC may withhold approval of the registration of the CIS until the CIS is restructured to meet the requirements of the CIS Guidelines.

Where the CIS cannot be restructured to comply with the CIS Guidelines, and the circumstances permit a departure from the requirements of the Guidelines, the CIS can request an exemption from certain requirements of the CIS Guidelines. These requests are considered on a case-by-case basis. Should the TTSEC approve the exemption requested by the CIS, additional disclosures will be required to be made by the CIS.

So far, and although the TTSEC has the authority to refuse to issue a receipt for an offering document, the TTSEC has not had to take any action in respect of inaccurate, misleading or false information being provided in a prospectus.

The TTSEC has developed the PPS to institute rules for media releases, advertisements and promotional presentations for CISs which prohibit representations in advertisements that mislead potential and existing investors. The PPS also seek to standardize the calculation and presentation of performance results of CISs to facilitate a more meaningful comparison and assessment of CIS performance across the industry. Specifically, Standards 1.3 and 1.4 require that promoters must make reasonable effort to ensure that representations contained in media releases, advertisements and promotional material are fair, accurate and complete and do not contain untrue statements of fact, or omissions that may lead to information contained therein being construed as misleading. Further, Standard 1.6 states that information contained in any promotion must not be inconsistent with factual disclosures made in the prospectus.

If a person fails to comply with any provision contained within the PPS, the TTSEC can issue a compliance direction under section 90 of the SA 2012, mandating the person to comply with the provisions of the PPS.

CIS Guideline 25(4) requires that any changes to: (i) the fundamental investment objectives of the CIS; (ii) the auditor of the CIS; (iii) the manager, unless the successor manager is an affiliate of the existing manager; and (iv) the methodology used to calculate the NAV per security of the CIS, must be included in a supplementary prospectus which is to be filed with the TTSEC in accordance with section 77 of the SA 2012. Any increases in fees or expenses charged to the CIS but not limited to an increase in management fees as well as the suspension and/or termination of the CIS are also covered under the Guideline.

Guideline 28 of the CIS Guidelines outlines the requirements to file with the TTSEC and publish, within 120 days of its financial year end, audited annual comparative financial statements which must include:

- an income statement prepared in accordance with IFRS;
- a balance sheet prepared in accordance with IFRS;
- a statement of investment portfolio prepared in accordance with the Guidelines;
- a statement of portfolio transactions prepared in accordance with the Guidelines;
- a statement of cash flows prepared in accordance with the Guidelines; and
- a statement of change in net assets prepared in accordance with the Guidelines.

Similarly, Guideline 29 prescribes that a CIS must file with the TTSEC and publish, within 60 days of the end of each six month period of its operation, semi-annual reports which must include, inter alia:

- a volume report prepared in accordance with the Guidelines; and
- any other report prescribed by the TTSEC.

Further, a CIS must electronically file with the TTSEC, within 15 days of the end of each month of its operation, a monthly volume report in the form prescribed by the TTSEC (Guideline 30). As per Guideline 35 the volume report must contain, but is not limited to, the subscriptions of units, redemptions of units, number of units in issue and outstanding, number of unitholders, NAV per unit as at the end of the period, and the total assets under management as at the end of the period.

The disclosure of each periodic report is associated with a requisite timeline for publication. For example, the CIS must file the audited annual comparative financial statement within 120 days of its financial year end (Guideline 28 of the CIS Guidelines).

The income statement and balance sheet of the CIS, both audit comparative and semi-annual, must be prepared in accordance with IIFRS under Guidelines 28 and 29 of the CIS Guidelines.

CISs are required under Guidelines 28 and 29 of the CIS Guidelines to

	<p>submit a statement of investment portfolio. The statement is intended to present the investment portfolio of a CIS at the date of submission. A review of the said statement with the investment strategies and objectives stated in the CIS's offering documents would determine if the CIS is in compliance with the regulatory requirements.</p> <p>The SA 2012 provides the TTSEC with several powers to correct any non-compliance with the securities legislation or regulations, these include, inter alia:</p> <ul style="list-style-type: none"> • the issuance of an Order under section 154(1) to cease trading in connection with the distribution of the securities of the CIS, if it is found that the non-compliance is a result of a misrepresentation in the prospectus; and • the TTSEC can under section 89, enter the premises of the Operator of a CIS to inspect its books, records or documents. If, further to the examination of the Operator's books, records or documents, the discrepancy still exists, the TTSEC can issue a compliance direction under section 90 of the SA 2012, requiring that the CIS take the necessary steps to bring itself into compliance with the CIS Guidelines. • For foreign CISs whose home jurisdiction is an approved foreign jurisdiction and which cannot be restructured to comply with the CIS Guidelines, these will be required to make additional disclosures regarding the risks that investors will be exposed to. These registrations are also considered on a case-by-case basis and on the premise that the CIS is accountable to regulators in its home jurisdiction.
Assessment	Not Implemented
Comments	<p>Trinidad and Tobago has made provision for disclosure requirements for CIS that address matters set out under Principle 26.</p> <p>It is the Review Team's view that as for the other CIS related principles under the IOSCO Methodology, the provisions related to Principle 26 are embedded mostly and exclusively in the CIS Guidelines and other related Guidelines such as the TTSEC PPS, which can only be enforced indirectly. Furthermore, exemptions to key aspects of the CIS Guidelines have, in practice, been granted to major players in the market by the TTSEC. As a result, it is considered that the Trinidad and Tobago compliance status, in relation to Principle 26, should be rated as Not Implemented.</p> <p>The Review Team performed a general review of the CIS regime in place at the time of the assessment, rather than a detailed assessment of implementation of each Principle.</p> <p>It should be noted that the IOSCO Principles for Issuers were not part of the review and that consequently no self-assessment information had been provided in relation to, besides others, Principle 16. This being said, the CIS related disclosure regime appears to be based on the disclosure regime generally applicable to issuers in a broad sense,</p>

without taking sufficient account of the specificities required in relation to disclosure aspects under Principle 26 in relation to CIS.

As mentioned above, it is the Review Team's view that some of the fundamental aspects in relation to the requirement that regulation should require disclosure (as set forth under the Principles for Issuers), which is necessary to evaluate the suitability of a CIS for a particular investor and the value of the investor's interest in the CIS (as required under Principle 25), are stated in the documentation remitted to the Review Team. Nevertheless, a majority of those provisions are not reflected in enacted legislation or regulation nor are the existing provisions sufficient to ensure appropriate compliance with all aspects of all the relevant key questions under the IOSCO Methodology for Principle 26. In this context it should be noted that the current rules do not promote nor allow for comparability among various CIS. Furthermore, the effective disclosure of all fees and other charges that may be levied against the assets of a CIS are not properly regulated and not effectively transparent for the investors in most of the CISs, thereby preventing investors from effectively understanding their nature, structure and impact on the CIS performance.

In this context it is to be noted that:

- Part of the prospectus disclosure regime comes from the TTSEC's CIS Guidelines and PPS. The PPS provides minimum standards regarding how a CIS is to be marketed. The PPS are guidelines issued in accordance with section 6(b) of the SIA 1995. These guidelines remain in force pursuant to section 170(2) of the SA 2012 and are enforceable by way of compliance directions. The Guidelines are not a statutory instrument and are only indirectly enforceable.
- The regime in place in Trinidad and Tobago, at the time of the assessment, does provide limited Guidelines on certain concentration/diversification and control restrictions, as well as guidance in terms of investing in illiquid securities, and securities characteristic of the CIS's name and its investment strategy (CIS Guidelines 8 and 20).
- Furthermore,
 - no specific rules on valuation of assets (besides others, see IOSCO Report on *Principles for Valuation of Collective Investment Schemes* – May 2013),
 - no specific rules in relation to liquidity management (besides others, see the IOSCO Report on *Principles of Liquidity Risk Management for Collective Investment Schemes* – March 2013), and
 - no specific provisions in relation to suspension of redemptions (besides others, see IOSCO Report on *Principles on Suspensions of Redemptions in Collective Investment Schemes* – Jan 2012),are covered by the existing framework.
- The requirements for investment policies to be adopted by CIS are governed only through disclosure requirements. Given the

	<p>very general nature of the CIS prospectus disclosures presented to the Review Team, it appears that:</p> <ul style="list-style-type: none"> (i) retail CIS investors are in fact not adequately informed of what the rules and limits, in terms of investments, actually are for a given CIS; and (ii) the CIS Operator benefits from a large discretion in terms of managing the investments of a given CIS. There are, as such, no clear rules on investment policies and restrictions applicable to CISs offered to retail investors, nor are there specific, directly enforceable rules on the disclosure of such investment policies and restrictions, which are left to the discretion of the CIS Operator.
<p>Principle 27</p>	<p>Regulation should ensure that there is a proper and disclosed basis for asset valuation and the pricing and the redemption of units in a collective investment scheme.</p>
<p>Description</p>	<p><u>Asset Valuation</u></p> <p>The regulatory framework does not currently specify requirements for the valuation of CIS assets.</p> <p>The NAV is required, under Guideline 22 of the CIS Guidelines, to be calculated every business day, in accordance with the methodology outlined in the prospectus most recently filed with, and for which a receipt was issued by, the TTSEC. In addition, Guideline 30 of the CIS Guidelines prescribes that a monthly volume report must be filed with the TTSEC within 15 days of the end of each month of the CIS's operation. The volume report must include, inter alia, the NAV as at the end of the period (Guideline 35 of the CIS Guidelines).</p> <p>There are no prescribed requirements for standards in accordance with which NAV must be calculated. The CIS Guidelines only stipulate that the methodology for calculating a CIS NAV must be disclosed in the prospectus filed with the TTSEC and that all NAV calculations must be in accordance with the said methodology.</p> <p>The regulatory framework does not prescribe any requirements in respect of the fair valuation of assets.</p> <p>There are no requirements under the securities legislation that auditors must check the valuation of CIS assets. Notwithstanding, the CIS is required to present audited financial statements to the TTSEC and the holders of securities of the CIS within 120 days of the CIS's financial year end, however, the decision as to the scope of the audit will be made between the auditor and the audited firm.</p> <p><u>Pricing and Redemption Issues</u></p> <p>The regulatory system does not currently require that the constituent documents and/or the prospectus contain the basis upon which investors</p>

	<p>may redeem their units/shares.</p> <p>The regulatory system does not presently provide specific requirements for the pricing of units/shares upon redemption or subscription in a CIS.</p> <p>The regulatory system does not contain provisions/rules/guidance to ensure that the valuations made are fair and reliable.</p> <p>Although there is no requirement for the CIS Operator to publish the price of the CIS on a regular basis, it is common practice for the larger Operators to publish their NAV daily in newspapers of general circulation in Trinidad and Tobago.</p> <p>There are no regulatory requirements, rules of practice, or rules addressing pricing errors in place at present.</p> <p>The regulatory system does not address the general, or specific, circumstances for the: suspension or redemption, or deferral, of routine valuation and pricing, or of regular redemption.</p> <p>The regulatory system does not prescribe rules with respect to asset valuation and pricing.</p> <p>The regulatory system does not require that the regulator be kept informed of any suspension or deferral of redemption rights.</p> <p>The TTSEC has the authority to do all things and take all actions that are necessary, expedient, incidental or conducive to the discharge of any of its functions (section 7(n) of the SA 2012). In the case of a complaint by an investor, the TTSEC may conduct an investigation into the circumstances surrounding redemption and arbitrate between the investor and the CIS where applicable (section 49(2)). Where same may come to the TTSEC other than through a complaint, the TTSEC, on its own volition, may intercede through an administrative proceeding in the public's interest (section 154(2)(d)).</p> <p>It should also be noted that the regulatory system does not require redemption rights for a CIS to be contained in its constituent documents. Nevertheless, the rights for redemptions are included in the constituent documents as a matter of practice. Where the right to redeem unit/shares and/or the terms of a redemption are stated within a CIS's constituent document the TTSEC could seek a Court Order ordering redemptions or take administrative action via a public interest Order as mentioned above.</p>
Assessment	Not Implemented
Comments	<p>The Review Team performed a general review of the CIS regime in place at the time of the assessment, rather than a detailed assessment of implementation of each Principle.</p> <p>It is the Review Team's view that the CIS regulation in place at the time of the assessment does not ensure that there is a proper basis for asset</p>

	<p>valuation and the pricing and the redemption of unit/shares in a CIS, as required under Principle 27.</p> <p>This is mainly given that the substantive rules in place at the time of the review are limited and that those aspects under the current CIS Guidelines are largely left to the discretion of the CIS in terms of applicable rules as well as in terms (level) of disclosure to investors.</p> <p>Also, under the regime in place under the CIS Guidelines, the role of independent auditors is limited to requiring the audit of annual financial accounts of CIS but not the adequate valuation of the CIS assets as such, and part of the CIS are not necessarily subject to an audit by auditors with CIS specific experience.</p>
Principle 28	Regulation should ensure that hedge funds and/or hedge funds managers/advisor are subject to appropriate oversight.
Not Assessed	
Principles for Market Intermediaries	
Principle 29	Regulation should provide for minimum entry standards for market intermediaries.
Not Assessed	
Principle 30	There should be initial and ongoing capital and other prudential requirements for market intermediaries that reflect the risks that the intermediaries undertake.
Not Assessed	
Principle 31	Market intermediaries should be required to establish an internal function that delivers compliance with standards for internal organization and operational conduct, with the aim of protecting the interests of clients and their assets and ensuring proper management of risk, through which management of the intermediary accepts primary responsibility for these matters.
Not Assessed	
Principle 32	There should be procedures for dealing with the failure of a market intermediary in order to minimize damage and loss to investor and to contain systemic risk.

Not Assessed	
Principles for Secondary Markets	
Principle 33	The establishment of trading systems including securities exchanges should be subject to regulatory authorization and oversight.
Not Assessed	
Principle 34	There should be ongoing regulatory supervision of exchanges and trading systems which should aim to ensure that the integrity of trading is maintained through fair and equitable rules that strike an appropriate balance between the demands of different market participants.
Not Assessed	
Principle 35	Regulation should promote transparency of trading.
Not Assessed	
Principle 36	Regulation should be designed to detect and deter manipulation and other unfair trading practices.
Not Assessed	
Principle 37	Regulation should aim to ensure the proper management of large exposures, default risk and market disruption.
Not Assessed	
Principles Relating to Clearing and Settlement	
Principle 38	Securities settlement systems and central counterparties should be subject to regulatory and supervisory requirements that are designed to ensure that they are fair, effective and efficient and that they reduce systemic risk.
Not Assessed	

