

Securities

SECURITIES REGULATIONS, 2002

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SECURITIES REGULATIONS, 2002

2002/119.

Authority: These Regulations were made on 5th October, 2002 by the Minister under section 126(7) of the *Securities Act*.

Commencement: 17th October, 2002

PART I**PRELIMINARY**

1. These Regulations may be cited as the *Securities Regulations, 2002*. Short title.

2. The fees payable under the Act are those set out in the *First Schedule*. Fees.
First
Schedule.

3. The forms set out in the *Second Schedule* shall be used in all cases to which they are applicable. Forms.
Second
Schedule.

PART II**THE SECURITIES COMMISSION**

- 4.** (1) This Part applies to Application.
- (a) each member of the Commission;
- (b) the General Manager; and
- (c) each officer, clerk or other person who is employed by the Commission or who holds office or an appointment under the Act or these Regulations, or any person to whom any authority has been delegated by the Commission.

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(2) Regulations 4 and 5 do not apply to transactions in

(a) personal promissory notes; or

(b) securities issued by or guaranteed by the Government of Barbados, a statutory board or by a foreign Government.

(3) Regulation 6 does not apply to an associate within the meaning of paragraph (d) of the definition of "associate" in section 2 of the Act where that associate effects the purchase or trade in his sole discretion and, where applicable, provides the necessary funds from his personal resources.

Limitations
on actions.

5. A person to whom this Part applies

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

(b) shall not act in a manner that might result in or create the appearance of

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

(ii) a person receiving preferential treatment;

(iii) loss of independence or impartiality; or

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

(c) shall not divulge or release, in advance or otherwise, confidential, non-public or official information to a person unless authorised under the Act or these Regulations;

(d) shall not act as an official in a matter in which he has a personal interest;

- (e) shall not be involved, directly or indirectly, in any business or financial affairs in respect of matters which may conflict with his official duties or responsibilities; or
- (f) shall not, 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.

6. (1) A person referred to in regulation 4(1)(c) shall not, whether directly or through an associate, purchase or trade in a security of an issuer with knowledge of a material fact or material change in respect of that issuer that he knows or ought reasonably to know has not been generally disclosed. Transac-
tions.

- (2) A person to whom this Part applies
 - (a) shall not, where he knows a fact or change in the affairs of an issuer and that the fact or change is a material fact or change, inform, other than in the necessary course of duty, another person of that material fact or change before it has been generally disclosed;
 - (b) shall not purchase or trade in a security of an issuer when in respect of any security held or issued by that issuer
 - (i) a filing by way of prospectus or amended prospectus is being processed;
 - (ii) 90 days have not elapsed since the date on which a receipt for the prospectus was issued;
 - (c) shall not purchase or trade in securities of
 - (i) an issuer whose status is, under the Act or these Regulations, being investigated or otherwise considered to determine the application of a provision of the Act or these Regulations; or

- (ii) a person who is involved in a pending investigation by the Commission or who is involved in a proceeding before the Commission or to which the Commission is a party.

Reporting to the Minister or Commission.

7. (1) At the time of taking office or employment with the Commission, a person referred to in regulation 4(1) shall, in writing, disclose his direct or indirect beneficial ownership of, or control or direction over, securities

- (a) in the case of members of the Commission, to the Minister;
- (b) in the case of all other such persons, to the Chairman of the Commission.

(2) Each member of the Commission shall report to the Minister, and every other person referred to in regulation 4(1)(b) or (c) shall report to the Commission, within 14 days following the end of the month in which a change occurs in the member's or person's direct or indirect beneficial ownership of, or control or direction over, securities, disclosing

- (a) the change or changes that occurred during that month; and
- (b) his direct or indirect beneficial ownership of, or control or direction over, securities at the end of that month.

(3) The Minister may require a person to dispose of a security acquired as a result of an unintentional or accidental violation of regulation 8.

Disclosure of interest.

8. Every person referred to in regulation 4 who

- (a) has any interest in a security, or any personal interest in any issuer or project that is the subject or part of the subject of any matter assigned to him as part of his duties; or
- (b) had prior employment with or relationship to any person or project which may prejudice or affect his work on any assignment,

shall, in the case of a member of the Commission, advise the Minister and, in any other case, advise the Chairman of the Commission.

PART III

SELF-REGULATORY ORGANISATIONS

9. Application for registration as a self-regulatory organisation under Part IV of the Act shall be made in Form No. 1 in the *Second Schedule*.

Application for registration. Second Schedule.

10. (1) For the purposes of sections 47(4) and 49(4) of the Act, free capital shall be capital which is held in the form of fixed or other deposits with a financial institution licensed under the *Financial Institutions Act, 1996* and held in the form of securities as approved by the Commission, for the purpose of meeting claims that may arise against a broker or dealer, as the case may be.

Free capital.

Cap. 324A.

(2) For the purposes of section 47(4)(a) of the Act, the minimum free capital shall be of a value of at least \$100 000.

(3) For the purposes of section 47(4)(b) of the Act, the minimum free capital shall be the value of at least \$500 000.

(4) For the purposes of section 49(4)(a) of the Act, the minimum paid up capital or the minimum free capital, as the case may be, shall be the value of at least \$1 000 000.

(5) For the purposes of section 49(4)(b) of the Act, the minimum paid up capital or the minimum free capital, as the case may be, shall be the value of at least \$5 000 000.

11. (1) For the purposes of section 52(3)(d)(ii) of the Act, the capital requirement for an application for registration as

Capital requirement.

(a) an underwriter shall be \$5 000 000; or

(b) an investment adviser shall be \$100 000.

(2) For the purposes of section 53(2)(d) of the Act, the level of capitalisation for an applicant for registration as a securities company shall be as follows:

- (a) where the securities company is to carry on the business of broking only, \$500 000;
- (b) where the business of the securities company is to extend to equities and other securities, \$1 000 000;
- (c) where the securities company is to carry on other activities in addition to broking for which registration under the Act is required, \$5 000 000.

Prescribed records.

12. (1) For the purposes of section 40(1)(a) of the Act, a self-regulatory organisation shall prepare and keep

- (a) a record of transactions in securities crossing the floor of that self-regulatory organisation, and the record shall identify the buying and selling brokers, the price, quantity and name of the securities as well as the names of the buyers and sellers of the securities;
- (b) an annual report containing the report of the board of directors and the annual financial statements;
- (c) a record of all disciplinary matters involving members of the self-regulatory organisation, detailing the nature of the matter and the actions taken.

(2) A self-regulatory organisation shall keep the records and annual report referred to in paragraph (1) for a period of at least 7 years.

PART IV

REGISTRATION OF MARKET ACTORS

- 13.** (1) An application for registration as
- (a) a broker, dealer, trader, investment adviser or underwriter under Part IV of the Act must be in Form No. 2 in the *Second Schedule*; and
- (b) a securities company must be made in Form No. 3 in the *Second Schedule*.
- (2) An application referred to in paragraph (1) shall be accompanied by the prescribed fee.
- 14.** A registrant registered under Part IV of the Act shall maintain at its head office, or, where its head office is located outside Barbados, at its chief place of business in Barbados,
- (a) records that clearly show all of its business transactions and financial affairs that are conducted in Barbados; and
- (b) records mentioned in regulations 17 to 26.
- 15.** A registrant may only record or store information using mechanical, electronic or other devices
- (a) where the method used is not prohibited by law;
- (b) where he takes adequate precautions, appropriate to the methods used, to guard against falsification of the information recorded or stored; and
- (c) where he provides a means for making the information available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the information.

Application for registration as market actor. Second Schedule.

Record keeping by registrant.

Adequate precautions and access.

Exemption
from record
keeping.

16. Where the Commission considers that it would not be appropriate to the business of a registrant, a class of registrants or registrants generally to require the keeping of a record referred to in regulations 17 to 26, the Commission may, in writing, make an order exempting a particular registrant, a class of registrants or registrants generally from maintaining all or some of those records.

Blotters.

17. Blotters or other records of original entry of a registrant under Part IV of the Act shall contain an itemised daily record of

- (a) all purchases and sales of securities;
- (b) all receipts and deliveries of securities, including certificate numbers;
- (c) all receipts and disbursements of cash;
- (d) all other debits and credits;
- (e) the account for which each transaction was effected;
- (f) the name of the securities to which each transaction recorded applies and the class or designation and the number or value of the securities;
- (g) the unit and aggregate purchase or sale price, if any; and
- (h) the trade date and the name or other designation of the person from whom the securities were purchased or received, or to whom they were sold or delivered.

Ledgers.

18. Ledgers or other records of a registrant under Part IV of the Act shall reflect

- (a) in detail, the assets, liability and capital accounts and the income and expenditure accounts;
- (b) securities in transfer;
- (c) dividends and interest received;

- (d) securities borrowed and securities lent;
- (e) money borrowed and money lent, together with a record of related collateral and substitutions in the collateral; and
- (f) securities that the registrant should have but has not received, or has failed to deliver.

19. Ledger accounts or other records of a registrant under Part IV of the Act shall be itemised separately showing Ledger accounts.

- (a) each cash and margin account of each client;
- (b) all purchases, sales, receipts and deliveries of securities and commodities for the account; and
- (c) all other debits and credits to the account.

20. A securities record of a registrant under Part IV of the Act shall show separately for each security, as at the trade date or settlement date, Securities record.

- (a) all long and short positions, including securities in safe-keeping, carried for the registrant's account or for the account of clients;
- (b) the location of all securities sold long, and the position offsetting securities sold short; and
- (c) in all cases, the name or designation of the account in which each position is carried.

21. A record of each order and any other instructions given or received for the purchase or sale of securities, whether executed or not, shall show with respect to each order and instruction Orders and instructions.

- (a) its terms and conditions;
- (b) any modification or cancellation of it;

- (c) the account to which it relates;
- (d) where it is placed by an individual other than
 - (i) the person in whose name the account is operated; or
 - (ii) the individual who is duly authorised to place orders or instructions on behalf of a client that is a company,
the name or designation of the individual placing it;
- (e) its time of entry and, where applicable, a statement that it is entered under the exercise of a discretionary power of the registrant or registrant's employee;
- (f) the price at which it was executed; and
- (g) where practicable, the time of its execution or cancellation.

Confirma-
tion and
notice.

- 22.** A confirmation and notice record shall consist of
- (a) a copy of every confirmation for each purchase and sale of securities required by section 84 of the Act; and
 - (b) a copy of every notice of all other debits and credits of securities, cash and other items for the accounts of clients.

Cash and
margin
account.

- 23.** Subject to regulation 28(2), a record of cash and margin accounts shall show, with respect to each cash account and margin account for each client,
- (a) the name and address of the beneficial owner of the account and of the guarantor, if any;
 - (b) where the trading instructions are accepted from a person other than the client, written authorisation or ratification from the client naming that person; and

- (c) in the case of a margin account, an executed margin agreement containing the signature of the beneficial owner and the guarantor, if any, and any additional information required under regulations 28 and 29; but in the case of a joint account or an account of a company, the record is required only in respect of the person duly authorised to transact business for the account.

24. An option record shall show

Option records.

- (a) all puts, calls, spreads, straddles and other options granted or guaranteed by the registrant or in which he has any direct or indirect interest; and
- (b) the identification of the securities to which the put, call, spread, straddle or other option relates.

25. (1) A quarterly record shall be prepared within 30 days after the end of each quarter, showing

Quarterly records.

- (a) the proof of money balances of all ledger accounts in the form of trial balances;
- (b) a reasonable calculation of the minimum free capital required under sections 47(4) and 49(4) of the Act.

(2) Where a securities company is not a member of a self-regulatory organisation, it shall submit the records mentioned in paragraph (1) to the Commission at the end of each quarter.

26. Registrants registered under Part IV of the Act shall keep records of

Time for keeping records.

- (a) unexecuted orders and instructions under regulation 21 and confirmations under regulation 22 for a period of at least 7 years; and
- (b) executed orders and instructions under regulation 21 for a period of at least 7 years.

Annual
require-
ments of
registrants.

27. A registrant, other than a trader, shall file with the Commission, annually and at any other time as the Commission may require, audited financial statements as to the registrant's financial position that are

- (a) in a form satisfactory to the Commission; and
- (b) certified by the registrant or, in the case of a company, a director, within 90 days after the end of each financial year or, in the case of an individual, before 1st April in each year.

PART V

MARKET CONDUCT AND REGULATION

Confirma-
tion of trade.

28. (1) Where a registered broker conducts a transaction for a client, he shall send to the client within 24 hours after the sale or purchase a written confirmation of the transaction setting out the required information in accordance with paragraph (2).

(2) Where a trading transaction is made in a security, the confirmation of that transaction shall set out

- (a) whether or not the registered broker acted as principal or agent;
- (b) the price at and the consideration for which the sale or purchase was effected;
- (c) the commission charged in connection therewith and any other charges;
- (d) the other registered broker or dealer, if any, involved in the sale or purchase; and
- (e) the date and time at which the purchase or sale took place.

Statements
of financial
condition
and
statements
of account.

29. (1) Subject to paragraph (2), a registered broker

- (a) shall, when requested by a client, provide the client with

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- (i) a copy of the most recently prepared annual statement of the broker's financial condition, as filed with the Commission or with the self-regulatory organisation of which the broker is a member;
 - (ii) a list of the names of the partners or directors and senior officials of the securities company, prepared and certified as of a date not more than 30 days before the request; and
- (b) shall inform its clients on every statement of account or by other means approved by the Commission that the information referred to in sub-paragraph (a) is available on request.

(2) Where the Commission determines that a broker is subject to conditions of registration or to regulations imposed by a self-regulatory organisation that require provision of other appropriate information to clients similar to the information required under paragraph (1), the Commission may, on terms it considers appropriate, exempt the broker from the need to comply with paragraph (1).

30. (1) Every registrant under Part IV of the Act shall make enquiries concerning each client

Enquiries concerning client.

- (a) to establish
 - (i) the identity and, where applicable, the credit worthiness of the client;
 - (ii) if information known to the registrant causes doubt as to whether the client is of good reputation, the reputation of the client; and
- (b) to determine the general investment needs and objectives of the client and the suitability of a proposed purchase or sale for that client.

(2) Paragraph (1)(b) does not apply to a broker in respect of a trading transaction executed by him on the instructions of an investment adviser, a portfolio manager, another broker, a financial institution or an insurance company.

Executing
order name
or code.

31. Where an investment adviser or portfolio manager opens and trades an account on behalf of a client and executes the client's orders in its own name or identifies the client by means of a code or symbol, a broker who transacts business with that investment adviser or portfolio manager concerning those orders shall establish the good standing of the investment adviser or portfolio manager with the Commission, but need not otherwise determine the suitability of a trade for the client of the investment adviser or portfolio manager.

Standards of
investment
for filing.

32. (1) A registrant shall develop written policies that maintain standards ensuring fairness in the allocation of investment opportunities among its clients.

(2) The registrant shall file a copy of its policies under paragraph (1) and shall give a copy of those policies to each client.

(3) This regulation shall come into effect upon the expiration of 6 months after 5th October, 2002.

Separate
supervision
of accounts
and of
pooling.

33. A registrant shall ensure

(a) that the account of each client is supervised separately and distinctly from the accounts of other clients; and

(b) that an order placed on behalf of one client is not pooled with that of another client, except in the case of a mutual fund or pension fund.

Unencum-
bered
securities
held under
safekeeping
agreement.

34. A registrant who holds unencumbered securities for a client under a written safekeeping agreement shall

(a) keep them separate and apart from all other securities;

- (b) identify them in his security position record, clients ledger and statement of accounts as being held in safekeeping for a client; and
- (c) release the securities from the safekeeping agreement only on instructions of the client.

35. For the purposes of section 82(1)(a) and (b) of the Act, the time within which payment shall be made into the trust account shall be 3 working days. Trust accounts.

36. (1) Where a client has a debit or credit balance with a registrant or a registrant is holding a client's securities, the registrant shall send a statement of account to that client at the end of each month in which the client effects a transaction. Statements of account.

(2) Subject to paragraph (1), where a registrant is holding a client's funds or securities on a continuing basis, the registrant shall forward, not less than once in every 6 months, a statement of account to the client showing any debit or credit balance and the details of any securities held.

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

(4) The Commission may, if it considers that it would not be harmful to the public interest, vary the requirements of paragraph (1) as it applies to any registrant.

37. For the purposes of section 92(1)(a) of the Act, the information to be filed with the Commission in relation to a missing, lost, counterfeit or stolen security shall include the name of the security holder, the amount or value of the security, the name of the issuer of the security, any identification number or marks and such other information as the Commission may require. Information to be filed re: lost or stolen security.

PART VI

DISTRIBUTIONS

Variation of requirements. **38.** The Commission may, in writing, vary a requirement of this Part in respect of a particular issuer's prospectus if the variation

- (a) does not inhibit full, true and plain disclosure; and
- (b) is necessary for full, true and plain disclosure.

Presentation of contents of prospectus. **39.** (1) Every prospectus shall have the following printed on the outside front cover:

"The Securities Commission has not in any way evaluated the merits of the securities offered hereunder, and any representation to the contrary is an offence."

(2) Except where the Commission determines that to permit the inclusion of specific graphs, photographs or maps would be misleading or detract from the readability of the prospectus, the prospectus may contain

- (a) graphs that are relevant to matters dealt within the text;
- (b) photographs, if they depict only the product of the issuer; and
- (c) maps for the purpose of indicating the locations for property or operations, present or proposed, of the issuer.

(3) The information contained in a prospectus may be expressed in a condensed or summarised manner that does not obscure the required information or other information necessary for preventing the required information from being incomplete or misleading.

- (4) The information contained in a prospectus shall
- (a) be presented in narrative form;
 - (b) be set out under appropriate headings or captions reasonably indicative of the principal subject matter set out under them; and

(c) contain a reasonably detailed table of contents.

40. (1) Subject to paragraph (2), where an expert is named in a prospectus, block distribution circular or in any record used in connection with or accompanying the foregoing documents as having prepared or certified any part or all of it, including a report or valuation used in or in connection with it, the written consent of that person to being named and as authorising the use of the report or valuation shall be filed no later than when the prospectus, block distribution circular or annual report is filed.

Circular
annual
report.

(2) The Commission may, if it considers that obtaining the written consent referred to in paragraph (1) is impracticable or may involve undue hardship, waive the requirement as to filing referred to in paragraph (1).

(3) An expert who is an accountant or an auditor shall, in his written consent,

- (a) refer to his report, stating the date of it and the dates of the financial statements on which the report is made; and
- (b) include a statement to the effect that he has read the prospectus, block distribution circular, or annual report and has no reason to believe that there are any misrepresentations in it that
 - (i) may be derived from the financial statements on which he reported; or
 - (ii) are within his knowledge as a result of his audit of the financial statements.

41. Where the consent of the expert referred to in regulation 40(1) is required to be filed under that regulation and that person

Disclosure
in prospec-
tus where
expert has
interest.

- (a) has received or expects to receive an interest, direct or indirect, in the property of the issuer or of an associate or affiliate of the issuer;

- (b) beneficially owns, directly, a security of the issuer or of an associate or affiliate of the issuer; or
- (c) is expected to be or is in fact elected, appointed or employed as a director, officer or employee of the issuer or of an associate or affiliate of the issuer,

the issuer shall disclose in the prospectus, block distribution circular or annual report the interest, ownership or expectation or fact, as the case may be.

Further consents. **42.** Where a change is proposed to be made in a prospectus which, in the opinion of the Commission, materially affects a consent given under regulation 40, the Commission may require a further written consent to be obtained and filed under that regulation before accepting the prospectus, block distribution circular or annual report for filing.

Limited offerings. **43.** For the purposes of section 69(4) of the Act, the time within which the offer is to be made is 28 days from the date on which the agreement is filed with the Commission.

PART VII

FINANCIAL STATEMENTS

Financial statements in prospectus of issuer other than mutual fund. **44.** (1) Subject to paragraph (3), a prospectus of an issuer shall contain

- (a) an income statement of the issuer for
 - (i) each of its last 3 financial years or such other period as the Commission determines;
 - (ii) any part of a subsequent financial year to the date at which the balance sheet required by sub-paragraph (d) is made up;

- (b) a statement of retained earnings of the issuer for each financial year and part of a financial year covered by the income statement required by sub-paragraph (a);
- (c) subject to paragraph (3), a statement of changes in cash flow of the issuer for each financial year and part of a financial year covered by the income statement required by sub-paragraph (a);
- (d) a balance sheet of the issuer
 - (i) as at a date not more than 120 days before a receipt is issued for the prospectus by the Commission;
 - (ii) subject to paragraph (2), as at the corresponding date of the previous financial year.

(2) Where the balance sheet required by paragraph (1)(d)(i) is at a date other than a financial year end, the balance sheet required by paragraph (1)(d)(ii) may be omitted if the prospectus contains a balance sheet as at

- (a) the most recent financial year end; and
- (b) the financial year end immediately preceding the most recent financial year end.

(3) Every prospectus of an issuer engaged primarily in the business of investing shall include a statement of changes in net assets instead of the statement of changes in cash flow required by paragraph (1)(c).

(4) Where the securities to which a prospectus relates are debt securities and the payment of principal or interest is guaranteed, the prospectus shall contain the financial statements required by paragraph (1) with respect to the guarantor.

(5) Where the financial statements required by paragraph (1) relate to part of a financial year, the prospectus shall contain an income statement, a statement of retained earnings and a statement of changes in cash flow for the comparable period in the preceding financial year.

(6) The Commission may exempt an issuer from including in a prospectus any record required by this regulation if it considers that it is not contrary to the public interest to do so.

Additional
contents of
prospectus
and
acquisition
of business.

45. (1) The Commission may permit or require a prospectus to contain, as part of the financial statements, a *pro forma* balance sheet and income statement for 2 years of the issuer and of all its subsidiaries

- (a) as at the date on which the balance sheet required by regulation 44(1)(d)(i) is made up; and
- (b) giving effect to
 - (i) the name and sale or redemption or other retirement of securities issued or to be issued by the issuer; and
 - (ii) other transactions that the Commission permits or requires.

(2) Where the proceeds of the securities offered by a prospectus are to be applied in whole or in part, directly or indirectly, to finance the acquisition of a business by a purchase of assets or shares, the Commission may permit or require the inclusion in the prospectus of

- (a) the financial statements referred to in regulation 44(1)(a), (b), (c) and (d)(i) for the respective periods or as at the date specified in that paragraph, of the business that is to be acquired; and
 - (b) a *pro forma* balance sheet combining the assets and liabilities of the issuer and the business that is to be acquired as shown by their respective balance sheets as at the date referred to in regulation 44(1)(d)(i) or the other date that the Commission permits or requires.
- (3) Subject to paragraph (6), where
- (a) the proceeds of the securities offered by a prospectus are to be applied in whole or in part, directly or indirectly, to finance the acquisition of a business by a purchase of assets or shares; and

(b) the Commission is satisfied that it would be meaningful to investors and necessary for full, true and plain disclosure of all material facts relating to the securities, the Commission shall require *pro forma* financial statements to be included in the prospectus for a period of not more than one year immediately before the date referred to in regulation 44(1)(d)(i), and may permit or require *pro forma* financial statements to be included in the prospectus for a period of not more than 3 years before that date.

(4) An auditor's report prepared in connection with the *pro forma* financial statements referred to in paragraph (2) or (3) need only report on the manner in which those statements are compiled.

(5) Where, under paragraph (2), the Commission permits or requires one or more of the financial statements of a business that is to be acquired for inclusion in a prospectus, regulations 46 and 47 apply, as appropriate, to the financial statements of the business to be acquired.

(6) The *pro forma* financial statements shall combine, year by year,

(a) the income or losses of the issuer with the income or losses of the business to be acquired; and

(b) the changes in financial position of the issuer with the changes in cash flow position of the business to be acquired.

46. (1) Subject to paragraph (2), a prospectus relating to

(a) an issue of debt securities having a term to maturity in coverage in excess of one year; or

(b) an issue of preferred shares,

Statements
of assets
coverage
and earnings
coverage in
prospectus.

shall contain statements of assets coverage and earnings coverage.

(2) Paragraph (1) does not apply to a prospectus relating to securities of a newly organised issuer.

(3) The Commission may, where it considers that it would not be harmful to the public interest, order that paragraph (1) does not apply to the prospectus of an issuer.

Estimates of
future
earnings in
prospectus.

47. (1) In this regulation,

"distributing firm" means a registrant that is an underwriter with respect to a distribution and includes the issuer of the securities being distributed if the issuer is registered as a security issuer;

"forecast"

(a) means a written estimate of the most probable results of operations of an issuer, alone or together with one or more of its affiliates, that contains any or all of

- (i) an estimate of earnings or a range of earnings;
- (ii) an estimate of the most probable financial position;
- (iii) an estimate of changes in cash flow, for one or more periods that are future periods not completed when the estimate is made; but

(b) does not include

- (i) an estimate that is prepared in the ordinary course of business and without reference to a specific distribution of securities; and
- (ii) an estimate that appears in a compendium of estimates relating to a number of issuers or in a publication that is distributed regularly to investors or prospective investors, who are not selected because of their potential interest in a specific issue of securities.

(2) The Commission may permit the inclusion of a forecast in a prospectus and, if it does so,

- (a) the forecast shall be identified as such in the prospectus; and
- (b) the prospectus shall include the written comments of an accountant who is a member, in good standing, of the Institute of Chartered Accountants of Barbados concerning the accountant's review of the forecast.

(3) No distributing firm, during the course of a distribution of securities for which a prospectus is required to be filed under the Act, shall disseminate a forecast with respect to the issuer of those securities unless the forecast is set out in the prospectus and what is disseminated by the distributing firm consists solely of that forecast or a reasonable extract from it or a summary of it.

48. The Commission may direct that separate financial statements of a subsidiary of an issuer be included in a prospectus of the issuer, whether or not the financial statements of the subsidiary are consolidated with the financial statements of the issuer contained in the prospectus.

Financial statements of subsidiary.

49. The Commission may permit unconsolidated financial statements to be included in a prospectus as supplementary information.

Unconsolidated financial statements.

50. (1) Where an issuer whose financial statements are included in a prospectus has, or is required to have, an audit committee of its directors, each financial statement included in the prospectus shall be submitted for review by the committee before approval is given to it by the directors.

Approval of financial statements in prospectus.

(2) The statements referred to in paragraph (1) shall be approved by the directors and signed manually by two of them who are duly authorised to signify approval.

Financial
statements
not
requiring
audit.

51. (1) A financial statement that is included in a prospectus and relates to any part of a financial year subsequent to the last audited financial year of the issuer need not be reported on by an auditor where

- (a) that part of the financial year ended
 - (i) not more than 90 days before the date on which a receipt was issued for the prospectus;
 - (ii) not more than 12 months after the last audited financial year; and
- (b) the issuer's balance sheet as at the end of the latest audited financial year is included in the prospectus.

(2) An auditor need not report on

- (a) the balance sheet referred to in regulation 44(1)(d)(ii);
- (b) the income statement, the statement of retained earnings and the statement of changes in cash flow and the *pro forma* balance sheet, for the same period for an acquired business referred to in regulation 45(2).

(3) Where, under this regulation, a financial statement contained in a prospectus is not reported on by an auditor, there shall be filed

- (a) the auditor's communication that is suggested for these circumstances by the Institute of Chartered Accountants of Barbados;
- (b) where the auditor is unable to provide the communication referred to in sub-paragraph (a), such communication as the Commission requires.

(4) The Commission may vary the period of time specified in paragraph (1).

52. The following rules apply to the issuing of receipts for a prospectus:

Issue of receipt for prospectus.

- (a) the Commission shall not issue a receipt for a prospectus where it is aware that the issuer is in default in filing any document required under the Act or these Regulations or under the enactment by or under which it is incorporated or organised, unless it considers that there is sufficient justification for the failure to file;
- (b) where
 - (i) a prospectus names an issuer's underwriter who proposes to act as underwriter and who is not a registrant; or
 - (ii) a distribution is to be effected by the issuer and the issuer is not a registrant,

the Commission shall not issue a receipt for the prospectus until the underwriter is registered under the Act;

- (c) where a minimum amount of funds is required by an issuer, the Commission shall not issue the receipt for a prospectus relating to securities proposed to be distributed on a best efforts basis unless the prospectus indicates that the offering will cease if the minimum amount of funds is not subscribed within the number of days permitted by the Commission.

PART VIII

REGISTRATION OF ISSUERS AND SECURITIES

53. (1) A registration statement filed with the Commission under section 58 of the Act must be in Form No. 4 in the *Second Schedule* and must be accompanied by a copy of the constituent documents of the company, a copy of the company's latest audited financial statements and the prescribed fee.

Registration statements. Second Schedule.

(2) For the purposes of section 58(2) of the Act, the registration statement shall be filed at least 14 days prior to the date of issue of the securities.

(3) The information contained in or filed with any registration statement shall be made available for inspection by any member of the public during normal working hours at the Office of the Commission upon payment of the prescribed fee.

Interim
financial
statement.

54. (1) A reporting issuer shall file with the Commission, within 60 days of the date on which it is prepared, an interim financial statement

(a) where the reporting issuer has not completed its first financial year, for the period commencing with the beginning of that financial year and ending 6 months before the date on which that financial year ends; or

(b) where the reporting issuer has completed its first financial year, for the periods commencing after the end of its latest completed financial year and ending 6 months after that date and a comparative financial statement to the end of the corresponding periods in the latest financial year.

(2) No interim financial statement need be filed under paragraph (1) for any period that is less than 6 months.

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

(4) An interim financial statement filed under paragraph (1) shall include

(a) a statement of changes in cash flow; and

(b) an income statement.

55. (1) A reporting issuer shall file annually a comparative financial statement relating separately to

Comparative
financial
statement.

- (a) the period that commenced on the date of incorporation or organisation and ended as at the close of the first financial year or, if the reporting issuer has completed a financial year, the last financial year, as the case may be; and
 - (b) the period covered by the financial year preceding the last financial year, if any.
- (2) A statement required to be filed under paragraph (1)
- (a) shall be filed within 60 days after the end of the last financial year; and
 - (b) shall, where it is to be filed by a reporting issuer, include
 - (i) an income statement;
 - (ii) a statement of retained earnings; and
 - (iii) subject to paragraph (4), a statement of changes in cash flow if the issuer is not primarily engaged in the business of investing.

(3) Where a change has been made in the ending date of a financial year, the issuer shall provide the Commission with a notice of the change and the reasons for it on or before the earlier of

- (a) the new date elected for the financial year end; or
- (b) 360 days from the end of the latest financial year reported on.

(4) Each financial statement required to be filed under paragraph (1) shall be approved by the directors of the reporting issuer, and the approval shall be evidenced by the manual or facsimile signatures of two directors duly authorised to signify the approval.

Relief from
certain
require-
ments.

56. On the application of a reporting issuer or on the Commission's own motion, the Commission may make an order, where it considers it not harmful to the public interest, exempting in whole or in part a reporting issuer from the necessity to include in the financial statements that are required to be filed under this Part

- (a) comparative financial statements for specified periods;
- (b) sales or gross operating revenue, if the Commission is satisfied that the disclosure of that information would be unduly detrimental to the interest of the reporting issuer; or
- (c) basic earnings per share or fully diluted earnings per share.

Filing of
material sent
to security
holders or
filed abroad.

57. (1) Every reporting issuer shall file in duplicate

- (a) a copy of all material sent by the reporting issuer to its security holders; and
- (b) all elective information not already filed with the Commission, whether in the same or a different form.

(2) In paragraph (1)(b), "elective information"

- (a) means information that is furnished to a government of another jurisdiction, or an agency thereof, or with a stock exchange of another jurisdiction, under the securities or corporation law of that jurisdiction or under the regulations, or rules of the stock exchange, on the basis that it is material to investors although the information is not specifically required to be filed by the terms of the applicable statute or regulation or of the applicable regulations, rules or regulations of that stock exchange; but
- (b) does not include information that is specifically required to be filed in the other jurisdiction by the terms of the applicable statute or regulation or of the regulations, rules or regulations of that stock exchange.

(3) Information required to be filed with the Commission under paragraph (1) shall be sent to the Commission within 24 hours after the reporting issuer sends the information referred to in paragraph (1)(a) to its security holders.

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

PART IX

CONFLICTS OF INTEREST

58. (1) In this Part,

Interpreta-
tion.

"associated party of the registrant" means

- (a) a related party of the registrant;
- (b) a partner of the registrant; or
- (c) a director, officer, salesman or employee of the registrant or a director, officer, partner, salesman or employee of a related party of the registrant if
 - (i) in the case described in regulation 61(1)(b), he participates in the trade or purchase;
 - (ii) in the case described in regulation 63(1)(b), he participates in the formulation or giving of the advice; or
 - (iii) in the case described in regulation 64(1)(b), he participates in the formulation of the investment decision;

"connected party" means, in respect of a registrant,

- (a) a person who has any indebtedness to, or other relationship with;
 - (i) the registrant; or
 - (ii) a director, officer or partner of the registrant; or
- (b) a person designated under regulation 59 to be a connected party;

"initial distribution" means a distribution, on behalf of the issuer, of a security that has not been previously issued;

"registrant"

- (a) means a registered investment adviser, broker, dealer or underwriter; but
- (b) does not include a security issuer;

"related party" means, in respect of a person, any other person who

- (a) beneficially owns or exercises control or direction over securities which constitute in the aggregate more than 20 per cent of the outstanding securities of any class or series of voting securities of that other person; or
- (b) would, upon the conversion or exchange of any security or the exercise of any right to convert or exchange securities into voting securities or to acquire voting securities or securities convertible or exchangeable into voting securities, beneficially own or exercise control or direction over securities which constitute in the aggregate more than 20 per cent of the outstanding securities of any class or series of voting securities of that other person;
- (c) is designated under regulation 59 to be a related party;

"security" includes, in respect of an issuer

- (a) a put, call, option or other right or obligation to purchase or sell securities of the issuer; and
- (b) a security of any other issuer all or substantially all of whose assets are securities of the issuer.

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

59. (1) On the application of an interested person or on the Commission's own motion, the Commission may vary the provisions of this Part as they apply to a person by designating the person to be a related party or a connected party of a registrant

Designation of related party or connected party.

- (a) if the Commission considers the designation appropriate because of the manner in which the person carries on its business with the registrant or with any related party of the registrant; or
- (b) if the Commission, in any other case, considers the designation to be in the public interest.

(2) The Commission shall not make a designation under paragraph (1) without first giving the registrant and the other person affected an opportunity to be heard.

60. (1) Every registrant shall prepare and file with the Commission a conflict of interest rules statement in the form set out in the *Third Schedule*.

Conflict of interest rules statement. Third Schedule.

(2) 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 or within 60 days after the commencement of these Regulations.

(3) In the event of any significant change in the information required to be contained in the conflict of interest rules statement, the registrant shall prepare forthwith and

- (a) file a revised version of the conflict of interest rules statement containing the information required by paragraph (1); and
- (b) provide to each of its clients a copy of the revised version within 45 days of the filing.

(4) Notwithstanding paragraph (1), a registrant that does not engage in activities as an adviser, broker, dealer or underwriter in respect of a security in the circumstances set out in regulation 61, 63 or 64 is not required to prepare, file or provide to its clients a conflict of interest rules statement if it files in the required form

- (a) a statement that it does not engage in such activities; and
- (b) an undertaking that it will not engage in such activities except in compliance with this Part.

Limitations
on trading.

61. (1) Subject to paragraph (2), no registrant shall as principal or agent trade in or purchase a security with, from or on behalf of any client where

- (a) the security is issued by the registrant or a related party of the registrant, or is being issued in the course of an initial distribution by a connected party of the registrant; or
- (b) any director, officer, partner, salesman or employee of the registrant who participates in the trade or purchase actually knows that the security will, directly or indirectly, be
 - (i) purchased from or sold to the registrant or an associated party of the registrant; or

- (ii) purchased from a person who is a connected party of the registrant and who controls the issuer of the security.
- (2) Paragraph (1) does not apply where
- (a) the registrant has, before entering into an agreement of purchase and sale respecting the security referred to in that paragraph, delivered the current conflict of interest rules statement of the registrant to the client, or has informed the client by whatever means (and if orally, has confirmed promptly in writing) of all the information and all changes in such information as required by regulation 60(1) and (3)(a) to be included in the conflict of interest rules statement; and
 - (b) the registrant complies with the requirement of regulation 28 and regulation 62.
- (3) Paragraphs (1) and (2) do not apply where
- (a) the client purchases as principal and is either a registered dealer or is a related party of the registrant; or
 - (b) the registrant does not solicit the trade or purchase or advise the client in respect of it.

62. (1) The written confirmation of the transaction required by regulation 28 to be sent by a registered dealer to a client shall,

Confirma-
tion and
reporting of
transactions.

- (a) in the case of a security issued by a related party of the registrant, or a security issued by a connected party of the registrant in the course of an initial distribution, state that the security was issued by a related party or a connected party of the registrant, as the case may be; and
- (b) where any director, officer, partner, salesman or employee of the registrant who participated in the transaction actually knew at the time of the transaction that the security would directly or indirectly be
 - (i) purchased from or sold to an associated party of the registrant; or

- (ii) purchased from a person who at the time of the transaction was a connected party of the registrant and controlled the issuer of the security,

state that the security was directly or indirectly purchased from or sold to such a person.

(2) Any report, other than the written confirmation required by regulation 28, sent or delivered by a registrant to a client respecting any trade or purchase of a security made by the registrant with, from or on behalf of the client, including a trade or purchase of a security for an account or portfolio of the client over which the registrant has discretionary authority, shall,

- (a) in the case of a security issued by a related party of the registrant, or in the course of an initial distribution, state that the security was issued by a related party or a connected party of the registrant, as the case may be; and
- (b) where any director, officer, partner, salesman or employee of the registrant who participated in the transaction actually knew at the time of the transaction that the security would directly or indirectly be
 - (i) purchased from or sold to the registrant or an associated party of the registrant; or
 - (ii) purchased from a person who at the time of the transaction was a connected party of the registrant and controlled the issuer of the security,

state that the security was directly or indirectly purchased from or sold to such a person.

Limitations
on advising.

63. (1) Subject to paragraph (2), no registrant shall act as an investment adviser in respect of a security where

- (a) the security is issued by a related party of the registrant or is being issued in the course of an initial distribution by a connected party of the registrant; or

- (b) any director, officer, partner, salesman or employee of the registrant who participates in the formulation or giving of the advice actually knows, or it is reasonable for any such person to expect in the circumstances, that wholly or partly as a result of the advice given the security will directly or indirectly be
 - (i) purchased from or sold to the registrant or an associated party of the registrant; or
 - (ii) purchased from a person who is a connected party of the registrant and who controls the issuer of the security.

(2) Paragraph (1) does not apply where the registrant, before advising the client, makes to the client a statement in writing or, if the statement is oral, confirmed promptly in writing

- (a) in the case of paragraph (1)(a), disclosing the relationship between the registrant and the issuer of the security; and
- (b) in the case of paragraph (1)(b), disclosing
 - (i) that the registrant knows or expects that the security will or may be directly or indirectly purchased from or sold to the registrant or an associated party of the registrant or directly or indirectly purchased from a connected party of the registrant; and
 - (ii) the relationship between the registrant and such person or persons.

(3) Paragraphs (1) and (2) do not apply where

- (a) the client is a registered dealer or a related party of the registrant; or
- (b) the advice is given by a registered dealer and
 - (i) is solely incidental to trade or purchase of the security carried out by the registered dealer; and
 - (ii) no fee is charged for the advice other than the usual and customary commission for the trade or purchase.

(4) Notwithstanding anything in this regulation, paragraph (1)(a) does not apply if regulation 64(1)(a) applies.

(5) Notwithstanding anything in this regulation, paragraph (1)(b) does not apply if regulation 64(1)(b) applies.

Limitations
on the
exercise of
discretion.

64. (1) No registrant shall, in respect of any account or portfolio of a client over which it has a discretionary authority,

- (a) purchase for or sell from such account or portfolio a security where the security is issued by the registrant or a related party of the registrant or is being issued in the course of an initial distribution by a connected party of the registrant;
- (b) purchase for or sell from such account or portfolio a security where any director, officer, partner, salesman or employee of the registrant who participates in the formulation of the investment decision made by the registrant on behalf of the client actually knows, or it is reasonable for any such person to expect in the circumstances, that the security will directly or indirectly be
 - (i) purchased from or sold to the registrant or an associated party of the registrant; or
 - (ii) purchased from a person who is a connected party of the registrant and who controls the issuer of the security; or
- (c) purchase for such account or portfolio a security issued in the course of an initial distribution where any director, officer, partner, salesman or employee of the registrant who participates in the formulation of the investment decision made by the registrant on behalf of the client is a director or officer of the issuer of the security,

unless prior to such purchase or sale the registrant has disclosed to the client all relevant facts in respect of the matters referred to in sub-paragraph (a), (b) or (c), as the case may be, and has obtained the client's specific and informed written consent to purchase or sell the security for or from his account or portfolio.

(2) Paragraph (1) does not apply where the client is a registered dealer or a related party of the registrant.

(3) No registrant shall make a loan from any account or portfolio of a client over which the registrant has discretionary authority.

PART X

CONTINGENCY FUND

65. In this Part,

Interpreta-
tion.

"claimant" or "customer" includes

(a) dealers in securities, being businesses which hold themselves out to the general public to be making a market in securities and investment by purchasing and selling on their own account as principals;

(b) any individual partnership or body corporate,

but does not include

(aa) a member of a self-regulatory organisation; or

(bb) a person alleging a loss and who is the holder of 30 per cent or more of the issued capital of the defaulting member of the self-regulatory organisation;

"fund" means a contingency fund maintained pursuant to section 41(1) of the Act;

"self-regulatory business" includes investment business arising from

(a) the purchase or sale in either a principal or agent capacity on the floor of a self-regulatory organisation;

(b) investment management and advice; or

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

"trustees" means the trustees of a fund.

Purpose of fund.

66. A fund shall be used solely for the purpose of providing compensation to customers who suffer financial loss as a result of the insolvency, bankruptcy or default of a member of a self-regulatory organisation up to a maximum of \$20 000 per claimant in any one calendar year, but a self-regulatory organisation may increase that maximum from time to time.

Administration of fund.

67. (1) A fund shall be vested in and managed by a board of trustees appointed by the self-regulatory organisation.

(2) The board of trustees of a fund shall comprise at least 3 members.

Contributions to the fund.

68. (1) A fund shall be financed by contributions from members of the self-regulatory organisation on the following basis:

(a) 2 per cent of each member's commissions for the year, payable on the member's monthly commissions in an amount not less than \$100 per month, shall be paid into the fund;

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

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

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

(a) the member shall provide written reasons for the delay in respect of the payment of the contribution;

(b) if payment is not made within 3 business days of the date on which it falls due, then the matter shall be referred to the board of directors for action against the member;

- (c) interest at a rate to be determined by the self-regulatory organisation shall be charged on the contribution in respect of which the member is in default.

69. The trustees shall maintain appropriate accounting records and submit annual accounts to the self-regulatory organisation. Accounting for the fund.

70. (1) A self-regulatory organisation shall appoint auditors to conduct an audit of the fund annually. Appointment of auditors.

(2) The auditors shall prepare an annual report on the accounts of the fund, which shall be available for inspection by members of the self-regulatory organisation; and the auditors shall forward a copy of the report to the Commission.

71. (1) Payment out of the fund shall only be considered if a defaulting member has failed to meet a financial obligation to a customer and the loss of the customer arose from a transaction resulting from self-regulatory business which would normally be evidenced by a contract note issued by a member of the self-regulatory organisation. Scope of the fund.

(2) A claim shall only be valid if the customer

(a) suffered a loss arising from the transaction of self-regulatory business which was conducted with or through a member of the self-regulatory organisation; or

(b) lost cash or securities for which the member was accountable, including cash or securities held by a nominee company established by the members.

(3) A claim for consequential economic loss is not a valid claim.

(4) Where a claim is in respect of securities that have been improperly dealt with, the trustees shall value the securities at the market quotation of the securities at the time of the default by the member; but the trustees shall not replace misappropriated securities, and compensation shall always be paid in cash.

Procedure. **72.** (1) A claim shall be made in writing by the customer or an agent acting on his behalf.

(2) The trustees shall use their best endeavours to obtain a statement of facts from the member in respect of whom a claim is made.

(3) A claim shall only be considered if the broker or his dealer, as the case may be, satisfies the trustees that the relevant transactions had been carried out on behalf of a customer of a member of a self-regulatory organisation involved in the transaction giving rise to the claim, and the broker or dealer, as the case may be,

(a) produces a duplicate of the relevant contract note which shall at the time of issue by the member be designated to the customer's account;

(b) discloses to the trustees the identity of the customers;

(c) produces a copy of the contract note issued by the member to his customer, in order to ascertain that the intermediary had not effectively acted as principal in relation to the customer.

(4) The trustees may obtain information from such other sources as may be considered relevant in the evaluation of claims.

(5) Every effort shall be made to settle claims within 3 months if the loss falls within the limit fixed by the self-regulatory organisation.

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

(7) For the avoidance of doubt,

(a) no one has any legal right to compensation; or

(b) there is no duty on the part of the trustees to award compensation with respect to any claim; and

(c) a payment from a fund is an *ex gratia* payment only.

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

73. (1) The trustees may establish a trust account executed under a deed of trust. Power of trustees.

(2) The trustees may pay into the account income realised through investments as part of the fund.

(3) A fund may be retained partly or wholly in the form of cash or may be invested or reinvested in such interest-bearing securities as the trustees may from time to time deem appropriate.

(4) The trustees may pledge any or all of the securities in the fund to secure the payment of any borrowing effected by the trustees, the proceeds of which are to be used to settle claims on the fund.

(5) The trustees may examine all claims made against the fund for authenticity, and shall accept all legitimate claims made against the fund.

(6) The trustees may make proposals to the board of the self-regulatory organisation in respect of the operation of the fund.

(7) The trustees shall require all claimants to do or concur in doing or permitting to be done in respect of the fund, at the expense of the fund, all such acts and things as are necessary or reasonably required for the purpose of

(a) enforcing rights and remedies; or

(b) obtaining relief or indemnity from other parties to which the fund shall be or would become entitled or subrogated upon its paying for or making good any loss suffered by the claimant as a result of the default of a member of the self-regulatory organisation.

(8) The acceptance by a claimant of compensation from the trustees shall constitute consent by the claimant to be a plaintiff either solely or jointly with the trustees, who may, where they consider it expedient to do so, join as co-plaintiffs with the claimant in respect of a claim against a member for indemnity or damages.

(9) Where the trustees join as co-plaintiffs in a claim against a member,

(a) the trustees may determine the conduct and settlement of proceedings relating to the claim; and

(b) the claimant shall provide the trustees with the relevant information to determine whether or not to proceed with the claim.

Refusal of claims.

74. (1) Where, after consideration by the trustees, an application is refused, the claimant shall be notified of the reasons for the refusal, and the claimant may appeal to the board of the self-regulatory organisation.

(2) A refusal of the claim shall not prejudice the claimant's legal rights as a creditor of the member of the self-regulatory organisation in relation to whom the claim is made.

Winding up of fund.

75. (1) A fund shall only be wound up where the self-regulatory organisation is dissolved.

(2) For the purposes of the winding up of a fund, the trustees shall first realise the assets of the fund and after meeting all liabilities the assets so realised shall form part of the assets of the self-regulatory organisation and shall be appropriated or utilised accordingly.

FIRST SCHEDULE

(Regulation 2)

Fees

\$

| | | |
|--|------------------|------------------|
| 1. Registration fees | | |
| (a) Broker (individual) | | 1 000.00 |
| (b) Investment Adviser | | 1 000.00 |
| (c) Dealer in securities | | 750.00 |
| (d) Trader in securities | | 750.00 |
| (e) Underwriter of securities | | 10 000.00 |
| (f) Securities company | | 10 000.00 |
| 2. For every extract, under section 46(5)(b) of the Act, of a page of the register of persons registered with the Commission | | 2.00 per page |
| 3. Filing of registration statement | | 750.00 |
| 4. Inspection of registration statements and information filed with the statements | | 10.00 |

THE LAWS OF BARBADOS

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SECOND SCHEDULE

(Regulations 3, 9, 13 and 53)

Forms

FORM NO. 1

(Regulation 9)

APPLICATION FOR REGISTRATION AS A
SELF-REGULATORY ORGANISATION

(Pursuant to section 29(2) of the Securities Act, Cap. 318A)

1. Name of Applicant (state exact name as specified in constituent document)
.....
2. Country of Incorporation or Organisation of Applicant
.....
3. If incorporated in a country other than Barbados, is the Applicant registered
in Barbados?
.....
4. Type of Business Applicant proposes to carry on
.....
5. Does the Applicant have Rules for the governance of its Members? (The
Rules of the Applicant must accompany this Application)
.....
.....
6. Has the Applicant or a Director or Officer of the Applicant ever been
refused registration by the Barbados Securities Commission?
.....
7. Name and Address of Principal Executive Officer of the Applicant
.....
.....

- 8. Name and Addresses of Members of Board of Directors of Applicant
.....
- 9. Address and Telephone Number(s) of Applicant's Principal Place of Business
.....
.....

FORM NO. 2

(Regulation 13(1)(a))

**APPLICATION FOR REGISTRATION AS BROKER, DEALER,
INVESTMENT ADVISER, TRADER OF UNDERWRITER**

Application is made for registration under the *Securities Act, Cap. 318A* in the category of

.....

- 1. (a) Name of Applicant.....
- (b) Head Office Business Address
-
- Telephone No. Postal Address
-
- (c) Address for service in Barbados.....
-
- Telephone No. Postal Address
-
- (d) Financial year end

2. The Applicant maintains accounts at the following bank(s): (State Bank and Branches through which business is transacted)

.....

3. Is Applicant applying for registration of any Branch Office? If so, state addresses of Branch Office(s)

.....

.....

INSTRUCTION: Answer "Yes" or "No" to the following questions. If "Yes" give particulars.

4. Has the Applicant, or, to the best of the Applicant's information and belief, has any affiliate of the Applicant,

(a) been registered in any capacity under the *Securities Act, Cap. 318A*?
.....

(b) applied for registration, in any capacity, under the *Securities Act, Cap. 318A*?
.....

5. Is the Applicant, or, to the best of the Applicant's information and belief, is any affiliate of the Applicant, now, or has any such person or company been,

(a) registered or licensed in any capacity in any other country which requires registration or licensing to deal or trade in securities?
.....
.....

(b) registered or licensed in any other capacity in Barbados under any legislation which requires registration or licensing to deal with the public in any capacity? (e.g. as an insurance agent, real estate agent, etc.)
.....
.....
.....

(c) refused registration or a licence mentioned in 5(a) or (b) above or has any registration or licence been suspended or cancelled in any category mentioned in 5(a) or (b) above?

.....
.....

(d) denied the benefit of any exemption from registration provided by the Securities Act, Cap. 318A?

.....
.....

6. Is the Applicant, or, to the best of the Applicant's information and belief, is any affiliate of the Applicant, now, or has any such person or company been,

(a) a member of any stock exchange, investment dealers association, investment bankers, or similar organisation, in any country?

.....
.....
.....

(b) refused membership in any stock exchange, investment dealers association, investment bankers, or similar organisation, in any country?

.....
.....
.....

(c) suspended as a member of any stock exchange, investment dealers association, investment bankers, or similar organisation, in any country?

.....
.....
.....

7. Has the Applicant, or, to the best of the Applicant's information and belief, has any affiliate of the Applicant, operated under, or carried on business under, any name other than the name shown in this application?
.....

8. Has the Applicant, or, to the best of the Applicant's information and belief, has any affiliate of the Applicant,

(a) ever been convicted under the laws of any country, minor traffic offences excepted?
.....
.....

Is there currently an outstanding charge or indictment against the affiliate?
.....

[INSTRUCTION: Question 8(a) refers to all laws, e.g. criminal, customs, liquor, etc. of any state or country, in any part of the world. You are not required to disclose any convictions for which a pardon has been granted under the laws of Barbados and which pardon has not been revoked, or a conviction that has been expunged under any law in force in Barbados]

(b) ever been the defendant or respondent in any proceedings in any civil court in any jurisdiction in any part of the world wherein fraud was alleged?
.....
.....

(c) at any time been declared bankrupt, or made a voluntary assignment in bankruptcy? (If "yes", give particulars and also attach a certified copy of discharge)
.....
.....

(d) ever been refused a fidelity/surety bond?

9. Set out in the space provided, the name of the Applicant, or the name of and position held by each director, officer or partner of the Applicant seeking or holding registration.

NOTE: an underwriter may not trade with the public.

Name of persons who will act (in addition to last name and office held give full first and middle names)

- 1.
 - 2.
 - 3.
 - 4.
 - 5.
10. Attach and mark as an exhibit a completed form for each director, officer or partner of the Applicant seeking or holding registration.

FORM NO. 3

(Regulation 13(1)(b))

**APPLICATION FOR REGISTRATION AS A
SECURITIES COMPANY**

(Pursuant to section 53(1)(a) of the Securities Act, Cap. 318A)

To the Securities Commission.

In accordance with section 53(1)(a) of the *Securities Act, 2001*, we hereby apply for the registration of as a securities company.

We attach to this application:

- (i) a certified copy of the Articles of Incorporation of the Company together with a certified copy of its certificate of incorporation;
- (ii) proof that prior to commencing trading on the stock exchange the Company will have a minimum paid up share capital of dollars.

We are aware of the requirements related to securities companies under the *Securities Act, Cap. 318A* and the Regulations made thereunder and, provided approval is granted to this application, we give a joint and several undertaking that the Company will be operated in accordance with them.

.....

Yours faithfully

Signed

.....

Dated

FORM NO. 4

(Regulation 53)

REGISTRATION STATEMENT

(Pursuant to section 58 or 59 of the Securities Act, Cap. 318A)

1. Exact name of Registrant as specified in its constituent instrument
.....
2. Is Registrant a public company or government entity? (If yes, specify)
.....
3. Country of Incorporation or Organisation of Registrant
.....
4. Name and address of Principal Executive Officer of Registrant
.....
5. Names and addresses of Members of the Board of Directors of Registrant (in the case of a Company)
 - (a)
 - (b)
 - (c)
 - (d)
6. Address and Telephone Number of Registrant's Principal Place of Business
.....
.....

- 7. Types of Securities issued by Registrant.....
.....
- 8. Amount or Value of each Type of Security at the Date of Statement
.....
- 9. Proposed Maximum Offering Price per Unit of Security.....
- 10. Proposed Maximum Aggregate Offering Price of Security
.....
- 11. Approximate Date of Commencement of Proposed Sale of Securities to the
Public
- 12. Name, Address and Telephone Number of Agent for Service (if applicable)
.....
.....
.....
- 13. Any other information that is not prohibited by regulation
.....
- 14. Signature
-

NOTE: Where security to be registered, this registration statement shall be signed by

- (a) the principal executive officer of the issuer and at least two members of the board of directors of the issuer; or
- (b) in the case of a government entity, the underwriter or designated agent.

THIRD SCHEDULE

(Regulation 60)

THE SECURITIES ACT, CAP. 318A

CONFLICT OF INTEREST RULES STATEMENT

GENERAL

Under certain circumstances we may deal with or for you in securities transactions where the issuer of the securities of the other party to the transaction is this firm or a party having an ownership or business relationship with us.

Since these transactions may create a conflict between our interests and yours, we are required to disclose to you certain relevant matters relating to the transactions. This statement contains a general description of the required disclosure. A complete statement of the rules is set out in Part IX of these Regulations.

IMPORTANT CONCEPTS

"Related party" - A party is related to us if, through the ownership of or direction or control over voting securities, we exercise a controlling influence over that party or that party exercises a controlling influence over us.

"Connected party" - A party is connected to us if, due to indebtedness, a prospective purchaser of securities of the connected party might question our independence from that party.

"Associated party" - An associated party is either a related party or another party in a close relationship with us, such as one of our partners, salesmen, directors or officers.

REQUIRED DISCLOSURE

We must make certain disclosures where we act as your broker, advise you, or exercise discretion on your behalf with respect to securities issued by us, by a related party or, in the course of an initial distribution, by a connected party. In these situations, we must disclose either our relationship with the issuer of the securities, or that we are the issuer.

We must also make disclosure to you where we know or should know that, as a result of our acting as your broker or adviser, or of our exercising discretion on your behalf, securities will be purchased for or sold to us, an associated party or, in the course of an initial distribution, a connected party.

The following is a list of the time and manner in which these disclosures must be made:

Where we underwrite securities, the required disclosure will be contained in the prospectus or other document being used to qualify those securities;

Where we buy or sell securities for your account, the required disclosure will be contained in the confirmation of trade which we prepare and send to you;

Where we advise you with respect to the purchase or sale of securities, the disclosure must be made prior to our giving the advice.

In addition, where we exercise discretion under your authority in the purchase or sale of securities for your account, we may not exercise that discretion for the types of transactions described above unless we have obtained your prior specified and informed written consent.

LIST OF RELATED PARTIES

The following is a list as at 20 of our related parties which are reporting issuers. We will provide you with a revised version of this document if the list changes.

If you have any questions, please contact

.....
(Registrants must list all their related parties that are reporting issuers in Barbados).