

Incorporated in
Parliament by
Act No 33 of 1970

January 13th, 2010

The Institute of Chartered Accountants of Trinidad & Tobago

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Mr. Carl Hiralal
Inspector of Financial Institutions
Central Bank of Trinidad and Tobago
Eric Williams Financial Complex
Brian Lara Promenade
Port-of-Spain

Dear Mr Hiralal

We thank you for the opportunity to comment on the proposed Insurance Act and accompanying regulations. We commend the Central Bank for its desire to improve and update the regulatory framework. We are committed to the development of effective regulation. However, regulation should not be excessive, and must reflect the practical issues faced in the local environment. Many comments have been made that the proposals will significantly increase compliance costs and create resource challenges. We do not intend to repeat the details of these concerns. This letter focuses on some macro framework issues of direct concern to us as accountants. It should not be considered as a comprehensive statement of all the issues raised by our members.

ONGOING CONSULTATION

It is clear that the Bank's revised framework includes a significant reliance on accountants and auditors for the preparation and certification of financial and other information. The insurance sector is important to national development. In that context, it is critical that ICATT and the Bank work much more closely in the future to identify and deal with challenges arising from the new legislation.

To that end, we would like to request that we meet quarterly with the Bank on an ongoing basis.

DEVELOPMENT OF GUIDANCE MATERIALS

There are numerous areas of the proposed legislative framework that need to be fleshed out. Examples include:

- o The nature and content of reports by auditors to the Central Bank on internal controls.
- o The content of a general insurance "financial condition report".
- o What is an "irregular" transaction?
- o Whether the possibility of regulator intervention for an area of non-compliance with the Insurance Act will automatically require a going concern qualification in a shareholders audit report, with resultant negative publicity for a company.

In addition to actual Regulations and Guidelines to be issued under the Act, there also needs to be training materials and guidance developed for our members. We propose to assist the Bank in this regard by generating draft materials and position papers to form the basis for developments in this area. This will require establishment of specific full time technical resources, which we are committed to doing.



Incorporated in
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Act No 33 of 1970

Page 2
January 13th, 2010
Mr. Carl Hiralal

DISCRETIONS IN FINES AND PENALTIES

On the literal reading of the draft Act there are numerous and significant penalties. These are invariably stated in what appears to be very inflexible language that seems to allow no discretion. This is of concern to us. For example, if a subsidiary's financial statements are filed late, there are penalties and fines. There appears to be no flexibility given to the regulator to consider extenuating circumstances. We understand the desire of the regulator to avoid even the appearance of political or other influence in determining penalties and fines. However, we do believe that the regulator should be given greater flexibility.

For example, it is possible for forms prepared in good faith to have errors, particularly in the early years of implementation. Allowance has to be made for this. If the Bank sticks to the letter of the law, the possibility arises of significant fines for minor errors or genuine misunderstanding. We would like to understand how this apparently very inflexible language will work in practice in Trinidad & Tobago. We understand that in Jamaica, despite the letter of the law, the regulator allowed non-compliance in several areas, as part of a phased implementation of the regulation. For example, financial condition reports were not insisted upon for the first few years.

PUBLISHING OF ABRIDGED FINANCIAL STATEMENTS

The current proposals require full audited financial statements to be published in two newspapers, within a 3 month deadline. Firstly, this reduces the time available for an audit to be completed, since printing deadlines need be considered. Secondly, full financial statements require a degree of financial sophistication to be read and understood. To print 70 pages of IFRS compliant financial statements in the newspapers for each insurance company is not efficient or effective in developing an informed consumer base.

We would recommend the publishing of abridged or summary financial statements, with full financial statements being available on request and / or on websites. There is precedent for this approach in other jurisdictions. For example, shareholders in UK public companies are sent summary financial statements unless they specifically request full annual reports. Similar arguments can be made for the similar provisions for banks and other financial institutions. ICATT would be happy to develop guidelines for such abridged financial statements in consultation with the Bank. In addition, to avoid additional time pressure on the preparation of the financial statements, we would suggest that publication of the summary financial statements should be allowed in the month following the deadline for submission of the full financial statements to the CBTT.

TRANSITIONAL REPORTING ARRANGEMENTS

The proposed annual reporting deadline has been reduced from 6 months to 3 months after the year end. This will place tremendous strain on internal accounting and IT resources, actuaries and auditors.




Incorporated in
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Act No 33 of 1970

Page 3
January 13th, 2010
Mr. Carl Hiralal

We are particularly concerned about audit and actuarial resources, which will also be impacted by the new pension legislation and other requirements. For example, all general insurance companies selling Accident & Sickness insurance will now require actuarial valuations. In particular view of the significant fines and penalties for late or incorrect filings, we are concerned that significant pressure is being placed on very scarce national resources. We therefore strongly request that a transitional arrangement be introduced, moving to the 3 month deadline over a 3 year period. That is, 5 months in the first year of implementation, 4 months the next year, moving to 3 years the following year. This will allow resources to be developed and systems to be modified in an orderly manner.

We would be happy to discuss these and other issues that our members have raised with you at your convenience. While we do have concerns that the current wave of financial services regulation represents an excessive response to the weak regulation and apparent lack of political will to intervene in the past, we are committed to working with you towards improved financial and regulatory reporting.

Yours truly
The Institute of Chartered Accountants of
Trinidad and Tobago


Anthony Pierre
President