

[Subsidiary]

Securities Industry (Prospectus) Regulations

[No. 9 of 2002]

**THE SECURITIES INDUSTRY (PROSPECTUS)
REGULATIONS**

made under sections 126(1) and 126(7)

ARRANGEMENT OF REGULATIONS

REGULATION

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SCHEDULE – Content of prospectus.

Citation.

1. These Regulations may be cited as the Securities Industry (Prospectus) Regulations 2002.

Interpretation.

2. (1) In these Regulations—

- (a) "director" includes any person who occupies the position of a director, by whatever name called;
- (b) "securities exchange" means a securities exchange registered by the Council on which the securities the subject of the prospectus are listed or admitted to dealing.

(2) For the purpose of these Regulations reference to a "prospectus" shall be deemed to include reference to a "block distribution circular" and these Regulations shall apply to such circular.

Content of prospectus.

3. (1) A prospectus shall contain all such information as investors and their professional advisors would reasonably

require, and reasonably expect to be contained therein, for the purpose of making an informed assessment of –

- (a) the assets and liabilities, financial position, profits and losses, and prospects of the issuer of the securities; and
- (b) the rights attached to those securities.

(2) In particular a prospectus shall contain, subject to regulation 4 and to paragraphs (4) and (5), such information as is required to be furnished under the Schedule.

Schedule

(3) The information in a prospectus shall be presented in a form which is easily analysable and comprehensible.

(4) Where, on the occasion of their listing or admission to dealing on a securities exchange, shares are offered on a pre-emptive basis to some or all of the existing shareholders, the Council may authorise the omission from a prospectus of information which is required to be furnished under the Schedule provided that up-to-date information equivalent to that which would otherwise be required by this regulation is available as a result of the requirements of that market.

Schedule.

(5) Where a person—

- (a) makes an offer to the public in Guyana of securities which he proposes to issue; and
- (a) has, within the twelve months preceding the date on which the offer is first made, published a full prospectus relating to a different class

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of securities which he has issued, or to an earlier issue of the same class of securities,

he may publish, instead of a full prospectus, a prospectus which co which have arisen sin prospectus and which value of the securities is accompanied by that full prospectus

(6) For the purpose of paragraph (5), a "full prospectus" is one which contains the information specified in the Schedule (other than information the omission of which is authorised by the Council by or under paragraph (4) or regulation 4).

(7) The format of a prospectus shall be as required by the Council.

Exceptions.

4. (1) The Council may, upon application made by the issuer or offeror, authorise the omission from a prospectus of information the inclusion of which otherwise be required by these Regulations if the Council is satisfied that –

- (a) disclosure of that information would be contrary to the public interest;
- (b) the information is of minor importance only, and is not likely to influence assessment of the issuer's assets and liabilities, financial position, profits and losses and prospectus, or
- (c) disclosure of that information would be seriously detrimental to the issuer.

(2) An offeror may omit from a prospectus information with respect to an issuer the inclusion of would

otherwise be required by these Regulations if –

- (a) he is neither the issuer, nor acting in pursuance of an agreement with the issuer;
- (b) the information is not available to him because he is not the issuer; and
- (c) he has been unable, despite making such efforts information.

Advertisements in connection with public offer.

5. An advertisement announcing a public offer of securities for which a prospectus is required under these Regulations shall not be issued to the public in Guyana by the person proposing to make the offer, unless the advertisement states that –

- (a) the Council has approved the prospectus relating to the public offer; and
- (b) the prospectus is or will be published, as the case may be, and gives an address in Guyana where such prospectus can be obtained or obtainable.

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SCHEDULE

CONTENT OF PROSPECTUS

PART 1

GENERAL REQUIREMENTS

1. The name of the issuer, the address of its registered office and the date and place of incorporation.

2. If different, the name and address of the person

offering the securities.

3. The names and functions of the directors of the issuer.

4. The date of publication of the prospectus.

5. A statement that the prospectus has been delivered to the Council for approval in accordance with these Regulations.

6. A statement that the prospectus has been drawn up in accordance with these Regulations.

7. The following words, "If you are in any doubt about the contents of this document you should consult a person licensed under the Act who specialises in advising on the acquisition of shares and other securities", or words to the like effect.

PART II THE PERSONS RESPONSIBLE FOR THE PROSPECTUS AND ADVISERS

8. The names, addresses (home or business), occupation and functions of those persons responsible for the prospectus or any part of the prospectus, specifying such part.

9. A declaration by the directors of the issuer (or, if the offeror is not the issuer, by the directors of the offeror) that to the best of their knowledge the information contained in the prospectus is in accordance with the facts and that the prospectus does not omit any information which is likely to affect the import of such information.

PART III
THE SECURITIES TO WHICH THE PROSPECTUS
RELATES AND THE OFFER

10. A description of the securities being offered, including the class to which they belong and a description of the rights attached to them including (where applicable) –

- (a) if the securities are shares, rights as regards -
 - (i) voting;
 - (ii) dividends;
 - (iii) return of capital on the winding up of the issuer;
 - (iv) redemption, and a summary of the consents necessary for the variation of any of those rights;
- (b) if the securities are debentures, rights as regards
 - (i) interest payable;
 - (ii) repayment of principal.
- (c) any conversion rights or option warrants.

The dividend policy of the issuer, and in dividends within the last five years (and if so, how much and when), and whether the issuer expects to pay dividends over the next two years.

12. The date(s) (if any) on which entitlement to dividends arises.

13. The date(s) (if any) on which entitlement to

interest arises.

14. The procedure for the exercise of any right to the securities.

15. (1) A statement as to whether—

- (a) the securities being offered have been listed or admitted to dealing on a securities exchange; or
- (b) an application for such admission has been made.

(2) Where no such application for listing or dealing has been made, or such an application has been made and refused, a statement as to whether or not there are, or are intended to be, any other arrangements for there to be dealings in the securities and, if there are, a brief description of such arrangements.

16. The purpose for which the securities are being issued, together with details as to the use of the proceeds of the issue and in particular their use for capital expenditure, debt reduction, acquisitions, working or other capital.

17. The number of securities being issued and offered and, in the case of shares, earnings per share, net asset value per share and net tangible assets per share.

18. The authority for the issue and offer of the securities.

19. The total proceeds which it is expected will be raised by the offer and the expected net proceeds, after deduction of the expenses, of the offer, stating the amount or the estimated amount of the expenses of the offer and by whom they are payable, including a statement as to any

commission payable by issuer to any person in consideration of his agreeing to subscribe for securities to which the prospectus relates or of his procuring or agreeing to procure subscriptions for such securities.

20. Where the prospectus relates to securities which are offered for subscription, particulars as to—

- (a) the minimum amount which, in the opinion of the directors of the issuer, must be raised by the issue of those securities in order to provide the sums (or, if any part of them is to be defrayed in any other manner, the balance of the sums) required to be provided in respect of each of the following—
 - (i) the purchase price of any property purchased, or to be purchased, which is to be defrayed in whole or in part out of the proceeds of the issue; and
 - (ii) any preliminary expenses payable by the issuer and any commission so payable to any person in consideration of his agreeing to subscribe for, or of his procuring or agreeing to procure subscriptions for, any securities of the issuer;
- (b) the amounts to be provided in respect of the matters mentioned otherwise than out of the proceeds of the issue and the sources out of which those amounts are to be provided.

21. The names of persons underwriting or guaranteeing the offer.

22. The name and address of any paying, transfer or registration agent.

23. The period during which the offer of the securities is open.

24. The price at which the securities are offered or, if appropriate, the procedure, method and timetable for fixing the price.

25. The arrangements for payment for the securities being offered and the arrangements and timetable for their delivery.

26. The arrangements during the period prior to the delivery of the securities being offered relating to the moneys received from applicants including the arrangements for the return of moneys to applicants where their applications are not accepted in whole or in part and the timetable for the return of such moneys.

PART IV GENERAL INFORMATION ABOUT THE ISSUER AND ITS CAPITAL

27. The date and place of incorporation of the issuer. In the case of an issuer not incorporated in Guyana, the address of its principal place of business in Guyana.

28. The legal form of the issuer, the legislation under which it was formed and (if different) the legislation now applicable to it.

29. A summary of the issuer's aims and objectives.

30. The amount of the issuer's authorised share capital and any limit on the duration of the authorisation to issue

such share capital.

31. The amount of the issuer's issued share capital and, in the case of a debt issue, any borrowing limits prescribed by the issuer's by-laws.

32. The number and particulars of any listed and unlisted securities issued by the issuer not representing share capital.

33. The number of shares of each class making up each of the authorised and issued share capital, the issue price of such shares and, in the case of the issued share capital, the amount paid up on the shares.

34. If the issuer is a member of a group, a brief description of the group and of the issuer's position in it, stating, where the issuer is controlled by another company, the name of its controlling company.

35. In so far as the offeror has the information, an indication of the persons, who, directly or indirectly, jointly or severally, exercise or could exercise control over the issuer and particulars of the proportion of the issuer's voting capital held by such persons.

PART V THE ISSUER'S PRINCIPAL ACTIVITIES

36. A description of the issuer's principal activities and of any exceptional factors which have influenced its activities.

37. A statement of any dependence of the issuer on particular customers or suppliers, or on patents or other intellectual property rights, licences or particular contracts, where any of these are of fundamental importance to the issuer's business.

36. With regard to risk factors, list in order of importance the factors which the issuer considers to be the most substantial risks to an investor in this offering (e.g. untested products, cash-flow or liquidity problems, dependence upon a key supplier or customer, management inexperience, nature of business, absence of a trading market, etc.) and which constitute the greatest threat that an investment may be lost in whole or part, or not provide an adequate return.

39. Information regarding capital expenditure items in progress or authorised by the directors where they are significant.

40. Information on any legal or arbitration proceedings, active, pending or threatened against, or being brought by, the issuer or any member of its group which are having or may have a significant effect on the issuer's financial position.

PART VI

THE ISSUER'S FINANCIAL POSITION

41. Subject to paragraph 43, the issuer's annual accounts (balance sheet and profit and loss account) for the last three years together with -

(a) a statement by the directors of the issuer that the accounts have been prepared in accordance with the Act, and that they accept responsibility for them, or a statement why they are unable to make such a statement;

(b) the name and address of the auditors of the accounts;

(c) a copy of the auditors' reports on the account;
and

(d) a statement by the auditors that they consent, to the inclusion of their reports in the prospectus and accept responsibility for them, and have not become aware, since the date of any report, of any matter affecting the validity of that report at that date; or a statement why they are unable to make such a statement.

42. (1) Where more than nine months have elapsed at the date on which the offer is first made since the end of the last financial year in respect of which accounts are required to be included in the prospectus by paragraph 41, there shall also be included in the prospectus a report by a person qualified to act as an auditor, covering the period referred to in subparagraph (2), with respect to the state of affairs and profit or loss of the issuer together with the name and address of the person responsible for preparing the report, and a statement that he or she consents to the inclusion of the report in the prospectus and accepts responsibility for it; or a statement why he or she is unable to make such a statement.

(2) The period to be covered by the report is the period beginning at the end of the last financial year in respect of which accounts are required to be included in the prospectus by paragraph 41 and ending on the latest practicable date before (but not in any event more than three months before) the date on which the offer is first made.

43. If an issuer has not been in existence for the whole of the last three years, the prospectus shall contain a report by a person qualified to act as an auditor which includes -

(a) details of the profit or loss of the issuer in respect of the period beginning with the date of its formation and ending on the latest practicable date before (but not in any event more than three months before) the date on which the offer is first made, and of its state of affairs at that latest practicable date; and

(b) a statement by the person responsible for the

report that in the opinion of that person it gives a true and fair view of the state of affairs and profit or loss of the issuer and that he or she consents to the inclusion of his or her report in the prospectus and accepts responsibility for it; or a statement why he is unable to make such a statement.

44. If the issuer is a parent company, the requirements of paragraphs 41 and 43 shall apply to each of its subsidiaries.

PART VII

RECENT DEVELOPMENTS IN THE ISSUER'S BUSINESS AND PROSPECTS

45. The significant recent trends concerning the development of the issuer's business since the end of the last completed financial year of the issuer.

46. Information on the issuer's financial and trading prospects for at least the current financial year of the issuer.

47. The dates of and parties to all current material contracts (not being contracts entered into in the ordinary course of business) entered into by the issuer and its subsidiaries together with a summary of the principal contents of such contracts.

48. Where a profit forecast appears in the prospectus the principal assumptions, including commercial assumptions, upon which it is based must be stated.

PART VIII

THE ISSUER'S ADMINISTRATION AND MANAGEMENT

49. A concise description of the directors' existing or proposed service contracts with the issuer or any subsidiary of the issuer, excluding contracts expiring, or determinable by

the employing company without payment of compensation within one year, or an appropriate negative statement.

50. The aggregate remuneration paid and benefits in kind granted to the directors of the issuer during the last completed financial year of the issuer, together with an estimate of the aggregate amount payable and benefits in kind to be granted to the directors, and proposed directors, for the current financial year under the arrangements in force at the date on which the offer is first made.

51. The interests of each director of the issuer in the share capital of the issuer, distinguishing between beneficial and non-beneficial interests, or an appropriate negative statement.

52. Full particulars of any contract or arrangement existing at the date of the prospectus in which a director of the issuer is materially interested, or an appropriate negative statement.

53 (1) A description (being his or her qualification or area of expertise or responsibility) of every, director or proposed director (or any other person who performs an important administrative, management or supervisory function) and particulars of the principal functions performed by each.

(2) A brief account of the business experience of each of these persons during the last five years.

(3) The nature of any family relationship between the persons mentioned in subparagraph (1).

(4) Indicate any other directorships held by each director or proposed director.
