

Trinidad & Tobago Integration of Financial Supervision Project

**TRINIDAD & TOBAGO  
INTEGRATION OF FINANCIAL SUPERVISION PROJECT**

**PROPOSALS FOR A REVISED SUPERVISORY REGIME FOR  
APPROVED PENSION FUND PLANS**

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# **Trinidad & Tobago Integration of Financial Supervision Project**

## **Proposals for a Revised Supervisory Regime for Approved Pension Fund Plans in Trinidad & Tobago**

### 1. Introduction:

1.1 The following is a summary of the key proposals for the revision of the supervisory regime applicable to private employer-sponsored pension plans or schemes in Trinidad & Tobago that are approved in accordance with the Income Tax Act.

1.2 The primary regulatory instruments that currently affect approved pension plans are: the Insurance Act 1980, Chapter 75:01 of the Income Tax Act, the Draft Approved Pension Fund Plan and Deferred Annuity Plan Regulations 1969, and the Trustee Act 1981. The Insurance Act deals primarily with matters pertaining to the governance of plans, including requirements for reporting on the financial condition of pension plans. The Income Tax Act and Board of Inland Revenue (BIR) draft regulations set out conditions for approval of plans for tax-favoured treatment. The draft Regulations deal with some governance matters, such as the requirements to establish plans using either a Board of Trustees, or a Corporate Trustee together with a Management Committee. The Regulations also deal with certain rights affecting plan members including mandatory termination benefits and commutation privileges, and with the imposition of a maximum benefit limitation.

1.3 The following proposals are focused on the matters currently within the scope of the Insurance Act. Where any of these proposals are to any degree inconsistent with the current BIR draft regulations, it is assumed that the latter would be amended accordingly.

1.3 It is desirable that a separate Pensions Act be enacted with associated Regulations. This would permit subsequent amendments to the Pensions Act and the Insurance Act to be managed separately. However, for implementation purposes, it may be simpler for the pensions provisions to form part of a combined Insurance and Pensions Act.

1.4 Since existing arrangements are not fundamentally flawed, we recommend that they should be continued, subject to new and strengthened statutory requirements applicable to the "system players", that is, Boards of Trustees, Corporate Trustees, Management Committees, Plan Auditors and Plan Actuaries. Where a Corporate Trustee and Management Committee exist, it is recognised that although they may be legally separable, the two entities do have joint responsibilities as Trustees of the plan.

1.5 To foster high standards of governance amongst pension plans, the proposals suggest a risk-based approach to supervision, contemplating submission of audited financial statements, actuarial reports and annual information returns for the purpose of identifying high-risk situations.

1.6 It is recommended that the various "system players" be given specific responsibility to report acts of material non-compliance. This would arise in any situation where the failure to comply is likely to be of material significance in the Supervisor exercising any of his functions.

1.7 There will also be a requirement for Boards of Trustees, Corporate Trustees and Management Committees to act prudently and to avoid material conflicts of interest. Where the latter exist, the person is required to disclose the conflict of interest, and is prohibited from participating in any discussion and decision-making relating to the issue that gave rise to the conflict of interest.

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actual authorization would vary from plan to plan depending on its structure, it is proposed that the appointee should be identified formally as the Investment Governor of the plan. This enables legislation to allocate specific duties and responsibilities to this position. The functions of the Investment Governor may be retained or delegated to an authorised entity.

1.9 New, less restrictive, investment rules based on the "prudent person" system are suggested to replace the current authorised investments regime (Second Schedule of the Insurance Act 1980). These investment rules will not apply to Insured Pension Plans where the benefits are guaranteed by an Insurance Corporation licensed under the Insurance Act.

### **2. Registration and Continuation:**

2.1 The Trust Deed and Rules of a pension plan shall, inter alia, as a condition for registration and continuation of its registration, provide for:

2.1.1 The appointment of a Board of Trustees or the appointment of a Management Committee and Corporate Trustee, who shall be responsible for the proper governance and administration of the Plan.

2.1.2 The responsibility for prudent investment of the funds of the plan to be allocated to one of: the Board of Trustees, the Corporate Trustee or the Management Committee, who as Investment Governor shall discharge this duty as a prudent investor. The Investment Governor may delegate all or any part of the investment functions to a suitably qualified and experienced person who is also authorised and licensed under the Securities Industry Act 1995, and who satisfies such additional requirements as may be prescribed in Regulations.

2.1.3 The appointment of a Plan Actuary, where required by the terms of the plan (providing defined benefits with or without fixed employee and employer contributions), whose appointment is formally continued on an annual basis, and who shall be responsible for providing professional advice on the funding and solvency of the plan.

2.1.4 The appointment of a Plan Auditor whose appointment is formally continued on an annual basis, and who shall be responsible for auditing the financial statements of the plan.

### **3. Statutory Duties of Corporate Trustee and Board of Trustees: (referred to as "The Trustees" in this Section)**

3.1 Act prudently and avoid material conflicts of interest, at all times acting in the best interests of members and beneficiaries of the plan.

3.2 Subject to any restrictions imposed by the plan, act as Investment Governor to invest the funds for the benefit of those entitled under the terms of the plan, as a prudent person would do. The Trustees may delegate all or parts of this function to a suitably qualified and experienced person who is also authorised and licensed under the Securities Industry Act 1995, and who satisfies such additional requirements as may be prescribed in Regulations.

3.3 Prepare financial statements of the plan in accordance with International Accounting Standards and submit audited financials to the Supervisor within 6 months of the plan's year-end. Any financial statements due and outstanding as at the effective date of the legislation must be submitted within 12 months of such date.

3.4 Submit a report by the Plan Actuary to the Supervisor at least triennially, within 9 months

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3.5 In discussion with the Employer, prepare an annual schedule of employee and Employer contributions (both regular and special) for the plan based on the written recommendation of the Plan Actuary.

3.6 Monitor the remittance of contributions to the fund by the Employer, and report to the Supervisor and the Management Committee (if one exists) if contributions have not been received within the prescribed period, or if there are any unexplained material variances from the expected rate of flow.

3.7 Ensure payment of benefits to deferred pensioners and beneficiaries in accordance with the plan rules.

3.8 Complete an annual information return to the Supervisor within 6 months of the plan's year-end certifying to the best of their knowledge and belief that:

3.8.1 The appointments of the Plan Actuary and Plan Auditor have been confirmed and formally continued. The Trustees must indicate any changes that have been made in these appointments during the course of the year.

3.8.2 There have been no unexplained material variances between the expected and received contributions from the Employer.

3.8.3 All payments to pensioners and beneficiaries have been made as due in accordance with the plan rules.

3.8.4 The numbers of pensioners and beneficiaries of the plan in receipt of benefits as at the plan year-end. This requirement will come into force 3 years after the effective date of the legislation.

3.10 Report any incidents of material non-compliance of the plan or parties related to the plan to the Employer, Management Committee, Plan Actuary, Plan Auditor and the Supervisor.

### **4. Statutory Duties of Management Committees and Board of Trustees:**

4.1 Act prudently and avoid material conflicts of interest, at all times acting in the best interests of members and beneficiaries of the plan.

4.2 Subject to any restrictions imposed by the plan, act as Investment Governor to invest the funds for the benefit of those entitled under the terms of the plan, as a prudent person would do. The Management Committee or the Board of Trustees may delegate all or parts of this function to a suitably qualified and experienced person who is also authorised and licensed under the Securities Industry Act 1995, and who satisfies such additional requirements as may be prescribed in Regulations.

4.3 Approve the Investment Policy of the plan.

4.4 Approve the documented Administrative Procedures for management of the plan.

4.5 Board of Trustees, or Management Committee and Corporate Trustee to meet formally at least annually to discuss matters relating to the administration of the plan and investment of the funds, and maintain minutes of such meetings.

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4.7 Formally notify members if the Board of Trustees or the Corporate Trustees have not received contributions within the prescribed period, or if there have been any unexplained material variances from the expected rate of flow.

4.8 Formally advise members and beneficiaries of the plan of their benefit entitlements and information on the operations of the plan and fund, as prescribed in Regulations. The Management Committee or Board of Trustees may engage third parties to discharge this function.

4.9 Complete an annual information return to the Supervisor certifying to the best of their knowledge and belief that:

4.9.1 There have been no changes in the composition of the Board of Trustees or the Management Committee, or indicating such changes that have occurred.

4.9.2 The administrative practices for the management of the plan have been documented and approved, at least annually.

4.9.3 Formal meetings to consider matters relating to the plan's administration and financial reports of the fund's investment operations have been held regularly, at least quarterly.

4.9.4 Regular communications have been issued to members of their prospective benefits under the plan, in accordance prescribed Regulations.

4.10 Report any incidents of material non-compliance of the plan or parties related to the plan to the Employer, Corporate Trustee, Plan Actuary, Plan Auditor and the Supervisor.

### **5. Statutory Duties of Investment Governor:**

5.1 Act prudently and avoid material conflicts of interests, at all times acting in the best interests of members and beneficiaries of the plan. Where the Investment Governor is not an investment professional, there will be a requirement that written professional investment advice be taken from a suitably qualified and experienced person who is also authorised and licensed under the Securities Industry Act 1995, and who satisfies such additional requirements as may be prescribed in Regulations.

5.2 Develop, document and review at least annually an Investment Policy for the Plan within the guidelines established by legislation, in consultation with the Employer and the Plan Actuary.

5.3 Advise the Board of Trustees, Corporate Trustee, Management Committee, Plan Auditor and the Plan Actuary of the Investment Policy and all amendments thereto.

5.4 Establish mechanisms to ensure compliance with all aspects of the legislation regarding investment of pension fund monies.

5.5 Manage and monitor the investments of the plan in accordance with the Investment Policy, produce performance reports at least quarterly, and discuss these with the Board of Trustees, Corporate Trustees and Management Committee.

5.6 Complete an annual information return to the Supervisor certifying to the best of their

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5.6.2. The Investment Policy has been followed and the Investment Rules set out in legislation have been complied with.

### **6. Statutory Duties of Plan Auditors:**

6.1 A Plan Auditor must be a person who qualifies under section 158(1) of the Companies Act.

6.2 Audit the financial statements of the plan each fiscal year in accordance with International Accounting Guidelines.

6.3 Perform such additional audits as may be required by the Supervisor (for example, wider scope or special purpose audits), the cost of which will be borne by the Plan.

6.4 Advise the Plan Actuary, Board of Trustees, Corporate Trustee, Management Committee and Employer of any significant inconsistencies or omissions or -' errors that are found in the data of the plan's membership or beneficiaries.

6.5 Report any incidents of material non-compliance of the plan or parties related to the plan to the Employer, Board of Trustees, Corporate Trustee, Management Committee and the Supervisor.

### **7. Statutory Duties of Plan Actuaries:**

7.1 An Actuary will be defined for the purposes of the legislation (following the same approach as the Insurance legislation) as "A member in good standing of the Caribbean Actuarial Association who is a Fellow by examination of an actuarial society, institute or professional association recognized by the Supervisor, and who is a current member in good standing of that society, institute or professional association".

7.2 Perform the required statutory actuarial valuations of the plan, regular or special.

7.3 Provide input to the plan's Investment Policy as it relates to the nature of the liabilities, and comment on the matching of assets and liabilities at least triennially as part of the actuarial valuation.

7.4 Advise the Board of Trustees, Corporate Trustee and Management Committee of any matters of potential concern arising out of forecast changes in the plan's financial or demographic circumstances that would affect the current design of the investment policy.

7.5 Advise the Plan Auditor, Board of Trustees, Corporate Trustee, Management Committee and Employer of any significant inconsistencies or omissions or errors that are found in the data of the plan's membership or beneficiaries.

7.6 Report any incidents of material non-compliance of the plan or parties related to the plan to the Employer, Board of Trustees, Corporate Trustee, Management Committee and the Supervisor.

### **8. Statutory Duties of Employers as Sponsors of Pension Plans:**

8.1 Appoint employer members to the Board of Trustees and Management Committee, (if one exists).

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8.3 Facilitate the election of pensioner members to the Management Committee (if one exists). Although we consider this to be a useful recommendation, we are aware of the practical difficulties of implementing it".

8.4 Keep all contributions and amounts due to be remitted to the Trustees or Corporate Trustee separate and distinct from its own funds.

8.5 Remit to the Trustees within 30 days of the end of each month the Members' Contributions deducted from wages, the Employer's Contributions, (both ' . normal and special) calculated in accordance with the prescribed funding rates recommended by the Plan Actuary, together with supporting statements justifying and reconciling the calculations.

Any contribution amounts due and outstanding to the plan shall be treated as a debt and accrue interest compounded daily at the prime lending rate of interest charged by commercial banks in Trinidad & Tobago as declared by the Central Bank. (NOTE: The employer will be deemed to be a trustee for amounts withheld from employee wage in respect of pension contributions and for amounts due to be remitted to the Trustee including its own contributions. Regulations will establish penalties to be applied by the Supervisor to late remittance of contributions by the Employer. We will also be recommending that the Bankruptcy Legislation be amended, if required, to provide that unremitted pension contributions have priority ranking, alongside wages.)

The above requirements, arrangements and penalties will apply to any contributions outstanding as at the effective date of the legislation that have not been remitted 12 months later.

8.6 Maintain such data and information in respect of members, former members and beneficiaries as is required by the terms of the plan and by the Plan Actuary so as to permit the proper administration of the plan including the preparation of actuarial valuations. The employer may contract another party to maintain this data on its behalf, but must maintain control over the data, including ensuring its accessibility and monitoring its continuity from period to period.

8.7 Provide the Plan Actuary with membership data suitable for valuation purposes within 3 months of the valuation date. This requirement will come into force 3 years after the effective date of the legislation.

8.8 Complete an annual information return to the Supervisor certifying to the best of its knowledge and belief:

8.8.1 The number of active members of the plan at the end of the year reported.

8.8.2 The amount of contributions paid to the plan by employees and the Employer.

8.8.3 That contribution remittances during the year complied with the requirements of the legislation and regulations.

8.9 Notify the Supervisor at the same time as the Board of Trustees or Corporate Trustee is notified of its intention to suspend or cease making its required contributions or to terminate the pension plan, but in any case no less than 60 days before such event.

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9.2 Regulations will be issued prescribing the minimum contents of the actuarial reports to be filed with the Supervisor.

9.3 An actuarial valuation report by the plan actuary must be filed not less frequently than triennially, and subject to such other filings (e.g. solvency valuations) as may be prescribed in the Regulations. It will be recommended that unfunded liabilities and solvency deficiencies be funded in accordance with the recommendations of the Plan Actuary, but over no more than 15 years and 5 years respectively, except in cases that are exempted by Regulation. Plans with solvency deficiencies will be required to submit annual valuation reports until they are solvent.

9.4 Actuarial Standards of Practice regulations will be issued by the Minister based on submissions from the Supervisor, who will take professional advice in this area including from the Caribbean Actuarial Association.

### **10. Requirements for Boards of Trustees, Corporate Trustees, Management Committees, Auditors and Actuaries:**

10.1 Individuals must meet "fit and proper person" tests in order to be acceptable to the Supervisor to act in these capacities for a pension fund plan. These would include:

10.1.1 not convicted of any offence involving dishonesty

10.1.2 not an undischarged bankrupt

10.1.3 where the person has been previously disqualified by the Supervisor

10.1.4 incapable of acting in such capacity by reason of mental disorder

10.1.5 where the person is a company, no director is disqualified under these rules

10.1.6 where the person is a company, it has not gone into liquidation

10.1.7 any other prescribed circumstances.

10.2 Corporate Bodies must be solvent and competent to act as a Corporate Trustee.

### **11. Communications With Members:**

11.1 Upon joining a pension plan, new members must be provided with a summary description of the plan terms, and of their rights and obligations under the plan.

11.2 All members, deferred pensioners, pensioners and beneficiaries affected by amendments to the plan must be provided with descriptions of these amendments and information on how these amendments affect them within 6 months of the amendments becoming effective.

11.3 Active members, deferred pensioners, pensioners and beneficiaries must receive such communications regarding their benefit entitlements as prescribed in the Regulations.

11.4 Benefit statements must be provided upon transition to deferred pensioner or pensioner status, and to beneficiaries upon the death of a member, within 30 days of the event.



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members within 9 months of the valuation date, and for all members, deferred pensioners, pensioners within 9 months of any material benefit change (as determined by the actuary).

11.6 Regulations will prescribe the nature of the information to be provided in benefit statements.

11.7 The plan must provide all members, deferred pensioners, and pensioners within 9 months of the plan year-end with an annual report on the operations of the plan and fund including such information as is prescribed by Regulation (for example, covering such matters as changes in membership demographics, synopsis of audited financial statements, changes in plan benefits, investment policy and results).

11.8 There will also be a requirement permitting members, deferred pensioners, pensioners and beneficiaries to have access to original documents pertaining to the plan.

### **12. Cost Recovery:**

12.1 The legislation will authorize the Supervisor to recover the costs of supervision of pension plans from registered plans in accordance with a formula to be prescribed in the Regulations.

12.2 It is expected that this formula will be defined in terms of an annual fee per member, retired member or former member entitled to benefit under the plan, subject to a minimum per plan per year and a maximum per plan per year.

12.3 The legislation will require the Supervisor to produce an annual report within 6 months of the fiscal year-end of the Central Bank, including such information as is prescribed by Regulation dealing with its activities over the period, and its utilisation of levies on the industry. This report will be laid before the House of Parliament.

### **13. Powers and Duties of the Supervisor:**

13.1 Approve and register plans and amendments to plans that meet the conditions for approval and registration. (Please see NOTE below). We will recommend that submissions that have not received a response within 6 months will be automatically deemed approved, with the Supervisor retaining the right to void the approval subsequently, if any of the criteria for approval were contravened.

13.2 Approve appointments of Boards of Trustees, Corporate Trustees, Plan Auditors and Plan Actuaries according to "fit and proper" and other criteria.

13.3 Investigate complaints of plan members, deferred pensioners, pensioners and beneficiaries.

13.4 Terminate pension plans that do not meet the requirements of the legislation for Funding and Solvency, including the remittance of contribution requirements of the Regulations.

13.5 Approve pension plan mergers and spin-offs that meet the requirements of the Regulations.

13.6 Revoke the appointment of members of Boards of Trustees, Corporate Trustees, members of Management Committees, Plan Auditors and Plan Actuaries who do not meet the continuing

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13.7 Levy fees to recover costs of supervision.

13.8 Impose penalties as required by the legislation.

13.9 Direct Boards of Trustees, Corporate Trustees, Management Committees and Employers to comply with the legislation, to cease and desist from unsound or inappropriate administrative or investment practices.

13.10 Require Employers, Boards of Trustees, Corporate Trustees, and Management Committees to provide such information as may be prescribed for purposes of ascertaining that the provisions of the Legislation and Regulations have been complied with.

13.11 Enter premises and require that documents and information relevant or pertaining to the pension plan be provided, and to remove documents and information for copying.

13.12 Specify forms to be filed, and the timing of filings.

13.13 Require special reports from auditors and/or actuaries and/or valuers with costs to be paid by the plans concerned.

13.14 Specify the bases or reporting standards to be used in preparing auditors' or actuaries' reports, either routine or special.

13.15 Require that information concerning their pension plan be brought to the attention of members, deferred pensioners, pensioners or beneficiaries.

13.16 Impose penalties for non-compliance and offences against the legislation, in accordance with a schedule of penalties prescribed in Regulations.

13.17 Appoint a liquidator for purposes of winding-up a terminated plan where the Board of Trustees, Corporate Trustee or Management Committee fails to act in that regard within a reasonable time.

13.18 Convene advisory committees of representatives of employers who sponsor pension plans, non-employer members of Management Committees, Corporate Trustees, Boards of Trustees, Plan Auditors and Plan Actuaries for purposes of taking advice on regulatory and supervisory policy matters.

13.19 Any party aggrieved by an action or decision of the Supervisor may appeal to the Appeal Board.

NOTE: It is our view that the registration and approval of a pension fund plan by the Supervisor should be accepted as evidence of approval of that plan by the BIR and that the registration with the Supervisor be the only registration necessary for all government purposes. Effectively this is a recommendation that the BIR delegate its approval function to the Supervisor. This would also apply to the approval of amendments. As a result, the industry would have to deal only with one agency or regulatory body for business purposes. This would streamline file processing and avoid duplication of document review etc. However, this would have to be negotiated with the Board of Inland Revenue and implemented separately from this project.

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### 14. Investment Rules:

14.1 The Second Schedule of the Insurance Act 1980 will be replaced with contemporary, less restrictive, investment rules. Investment Governors will be given more flexibility as to the type of investments they may make but subject to the "prudent person" standards of investment and some overall quantitative limits. The "prudent person" standards are those which, in the overall context of an investment portfolio, a reasonable and prudent person would apply to investments made on behalf of another person with whom there exists a fiduciary relationship to make such investments without undue risk of loss or impairment and with a reasonable expectation of fair return.

14.2 This system emphasizes the characteristics of the overall investment portfolio rather than those of each individual investment. The real goal of a prudent investor is to maximize total return while at the same time maintaining acceptably low risks of loss or illiquidity. The Investment Governor is relatively free to purchase individual investment assets as deemed fit, as long as the investments are appropriate when viewed in the context of the portfolio.

14.3 The Investment Governor must document and the Management Committee must approve the Investment Policy being used to manage the funds of the pension plan.

14.4 The Investment Policy must meet specified minimum standards as prescribed by Regulations.

14.5 There will be a definition of "related parties", and all transactions with such parties will be prohibited, apart from those expressly allowed.

14.6 Quantitative limits will be placed on the total amount that a pension plan fund may invest in certain types of investments such as real estate and equities, and the amount that may be invested in any single entity and connected companies.

14.7 Regulations will prescribe that:

14.7.1 At least 80% of the total market value of the fund must be invested in Trinidad & Tobago. However, we believe that because of the growing size of the pensions industry, and the limited availability of suitable local assets, the Government should consider reducing this requirement to 70% over a reasonable period of time.

14.7.2 A pension plan shall not own more than 30% of the voting shares of any corporation.

14.7.3 A pension plan shall not invest more than 10% of the total market value of the fund in a single corporation, including a related person where permitted. This excludes securities issued by, or guaranteed by the Government of Trinidad & Tobago or any Government prescribed in Regulations, and demand deposits with a regulated financial institution that is not a related party

14.7.4 A pension plan shall not invest more than 10% of the total market value of the fund in a single investment. This excludes securities issued by, or guaranteed by the Government of Trinidad & Tobago or any Government prescribed in Regulations, and demand deposits with a regulated financial institution that is not a related party.

14.7.5 A pension plan shall not invest more than 5% of the total market value of the fund

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14.7.6 A pension plan shall not invest more than 25% of the total market value of the fund directly or indirectly in real estate.

14.7.7 A pension plan shall not invest more than 50% of the total market value of the fund directly or indirectly in real estate and in mortgage loans where the property mortgaged is real estate.

14.7.8 A pension plan shall not invest more than 75% of the total market value of the fund directly or indirectly in equities, real estate and in mortgage loans where the property mortgaged is real estate.

14.7.9 A pension plan shall not invest in a mortgage where the loan exceeds 80% of the market value of the real estate at the time of the loan.

14.7.10A pension plan shall not borrow or issue financial guarantees, except with the written consent of the Employer.

14.7.11Investments of pension plans that do not comply with these conditions as at the effective date of the legislation will be deemed to comply for 3 years, following which they will be required to comply.

14.7.12Regulations will prescribe the manner in which any portfolios are to be re- balanced if portfolio limits are exceeded.

14.7.13All investments of the fund shall be registered in the name of the Trustee of the plan for and on behalf of the plan. The custodians of the investments must at all times be able to prove that they have the relevant securities and titles.

### **15. Related Party Transactions**

15.1 All related party transactions are prohibited, apart from those that are specifically permitted.

15.2 Related party is defined to include:

15.2.1 The sponsoring company, or a subsidiary or affiliate of the sponsoring company, or a controlling shareholder, director, controller or manager of the sponsoring company or a subsidiary or affiliate of the sponsoring company, or a spouse or child of the aforementioned individuals.

15.2.2 Boards of Trustees, Corporate Trustees, Management Committees, Plan Auditors and Plan Actuaries or other advisors/service providers to the pension plan, or an entity of which any of the aforementioned persons is a controlling shareholder or affiliate.

15.2.3 Employees of the sponsoring company and deferred pensioners, pensioners and beneficiaries of the pension plan.

15.2.4 A person who enters into a transaction in contemplation of becoming a related party.

15.2.5 Any person designated by the Supervisor where such person's direct or indirect interest in the sponsoring company might reasonably be expected to affect the exercise of the best judgement of the pension plan.

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15.4 It does not apply to the purchase of securities of a related party where the securities are publicly traded in an active market and the securities are purchased in that market.

15.5 Permitted related party transactions include:

15.5.1 Loans that are fully secured by securities of, or guaranteed by the Government of Trinidad and Tobago, or any Government prescribed in Regulations.

15.5.2 A mortgage on real estate of a related party where the amount does not exceed 80% of the value of the property at the time of the loan.

15.5.3 The purchase of services used in the ordinary course of investing.

15.5.4 The acquisition from a related party of securities of or guaranteed by the Government of Trinidad & Tobago or any Government as prescribed in Regulations, or assets fully secured by securities of or guaranteed by the Government of Trinidad & Tobago or any Government as prescribed in Regulations.

15.5.5 The disposal of assets of the pension plan fund to a related party if the consideration is fully paid in money, and if there is an active market for the assets.

15.5.6 The acquisition or disposal of assets, in the ordinary course of investing, from or to a related party that is an Insurance Corporation licensed under the Insurance Act or is a person licensed under the Financial Institutions Act.

15.5.7 A prescribed transaction or one of a class of prescribed transactions.

15.6 Any transaction entered into with a related party shall be in the best interest of the pension plan and on terms and conditions that are at least as favourable to the fund as are market terms and conditions (these terms and condition will be defined).

15.7 Where a pension plan enters into a prohibited related party transaction the pension plan or the Supervisor may apply to a Judge in Chambers for an order setting aside the transaction or for any other appropriate remedy.

15.8 Non-complying related party transactions as at the effective date of the legislation will be deemed to comply for 3 years, following which they will be required to comply.

### **16. Plan Mergers and Transfers:**

16.1 Where amendments to pension plans are contemplated in anticipation of pension plan mergers or spin-offs, no such amendments are effective without the approval of the Supervisor. The Supervisor as a condition precedent will require:

16.1.1 A proposal setting out the details of the anticipated transaction, subject to requirements prescribed by Regulations.

16.1.2 Notification of members, former members and beneficiaries affected by the transaction.

16.1.3 Reports on the transaction by each of the Plan Actuaries dealing with the impact of the transaction on the rights, benefits and entitlements of the plan members, former members and

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16.2 The Supervisor may request independent actuarial advice, the cost to be borne by the plans involved in the transaction.

16.3 Where such a transaction is contemplated, the transaction shall not terminate the service of a plan member for the purpose of determining benefits under any new or successor plan.

16.4 Where a transaction involves the establishment of a new or successor pension plan and an Employer ceases contributing to the original plan, that plan is deemed not terminated, and the new or successor plan is deemed to be a continuation of the original plan.

16.5 The Supervisor shall not consent to a transaction that does not protect the benefits and rights of members and beneficiaries of the plans affected.

### **17. Plan Winding-up:**

17.1 The Employer will be required to give 60 days notice of intention to wind up all or part of the pension plan to the Supervisor, the Board of Trustees, the Corporate Trustee, the Management Committee and all active and other members/beneficiaries of the plan.

17.2 The specific approval of the Supervisor will be required before the winding up of all or part of a plan can be performed.

17.3 The Supervisor may order all or part of a plan to be wound up in certain circumstances, for example, where the Employer fails to make contributions to the plan, or where all or part of the business of the Employer is discontinued.

17.4 If a pension plan that is to be wound up does not have a person authorised under the plan rules to action the winding up, the Supervisor may appoint a person to conduct the winding-up.

17.5 The person carrying out the winding up shall perform specific prescribed duties, for example, compiling an inventory of the assets and liabilities of the i plan, determining individual entitlements, setting out the method of allocating and distributing the plan assets, providing benefit statements to members, former members and beneficiaries, and submitting a wind up report to the i Supervisor for approval.

17.6 Upon the wind up of a pension plan, the Employer is liable for all contributions due and accrued up to the date of termination.

17.7 Where a plan being wound up has insufficient assets, benefits shall be reduced in accordance with the terms of the plan, or if none exist, in the prescribed manner.

17.8 Where a plan being wound up has surplus assets, the wind up report must include a description of the method of their allocation in accordance with the terms of the plan, or where none exist, in accordance with prescribed manner.