



Eastern Caribbean Securities Regulatory Commission

ECCB FINANCIAL COMPLEX ♦ P O BOX 1855 ♦ BASSETERRE ♦ ST KITTS ♦ WEST INDIES

POLICY STATEMENT #1

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SUBJECT: **Public Issue of Securities By Private Companies**

SUMMARY: This policy statement provides information for companies and investors regarding the question of whether private companies can issue securities to the public. It represents the views of the Commission on a matter of policy but is not a rule or regulation.

Companies, whether public or private, are at times required to raise capital to fund current operations and/or facilitate future expansion. The facilities available to raise funds are similar for both private and public companies; the sale of securities (equity and debt instruments), commercial loans and the disposal of assets. At issue is whether there should be a distinction between the requirements for public and private companies that seek to raise funds by the sale of securities to the public.

The Securities Act, 2001 and Securities (Prospectus) Regulations, regulate the issue of securities by companies incorporated or registered as external companies in the Eastern Caribbean Currency Union. The legislation outlines the requirements for persons seeking to raise funds by the public sale of securities and make no distinction between public (companies whose issued shares or debentures are or were part of a distribution to the public or in the case of St Kitts whose memorandum states that it is a public company or it has more than more than fifty members) and private (companies that are not public companies) companies.

The legislation by making no distinction between the requirements for public and private companies, prima facie, requires that private companies satisfy the same conditions as public companies, for the sale of securities to the public. The Commission is therefore of the view that all companies seeking to raise funds by the sale of securities to the public must comply with the following:

- Register with the Commission as a reporting issuer and submit a registration statement in accordance with the section 97 (3) of the Securities Act 2001 and Securities (Registration Statement) Rule No. 2 of 2002;
- Submit a prospectus to the Commission for approval;
- Make the approved prospectus available to the public, free of charge, at an address in its territory of incorporation or registration or in such other territory where the offer is made, from the time the securities are first offered until the end of the period during which the offer remains open;
- Comply with all ongoing reporting requirements required by the securities legislation.

Additional information may be obtained by visiting the Commission's website www.ecsrc.com or contacting the Commission via the contact information provided above.