
EASTERN CARIBBEAN SECURITIES REGULATORY COMMISSION



**COLLECTIVE INVESTMENT SCHEMES
OPERATING IN THE
CAPITAL MARKETS OF THE EASTERN CARIBBEAN CURRENCY UNION**

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This document is intended to guide its user in determining whether businesses proposing to/or operating within their respective territories may be considered Collective Investment Schemes for the purposes of the Securities Act of 2001 (the Act).

Users of this guide are encouraged to review the Securities Act and the Securities (Collective Investment Scheme) Regulations passed within their respective jurisdictions for a complete presentation of the requirements. When further clarification is required the user may contact the Secretariat of the Commission using the information provided at the end of this document.

BACKGROUND

A uniform Securities Act was passed in the territories of the Eastern Caribbean Currency Union (ECCU)¹ in 2001. This Act is intended to “provide for the protection of investors in securities” within the domestic securities market². On the passage of the Act a single securities regulator, the Eastern Caribbean Securities Regulatory Commission (the Commission), was established. It is the responsibility of the Commission to regulate all persons engaged in securities business and all issues of securities to the public³ to ensure the protection of investors for which the Act provides. The Commission’s authority in this regard is effective in all member states of the ECCU.

OVERVIEW OF THE LEGISLATION

The Act defines a collective investment scheme as:

- “99(1)(a) a unit trust;*
- (b) an investment company;*
- (c) investment contracts, investment programmes or any other arrangements with respect to property of any description, including money, the purpose or effect*

¹ These comprise Anguilla, Antigua & Barbuda, Commonwealth of Dominica, Grenada, Montserrat, Saint Lucia, St Kitts-Nevis and St Vincent and the Grenadines.

² The Securities Act 2001 is not applicable for off-shore entities.

³ This responsibility does not include securities issued by ECCU governments.

of which is to enable persons taking part in the arrangements (whether by becoming owners of the property or any part of it or otherwise) to participate in or receive profits or income arising from the acquisition, holding, management or disposal of property or sums paid out of such profits or income; and

(d) any scheme that the Commission may deem to be a collective investment scheme for the purpose of the Act;”

Generally, a collective investment scheme is an investment vehicle that pools the contributions of many investors for investment in securities.

The Act and the Securities (Collective Investment Scheme) Regulations require that collective investment schemes be authorised and management companies and custodians be licensed by the Commission.

THE UNIT TRUST

The unit trust is an entity established by deed and registered with the Registrar of Companies within the jurisdictions.

THE INVESTMENT COMPANY

The investment company is an incorporated entity established by its memorandum and articles of incorporation and registered with the Registrar of Companies within the jurisdiction.

INVESTMENT CONTRACTS

An investment contract that is a collective investment scheme is an agreement between an asset manager and an investor which provides for the management of pooled contributions and the sharing of all returns among contributors.

OPERATING STRUCTURE

The legislation requires that collective investment schemes must comprise the scheme, a management company, except for a self-managed investment company, and a custodian. The

scheme, which is the investment vehicle in which the unit holders are invested, may take any of the forms described under Section 99 of the Act, that is:

For the purposes of the ECCU securities legislation a company is a management company of a collective investment scheme if, at a minimum, it:

1. Runs the day to day administrative activities of the scheme
2. Determines the composition the scheme's portfolio of assets.
3. Ensures that the capital of the scheme is invested in accordance with the formation documents and the regulations.
4. Prepares the schemes accounts and provides the documents necessary for public disclosure.
5. Calculates and discloses the value of the scheme's units
6. Determines (where applicable) and publishes the issue, sale, repurchase and redemption price of the units of the scheme.
7. Provides investment instruction to the scheme's custodian
8. Prepares and publishes the scheme's particulars

For the purposes of the ECCU securities legislation a company is a custodian of a collective investment scheme if, at a minimum, it:

1. Holds the property of the scheme for safe-keeping based on the agreement between itself and the management company.
2. Ensures that the management company executes its duties and that the property of the scheme is invested and income applied in accordance with the formation documents and the Regulations.
3. Ensures that the management company calculates the value of the units of the scheme
4. Carries out the investment instructions of the management company
5. Ensures compliance with the investment and borrowing limitations of the regulations
6. Prepares an opinion as to the effectiveness of the management company for publication in the annual report
7. Ensures that units are not issued until subscriptions have been paid
8. Monitors transactions of units of the scheme that are owned by the management company

9. Ensures that the management company's investments are segregated from scheme assets
10. Establishes and maintains a register of participants of the scheme.

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