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**TRUST COMPANY (GUYANA) LIMITED IS REQUIRED TO REGISTER
WITH THE GUYANA SECURITIES COUNCIL**

Port of Spain, Trinidad and Tobago. In a judgment released today, the Caribbean Court of Justice (CCJ) dismissed the appeal of the Trust Company (Guyana) Limited in the matter of *Trust Company (Guyana) Limited v Guyana Securities Council* [2021] CCJ 11 (AJ). The Court affirmed the orders of the Court of Appeal. The CCJ heard the appeal on 20 April 2021.

The Guyana Securities Council (“GSC”) is responsible for regulating the securities market in Guyana. In 2010, the GSC wrote to Trust Company (Guyana) Limited (“Trust”) saying that it was a public company that should be registered with the GSC. Trust denied that it was a public company and refused to register. It subsequently filed an action in the High Court, seeking declarations that it was a private company and not a public company. Trust was unsuccessful at the High Court and before the Court of Appeal.

The main issue before the CCJ involved the interpretation of the Securities Industry Act (“the Act”). The Act provides that where a company issues a security which is owned by more than fifty (50) persons, it is a public company. The Act also provides that a ‘share’ is a type of security. In 2009, Trust had issued shares to sixty (60) persons. The Court had to determine whether the issuance of shares to over fifty (50) persons

made Trust a public company within the provisions of the Act, and if so, whether Trust was compelled to register with the GSC under section 56(1) of the Act.

The CCJ, in a judgment authored by Justice Rajnauth-Lee, decided that, having regard to the plain meaning, the entire context and the main objectives of the Act, Trust was a public company, as it had issued ‘shares’ that were owned by more than fifty (50) persons. Having regard to the policy, clear purpose and entire scheme of the Act, the Court was also satisfied that the legislature in Guyana intended that by virtue of section 56(1) all public companies are to be treated as reporting issuers. As such, they are required to register with the GSC, whether they existed at the time the relevant legislation came into effect, that is 22 July 2002, or were established or became public companies after that date.

Trust’s appeal was therefore dismissed. The Court was presided over by the Hon. Mr Justice Saunders, President and the Hon. Justices Wit, Rajnauth-Lee, Burgess and Jamadar. The Appellant was represented by Mr Timothy M Jonas SC and the Respondent by Mr CA Nigel Hughes and Mr Stephen Roberts.

The full judgment of the Court is available on the Court’s website at www.ccj.org

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About the Caribbean Court of Justice

The Caribbean Court of Justice (CCJ) was inaugurated in Port of Spain, Republic of Trinidad and Tobago on 16 April 2005 and presently has a Bench of seven judges presided over by CCJ President, the Honourable Mr Justice Adrian Saunders. The CCJ has an Original and an Appellate Jurisdiction and is effectively, therefore, two courts in one. In its Original Jurisdiction, it is an international court with exclusive jurisdiction to interpret and apply the rules set out in the Revised Treaty of Chaguaramas (RTC) and to decide disputes arising under it. The RTC established the Caribbean Community (CARICOM) and the CARICOM Single Market and Economy (CSME). In its Original Jurisdiction, the CCJ is critical to the CSME and all 12 Member States which belong to the CSME (including their citizens, businesses, and governments) can access the Court’s Original Jurisdiction to protect their rights under the RTC. In its Appellate Jurisdiction, the CCJ is the final court of appeal for criminal and civil matters for those countries in the Caribbean that alter their national Constitutions to enable the CCJ to perform that role. At present, four states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica and Guyana. However, by signing and ratifying the Agreement Establishing the Caribbean Court of Justice, Member States of

the Community have demonstrated a commitment to making the CCJ their final court of appeal. The Court is the realisation of a vision of our ancestors, an expression of independence and a signal of the region's coming of age.

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