

TENTH SCHEDULE

(Section 142)

Amendment of Bank of Jamaica Act

<u>Provision</u>	<u>Amendment</u>
Section 2	<ol style="list-style-type: none">1. Delete the definition of “commercial bank”.2. Delete the definitions of “overseas regulatory authority” and “specified financial institution”.3. In the definition of “prudential criteria” delete the word “commercial”.4. Insert in the appropriate alphabetical sequence the following definitions—<ul style="list-style-type: none">“bank” has the meaning assigned to it in the <i>Banking Services Act</i>;“building society” has the meaning assigned to it in the <i>Banking Services Act</i>;“deposit taking institution” has the meaning assigned to it in the <i>Banking Services Act</i>;“financial institution” has the meaning assigned to it in the <i>Banking Services Act</i>;“foreign financial regulatory authority” has the meaning assigned to it in the <i>Banking Services Act</i>;“merchant bank” has the meaning assigned to it in the <i>Banking Services Act</i>;“prescribed liabilities” means the liabilities specified by the Bank, by notice published in the Gazette;“regulator” has the meaning assigned to it in the <i>Banking Services Act</i>;“regulatory counterparts” means—<ol style="list-style-type: none">(a) the designated authority as defined in the <i>Banking Services Act</i>;

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- (b) a foreign financial regulatory authority;
- (c) a regulator;
- (d) an authority operating in a country other than Jamaica which undertakes functions similar to the designated authority;
- (e) the Jamaica Deposit Insurance Corporation;
- (f) an authority operating in a country other than Jamaica which undertakes functions similar to the Jamaica Deposit Insurance Corporation;
- (g) the International Monetary Fund, the World Bank, or any other such multilateral agency;
- (h) the Caribbean Financial Action Task Force, or any other similar international organization that recommends or sets international standards;
- (i) an independent observer or assessor;

“specified financial institution” means a person or undertaking (not being a bank, merchant bank or building society) whose business includes the granting of loans or other credit facilities or the accepting of deposits and who is declared by the Minister by notice in the *Gazette* to be a specified financial institution for the purposes of this Act.

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“Supervisory Committee” means the committee constituted by section 6 of the *Banking Services Act*.”.

Section 6 Delete the section and substitute therefor the following—

“Board of Directors.

6.—(1) There shall be a Board of Directors of the Bank which, subject to the provisions of this Act, shall be responsible for the policy and the general administration of the affairs of the Bank.

(2) The Board shall consist of the following directors—

- (a) the Governor, appointed under section 6A;
- (b) the Senior Deputy Governor, appointed under section 6D;
- (c) the Financial Secretary; and
- (d) six other directors appointed by the Minister by instrument in writing.

(3) Notwithstanding subsection (2)(d), the Minister may, by instrument in writing (whether in the same instrument of appointment as Deputy Governor, or by subsequent instrument), appoint to be directors, one or more Deputy Governors appointed under section 6D so, however, that any such appointment shall not be taken into account in determining the number of directors that may be appointed under subsection (2).

(4) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any director in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

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Schedule.

(5) Where any director is exempt from liability by reason only of the provisions of subsection (3) the Bank shall be liable to the extent that it would be if that director were a servant or agent of the Bank.

(6) The provisions of the Schedule shall have effect as to the tenure of office of the directors and the operations of the Board and otherwise in relation thereto.

Appointment of Governor.

6A.—(1) The Governor shall be appointed by the Governor-General in Council by instrument under the Broad Seal.

(2) The appointment of the Governor shall not constitute the appointment of a public officer for the purpose of section 123 of the Constitution of Jamaica.

(3) A person appointed as Governor shall hold office for a period of not less than seven years and may be reappointed.

Function of Governor.

6B. The Governor, or, in his absence, the Senior Deputy Governor, or, in the absence of the Governor and the Senior Deputy Governor, a Deputy Governor designated by the Minister, shall be in charge of the day-to-day management and operations of the Bank and shall be answerable to the Board for his acts and decisions.

Removal of Governor.

6C.—(1) The Governor-General in Council, may remove the Governor from office.

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(2) The Cabinet may tender advice under subsection (1) if the Cabinet is satisfied that the Governor should be removed for cause or that any of the conditions set out in paragraph 5 of the Schedule, exists.

(3) The Cabinet may tender advice under this section whether or not the Board has made a recommendation that the Governor be removed from office.

Senior Deputy
Governor and
Deputy
Governors.

6D.—(1) The Senior Deputy Governor and Deputy Governors shall be appointed by the Minister on the recommendation of the Board, by instrument in writing for a period not exceeding five years, on such terms and conditions as may be specified.

(2) Where a Senior Deputy Governor or Deputy Governor is also recommended to be the Deputy Supervisor, the appointment of that officer as Deputy Supervisor shall be made in accordance with section 34B.

(3) Subject to subsection (4), in any case where the Senior Deputy Governor or a Deputy Governor who was not previously carrying out the functions of Deputy Supervisor, is appointed as Deputy Supervisor during the term of the Deputy Governor's appointment, the appointment as Deputy Governor shall be deemed to have expired and his appointment as Deputy Supervisor shall commence.

(4) Nothing contained in this section or section 6A, shall affect or prejudice the terms of any existing appointment in place as at the date this

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	<p>section comes into effect in relation to the Governor, a Senior Deputy Governor, a Deputy Governor or a director.</p> <p>(5) The Governor, Senior Deputy Governor and Deputy Governors shall devote the whole of their professional services to the Bank and while holding office shall not, without the approval of the Board—</p> <p>(a) receive any salary or supplementation thereto from any source other than the Bank; or</p> <p>(b) occupy any other office or employment, whether remunerated or not.”.</p>
Section 22B	<p>1. Renumber subsections (2), (3), (4), (5), (6) and (7) as subsections (3), (4), (5), (6), (7) and (8).</p> <p>2. Delete the subsection (1) and substitute therefor the following as subsections (1) and (2)—</p> <p>“ (1) Any person of a category specified in subsection (2) shall not acquire foreign assets except in accordance with such directions as may from time to time be given to the person by the Minister in relation to the acquisition of foreign assets.</p> <p>(2) The categories of persons referred to in subsection (1) are—</p> <p>(a) authorized dealers;</p> <p>(b) persons to whom any powers of the Minister under this Act are delegated;</p> <p>(c) merchant banks;</p>

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	<ul style="list-style-type: none"> (d) insurance companies; (e) credit unions; (f) building societies; (g) persons who, with the approval of the Minister, operate exchange bureaux; (h) managers and trustees of collective investment schemes registered under the <i>Securities Act</i>; (i) persons who operate or manage super-annuation or pension funds; (j) approved money transfer and remittance agents and agencies.”.
Section 26	Delete the word “commercial” wherever it appears.
Sections 28, 28A and 29.	Delete sections 28, 28A and 29 and substitute therefor the following— <ul style="list-style-type: none"> “Reserve requirements. 28.—(1) Every deposit taking institution or specified financial institution shall maintain, in the form of a deposit with the Bank, a cash reserve. (2) Subject to subsection (3), the cash reserve to be maintained by a bank or merchant bank shall be not less than five nor more than twenty-five <i>per centum</i> of prescribed liabilities and the cash reserve to be maintained by a building society or a specified

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financial institution, shall be such percentage as may be prescribed; and, subject to those limits—

- (a) in the case of a bank, the cash reserve shall be such percentage of its prescribed liabilities as prescribed by notice issued by the Bank and published in the *Gazette*;
- (b) in the case of a merchant bank, the cash reserve shall be such percentage of its prescribed liabilities as prescribed by notice issued by the Bank and published in the *Gazette*;
- (c) in the case of a building society, the cash reserve shall be such percentage of its prescribed liabilities in respect of deposits and withdrawable shares as prescribed by notice issued by the Bank and published in the *Gazette*;
- (d) in the case of a specified financial institution the cash reserve shall be such percentage of its prescribed liabilities including withdrawable shares

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(where applicable) as prescribed by notice issued by the Bank and published in the *Gazette*.

(3) A notice under subsection (2) may make different provisions as respect different types of prescribed liabilities specified in the notice, so, however that if any such notice prescribes marginal cash reserve requirements for increases in specified prescribed liabilities such requirements shall not exceed one hundred *per centum* of the increase in such liabilities.

(4) Without prejudice to the generality of subsection (3), a notice under subsection (2) may require that where a portion of the prescribed liabilities is payable in foreign currency then such percentage of the prescribed liabilities so payable as is specified in the notice shall be held in foreign currency.

(5) Where any such percentage is to be increased—

- (a) the increase shall be so effected as not to exceed two percentage points in any one period of thirty days; and

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- (b) it shall be the duty of the Bank to give all deposit taking institutions or as the case may be, specified financial institutions at least 15 days' notice of the date on which the increase is to take effect.

(6) Subject to subsection (7), for the purpose of determining the amount of the cash reserve required to be maintained by a deposit taking institution or specified financial institution during any month—

- (a) the amount of its deposit with the Bank shall be the amount of such deposit as at the close of business on each business day in the month;
- (b) the amount of its prescribed liabilities shall be the average amount of such liabilities at the close of business on Wednesdays in each of the four consecutive weeks ending with last Wednesday but one of the preceding in each month.

(7) The Bank may, by notice published in the *Gazette*, vary the method to be used in calculating the cash reserve required to be maintained under this section.

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(8) Where a deposit taking institution or specified financial institution fails to maintain the required cash reserve, that institution shall pay to the Bank, interest calculated in respect of each business day that the deficiency persists at such rate as the Bank may specify by notice.

(9) For the purpose of this section—

“deficiency” means the amount by which the sum (if any) actually deposited by the deposit taking institution or specified financial institution with the Bank falls short of the required cash reserve;

“marginal cash reserve requirements” means in relation to any increase in prescribed liabilities, such percentage of the increase as is required to be maintained with the Bank for the purposes of this section.

(10) The coming into effect of this section shall not affect any requirements on deposit taking institutions relating to the maintenance of a cash reserve that were in existence prior to the coming into effect of this section, unless and until those requirements are varied in accordance with this Act.

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(11) The power conferred by subsection (2) may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
- (b) so as to make, as respects the cases in relation to which it is exercised—

- (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);

- (ii) the same provision for all cases in relation to which the power is exercised

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(iii) any such
provision
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condition.

Special
deposits.

28A.—(1) Without prejudice to
the provisions of section 28, and
subject to subsection (2), the Bank
may, with the approval in writing
of the Minister, require—

(a) a deposit taking
institution; and

(b) any specified financial
institution,

to maintain with the Bank in
the form of a deposit (in this

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section referred to as a "special deposit") an amount not exceeding twenty *per centum* of the amount of the prescribed liabilities of such deposit taking institution or such specified financial institution.

(2) A deposit taking institution or specified financial institution may comply, in whole or in part, with a requirement made under subsection (1) by investments in the form of—

- (a) Treasury bills issued by the Government of Jamaica;
- (b) certificates of deposit issued by the Bank; or
- (c) such other form of securities as the Bank may approve.

(3) Interest at such rate as the Minister may, by order, determine, shall be paid by the Bank on the amount of any special deposit referred to in subsection (1).

(4) The power conferred by subsection (1) may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to all those

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cases subject to specified exceptions, or in relation to any specified cases or classes of case;

(b) so as to make, as respects the cases in relation to which it is exercised—

(i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);

(ii) the same provision for all cases in relation to which the power is exercised or different provisions for different cases or classes of case, or different provisions as respects

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the same case or class of case for different purposes;

(iii) any such provision either unconditionally or subject to any specified condition.

(5) Where a deposit taking institution or specified financial institution on any day fails to comply with a requirement made pursuant to subsection (1), that deposit taking institution or specified financial institution shall pay to the Bank in respect of that day interest calculated at a daily rate of one sixth of one per cent (or such other rate as the Minister may, by order, approve) on the sum by which the amount of the special deposit in respect of that deposit taking institution or specified financial institution falls short of the amount stated in the requirement as aforesaid.

Power to vary liquid asset requirements.

29.—(1) Every deposit taking institution or specified financial institution shall so conduct its business as to ensure that its stock of liquid assets is on the average

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not less than *the per centum* specified under this section.

(2) The liquid assets that shall be maintained pursuant to this subsection shall be—

- (a) in the case of a bank or merchant bank, such percentage of its average prescribed liabilities as prescribed by notice issued by the Bank and published in the *Gazette*;
- (b) in the case of a building society, such percentage of its average prescribed liabilities in respect of deposits and withdrawable shares as may be prescribed by notice issued by the Bank and published in the *Gazette*;
- (c) in the case of any specified financial institution such percentage of its prescribed average liabilities, including withdrawable shares (where applicable) as may be prescribed by notice issued by the Bank and published in the *Gazette*,

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so, however, that a percentage prescribed pursuant to this subsection shall not be less than five nor more than fifty *per centum* or, subject to subsections (2A) and (2B) such other percentage as the Minister may specify by order, subject to affirmative resolution.

(2A) An order made under subsection (2) shall, be subject to revocation or amendment, remain in force for a period of ninety days or such longer period as may be authorized under subsection (2B).

(2B) The House of Representatives and the Senate may, from time to time, by resolution, extend an order made under subsection (2A) for such period not exceeding ninety days as may be specified in the resolution.

(3) Where any such percentage under subsection (2) is to be increased—

- (a) the increase shall be so effected as not to exceed five percentage points in any one period of thirty days; and
- (b) it shall be the duty of the Bank to give all deposit taking

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institutions or as the case may be, specified financial institutions at least fifteen days' notice of the date on which the increase is to take effect.

(4) Without prejudice to the generality of subsection (2) a notice under subsection (2) stating the minimum liquid assets to be maintained may require that where a portion of the prescribed liabilities is payable in foreign currency then such percentage of the liquid assets so payable as is specified in the notice shall be held in foreign currency, so however, that the percentage so specified shall not be less than fifteen nor more than fifty *per centum*.

(5) Subject to subsection (2), for the purpose of determining the amount of the liquid assets required to be maintained by a deposit taking institution or specified financial institution during any month—

- (a) the amount of its liquid assets shall be the average amount of such assets at the close of business on each business day of the month; and
- (b) the amount of its prescribed liabilities

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shall be the average amount of such liabilities at the close of business on Wednesdays in each of the four consecutive weeks ending with the last Wednesday but one of the preceding month.

(6) The Bank may, by notice published in the *Gazette*, vary the method to be used in calculating the average of the liquid assets required to be maintained under this section.

(7) For the purposes of this section “liquid assets” means the following assets which shall be unencumbered—

- (a) notes and coins;
- (b) cash reserves on deposit with the Bank in accordance with section 28;
- (c) cash balances with the Bank in excess of such cash reserves mentioned in paragraph (b);
- (d) short term instruments issued by the Bank;
- (e) money at call or short notice, held with another deposit taking institution (repayable on demand or on not more than fourteen days’ notice),

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less any amount held for that deposit taking institution;

- (f) Treasury Bills issued by the Government of Jamaica;
- (g) short term debt securities or instruments issued by the Government of Jamaica, whether denominated in Jamaican dollars or foreign currency;
- (h) such other assets, whether denominated in Jamaican dollars or a foreign currency, as the Bank specifies by notice published in the *Gazette*,

and for the purposes of paragraphs (d) and (g) "short term" in relation to an asset refers to the maturity date which will occur within a period not exceeding nine months; and for the purposes of paragraph (e) so much only of the items mentioned at paragraph (e) shall be taken into account as do not exceed such percentage of prescribed liabilities as the Bank may specify by notice published in the *Gazette*.

(8) Where a deposit taking institution or a specified financial institution, during any month, fails to maintain as liquid assets the amount which it is required to maintain under this

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section, that institution shall pay to the Bank in respect of the entire month aforesaid interest calculated at such rate as the Bank may, from time to time, by notice, approve on the sum by which the amount of the liquid assets (if any) maintained by that bank falls short of the amount of the liquid assets which it is required to maintain.

(9) A notice under subsection (2) may make different provisions as respects different types of prescribed liabilities specified in the notice, so, however, that if any such notice prescribes marginal liquid assets requirements for increases in specified prescribed liabilities such requirements shall not exceed one hundred *per centum* of the increase in such liabilities.

(10) The power conferred by subsection (2) may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case;

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(b) so as to make, as respects the cases in relation to which it is exercised—

(i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);

(ii) the same provision for all cases in relation to which the power is exercised or different provisions for different cases or classes of case, or different provisions as respects the same case or class of case for different purposes;

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(iii) any such provision either unconditionally or subject to any specified condition.

(11) The coming into operation of this section shall not affect any existing requirements on deposit taking institutions relating to the maintenance of liquid assets that were in existence prior to the coming into operation of this section, until and unless those requirements are varied in accordance with this Act.

(12) In subsection (9), “marginal liquid assets requirements” means in relation to any increase in specified prescribed liabilities, such percentage of the increase as is required to be maintained as liquid assets for the purposes of this section.”.

Section 30 (1)(a) Delete the words “section 14 or 15 of the *Banking Act*, or section 14 or 15 of the *Financial Institutions Act*, or”.

Section 34A

1. Renumber subsection (1) as the section.
2. Delete subsection (2).
3. In the section, as renumbered, delete the words “Department of Supervision of Banks and Financial Institutions” and substitute therefor the words “Supervisory Department”.

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<p>New section 34AA</p>	<p>Insert next after section 34 the following as section 34AA –</p> <p>34AA.—(1) The Supervisory Department shall be responsible for the promotion of the safety and soundness of deposit taking institutions and the deposit taking system and, for this purpose, the Supervisory Department shall be charged with—</p> <ul style="list-style-type: none"> (a) the supervision and examination of licensees under the <i>Banking Services Act</i> and any other enactment; (b) the supervision of— <ul style="list-style-type: none"> (i) specified financial institutions; and (ii) credit bureaux licensed under section 4 of the <i>Credit Reporting Act</i>; (c) provide such analyses, advice and recommendations to the Supervisor and to the Supervisory Committee for the effective carrying out of their functions under this Act, and the <i>Banking Services Act</i>; (d) carry out such functions as may be assigned to it by the Supervisor, including furtherance of implementation of decisions of the Supervisor and of the Supervisory

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Committee under the *Banking Services Act*.

(2) Unless directed otherwise, by the Supervisory Committee, the Supervisor shall settle the parameters of any regulatory collaboration, the duration of the collaboration, any cost sharing and other comparable matters related to the collaboration.

(3) The Supervisor shall—

- (a) cooperate with relevant agencies in the orderly resolution of failed deposit taking institutions, financial holding companies and financial groups to minimize impact on the financial system;
- (b) collaborate with regulatory counterparts and competent authorities, locally and overseas, in order to ensure that the appropriate level of collaboration and sharing of information can be undertaken with them;
- (c) facilitate regulatory cooperation with one or more regulatory counterpart referred to in paragraph (b) for the purpose of implementing the directives issued under the financial stability mandate of the Bank,

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and in cooperating or collaborating with regulatory counterparts pursuant to this Act, the Supervisor shall, ensure that this is done in with compliance Jamaica's international obligations and in accordance with the laws of Jamaica.

(4) In this section, "collaboration" includes facilitating cooperation pursuant to information sharing to facilitate on-going supervision of licensees and financial groups, the investigation of regulatory breaches, financial and other crimes and related enforcement action and for development and implementation of strategy for the resolution of a financial institution in accordance with the parameters of any arrangement to strengthen financial sector oversight and formally implement coordinated monitoring and information sharing amongst the responsible financial regulatory agencies in Jamaica.

(5) The Supervisor shall submit to the Parliament, through the Minister, an annual report relating generally to the execution of the functions of the Supervisor under this Act and the *Banking Services Act* and of the Supervisory Committee under the *Banking Services Act*.

(6) At least every three years, there shall be a review undertaken by qualified, independent experts of—

- (a) the effectiveness of the Supervisory framework as

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set out under this Act, *the Banking Services Act* and any other enactment;

- (b) the processes and procedures carried out in furtherance of the supervision mandate pursuant to this Act, the *Banking Services Act* and any other enactment; and
- (c) the performance of the Supervisor and Supervisory Committee in relation to their respective mandates under this Act, *the Banking Services Act* and any other enactment,

and the report of this review shall be provided to the Minister and the Supervisor.”.

Section 34B Delete section 34B and substitute therefor the following—

“Officers of
Bank.

34B.—(1) For the purposes of section 34A, the functions of the Supervisor under this Act, the *Banking Services Act* and any other enactment shall be carried out by the Governor.

(2) The Board shall appoint—

- (a) the Deputy Supervisor, on the recommendation of the Supervisor, who shall be a fit and proper person; and
- (b) such other officers and employees as may be

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necessary for the efficient operation of the Supervisory Department.

(2A) The Deputy Supervisor shall be appointed under subsection (2) for a term of not less than five years and not more than seven years, subject to the conditions set out in paragraph 5 of the Schedule and be eligible for re-appointment so, however, that date of expiration of the appointment of the Deputy Supervisor shall not be less than twelve months from the date of expiration of the appointment of the Supervisor.

(2B) The Board may terminate the appointment of the Deputy Supervisor on the recommendation of the Supervisor for cause or where the Board is satisfied that the Deputy Supervisor has failed to meet the qualifications contained in paragraph 5 of the Schedule.

(2C) A person below the rank of Deputy Governor shall not be eligible for appointment as the Deputy Supervisor.

(3) The Deputy Supervisor shall, subject to any directions of the Supervisor—

(a) be responsible for—

- (i) the general administration of the Supervisory Department; and

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(ii) the technical supervision and examination operations of the Supervisory Department; and

(b) perform such duties as may be assigned to him by the Supervisor.

(4) In the absence or incapacity of the Supervisor, the Deputy Supervisor shall undertake the functions and responsibilities of the Supervisor as set out in this Act and the *Banking Services Act*.

(5) The Supervisor, Deputy Supervisor and any officer appointed pursuant to subsection (2)(b) shall be fully employed in the service of the Bank and, while holding office, shall not, without the permission of the Board, occupy another office of employment, whether remunerated or not.

(6) The Supervisor with the approval of the Board may, where the circumstances so warrant, in writing, authorize any other person to assist the Supervisor and the Deputy Supervisor in the performance of their functions under this Act.

(7) Nothing contained in this section shall affect or prejudice the terms of any existing appointment or agreement, arrangements or memorandum of understanding in place relating to an

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incumbent Deputy Supervisor at the date of commencement of this Act.”.

New section 34BB Insert next after section 34B the following—

“Financial
Regulatory
Committee.

34BB.—(1) For the purposes of this Act, there is established a committee to be known as the Financial Regulatory Committee.

(2) The objective of the Financial Regulatory Committee shall be to facilitate information sharing, coordination and cooperation among regulatory authorities.

(3) The Financial Regulatory Committee shall establish appropriate policies and procedures by way of written agreement, arrangement or memorandum of understanding, subject to the approval, in writing, of the Minister, for the purposes of meeting the objectives set out in subsection (2).

(4) The Financial Regulatory Committee shall consist of—

- (a) the Governor, who shall be the chairman;
- (b) the Financial Secretary;
- (c) the Executive Director of the Financial Services Commission; and
- (d) the chief executive officer of the Jamaica Deposit Insurance Corporation.

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(5) Nothing contained in this section shall invalidate any agreement, arrangement or memorandum of understanding that has been executed, in writing, between or among the parties named in subsection (4) for the objective set out in subsection (2) that was in existence at the time of the coming into operation of this section.

(6) Subsections (1) and (2) of section 34D and section 34E shall apply *mutatis mutandis* to members of the Financial Regulatory Committee and any person acting in support of the Financial Regulatory Committee as they apply in relation to the authorized officer and other authorized person referred to in section 34D or the persons specified in section 34E.

(7) The Financial Regulatory Committee shall meet at such times as may be necessary for the transaction of business, being not less than seven times in each year, and such meeting shall be held at any such places and times and on such days as the Committee may determine.

(8) Proper records of all proceedings of the Financial Regulatory Committee shall be kept.

(9) Subject to the provisions of this section, the Financial Regulatory Committee may make rules to regulate its proceedings.”.

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Section 34C Delete section 34C and substitute therefor the following—

“Interest in licensee.

34C.—(1) Where—

- (a) any authorized officer; or
- (b) any person being considered for appointment pursuant to section 34B,

is a shareholder (whether directly or indirectly) in any licensee under the *Banking Services Act*, specified financial institution or credit bureau, he shall notify the Supervisor, in writing, of his interest and the Supervisor shall so notify the Board, in writing.

(2) The Board may, if it thinks fit upon receipt of a notice referred to in subsection (1), in writing require the officer or person concerned to dispose of any shares held by him in any licensee under the *Banking Services Act*, specified financial institution or credit bureau or of any interest in such shares within such time as the Board may specify.”.

Section 34D Delete section 34D and substitute therefor the following—

“Secrecy of authorized officer.

34D.—(1) An authorized officer and any other person authorized pursuant to section 34B to give assistance shall not—

- (a) disclose information regarding the operations of any licensee under the *Banking Services Act* or specified financial institution to any person other than—

- (i) the Minister or his nominee;

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- (ii) the Governor, Senior Deputy Governor or Deputy Governors;
- (iii) any member of the Supervisory Committee through the Supervisor or Deputy Supervisor;
- (iv) any officer of the Supervisory Department;
- (v) the Chief Executive Officer of the Jamaica Deposit Insurance Corporation, the Executive Director of the Financial Services Commission, the Financial Secretary or his nominee, to facilitate coordination among financial regulatory agencies;
- (vi) the head of a regulatory counterpart, his deputy or a person formally

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nominated to
r e c e i v e
information on
behalf of such
head;

(b) subject to paragraph (c), disclose other than for the purposes of this Act, or the *Banking Services Act*, any information regarding the affairs of a customer of a licensee under the *Banking Services Act* or specified financial institution, obtained in consequence of the performance of duties under this Act;

(c) disclose other than for the purposes of the investigation of a financial crime, or the contravention of a licensee's obligation under any other enactment any information,

obtained in consequence of the performance of duties under this Act.

(2) Any person who contravenes the provisions of subsection (1) commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding three million dollars or to imprisonment for a term not exceeding two years, or on conviction in the Supreme Court to a fine or imprisonment.

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(3) No civil or criminal action, suit or other proceedings may be brought against any authorized officer or other person authorized under section 34B who in good faith makes a disclosure pursuant to section 34D(1).”.

Section 34E Delete section 34E and substitute therefor the following—

“Protection
for autho-
rized
officers,
etc.

34E.—(1) No liability is incurred by the Bank or any person specified in paragraphs (a) to (d) as a result of anything done by him *bona fide* in exercise of any power, or the performance of any function or duty, conferred or imposed by or under this Act, that is to say—

- (a) an authorized officer;
- (b) the Minister;
- (c) any person appointed pursuant to section 34B;
- (d) any person appointed by the Minister pursuant to regulations made under this Act or appointed by the Supervisor pursuant to paragraph 1 (3) of Part C of the Fifth Schedule to the *Banking Services Act* or any other enactment to perform functions in connection with the temporary management of a licensee under the *Banking Services Act* or of a specified financial institution.

(2) No action suit or other proceedings may be brought or instituted

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	personally against an authorized person, or any other person authorized under section 34B, in respect of any lawful act done or omission made in good faith, in the course of carrying out the provisions of this Act or the <i>Banking Services Act</i> .”.
Section 34F	<p>1. Delete subsection (1) and substitute therefor the following—</p> <p style="padding-left: 40px;">“(1) The Minister may, in accordance with the recommendations of the Bank, make regulations prescribing prudential criteria and minimum solvency standards for specified financial institutions that are not licensees under the <i>Banking Services Act</i>.”.</p> <p>2. Insert next after subsection (5) the following as—</p> <p style="padding-left: 40px;">“(6) The Bank may, subject to affirmative resolution, make rules to be known as “the Supervisory Rules”, in relation to money laundering, terrorism financing and the proliferation of weapons of mass destruction.”.</p>
Section 47	<p>Delete section 47 and substitute therefor the following—</p> <p style="padding-left: 40px;">“Secrecy. 47.—(1) Except in so far as may be necessary for the due performance of his functions under this Act, every officer and servant of the Bank shall preserve, and aid in preserving, secrecy with regard to all matters relating to the affairs of any licensee under the <i>Banking Services Act</i> or any other financial institution, or of any customer of any such licensee under <i>the Banking Services Act</i> or any other financial institution, that may come to his knowledge in the course of his duties; and any such officer or servant who communicates any such matter to any person other than the Board or an officer of the Bank authorized in that behalf by</p>

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the Governor or suffers or permits any unauthorized person to have access to any books, papers or other records relating to any licensee under the *Banking Services Act* or any other financial institution, or to any customer of any such licensee under the Banking Services Act or any other financial institution, commits an offence and shall be liable on conviction thereof to a fine of three million dollars or to imprisonment with or without hard labour for a term not exceeding three years.

(2) No officer or servant of the Bank shall be required to produce in any court any book or document or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Act, except on the direction of the court or in so far as may be necessary for the purpose of carrying into effect the provisions of this Act.

(3) Every officer and servant of the Bank and every external auditor of the Bank—

- (a) shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of the Bank that may come to his knowledge in the course of his duties; and
- (b) shall not communicate any such matter to any person other than a person authorized in that behalf by the Minister or the Governor.

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(4) Any officer, servant or external auditor of the Bank who contravenes subsection (3) commits an offence and shall be liable on conviction in a Resident Magistrate’s Court to a fine not exceeding two million dollars or to imprisonment for a term not exceeding two years.”.

Schedule 1. Delete paragraphs 1 and 2 and substitute therefor the following—

“Tenure of office.

1. The term of office of every director other than the Governor, the Senior Deputy Governor and the Financial Secretary shall be specified in the instrument appointing each director and—

- (a) subject to the section 34B(2A) in relation to the Deputy Supervisor, or the Deputy Governors, the term shall not exceed five years;
- (b) for every other director, the term shall not exceed three years, but such director retiring on the expiration of his term of office shall, subject to paragraph 2, be eligible for reappointment.

Disqualifica-
tion of
directors.

2. A person may not be appointed or remain a director who—

- (a) is a member of either House of Parliament;
- (b) is a director, officer or employee of or has any ownership interest in any

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- licensee under the *Banking Services Act*, any other regulated financial institution or any specified financial institution or credit bureau;
- (c) is a member of the Council of the Kingston and St. Andrew Corporation or of any Municipal Council or Parish Council.”
2. Delete paragraphs 8 and 9 and substitute therefor the following—
- “Remuneration of directors.
8. There shall be paid to the Governor and the other directors such remuneration, if any (whether by way of salaries, travelling or other allowances) as the Minister may determine.
- Share-holdings by directors.
9. Where a director contravenes paragraph 2 of this Schedule, the director shall declare any ownership interest or position to the Board and shall elect to—
- (a) resign his position; or
- (b) dispose of the ownership interest within such time as may be directed by the Board.”.