

THE BANKING SERVICES ACT

The Banking Services (Establishment of Branches) Regulations, 2015

In exercise of the power conferred upon the Supervisory Committee by subsection (1) of section 131 of the *Banking Services Act*, the following Regulations are made, with the approval of the Minister:-

- Citation.** 1. These Regulations may be cited as the Banking Services (Establishment of Branches) Regulations, 2015.
- Interpretation.** 2. In these Regulations –
“branch” has the meaning assigned to it in the Act;
“foreign financial regulatory authority” has the meaning assigned to it in the Act; and
“representative office” has the meaning assigned to it in the Act.
- Restriction on establishing branch, etc.** 3. A deposit taking institution shall not establish a branch or a representative office or change the location of an existing branch or representative office (whether locally or overseas) without the prior written approval of the Supervisory Committee.
- Application.** 4. – (1) Every deposit taking institution that is desirous of establishing a branch or representative office or changing the location of an existing branch or representative office (whether locally or overseas) shall apply to the Supervisory Committee for approval by submitting the application to the Supervisor.
(2) An application under paragraph (1) shall contain the
- Schedule.** information set out in the Schedule and such additional information that may be required under regulation 5 or 6.
- Submission of application to Supervisory Committee.** 5. – (1) Upon receipt of an application under regulation 4, the Supervisor shall examine the application, and in so doing may require

additional information to be supplied by the deposit taking institution.

(2) Following the review at paragraph (1) the Supervisor shall forward the application, additional information that have been submitted and his recommendations to the Supervisory Committee.

Decision regarding application.

6. – (1) The Supervisory Committee, after receiving the application, additional information (if any) and the recommendations of the Supervisor under regulation 5(2), may -

- (a) require such additional information as it thinks necessary; and
- (b) subject to regulations 7 and 8, as applicable, either
 - (i) approve the application; or
 - (ii) refuse the application.

(2) An approval under paragraph (1) for establishing a branch or representative office or changing the location of an existing branch or representative office (whether locally or overseas) -

- (a) may be subject to such terms and conditions as are specified in the approval; and
- (b) shall be notified in writing by the Supervisor to the deposit taking institution.

(4) Where the Supervisory Committee refuses to grant an approval for establishing a branch or representative office or changing the location of an existing branch or representative office (whether locally or overseas) under paragraph (1), the Supervisory Committee shall, through the Supervisor, so inform the deposit taking institution, in writing, stating the reasons therefor.

Requirements to be satisfied.

7. – (1) An application under regulation 4(1) shall not be approved unless the deposit taking institution satisfies the Supervisory Committee as to the capacity of its operations to adequately support the establishment of a branch or a representative office.

(2) A determination in relation to paragraph (1) shall be informed by an assessment of –

- (a) the history and financial condition of the deposit taking institution including the adequacy of its capital, governance arrangements, risk management systems and control frameworks;
- (b) in respect of a local branch or representative office, the appropriateness of the infrastructure for the proposed branch or representative office location and adequacy of other physical arrangements (including the security of the premises, staff and customers);
- (c) in respect of a local branch or representative office the convenience and needs of the community to be served by the branch or representative office; and
- (d) in respect of a local branch or representative office, the public interest which will be served by the establishment or, as the case may be, change of location of the branch or representative office.

Requirements for overseas operations.

8. Where an application is for the establishment or relocation outside Jamaica of a branch or representative office, the application shall not be granted unless the Supervisory Committee after consultation with the Supervisor is satisfied that –

- (a) the foreign financial regulatory authority has the necessary capacity for carrying out supervision that complies with generally recognized international standards;
- (b) the foreign financial regulatory authority has given its consent to the establishment of the branch or representative office in that country;

- (c) the foreign financial regulatory authority, has considered, assessed and is satisfied as to the adequacy of the matters reflected at paragraphs 7(b), (c) and (d) in relation to the establishment of the branch or representative office in that country;
- (d) the foreign financial regulatory authority and the Supervisor are able to conclude the required arrangements to ensure that effective supervision is achieved in accordance with the Act and the *Bank of Jamaica Act*;
- (e) the respective laws are in place, for each country's regulatory authority to be able to gather information from the other and from the branch, head office or representative office, as the case may be, to the extent necessary for effective supervision;
- (f) if certain minimum standards of supervision are not available in that country, the Supervisory Committee may impose restrictive measures necessary to satisfy its prudential concerns;
- (g) subject to subparagraphs (d) and (e), the deposit taking institution's Board of Directors has approved and executed a document authorizing information in respect of the deposit taking institution to be disclosed in accordance with this regulation.

**Notification
of material
changes.**

9. Where there is any material change in any information provided in, or furnished with or in support of, an application under these Regulations, the deposit taking institution concerned shall, in writing, inform the Supervisory Committee forthwith, through the Supervisor.

**Cash
reserve, etc.
to include
branch**

10. For the purpose of determining –

- (a) the cash reserve; and

liabilities.

(b) the liquid assets, which a deposit taking institution is required to hold under sections 28 and 29 of the *Bank of Jamaica Act*, the prescribed liabilities of each branch (whether overseas or locally) of that deposit taking institution, may be taken into account.

Foreign currency reserve applies to overseas branch.

11. In respect of any notice issued by the Bank of Jamaica under section 28(4) or 29(4) of the *Bank of Jamaica Act*, a deposit taking institution which maintains any overseas branch shall establish arrangements with the branch such as to ensure compliance with the notice.

Prior notice of discontinuation.

12. – (1) The operations of a branch or representative office of a deposit taking institution shall not be discontinued unless the deposit taking institution has given the Supervisory Committee six months' written notice (or such shorter period of notice as the Supervisory Committee may, in writing, permit) of its intention to do so.

(2) In the case of a local branch, the notice under paragraph (1) shall include information regarding any arrangements by which the business of the customers of the branch will be transferred to another branch of that deposit taking institution.

Continuation of existing branch or office.

13. Where, immediately before the commencement of these Regulations, a branch or representative office of a deposit taking institution was in operation, approval under regulation 6 shall be deemed to have been granted and shall continue in force unless the deposit taking institution fails, within such reasonable time as the Supervisory Committee may specify, in writing, to supply it with such information or document relating to an application under regulation 4 as the Supervisory Committee may require.

SCHEDULE (Regulation 4)**PART A.** *Basic Information to be Included with Application Under Regulation 4(1)*

1. Name of applicant.
2. Location of proposed branch or representative office of deposit taking institution.
3. Status (whether it is to be a branch or sub-branch).
4. Number of persons likely to be employed in proposed branch or representative office.
5. Approximate date of opening of proposed branch or representative office.
6. Whether management resources would be assigned from the head office in Jamaica to the proposed branch or representative office, and if not, from where these resources would be drawn, and whether the chief management personnel have been designated, their names and other information, including business experience, qualifications and duties.
7. In respect of a local branch or representative office, approximate population and its density in the area to be served by the branch or representative office.
8. In respect of a local branch or representative office number and location of existing deposit taking institution facilities in that area.
9. In respect of a local branch or representative office principal economic activities in that area and the location thereof.
10. Financial projections for the proposed branch or representative office for its first five years of operations, which should include balance sheet, profit and loss and cash flow data and the financial and economic assumptions upon which they are based.
11. Estimated capital expenditure on the proposed branch or representative office specifically –
 - (a) estimated cost of furniture and equipment; and
 - (b) estimated cost of premises.
12. Main activities to be conducted.
13. Physical arrangements (including the security of the premises, staff and customers).
14. Any other relevant information required by the Supervisor.

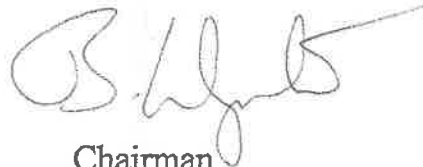
PART B. *Additional Information in Respect of a Proposed Overseas Branch or Representative*

1. The advantages to the deposit taking institution and Jamaica.
2. The nature and level of activities to be undertaken by the overseas branch or representative office.
3. The business plan for the branch or representative office and its relationship to the overall business plan of the deposit taking institution.
4. Impact on the profitability, the capital base and risk profile of the deposit taking institution.
5. How the deposit taking institution proposes to monitor and supervise the activities of the proposed overseas branch or representative office.
6. Specific details as to how and from what source the branch or representative office will be funded and capitalised.
7. Relevant details about the foreign country, in particular –
 - (a) whether exchange control is applicable and if so the basic rules that are relevant;
 - (b) whether, if exchange control is applicable, approval for the operations has been obtained (with supporting documentation);
 - (c) the nature and extent of the supervisory functions performed by the foreign financial regulatory authority, and any information as to whether the supervisory approach varies according to the type of deposit taking establishment supervised, as for example a branch *vis-a-vis* a locally incorporated subsidiary;
 - (d) whether the laws or regulations of the foreign country or practices of the foreign financial regulatory authority, restrict the level or type of activities in which the proposed overseas branch or representative office would be allowed to engage;
 - (e) whether the foreign financial regulatory authority has been provided with information on the matters described at paragraphs 7, 8 and 9 of Part A and whether any particular requirements apply in relation to those matters that would impact overseas branches or representative offices of Jamaican deposit taking institutions operating in that country; and
 - (f) whether solvency, liquidity and foreign exchange exposure requirements are imposed by the foreign country on deposit taking institutions incorporated

there, and if so, the particular requirements and whether they would likewise apply to overseas branches or representative offices of Jamaican deposit taking institutions operating in that country.

8. Information as to the existence of secrecy provisions in the legislation of the foreign country which might prevent or hinder the exchange of relevant prudential information between the foreign country and the Supervisor.
9. Any other relevant information as the Supervisor may require.

Dated this 21 day of July, 2015.



Chairman
Supervisory Committee

Approved:



Minister of Finance and Planning