

Dear Editor,

Bank of Jamaica notes the contents of the extract below from an article published in the Sunday Observer, 18 October 2020 entitled, *“Leave Emotions out of Policy Decisions”* by Dennis Chung:

*“I was recently sent a ‘Consultative Document’ for the rationale for amending the Bank of Jamaica (BOJ [Act]) to impose fines and penalties on remittance companies and cambios for breaches. When I read through it I could see the challenge the BOJ was having, which are issues that need to be dealt with. But the proposed fines and solutions will do nothing but cause issues such as legal cases (as the proposal is for the BOJ to take on powers without independent checks) and fines and penalties that will no doubt cause future dislocation, as they are too high and do not have any equitable process of implementing those fines.”*

We now take this opportunity to provide the following clarifications:

Firstly, contrary to what Mr. Chung suggests, the rationale for amending the Bank of Jamaica Act (BOJA) is NOT to “impose fines and penalties on remittance companies and cambios for breaches,” but in fact to protect the industry, in keeping with international best practice, by better targeting and sanctioning the fraudulently illegal practice of unlicensed money service providers.

Secondly, the proposals do not include any changes to the existing process, which involves referring identified breaches of the Act to the Director of Public Prosecutions (DPP) for a ruling. If the ruling is prosecution, then the matter is heard in court and if conviction is the result, then the court applies the fines and penalties as prescribed by the Act.

We have great difficulty comprehending how such a hands-off and transparent process can equate to BOJ “taking on powers without independent checks” or “not having an equitable process.”

Finally, while we assume it was not Mr Chung’s intention, it might be construed from his comments that BOJ now seeks to introduce fines for these breaches for the first time. This is not the case. For breaches in relation to operating an unlicensed money service operation, current penalties under the Act range from J\$50,000 – J\$100,000. For breaches relating to a licensed money service provider or Cambio doing business with an unlicensed provider, the penalties range from J\$5000 and J\$10,000.

Here is where we respectfully but strongly disagree with Mr. Chung, as we believe that these fines are way too low. **The matter of financial crimes is an exceedingly serious one, and we believe fines for such breaches should reflect the gravity of the offence.**

What we published is for consultation, and so we expect and welcome some debate on matters including exactly what should constitute a serious breach and perhaps if there should be different levels of breaches. We are quite aware that in most instances, these financial crimes are committed by persons who can easily afford the current fines. In that

regard, it would be more effective to apply penalties that reflect the magnitude of income derived from these unauthorized activities. Hence our suggestion that all penalties in this context should start at seven figures in order to be stronger deterrents.

We do, however, want to thank Mr. Chung for bringing attention to our consultative document, and encourage other interested parties to peruse it at: <https://bit.ly/3meVKLM>

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