

## **NOTIFICATION TO CAMBIOS & REMITTANCE COMPANIES**

### **'Fit and Proper' Criteria for Operators**

1. Bank of Jamaica (the Bank) has the responsibility to regulate and supervise the operations of Cambios and Remittance Companies in Jamaica pursuant to section 22B(1) and 22G of the Bank of Jamaica Act (the Bank). The criteria for the approval of operations include a consideration of Operators' or Applicants' fitness and propriety.
2. For the purposes of this Notice, "Operators" shall include:
  - a. Each director & relevant shareholder<sup>1</sup> (holding or exercising rights attaching to 10% or more of the shares of the company/applicant, whether such rights are held solely by an individual or jointly with another person).
  - b. Each director and relevant shareholder of the Agent, where the service is to be offered via an agency arrangement.
  - c. The Compliance Officer of the cambio or remittance company (the entity).
  - d. The Officer with direct responsibility for the overall management of the operation of the entity (including overseeing operations of sub-agents).
  - e. The manager of each location/service point from which the entity operates (branch or sub-agent locations)
3. The application of the 'fit and proper' criteria shall be an ongoing process and shall be in effect throughout the term of the operations of the entity.
4. All Operators are subject to 'fit and proper' assessment prior to initial licensing as well as under the Bank's 7-year review policy.
5. Approvals shall, therefore, not be granted to any company unless the Operators are deemed to be 'fit and proper' for that purpose. Similarly, the Bank shall not renew the Approval of any Operator unless the Operator meets the 'fit and proper' criteria specified herein. To meet the 'fit and proper' criteria, Operators must be persons who:

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<sup>1</sup> Where a relevant shareholder is a company, the relevant shareholders of that company are also eligible for assessment.

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- a. have not provided any false or misleading information to the Bank on the *Questionnaire for Assessment of Operators of Cambios and Remittance Companies Under the Fit and Proper Criteria* (Questionnaire), or in any other document or correspondence, submitted pursuant to the 'fit and proper' due diligence process.
- b. have declared all information as required by the Questionnaire,
- c. have not been convicted of any crime involving dishonesty,
- d. are confirmed by the Police, as having satisfactory records,
- e. are confirmed as having satisfactory clearance from the Financial Investigations Division (FID) of the Ministry of Finance & the Public Service. The process of obtaining the relevant clearance involves the payment of a fee
- f. in the opinion of the Bank are persons of sound probity, and are able to exercise the required level of competence, diligence, and sound judgement in fulfilling their responsibilities as Cambio or Remittance Operators; and who do not constitute a threat to good order in the foreign exchange market and payment systems; and for the purposes of this paragraph, the Bank may have regard to any evidence that the Operator has: -
  - (i) engaged in previous business or financial practices which appear to the Bank to be deceitful or oppressive or otherwise improper or indicative of poor financial management skills;
  - (ii) contravened any provision of any enactment designed for the protection of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of banking, insurance, investment or other financial services, or in the management of companies, whether in Jamaica or elsewhere;
  - (iii) been barred from holding positions as shareholders, directors or managers of banks, merchant banks or any other entity pursuant to the provisions of the Banking Services Act (BSA) or other statutory enactment. Pursuant to section 38 (1) of the BSA.

6. Applicants shall submit the following for each Operator upon making an application for approval to operate a cambio or remittance company:

- a. A completed Questionnaire and a current resume. The Questionnaire is available on the Bank's website.

- b. A current Police Certificate addressed to Bank of Jamaica (submitted to the Bank within 6 months of the date of issue). The Police authorities must be directed to forward the Certificate directly to the Bank.
- c. The relevant fee for obtaining FID Clearance.

The Bank will advise of the applicable fee and payment due date.

- 7. A person who has resided or worked in jurisdictions outside of Jamaica for a period exceeding six months (since age 18), as at the date of application, must also submit Police Certificate (or equivalent) from each relevant jurisdiction. Each person must make direct contact with the appropriate law enforcement authority with respect to conducting the necessary criminal records check. Where possible, the overseas authority should be requested to submit their report directly to the Bank, for the attention of the Director, Cambio & Remittance Licensing & Monitoring Department.
- 8. Documentary evidence of request for overseas Police Certificate, for relevant persons, must be submitted to the Bank within one (1) month of the date of the request for such information.
- 9. Failure or refusal by an individual or organization to provide documentary evidence of request for Police Clearance within the stipulated time shall constitute grounds for the termination of the 'fit and proper' assessment of the affected Operator.
- 10. The Bank also reserves the right to discontinue or terminate the fit and proper assessment process if any clearance report that has been requested is not received within four (4) months of the date of the request for such information.
- 11. Where shareholders are unable to undergo the 'fit and proper' process due to ill-health, the process in relation to that shareholder will be deferred until the shareholder advises or informs the Bank of his return to good health and the Bank is satisfied that the shareholder is fit to undergo the 'fit and proper' process, subject to submission of the following:
  - a. Confirmation from a certified Medical Doctor that the relevant shareholder is medically unfit to be subject to the procedure, and
  - b. A certified copy of Power of Attorney issued by the medically unfit shareholder

In such cases, the person who has been appointed Power of Attorney must satisfy the Bank's 'fit and proper' criteria.

This provision is not applicable to directors or managers.

12. Where an entity proposes to effect changes to its Operators, the Company shall advise the Bank at least seven (7) days prior to effecting such proposed change, if possible. In the event that such prior notice is not possible, the Bank, must be advised of the change within 7 days of the effective date of the change, in order that the Bank may conduct the requisite fitness and proper due diligence of the proposed Operators. Any change, so effected by an entity, shall in all cases be conditional on outcome of the Bank's due diligence process.
13. An Operator who has notice of any fact or circumstance, which will reasonably affect his standing as 'fit and proper' under this Notice, shall be obliged to immediately advise the Bank (within seven (7) days of being made aware of such fact or circumstance). The failure to so advise the Bank shall constitute grounds for suspension or revocation of the Approval.
14. A determination by the Bank, at any time, including during the term of an Approval, that an Operator has ceased to meet the 'fit and proper' criteria outlined herein shall constitute grounds for suspension or revocation of the Approval.
15. An Operator who, subsequent to the submission of the Questionnaire, has notice of any fact or circumstance which will reasonably affect the Bank's assessment under this Notice shall be obliged to advise the Bank, in writing, within seven (7) days of being made aware of such fact or circumstance.
16. The provision of any false or misleading information to the Bank in support of an application for initial approval or renewal, shall also constitute grounds for refusing an application for Approval or for suspension or revocation of an Approval.
17. A determination by the Bank that an Operator does not meet the 'fit and proper' criteria herein contained shall be final and conclusive. However, this determination may be appealed by the Operator to the Minister of Finance & the Public Service.

18. It should not be assumed that information is known to the Bank merely because it is in the public domain or has previously been disclosed to the Bank or another regulatory body or law enforcement agent.
  
19. The Bank reserves the right to require such further and other information from any Applicant or Operator as it deems fit, for the purpose of making its determination of the fitness and propriety of an Operator.
  
20. The Bank within one (1) month of the date of the request for such information shall have liberty to extend the period for doing any act under this Notice.