



THE  
**JAMAICA GAZETTE**  
**SUPPLEMENT**

**PROCLAMATIONS, RULES AND REGULATIONS**

544<sup>1</sup>

---

Vol. CXXXIX

TUESDAY, DECEMBER 13, 2016

No. 81C

---

No. 137D

PUBLIC BUSINESS

Extract from the Minutes of the meeting of the House of Representatives held on Tuesday, November 1, 2016.

The Minister of Finance and the Public Service, Honourable Audley Shaw, moved:

**THE BANKING SERVICES ACT**

**THE BANKING SERVICES (DEPOSIT TAKING INSTITUTIONS) (AGENT BANKING)  
REGULATIONS, RESOLUTION, 2016**

WHEREAS, by virtue of section 131(1)(e) of the *Banking Services Act* (hereinafter referred to as "the Act"), provides that the Supervisory Committee may, with the approval of the Minister, make regulations generally for giving effect to the provisions and purposes of the Act and, without prejudice to the generality of the foregoing, the regulations may make provision in relation to agent banking;

AND WHEREAS by virtue of section 131(2) of the Act, regulations made under the Act shall be subject to affirmative resolution;

AND WHEREAS on the 28th day of September, 2016, the Minister made the Banking Services (Deposit Taking Institutions) (Agent Banking) Regulations, 2016;

AND WHEREAS it is desirable that the Banking Services (Deposit Taking Institutions) (Agent Banking) Regulations, 2016, be affirmed by Resolution:

NOW, THEREFORE, BE IT RESOLVED by this Honourable House of Representatives as follows:—

1. This Resolution may be cited as the Banking Services (Deposit Taking Institutions) (Agent Banking) Regulations, Resolution, 2016.

2. The Banking Services (Deposit Taking Institutions) (Agent Banking) Regulations, 2016, which were laid on the Table of the House on the 28th day of September, 2016 are hereby affirmed.

(Mr. Julian Jay Robinson, MP, St. Andrew, South Eastern, entered and took his seat).

Dr. Peter Phillips and Mr. Julian Robinson also spoke on the motion.

Dr. Omar Davies made an intervention for clarification.

Seconded by: Mr. Dave Brown.

Agreed to.

I certify that the above is a true Extract from the Minutes.

HEATHER E. COOKE, JP  
Clerk to the Houses.

No. 137E

#### PUBLIC BUSINESS

Extract from the Minutes of the meeting of the Senate held on Friday, December 9, 2016.

The Minister of Education, Youth and Information, Honourable Ruel Reid, moved:

#### THE BANKING SERVICES ACT

#### THE BANKING SERVICES (DEPOSIT TAKING INSTITUTIONS) (AGENT BANKING) REGULATIONS, RESOLUTION, 2016

WHEREAS, by virtue of section 131(1)(e) of the *Banking Services Act* (hereinafter referred to as “the Act”) provides that the Supervisory Committee may, with the approval of the Minister, make regulations generally for giving effect to the provisions and purposes of the

Act and, without prejudice to the generality of the foregoing, the regulations may make provision in relation to agent banking;

AND WHEREAS by virtue of section 131(2) of the Act, regulations made under the Act shall be subject to affirmative resolution;

AND WHEREAS on the 28th day of September, 2016, the Minister made the Banking Services (Deposit Taking Institutions) (Agent Banking) Regulations, 2016;

AND WHEREAS it is desirable that the Banking Services (Deposit Taking Institutions) (Agent Banking) Regulations, 2016, be affirmed by Resolution:

NOW, THEREFORE, BE IT RESOLVED by this Honourable Senate as follows:—

1. This Resolution may be cited as the Banking Services (Deposit Taking Institutions) (Agent Banking) Regulations, Resolution, 2016.

2. The Banking Services (Deposit Taking Institutions) (Agent Banking) Regulations, 2016, which were laid on the Table of the Senate on the 3rd day of November, 2016 are hereby affirmed.

(Senator Dr. Sapphire Longmore, entered and took her seat).

(Senator Ransford Braham, entered and took his seat).

Senators Honourable Keith D. Knight; Donald Wehby; Lambert Brown and Aubyn Hill also spoke on the motion.

Seconded by: Mr. Delroy Williams

Agreed to.

I certify that the above is a true Extract from the Minutes.

HEATHER E. COOKE, JP  
Clerk to the Houses.

### THE BANKING SERVICES ACT

#### THE BANKING SERVICES (DEPOSIT TAKING INSTITUTIONS) (AGENT BANKING) REGULATIONS, 2016

In exercise of the power conferred upon the Supervisory Committee by section 131(1)(e) of the Banking Services Act, and of every other power hereunto enabling, the following Regulations are made:—

Citation. 1. These Regulations may be cited as the Banking Services (Deposit Taking Institutions) (Agent Banking) Regulations, 2016.

Interpretation. 2. In these Regulations, unless the context otherwise requires—

“Act” means the Banking Services Act;



“agent” means a person, other than a deposit taking institution, who has been appointed by a deposit taking institution under section 108(1) of the Act to carry out one or more of the banking services specified in that section;

“agent banking” means the provision of banking services by an agent in accordance with section 108 of the Act;

“appointing deposit taking institution” means a deposit taking institution that appoints a person to act as an agent in accordance with regulation 3.

“principal agent banking employee” means—

- (a) a person who is employed or contracted below the level of management of an agent to perform functions that—
  - (i) can substantially affect the financial condition or reputation of the agent; and
  - (ii) meet the criteria specified in any guidelines prescribed by the Supervisor; or
- (b) a person who is deemed by the Supervisor to be a principal agent banking employee;

“substantial shareholder” in relation to an agent means a person who holds twenty *per centum* or more of the shares of an agent or of the shares of a person proposed to be appointed as an agent.

Approval for  
appointment as  
agent.  
First Schedule.

3.—(1) A deposit taking institution that is desirous of appointing an agent shall apply in writing to the Supervisory Committee for an approval in the form set out in the First Schedule.

(2) An application for an approval under paragraph (1) shall, in relation to a person proposed for appointment as an agent, set out—

- (a) the nature of the person’s business or principal economic activity;
- (b) the number of years that the person has been operating in business or engaging in the activity;
- (c) details on the person’s financial performance, including the agent’s profitability, liquidity, and solvency;
- (d) the physical and logical security of the business or place where the activity is conducted, including the location of the business or place, the surrounding environment, the brick and mortar



infrastructure and layout of the business or place, information technology systems and safeguards;

- (e) the capacity of the person to commit resources to agent banking services;
- (f) the person's cash management capabilities, including systems and the capacity of the person to accept and disburse cash;
- (g) the person's record keeping capabilities;
- (h) arrangements that are in place to ensure protection of customers' information;
- (i) confirmation that the person is not controlled or managed by an officer of the appointing deposit taking institution; and
- (j) whether an approval involving the person has ever been revoked or surrendered or whether an application involving the person has ever been refused or denied.

(3) In addition to the information contained in paragraph (2), the appointing deposit taking institution shall submit—

- (a) evidence of the Supervisor's non-objection to the appointing deposit taking institution's expansion or change in its service delivery processes to include the extension of banking services through an agent;
- (b) a declaration by an appointing deposit taking institution that the person has been subject to the requisite due diligence checks by the appointing deposit taking institution and that the appointing deposit taking institution is satisfied as to the suitability of the person to operate as an agent;
- (c) where the business or principal activity of the person is regulated, confirmation from the relevant regulatory body shall be provided to show—
  - (i) the person's regulatory standing; and
  - (ii) either—
    - (A) non-objection to the person operating as an agent of a deposit taking institution; or
    - (B) confirmation that the regulator is not aware of any issue that in the regulator's view, should or would prevent the proposed banking services being offered through that person, or prevent that person acting as agent of the appointing deposit taking institution;

- (d) evidence of the person's compliance with section 108(4) of the Act, by producing—
  - (i) confirmation of the person's incorporation;
  - (ii) confirmation of the person's tax compliance, by tendering a copy of the requisite tax compliance certificate or such other evidence to show tax compliance; and
  - (iii) results as to whether the person's directors, officers, substantial shareholders and principal agent banking employees are fit and proper;
- (e) audited financial statements for the last three years of the person's operation or in the case of a person who meets the description of a small company in accordance with the *Companies Act*, accounts for small companies pursuant to the Seventh Schedule to the *Companies Act* where applicable;
- (f) any additional information received by the appointing deposit taking institution pursuant to its due diligence procedures or submitted by the person; and
- (g) any additional information which is deemed necessary by the Supervisor.

(4) Where an appointing deposit taking institution has been granted approval to appoint an agent, the appointing deposit taking institution shall cause a notice to be issued advising the public of the agent's approval to act on its behalf.

(5) The notice referred to in paragraph (4) shall be published—

- (a) in a daily newspaper circulating in Jamaica;
- (b) on the website of the appointing deposit taking institution; and
- (c) in a conspicuous position in each place of business of the appointing deposit taking institution.

Display of  
approval.

4.—(1) An agent shall display or exhibit in a conspicuous place at each place of business where it conducts banking services—

- (a) a certified copy of the appointing deposit taking institution's approval to offer banking services through the agent;
- (b) a certified copy of the agent's appointment, which shall include a list of the banking services that can be offered by the agent and the effective date of the appointment of the agent by the appointing deposit taking institution;



- (c) name and the logo of the appointing deposit taking institution;
- (d) the appointing deposit taking institution's charges or fees applicable for each service accessed; and
- (e) the contact information by which customers can interact directly with the appointing deposit taking institution.

(2) An agent who contravenes paragraph (1) commits an offence.

(3) Every appointing deposit taking institution shall ensure that its agent complies with paragraph (1).

(4) An appointing deposit taking institution that contravenes paragraph (3) commits an offence.

(5) It shall be a defence to an appointing deposit taking institution to prove that it took all reasonable steps in the circumstances to prevent the contravention of paragraph (1).

Termination  
of agent  
agreement or  
arrangement.

5.—(1) An agreement or arrangement pertaining to the appointment of an agent may be terminated where one or more of the following occur—

- (a) the appointing deposit taking institution's licence to engage in banking business has been surrendered or revoked under the Act;
- (b) the agent's principal commercial activity ceases or is discontinued or an agent's authorization, licence, certificate, regulatory approval, permit or other requisite authorization to validly continue its principal commercial activity is suspended, revoked, cancelled or expires and is not renewed;
- (c) the agent advertises, operates or otherwise acts in a manner which leads a person to believe the agent can offer banking services which are not specifically permitted in the agreement; or
- (d) the agent relocates, discontinues or otherwise varies its agent banking operations without the prior written consent of the appointing deposit taking institution.

(2) Notwithstanding paragraph (1), the agent banking agreement or arrangement may be terminated if the agent—

- (a) prevents the access of the Supervisor or the Supervisory Committee to the internal systems, documents, reports, records, staff and premises or the agent;
- (b) prevents the Supervisor from exercising the functions set out in Part XIII of the Act in relation to the agent; or
- (c) fails to comply with the confidentiality obligations under section 134 of the Act.



Banking  
services not to  
be commingled  
with general  
commercial  
activity.

6.—(1) An agent shall ensure the agent banking operations undertaken by that agent at the agent's location are physically separated from all other business activities carried out at that location.

(2) Compliance with paragraph (1) shall not require separate locations of operation for the primary commercial activity and the banking services, but require—

- (a) clear demarcation of the area from which the banking services will be offered from the other business activities undertaken at the location of operation by the agent;
- (b) clear identification of personnel authorized to conduct the banking services; and
- (c) a separation of accounting records for activities and operations of banking services in accordance with regulation 7(1)(c).

(3) An agent who contravenes paragraph (1) commits an offence.

(4) Every appointing deposit taking institution shall ensure that its agent complies with the provisions of paragraphs (1) and (2).

(5) Every appointing deposit taking institution that contravenes paragraph (4) commits an offence.

(6) It shall be a defence for an appointing deposit taking institution to prove it took all reasonable steps in the circumstances to prevent a contravention of paragraphs (1) and (2)

Record  
keeping.

7.—(1) An appointing deposit taking institution shall ensure that—

- (a) its agent makes a record of any business undertaken and transactions conducted in relation to the agent banking operations, and retains the records, in the manner and by the medium required by the appointing deposit taking institution or specified by the Supervisor and can be readily produced to the appointing deposit taking institution or to the Supervisor on demand or within the timeline indicated by the Supervisor;
- (b) its record creation and retention policies extend to the agent banking operations;
- (c) the records of the agent which pertain to the banking services are kept separate from the records for the agent's primary or other commercial activity.

(2) An agent shall make a record of any business undertaken and of any transaction conducted in relation to its agent banking operations and shall retain such records in the form specified by the Supervisor and, so that the records shall be readily produced to the appointing deposit taking

institution or to the Supervisor on demand or within the timeline indicated by the Supervisor.

(3) An appointing deposit taking institution that contravenes paragraph (1) commits an offence.

(4) An agent who contravenes paragraph (2) commits an offence.

Management of  
agent activities.

8.—(1) An appointing deposit taking institution shall be responsible for the management and ongoing monitoring of its agents and in the performance of this function shall—

- (a) conduct periodic reviews of the agent banking operations, at least on an annual basis, to ensure that its agent remains eligible for appointment;
- (b) implement operating safeguards that are appropriately reflective of the risk profile for the agent banking operation;
- (c) provide, from time to time, training designed to—
  - (i) enable the agent to adequately perform the agent banking services and to properly manage its agent banking operations, including implementing proper cash security controls and protocol;
  - (ii) establish or improve the agent's awareness of the anti-money laundering and combating the financing of terrorism obligations of the appointing deposit taking institution, including proper identification of customers, record keeping requirements and compliance with confidentiality obligations that are applicable to the appointing deposit taking institution; and
  - (iii) sensitize the agent on the requirements of the Act, these Regulations and any other relevant enactment as well as the policies and procedures implemented by the appointing deposit taking institution that are applicable to the agent banking operations;
- (d) facilitate real-time transactions by its agent; and
- (e) ensure that compliance with its statutory obligations, where applicable, extend to the agent banking services carried out through its agent.

(2) An appointing deposit taking institution that contravenes paragraph (1) commits an offence.

Activities not  
allowed through  
agents.

9.—(1) An agent shall not—

- (a) levy a fee or charge, by whatever name called, for banking services provided;
- (b) undertake banking services in its own name or in its own right;



- (c) continue to offer or undertake agent banking services if the agent is not a fit and proper person;
- (d) provide, render or hold itself out to be providing or rendering banking services which it is not specifically permitted to offer in its instrument of appointment;
- (e) grant loans in the name of, or on behalf of, the appointing deposit taking institution;
- (f) provide a guarantee in the name of, or on behalf of, the appointing deposit taking institution;
- (g) subcontract another body to carry out the agent banking services on its behalf;
- (h) conduct transactions on a customers' behalf without the express permission of the customer;
- (i) use customers' funds for purposes other than for the purpose requested by the customer;
- (j) represent or cause to be represented in advertisements, notices or any other form of communication that the agent is itself a deposit taking institution;
- (k) open bank accounts; or
- (l) perform any other service or activity specified by the Supervisory Committee by notice published in the *Gazette*.

(2) An agent who contravenes paragraph (1) commits an offence.

(3) An appointing deposit taking institution shall ensure that its agent complies with paragraph (1).

(4) An appointing deposit taking institution that contravenes paragraph (3) commits an offence.

Approval not transferable or assignable.

10.—(1) A person shall not transfer or assign an approval granted to a deposit taking institution to undertake banking services through an agent or the status of an agent.

(2) An agent, once appointed by the deposit taking institution, shall not assign or transfer this appointment.

(3) A person shall not sub-contract any part of the agent banking services or operations being undertaken through an agent.

(4) A person who contravenes the provisions of this regulation commits an offence.



Restrictions on  
acting as  
director, *etc.*  
of agent.

11.—(1) A person shall not, without the express authorization in writing of the Supervisor, act or continue to act, as a director of, or be concerned directly or indirectly in the management or key functions of an agent, if that person—

- (a) falls within any one or more of the circumstances set out in section 38(2) of the Act, or
- (b) is not tax compliant, that is to say, not in possession of a tax compliance certificate or such other evidence to show tax compliance.

(2) A person who contravenes paragraph (1) commits an offence.

(3) It is a defence for an agent to prove that the agent took all reasonable steps in the circumstances to prevent a contravention of paragraph (1).

(4) Every appointing deposit taking institution shall ensure that its agent does not contravene paragraph (1).

(5) An appointing deposit taking institution that contravenes paragraph (4) commits an offence.

(6) It is a defence for an appointing deposit taking institution to prove that it took all reasonable steps in the circumstances to prevent the contravention of paragraph (1).

Restrictions on  
agent offering  
banking  
services if  
authorization  
for primary  
commercial  
activity ceases.

12.—(1) An agent that no longer has a licence, certificate, regulatory approval, authorization, permit, certificate or other requisite authorization to validly continue in business, shall immediately cease the offering of banking services on behalf of the appointing deposit taking institution.

(2) An agent who contravenes paragraph (1) commits an offence.

(3) Every appointing deposit taking institution shall ensure that its agent does not contravene paragraph (1).

(4) An appointing deposit taking institution that contravenes paragraph (3) commits an offence.

(5) It is a defence for an appointing deposit taking institution to prove that it took all reasonable steps in the circumstances to prevent the contravention of paragraph (3).

Restricted  
words.

13.—(1) In this regulation, “restricted words”—

- (a) means ‘agent banking’ or ‘banking services agent’, ‘agent banker’; and

(b) includes—

- (i) any of those words used as part of any other word;
- (ii) any grammatical variation or derivative of the words;
- (iii) a translation of those words into another language (whether or not the translation of those words is part of any other word).

(2) Except with the written approval of the Supervisor, a person shall not—

- (a) form a company or other body using a name or title that includes a restricted word;
- (b) change the name or title of a company or other body to a name or title that includes a restricted word; or
- (c) carry on any activity, directly or indirectly, in Jamaica using a name or title that includes a restricted word.

(3) A person who contravenes paragraph (2) commits an offence.

Duty to notify  
Supervisor of  
change *etc.*

14.—(1) An appointing deposit taking institution shall notify the Supervisor of—

- (a) any intention to discontinue banking services at any location operated through an agent;
- (b) any intention to make any material change in the agent banking arrangement or agreement;
- (c) any one or more of the circumstances described in section 39(1) of the Act that occurs in relation to the agent banking services or operations; and
- (d) any other matter coming to the attention of the appointing deposit taking institution in relation to its agent or the agent banking services or operations, which, in the opinion of the appointing deposit taking institution, would jeopardize the services offered through the agent.

(2) A notification under paragraph (1) shall be made within a reasonable time, however, in relation to matters set out in paragraphs (1)(a) and (b) prior notification is required and such notification shall be submitted in writing to the Supervisor at least six months before the discontinuation of service or material change is proposed to take effect.

(3) Notwithstanding paragraph (2), nothing in this regulation shall prevent the appointing deposit taking institution from terminating or suspending services being offered at any agent location where this is warranted in the circumstances.



(4) An appointing deposit taking institution that contravenes paragraph (1) or (2) commits an offence.

Application of  
the agent  
banking  
framework.

15.—(1) An agent may, in accordance with its agreement or arrangement, offer banking services in the manner in which the services are being offered by its appointing deposit taking institution.

(2) Nothing in these Regulations authorizes an agent to undertake any financial activity in its own right, without a licence, approval or other authorization that is required under any other enactment.

Revocation of  
approvals.

16.—(1) Where an appointing deposit taking institution's approval to offer agent banking through a specific agent has been revoked, the Supervisor may—

- (a) issue a notice to the public advising, in such manner as the Supervisor deems appropriate, of the revocation;
- (b) require the publication of a notice by the appointing deposit taking institution on its website and in at least one daily newspaper circulated in Jamaica stating—
  - (i) that it will no longer be offering agent banking using that agent; and
  - (ii) the date on which the approval to offer agent banking through the agent was revoked,
- (c) require the appointing deposit taking institution to surrender to the Supervisor the approval issued for the extension of banking services through an agent.

(2) An appointing deposit taking institution that fails to comply with the directives of the Supervisor in paragraph (1) commits an offence.

Discontinuation  
of agent  
banking.

17.—(1) An appointing deposit taking institution that intends to discontinue agent banking shall, subject to regulation 14(2), issue a notice to the public on its website and in at least one daily newspaper circulated in Jamaica.

(2) The notice shall be issued at least 15 days before the date of discontinuation of the service is proposed to take effect.

(3) The approval for agent banking that was obtained in accordance with section 108 (1) of the Act shall be deemed to be rescinded on the date the discontinuation of agent banking is scheduled to take effect.

(4) The approval for agent banking service shall be surrendered to the Supervisor on the date the discontinuation of the agent banking service is to take effect or another date approved by the Supervisor.



(5) An appointing deposit taking institution that contravenes paragraph (1), (2) or (4) commits an offence.

Enforcement.

18.—(1) Where the Supervisor believes that there is a breach of the Regulations by an agent he may, prior to taking action in relation to the agent—

- (a) issue a warning of the likelihood of serious sanctions being imposed unless the breach identified is rectified as directed by the Supervisor; or
- (b) issue directions in accordance with paragraph (2).

(2) Directions issued under paragraph (1)(b) shall be such as appear to be appropriate in the circumstances and may, in particular—

- (a) restrict the scope of business offered through the agent in a particular way; or
- (b) require the removal of a director, a manager or a principal agent banking employee of an agent.

(3) An agent who fails to comply with a direction under paragraph (1)(b) commits an offence.

Penalties.  
Second  
Schedule.

19. The offences specified in the first column of the Second Schedule shall incur the penalties specified in relation thereto in the second column of the Second Schedule.

Fixed  
penalties.  
Third  
Schedule.

20.—(1) This paragraph shall apply to an offence specified in the Third Schedule.

(2) The Supervisor may give to any person which he has reason to believe has committed an offence to which this regulation applies, a notice in writing in the prescribed form offering that person the opportunity to discharge any liability to conviction of that offence by payment of the fixed penalty specified in the Third Schedule.

(3) A person shall not be liable to be convicted of the offence if the fixed penalty is paid in accordance with this regulation and the requirement in respect of which the offence was committed is complied with before the expiration of fifteen days following the date of the notice referred to in paragraph (2), or such longer periods (if any) as may be specified in that notice or before the date on which proceedings have begun, whichever event occurs last.

(4) Where a person is given notice under this regulation in respect of an offence, proceedings shall not be taken against the person for that offence until the end of the fifteen days following the date of the notice or such longer periods (if any) as may be specified therein.

(5) In paragraphs (3) and (4), "proceedings" means any criminal proceedings in respect of the act or omission constituting the offence specified in the notice under paragraph (2) and "convicted" shall be construed in like manner.

(6) Payment of a fixed penalty under this paragraph shall be made to the Collector of Taxes and in any proceedings, a certificate that payment of the fixed penalty was or was not made to the Collector of Taxes by a date specified in the certificate shall, if the certificate purports to be signed by the Collector of Taxes, be admissible as evidence of the facts stated therein.

(7) A notice under paragraph (2) shall—

- (a) specify the offence alleged;
- (b) give such particulars of the offence as are necessary for giving reasonable information of the allegation;
- (c) state—
  - (i) the period (whether fifteen days or a longer period) during which, by virtue of paragraph (4), proceedings will not be taken for the offence;
  - (ii) the amount of the fixed penalty and the Collector of Taxes to whom and the address at which it may be paid.

Third  
Schedule.

(8) The fixed penalty for the offences specified in the Third Schedule shall be the penalty specified therein in relation to such offences.

(9) In any proceedings for an offence to which this paragraph applies, no reference shall be made after the conviction of the accused to the giving of any notice under this paragraph or to the payment or nonpayment of a fixed penalty thereunder, unless in the course of the proceedings, or in some document which is before the court in connection with the proceedings, reference has been made by or on behalf of the accused to the giving of such a notice, or, as the case may be, to such payment.

## FIRST SCHEDULE

(Regulation 3)

*Application Form for Approval to Appoint an Agent*

## Section I

1. Name of appointing deposit taking institution .....

2. Particulars of the person identified/proposed for appointment as an agent:

(a) Name and Address .....

.....

.....

.....

(b) TRN .....

(c) Nature of the business operations or principal economic activity

.....

.....

.....

.....

.....

(d) Relationship with the appointing deposit taking institution

.....

.....

(e) The number of years the business has been in operation

.....

(f) Details of financial performance (profitability, liquidity, solvency,  
etc.) .....

.....

.....

.....

(g) Describe the physical and logical security of the business (its  
location, surrounding environment, brick and mortar infrastructure,



FIRST SCHEDULE, *contd.*

business layout, information technology systems and safeguard,  
*etc.*).....

.....  
.....  
.....  
.....  
.....  
.....  
.....

## (h) Resources to be committed to agent banking services

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

(i) Describe the cash management capabilities (*i.e.* systems and capacity to accept and disburse cash, *etc.* .....

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

## (j) Describe the record keeping capabilities .....

.....  
.....  
.....  
.....  
.....  
.....  
.....

FIRST SCHEDULE, *contd.*

- (k) Describe the current arrangements to ensure the protection of customers' information .....

.....

.....

.....

.....

.....

.....

.....

.....

- (l) Has an approval to undertake a regulated activity has ever been revoked or surrendered or has an application to undertake a regulated activity ever been refused or denied? (If yes, provide details) .....

.....

.....

.....

.....

.....

.....

.....

.....

3. The requisite due diligence checks have been undertaken in relation to the person proposed for appointment as an agent pursuant to Regulation 3 and I have declared accordingly.

4. Attached herewith is the written confirmation from the Bank of Jamaica duly signed by the Supervisor indicating his non-objection, in accordance with section 55 of the Act, to *(name of deposit taking institution)* engaging new delivery channels for existing businesses or products by offering permitted banking services through agent services.

5. The relevant Personal Questionnaire/(s) ("PQ") for the person proposed for appointment as an agent was/were completed and is/are hereby attached.



FIRST SCHEDULE, *contd.*

I/We hereby apply to the Supervisory Committee for approval under Section 108(1) of the Banking Services Act for the person identified to be appointed an agent for (*name of appointing deposit taking institution*).

I/We certify to the best of my/our knowledge and belief that the information given in this application and contained in the supporting statements and documentation submitted is true and correct.

.....	.....
Signature	Name and Position
.....	.....
Director/Secretary	Date

## Section II

*Documentation in Support of Application*

Note: The following documents must be attached to this Application:—

☐ Written confirmation of the Supervisor's non-objection to the appointing deposit taking institution engaging new delivery channels for existing businesses or products by offering permitted banking services through agent banking services pursuant to section 55 of the Banking Services Act

☐ Copy of the Agent Agreement

In relation to the person proposed for appointment as an agent—

☐ Evidence of Incorporation

☐ Confirmation of the tax compliance

☐ The audited financial statements for the last three years of operation or in the case of a person which meets the description of a small company in the Companies Act, accounts for small companies pursuant to the Seventh Schedule to the Companies Act (where applicable)

FIRST SCHEDULE, *contd.*

- ☐ Completed Personal Questionnaire(s)
- ☐ (Where applicable) confirmation of regulatory standing by relevant regulatory body AND either:
  - (i) the regulator's non-objection to the company being appointed as an agent of the appointing deposit taking institution *OR*
  - (ii) confirmation that the regulator is not aware of any issue that in the regulator's view would prevent the proposed banking services being offered through the person or prevent the person acting as an agent of the appointing deposit taking institution, (if applicable).
- ☐ Voluntary Declaration of the appointing deposit taking institution
- ☐ Additional information received by the appointing deposit taking institution pursuant to its due diligence procedures or submitted to the appointing deposit taking institution by the person.



FIRST SCHEDULE, *contd.*

## Section III

*VOLUNTARY DECLARATION**By Appointing Deposit Taking Institution*

.....  
(Name of appointing deposit taking institution)

Do solemnly and sincerely declare as follows:

1. I/We have received from .....  
(name of person)

all the information required under Regulation 3 and have reviewed and assessed the material.

I/We have requested additional information in the form of

.....  
.....  
.....  
.....  
.....  
.....

2. I/We have done my/our due diligence checks and am/are satisfied from the information collected and the analysis conducted that

.....  
(name of person)

is eligible for appointment under section 108 of the Act.

3. All the information received from .....  
(name of person)

is attached with this application.

FIRST SCHEDULE, *contd.*

And I/We make this solemn declaration conscientiously believing the same to be true and by virtue of the Voluntary Declarations Act.

Taken and Acknowledged by the said)

.....)  
(State full name of officer/(s) signing for the appointing deposit taking institution)

.....)  
(State full name of officer/(s) signing for the appointing deposit taking institution)

(Signature and Seal of Deposit Taking Institution)

This ..... day of ..... 20..... ) At:

( ..... )

( ..... )

BEFORE ME: .....)

(State full name of JP/Notary)

.....)

(Signature and Seal of JP/Notary)

Justice of the Peace for the parish of \_\_\_\_\_  
/Notary Public



SECOND SCHEDULE  
*Offences and Penalties* (Regulation 19)

First Column		Second Column
<i>Brief Description of Offences</i>	<i>Relevant Regulation</i>	<i>Penalty</i>
Failure by an agent to display the appointing deposit taking institutions' approval and the agent's appointment	4(2)	On summary conviction in a Parish Court to a fine not exceeding one million dollars
Failure by an appointing deposit taking institution to take reasonable steps to ensure that its agent displays the appointment and approval	4(4)	On summary conviction in a Parish Court to a fine not exceeding one million dollars
Failure to ensure that Agent banking services not comingled with general commercial activity	6(3)	On summary conviction in a Parish Court to a fine not exceeding two million dollars or a term of imprisonment for a period not exceeding six months or both such fine and imprisonment
Failure of appointing deposit taking institution to ensure agent's compliance with prohibition on comingling at 6(4)	6(5)	On summary conviction in a Parish Court to a fine not exceeding two million dollars or a term of imprisonment for a term not exceeding six months or both such fine and imprisonment
Failure of the deposit taking institution from taking steps to ensure that its agent complies with the record keeping requirement	7(3)	On summary conviction in a Parish Court to a fine not exceeding two million dollars or a term of imprisonment for a term not exceeding six months or both such fine and imprisonment

SECOND SCHEDULE, *contd.**Offences and Penalties*

First Column	Second Column	
<i>Brief Description of Offences</i>	<i>Relevant Regulation</i>	<i>Penalty</i>
Failure of agent to comply with record keeping requirement	7(4)	On summary conviction in a Parish Court to a fine not exceeding two million dollars or a term of imprisonment for a period not exceeding six months or to both such fine and imprisonment
Failure of appointing deposit taking institution to manage agent banking activities of its agent	8(2)	On summary conviction in a Parish Court to a fine not exceeding two million dollars or a term of imprisonment for a period not exceeding six months or to both such fine and imprisonment
Agent engaging in a prohibited activity	9(2)	On summary conviction in a Parish Court to a fine not exceeding two million dollars or a term of imprisonment for a period not exceeding six months or to both such fine and imprisonment
Failure of an appointing deposit taking institution to ensure that its agent does not engage in prohibited activities	9(4)	On summary conviction in a Parish Court to a fine not exceeding two million dollars or a term of imprisonment for a period not exceeding six months or both such fine and imprisonment
(a) Transfer or assignment of agent's appointment;	10(4)	On summary conviction in a Parish Court to a fine not exceeding two million dollars or a term of im-



SECOND SCHEDULE, *contd.**Offences and Penalties*

First Column	Second Column
<i>Brief Description of Offences</i>	<i>Relevant Regulation</i>  <i>Penalty</i>
(b) Subcontracting any part of the agent banking operations or services; and  (c) Transfer or assignment of an appointing deposit taking institution's approval.	prisonment for a period not exceeding six months or both such fine and imprisonment
Person acting without the express authorization in writing of the Supervisor, acting or continuing to act as a director of, or concerned directly or indirectly in, the management or key functions of any agent.	11(2)  On summary conviction in a Parish Court to a fine not exceeding two million dollars or a term of imprisonment for a period not exceeding six months or both such fine and imprisonment
Failure of an appointing deposit taking institution to ensure that its agent complies with regulation 11(4)	11(5)  On summary conviction in a Parish Court to a fine not exceeding two million dollars or imprisonment or both such fine and imprisonment
Failure to cease from offering banking services on behalf of the deposit taking	12(2)  On summary conviction in a Parish Court to a fine not exceeding two million dollars or a term of im-

SECOND SCHEDULE, *contd.**Offences and Penalties*

First Column		Second Column
<i>Brief Description of Offences</i>	<i>Relevant Regulation</i>	<i>Penalty</i>
institution where the agent no longer has licence or other approval to carry out primary commercial activities		prisonment for a period of not exceeding six months imprisonment or both such fine and imprisonment
Failure by appointing deposit taking institution to ensure that its agent complies with regulation 12(1)	12(4)	On summary conviction in a Parish Court to a fine not exceeding two million dollars or a term of imprisonment for a period of not exceeding six months imprisonment or both such fine and imprisonment
Unauthorized use of restricted words	13(3)	On summary conviction in a Parish Court to a fine not exceeding one million dollars or a term of imprisonment for a period not exceeding six months or both such fine and imprisonment
Failure of appointing deposit taking institution to notify Supervisor of prescribed matters.	14(4)	On summary conviction in a Parish Court to a fine not exceeding two million dollars or a term of imprisonment for a period not exceeding six months or both such fine and imprisonment

SECOND SCHEDULE, *contd.**Offences and Penalties*

First Column	Second Column
<i>Brief Description of Offences</i>	<i>Relevant Regulation</i>  <i>Penalty</i>
Failure of an appointing deposit taking institution to comply with directives of the Supervisor on revocation of approval.	16(2)  On summary conviction in a Parish Court to a fine not exceeding two million dollars or a term of imprisonment for a period not exceeding six months or both such fine and imprisonment
Failure of an appointing deposit taking institution to issue notice in accordance with prescribed requirements where it intends to discontinue agent banking.	17(5)  On summary conviction in a Parish Court to a fine not exceeding one million dollars or a term of imprisonment for a term not exceeding six months or both such fine and imprisonment
Failure of an appointing deposit taking institution to surrender the approval for agent banking in accordance with prescribed requirements	17(5)  On summary conviction in a Parish Court to a fine not exceeding one million dollars or a term of imprisonment for a term not exceeding six months or both such fine and imprisonment
Failure to comply with a direction of the Supervisor	18(3)  On summary conviction in a Parish Court to a fine not exceeding two million dollars or a term of imprisonment for a term not exceeding six months or both such fine and imprisonment



## THIRD SCHEDULE

(Regulation 20)

*Offences in Respect of which Liability to Conviction  
May be Discharged by Payment of a Fixed Penalty*

First Column	Second Column
<i>Nature of Offence</i>	<i>Section</i> <i>Penalty</i>
Failure by an agent to display the appointing deposit taking institutions' approval and the agent's appointment	4(2) \$1,500,000
Failure by an appointing deposit taking institution to take reasonable steps to ensure that its agent displays the appointment and approval	4(4) \$1,500,000
Unauthorized use of restricted words	13(3) \$1,500,000
Failure of an appointing deposit taking institution to issue a notice to the public on its website	17(5) \$1,500,000
Failure of an appointing deposit taking institution to issue notice at least 15 days prior to the date of discontinuation of the service	17(5) \$1,500,000

THIRD SCHEDULE, *contd.*

*Offences in Respect of which Liability to Conviction  
May be Discharged by Payment of a Fixed Penalty*

<u>First Column</u>		<u>Second Column</u>
<u>Nature of Offence</u>	<u>Section</u>	<u>Penalty</u>
Failure of an appointing deposit taking institution to surrender the approval	17(5)	\$1,500,000

Dated this 28th day of September, 2016.

B. WYNTER,  
Chairman, Supervisory Committee.

Approved:

AUDLEY SHAW  
Minister of Finance and the Public Service.

