



THE
JAMAICA GAZETTE
SUPPLEMENT

PROCLAMATIONS, RULES AND REGULATIONS

802N¹

Vol. CXXXVIII

FRIDAY, SEPTEMBER 25, 2015

No. 120A¹

No. 156B¹

PUBLIC BUSINESS

Extract from the Minutes of the House of Representatives held on the 2nd day of September, 2015:

The Minister of Finance and Planning moved:

THE BANKING SERVICES ACT

THE BANKING SERVICES (DEPOSIT TAKING INSTITUTIONS)
(LICENCE APPLICATION) RULES, 2015, RESOLUTION

WHEREAS, subsection (1) of section 132 of the Banking Services Act (hereinafter referred to as “the Act”) provides that the Supervisory Committee may make regulations for the purpose of giving effect to the provisions of the Act and, without prejudice to the generality of the foregoing, the regulations may make provision in relation to the forms for applications and notices and other such matters as may be specified under this Act;

AND WHEREAS subsection (3) of the said section 132 of the Act provides that regulations made under subsection (1) shall be subject to affirmative resolution;

AND WHEREAS the Supervisory Committee on the 21st day of July, 2015, made the Banking Services (Deposit Taking Institutions) (Licence Application) Rules, 2015;

AND WHEREAS it is desirable that the Banking Services (Deposit Taking Institutions) (Licence Application) Rules, 2015, be affirmed;

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

1. This Resolution may be cited as the Banking Services (Deposit Taking Institutions) (Licence Application) Rules, 2015, Resolution.

2. The Banking Services (Deposit Taking Institutions) (Licence Application) Rules, 2015, which were laid on the Table of the House on the 21st day of July, 2015, are hereby affirmed.

Mr. Audley Shaw also spoke on the motion.

Seconded by: Mr. Fitz Jackson.

Agreed to.

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

HEATHER E. COOKE, JP, (MRS.)
Clerk to the Houses

No. 156B²

PUBLIC BUSINESS

Extract from the Minutes of the Honourable Senate on this 25th day of September, 2015:

The Minister of Justice and Acting Leader of Government Business moved:

THE BANKING SERVICES ACT

THE BANKING SERVICES (DEPOSIT TAKING INSTITUTIONS) (LICENCE APPLICATION) RULES, 2015, RESOLUTION

WHEREAS, subsection (1) of section 132 of the Banking Services Act (hereinafter referred to as “the Act”) provides that the Supervisory Committee may make regulations for the purpose of giving effect to the provisions of the Act and, without prejudice to the generality of the foregoing, the regulations may make provision in relation to the forms for applications and notices and other such matters as may be specified under this Act;

AND WHEREAS subsection (3) of the said section 132 of the Act provides that regulations made under subsection (1) shall be subject to affirmative resolution;

AND WHEREAS the Supervisory Committee on the 21st day of July, 2015, made the Banking Services (Deposit Taking Institutions) (Licence Application) Rules, 2015;

AND WHEREAS it is desirable that the Banking Services (Deposit Taking Institutions) (Licence Application) Rules, 2015, be affirmed;

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

1. This Resolution may be cited as the Banking Services (Deposit Taking Institutions) (Licence Application) Rules, 2015, Resolution.

2. The Banking Services (Deposit Taking Institutions) (Licence Application) Rules, 2015, which were laid on the Table of the House on the 21st day of July, 2015, are hereby affirmed.

Seconded by: Senator Wensworth Skeffery.

Agreed to.

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

HEATHER E. COOKE, JP, (MRS.)
Clerk to the Houses

THE BANKING SERVICES ACT

THE BANKING SERVICES (DEPOSIT TAKING INSTITUTIONS) (LICENCE APPLICATION) RULES, 2015

In exercise of the power conferred on the Supervisory Committee by subsection (1) of section 132 of the Banking Services Act, and of every other power hereunto enabling, the following Rules are hereby made:—

- | | |
|-----------------|---|
| Citation. | 1. These Regulations may be cited as the Banking Services (Deposit Taking Institutions) (Licence Application) Rules, 2015. |
| Interpretation. | 2. In these Regulations, “applicant” means an applicant for a licence to become a deposit taking institution. |
| Application. | 3. An application under section 19 of the Act for a licence to engage in banking business as a bank, a merchant bank, or a building society shall—
(a) be in the form set out in the Schedule;
(b) satisfy the licensing and other requirements specified in the Act or any regulations made under the Act; and
(c) contain any additional information that is needed for the assessment of the application. |

Incomplete
applications.

4.—(1) An application shall not be considered unless the prescribed documents and any additional information that is needed for the assessment of the application are submitted by the applicant.

(2) Information contained in or accompanying the application shall, if required by the Supervisory Committee, be verified by statutory declaration.

(3) The Supervisory Committee may defer deciding the application until it receives any statutory declaration required under subsection (2).

(4) The application may lapse if the applicant does not submit any statutory declaration required under subsection (2) upon the expiration of a reasonable period within which to do so, as notified by the Supervisory Committee.

(5) Where, in the opinion of the Supervisory Committee, an application is not complete, the Supervisory Committee may, request an applicant, by a date specified by the Supervisory Committee, in writing to—

- (a) submit a completed application; or
- (b) provide the additional information required to complete the assessment.

Request for
information.

5. Where a request for information is made by the Supervisory Committee and the information requested is not received by the date specified by the Supervisory Committee, the assessment of the application may be discontinued and the Supervisory Committee shall inform the applicant of the discontinuation.

SCHEDULE

(Regulation 3)



JAMAICA

THE BANKING SERVICES ACT

BANKING SERVICES (DEPOSIT TAKING INSTITUTIONS) (LICENCE
APPLICATION) RULES, 2015

*Application for Licence to Engage in Banking Business as a
Bank, a Merchant Bank, or a Building Society
(under section 19)*

Application No.:

Application Date:

1. BACKGROUND INFORMATION

1.1	Name of applicant	
1.2	Address of registered office	
1.3	Date of incorporation	
1.4	Country of incorporation	
1.5	Taxpayers Registration Number (TRN)	
1.6	Telephone number	
1.7	Fax number	
1.8	E-mail address	
1.9	Website address	

1.10 Indicate the financial year end of the applicant (dd/mm)

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1.11 Indicate the financial year end of the applicant's immediate parent entity (dd/mm) (where applicable)

SCHEDULE, *contd.*

In the case of a foreign bank, seeking to establish a branch in Jamaica provide the information requested at 1.12 to 1.16 below:

1.12	Address head office	
1.13	Country of incorporation	
1.14	Address of principal office in Jamaica	
1.15	Name of authorized agent	
1.16	Name of alternate authorized agent	

1.17 Attach the following

- (a) A certified copy of certificate of incorporation (locally incorporated companies only); and
- (b) articles of incorporation other incorporating document(s).

1.18 Audit Firm

Name:	
Address:	
Contact name:	

1.19 Attorney-at-Law

Name:	
Address:	
Name and address of Home Supervisor:	

SCHEDULE, *contd.*

2. OWNERSHIP AND GROUP STRUCTURES

- 2.1 State the name, address and principal business activities of any parent entity of the applicant. Provide details of the amount and value of the shareholding of the parent entity in the applicant.

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- 2.2 Provide the name of the stock exchange(s) on which the parent(s) at 2.1 above is listed, if applicable. ☐ Provided

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- 2.3 Provide a structure chart which clearly outlines the relationships among all the connected entities within the group of which the applicant is a part. The chart should highlight any holding entity with controlling interest or with the ability to exercise significant influence over the applicant or over any other entity within the group that conducts activities or businesses that are considered material or critical to the group operations. (Refer to the definition of "connected person" in section 2(1) and 2(2) of the Banking Services Act).

☐ Provided

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- 2.4 State the names and addresses of all subsidiaries, affiliates or other bodies, partnerships and unincorporated associations that are connected with the applicant and provide details of the nature of the applicant's connection with these entities. Explain the nature of the business and principal activities of these subsidiaries, affiliates and other connected bodies and indicate which are considered as material to the activities of the Group.

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SCHEDULE, *contd.*

- 2.5 Provide a list of all the entities within the financial group that are regulated or supervised and the name and address of the relevant Supervisory Authority or Authorities in each case. (Refer to the definition of “financial group” in section 2(1) and 2(2) of the Banking Services Act). ☐ Provided

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- 2.6 Briefly describe the functions and powers of the home country supervisory authority to which the applicant will be accountable, including:
- (a) the extent to which the authority/(ies) exercise/(s) global consolidated supervision;
 - (b) the manner in which it supervises the global banking group to ensure it remains in compliance with the laws and operates in a safe and sound manner.

Give details of the frequency and scope of on-site examinations conducted by the home country supervisory authority and the date of the most recent examination.

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- 2.7 Provide details of persons who will whether alone or jointly possess or control 5% or more of shares or voting power in the applicant to include—
- (a) in the case of a natural person, details of name, nationality, occupation, address (home and business), shareholding and voting power in the applicant;
 - (b) in the case of a legal person, the name, registered address, nature of business, shareholding and voting power in the applicant; and
 - (c) number, type, class and value of shares held in each case.

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SCHEDULE, *contd.*

- 2.8 If there are no such persons as required at paragraph 2.7 above, provide similar details for each of the 10 largest shareholders, grouping together family or "connected persons" as defined in section 2(2) of the Banking Services Act, where possible.

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- 2.9 In cases where a legal entity owns 50% or more of the applicant, the applicant shall provide similar details as in 2.7 above for all the ultimate individuals who hold 20% or more of the voting power in the entity or the ultimate individuals who have effective control thereof. ☐ Provided

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- 2.10 Provide audited financial statements for the past 5 years for the immediate parent of the applicant (including consolidated statements) regardless of whether the applicant is a part of a financial group. ☐ Provided

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- 2.11 For those individuals listed at either paragraph 2.7, 2.8 or 2.9 above, provide details of personal and business history (financial or otherwise) along with certified copies of the last five years' financial statements (for all business interests) or statement of affairs, as the case may be. Additionally, attach the "Personal Questionnaire for Connected Persons" for these individuals along with a current passport size photograph.

Personal Questionnaires for Connected Persons	<input type="checkbox"/> Attached
Current Passport Size Photographs	<input type="checkbox"/> Attached

SCHEDULE, *contd.*

- 2.12 Has the applicant or its owners ever, been refused, had revoked, or discontinued an application for, any licence, membership, authorization, registration or other permission granted by a regulator or government body in ☐ Jamaica or ☐ overseas?

Yes No

- 2.13 If the response to paragraph 2.12 is in the affirmative, provide details of the event(s), including reference to the type and date of event(s), outcome, and explanation of the circumstances.

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- 2.14 Has the applicant (including branches), any of its subsidiaries, its parent entity, any related subsidiary, associated company, or a director of any of the foregoing, been convicted in a court or censured or reprimanded by a regulator of financial services or other regulatory authorities (whether in Jamaica or overseas) during the last 7 years or are there any proceedings now ongoing which may lead to such an outcome? If so give details.

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3. FINANCIAL RESOURCES AND STRENGTH

- 3.1 Provide details regarding the nature and source of wealth and source of funds that will be provided to support the start-up and ongoing operations of the proposed business activities of the applicant. The Supervisory Committee may require a certified statement or other proof of the applicant's ability to meet the statutory requirements for minimum paid-up capital and any other capital requirements assessed as necessary by the Supervisory Committee.

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SCHEDULE, *contd.*

3.2 Please provide—

- (a) copies of audited financial statements (Balance Sheet, Profit & Loss, Auditor's Report and Notes) for the last five years (or shorter period, where applicable). In any case provide "in-house" financials for the current operating period; or
- (b) an opening balance sheet (audited) where the applicant is a new entity.

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3.3.1 Please provide audited financial statements for the last five years for each entity in the financial group as well as for the parent company of the financial group (including consolidated statements where applicable).

3.3.2 Please provide the following regarding the applicant's capital accounts—

- (a) authorized capital;
- (b) subscribed capital;
- (c) paid up capital;
- (d) details of types or classes of shares.

☐ Provided

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3.4 Provide the following regarding the applicant's capital accounts, in the case of a foreign bank seeking to establish a branch—

- (a) authorized capital (for the bank as a whole in the currency of the country of incorporation);
- (b) subscribed capital (for the bank as a whole in the currency of the country of incorporation);

SCHEDULE, *contd.*

- (c) paid up capital (for the bank as a whole in the currency of the country of incorporation);
- (d) capital assigned or to be assigned to the Jamaican operations.

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4. BUSINESS PLANS, STRATEGIES AND PROJECTIONS

4.1 Provide detailed business plan and feasibility study, which includes the following—

- (a) details of the applicant's business strategy including—
 - (i) the rationale on which the application for licence is being made; and
 - (ii) the identified economic needs which the company intends to meet (or which have been identified as not now being adequately met by existing financial intermediaries)
- (b) details regarding the proposed business strategy, including details as set out in the Guidelines for Application to Carry on Banking Business.

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- 4.2 Provide an analysis demonstrating the sufficiency of the applicant's capital resources to meet its capital adequacy requirements (at authorization and through a severe but plausible stress over five years). This analysis should detail the elements of each risk based capital ratio used.

SCHEDULE, *contd.*

- 4.3 Provide an analysis demonstrating the sufficiency of the applicant's liquidity resources to meet prudential liquidity requirements (at authorization and through a severe but plausible stress). This analysis should detail the components included in each of the prudential ratios used.
- 4.4 For applicants who are a part of a financial group, provide the following in relation to the group operations—
- (a) details regarding the overall business strategy currently pursued across the financial group (including regionally and internationally, where applicable);
 - (b) details regarding the 3–5 year business plan for the group operations;
 - (c) details regarding the financial, operational linkages and interdependencies between the activities in Jamaica and the regional and international operations, where applicable. Where such linkages are considered to be significant, elaborate on assessment of external factors or internal constraints that could impact such linkages and interdependencies.

- 4.5 Provide financial projections for the first five years of proposed operations (including Balance Sheet, Income Statement and Cash Flow projections as well as the financial, economic and other assumptions on which these projections are based). Also include sensitivity analyses of stress scenarios, showing the effects of the variation of key assumptions, including the impact on the business model's viability.

- 4.6 Indicate whether the financial group or wider group of which the applicant is a part, is undergoing significant changes (locally or cross-border) e.g. merger, restructuring or expansion in particular business areas or markets and whether

SCHEDULE, *contd.*

any such changes are currently being contemplated. Outline and elaborate on how these changes may affect the operations in Jamaica.

5. GOVERNANCE STRUCTURE AND ARRANGEMENTS, RISK MANAGEMENT AND INTERNAL CONTROLS

- 5.1. Attach an organizational chart of the applicant and its subsidiaries (current and proposed) and where applicable, elaborate on the lines of reporting and accountability by the applicant to its parent entity or other entities.

☐ Attached

- 5.2. Provide the name, address, nationality, occupation and proposed responsibilities of each director and officer of the applicant, its parent entity and all other entities within the financial group. Indicate whether a particular Director is or is proposed to be an executive, non-executive or “independent director” as defined in section 2(1) of the Banking Services Act.

- 5.3. Provide the name, address, nationality, occupation and proposed responsibilities of the applicant’s current and proposed key employees as defined in the Banking Services Act.

- 5.4. Provide details of the number of persons likely to be employed in management and staff positions at commencement of business and over the next three years.

SCHEDULE, *contd.*

- 5.5. Provide details of the personal and business history of each person to be appointed (at commencement) as a Director, Secretary, officer or key employee of the applicant and any other entity in the financial group. Also provide in relation to each of these persons, a completed "Personal Questionnaire for Connected Persons" (PQ) and related attachments

Personal Questionnaires for Connected Persons	<input type="checkbox"/> Attached
Current Passport Size Photographs	<input type="checkbox"/> Attached

- 5.6.

Attach any policy regarding the appointment of officers.	<input type="checkbox"/> Attached
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Compliance

- 5.7. Provide clear details of the organizational structure, resources and reporting lines proposed to govern the compliance function of the applicant as well as that which obtains for the wider financial group. Also provide a comprehensive compliance manual that may be in place in this regard.

- ☐ Compliance Manual
☐ Attached Internal Audit

Internal Audit

- 5.8. Provide clear details regarding the proposed Internal Audit function to be established by the applicant, including an overview of the methodology, the resources to be employed and the relevant reporting and accountability structures. Also provide this information from a group perspective where the applicant is to be a part of a financial group.

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Risk Management

- 5.9. Provide clear details of proposed risk management framework, system and procedures to be established by the applicant. Also, provide this information from a group perspective where the applicant will be part of a financial group.

SCHEDULE, *contd.*

In addition, attach the relevant risk management policies, where applicable (see 5.10).

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- 5.10 Attach the key policies/procedures including those which address the following areas of operation—

Credit /Lending	<input type="checkbox"/> Attached
Concentration Risk	<input type="checkbox"/> Attached
Provisioning	<input type="checkbox"/> Attached
Liquidity Risk Management including the following—	<input type="checkbox"/> Attached
Funding Concentration/Diversification	
Collateral Management	
intra-day Liquidity	
Operational Risk	<input type="checkbox"/> Attached
Legal Risk	<input type="checkbox"/> Attached
Reputational Risk	<input type="checkbox"/> Attached
Abuse of Financial service	<input type="checkbox"/> Attached
Remuneration	<input type="checkbox"/> Attached
Code of Conduct	<input type="checkbox"/> Attached
Other policies/procedures of significance (if any, list below)	<input type="checkbox"/> Attached

- 5.11 Provide information on major plans and initiatives in risk management activities in Jamaica, including key areas which have been highlighted by the auditors or regulatory authority for the parent entity for enhancements commensurate with activities of that company, if applicable.

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SCHEDULE, *contd.**Corporate Governance*

- 5.12 Attach a chart delineating the composition of the proposed Board. This should include notes highlighting instances where the applicant's Board members are employed to other entities within the group and whether any Board member resides outside of Jamaica.

☐ Attached

- 5.13 Attach policies and procedures related to Corporate Governance

☐ Attached

Systems

- 5.14 Provide details of the intended Information Technology ("IT") systems (including specifics regarding operating system, database and application proposed to support the core business functions).

- 5.15 Is the core IT system new to the applicant or group? ☐ Yes ☐ No

- 5.16 If the systems are already in use in the applicant or group, does it require significant alteration? ☐ Yes ☐ No

- 5.17 If yes, provide details of the alterations.

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- 5.18 Provide details of any proposed external or intra-group outsourcing arrangements to support the applicant's proposed operations. These details shall include at a minimum—

- (a) supplier identity and location (indicating whether the supplier is in any way connected to the applicant);
- (b) the rationale for the outsourcing arrangement;
- (c) details of the due diligence and selection process;
- (d) business continuity plans in the event the outsourced service provider experiences an adverse situation.

- 5.19 Attach copies of service level agreements (SLAs) or other contractual arrangements for each outsourced activity, current or pending, including any such agreements between the applicant and any group entities providing services to the applicant.

SCHEDULE, *contd.*

☐ Attached

Indicate the number of SLAs attached _____

- 5.20 Attach your outsourcing policy. ☐ Attached
- 5.21 Attach the applicant's Business Continuity Plan and policy. ☐ Attached
6. RECOVERY AND RESOLUTION
- 6.1 Attach your Recovery and Resolution Plan which shall include:
- (a) all particulars regarding the preparation of the applicant's recovery and resolution plan;
 - (b) a clear description of how early warning systems are integrated into the applicant's proposed risk management framework;
 - (c) the range of recovery options, their feasibility and estimated impact on the applicant's viability (including capital and liquidity).

☐ Attached

- 6.2 In respect of a financial group, does the applicant have an existing resolution plan at the local Financial Holding Company level? In the case of a foreign holding company, has the resolution and recovery plan been approved by or shared with the home regulator? If so, explain how the proposed Jamaican operations will fit into the wider Group resolution plan globally.

Questions 6.3–6.9 apply in the case of an application by a foreign bank.

- 6.3 In the case of an applicant which is a foreign bank, describe the resolution regime in the applicant's home-country, including—
- (a) the objectives of the resolution powers;
 - (b) the legislation underpinning the resolution powers;
 - (c) the authority that exercises the resolution powers. If more than one national authority is or could be involved in deciding whether to activate the resolution regime or exercise certain resolution powers, outline in detail the respective roles and responsibilities of each authority and how the decision is made.

SCHEDULE, *contd.*

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- 6.4 Is there a procedure in the home jurisdiction for the recognition of foreign insolvency proceedings? What would be the procedure for obtaining recognition under the home country's laws? Explain the extent to which actions taken by the Bank of Jamaica to resolve the applicant's branch operations in Jamaica would be recognized in the applicant's home country? (See section 122 of the Banking Services Act on the winding up of foreign bank branches).

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- 6.5 Are there any restrictions to the transfer of assets between the parent entity or entities and the applicant in normal times, during periods of stress and in the event of a resolution? If yes, elaborate on these restrictions.

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- 6.6 Do the home country authorities have any restrictions to cooperation and information sharing with other regulatory bodies? If yes, elaborate on these restrictions, for example, the types of restricted information, and the circumstances under which information cannot be shared (include exemptions from these restrictions if any).

Note: it should not be assumed that information is known to the Supervisory Committee or the Bank of Jamaica merely because it is in the public domain or has previously been disclosed to the Supervisory Committee or the Bank of Jamaica or another regulatory body.

Note: knowingly or recklessly giving the Bank of Jamaica information pursuant to this application which is false or misleading in a material particular may be a criminal offence (Section 38 of the Banking Services Act).

SCHEDULE, *contd.*

I/We hereby apply for a licence under section 19 of the Banking Services Act for the abovementioned company to carry on the business in the category selected below. 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.

☐ Bank ☐ Building Society ☐ Merchant Bank

Signature

Signature

Name and Position

Name and Position

Director/Secretary

Director/Secretary

Date

Date

Dated this 21st day of July, 2015.

BRYAN WYNTER CD,
Chairman
Supervisory Committee.

Approved:

PETER PHILLIPS
Minister of Finance and Planning.