

MICROCREDIT REGULATION

FREQUENTLY ASKED QUESTIONS

REMINDER!

Bank of Jamaica is in the process of receiving applications for licensing under the Microcredit Act; we stand ready to receive and review yours! Remember, if you intend to continue offering loans to micro, small and medium sized businesses or to individuals defined under the Microcredit Act, then you are required to apply to the Bank of Jamaica for a licence by July 30 2022. Here are some facts you should know.

QUESTIONS	ANSWERS
1. What is a microcredit service?	In short, a microcredit service refers to the granting of credit facilities to individuals or micro small and medium sized enterprises or both, as defined under the Microcredit Act.
2. What is the role of Bank of Jamaica?	As the Regulatory Authority, Bank of Jamaica has responsibility for general administration of the Act, for issuing microcredit licences, and for supervision of microcredit institutions.
3. What is the role of the Consumer Affairs Commission?	Under the Microcredit Act, the Consumer Affairs Commission is responsible for making and issuing a code of conduct for licensees on consumer related matters, and for the investigation of any complaint brought to it by a consumer of a microcredit service.
4. Is there a limit to the number of microcredit licences to be issued?	The BOJ wishes to make it abundantly clear, there is no limitation or restriction on the number of licences to be issued under the Microcredit Act.
5. What is the deadline for submission of applications for microcredit licensing?	Existing microcredit operators have until July 30, 2022 to submit complete applications for microcredit licences or to cease operating. The microcredit licensing process will be ongoing for new entrants to the market, so any person who wishes to start offering microcredit services for the first time can apply for licensing at any time. New entrants must be issued with a licence in order to start operating, as it is an offence to provide a microcredit service without a microcredit licence.

<p>6. What is the penalty for the offence of providing a microcredit service without being licensed as a microcredit institution?</p>	<p>Persons may be fined up to Two Million Jamaican Dollars (J\$2,000,000), may be imprisoned for up to six (6) months, or may be both fined and imprisoned. After July 30, 2022, persons holding themselves out to be in the business of offering credit facilities as defined under the Microcredit Act - by way of advertisements - but who have not applied to the Bank of Jamaica for a licence, will likely be construed as operating without a licence.</p>
<p>7. What are the requirements to apply for a microcredit licence, and where may I access the information?</p>	<p>Microcredit licensing applications must be done according to section 10 of the Microcredit Act, using the forms prescribed. Information related to licensing and relevant documents can be found at the Bank of Jamaica's website, using the following link: https://boj.org.jm/core-functions/financial-system/microcredit-regulation/microcredit-institutions/.</p>
<p>8. Are there any financial or capital requirements for operators to obtain a microcredit licence?</p>	<p>There are no minimum capital requirements, prudential requirements nor minimum ratios required to obtain a microcredit licence. In general, the Supervisor expects that each operator will remain a going concern, so the assessment will take the applicant's overall financial viability into consideration.</p>
<p>9. What happens if I submit a microcredit licensing application by the deadline of July 30, 2022, but I have not yet heard from the BOJ?</p>	<p>Once an application is submitted, Bank of Jamaica will confirm receipt. Subsequent correspondence will include acknowledgement that existing operations are permitted to continue until a decision on the application is communicated. A decision not to grant a licence will include time within which the operations would be required to cease. Applications that have not provided sufficient information will be allowed time to provide the outstanding information as the process is iterative. Applications that are deficient and for which the deficiency is not addressed by the applicant in the time required by BOJ will be rejected.</p>
<p>10. What is the position of the regulator with respect to funds owing to a microcredit institution whose application to be licensed is declined?</p>	<p>Unsuccessful applicants will be given time to exit the business. The business size, complexity and latest maturity date for repayment of existing loans etc. will be considered when determining the timeline to exit.</p>
<p>11. What are the requirements for existing microcredit institutions that wish to wind up whose portfolios expire after July 30, 2022?</p>	<p>There are no provisions in the law for persons to continue operating after July 2022 without having applied for a licence or without being licensed, so a business decision to exit the space should be in progress.</p> <p>If sale of the loan portfolio is not being pursued, operators may apply for a licence (by July 30, 2022), for the sole purpose of exiting the business in an orderly manner. Such an application would clearly indicate that,</p> <ol style="list-style-type: none"> i. the intention is not to continue in business after balances on existing loans are repaid; and ii. the only focus of operations will be collection of those balances. <p>With respect to governance requirements for such applications, a Board of Directors would be required and it would need to ensure proper management of the exit process and collection of outstanding balances. In that regard, such individuals would still need to be fit and proper. Supporting documentation (policy documents, organizational charts/structure, etc.) are expected to be in line with the limited business activities.</p>

12. What is Bank of Jamaica's position on policy manuals and related documents; will the regulator allow time for applicants to have these fully implemented?	<p>For the avoidance of doubt, complete applications are expected within the stipulated timeframe. Generally, policies are expected to provide guidance which is consistent with the size, scope, and complexity of the microcredit institution and, in assessing an application, Bank of Jamaica will be seeking to understand what arrangements are in place or will be implemented. If a particular policy or manual does not exist, the application should include an explanation of the action plan to address this and should detail the manner in which operations will be managed until the policy or manual is in place.</p> <p>Draft policies/manuals which have been signed off by management are acceptable at licensing. However, it is the expectation that policies/manuals will be subsequently approved by the Board of the microcredit institution. Post-licensing inspections will include assessing how policies/manuals are updated to remain responsive to the microcredit institution's operating environment.</p>
13. Does the Microcredit Act prescribe a limit on interest rates charged on loans?	<p>No. The Act does not impose a limit on interest rates charged by microcredit institutions.</p> <p>The Act outlines that microcredit institutions may impose interest on a loan calculated (i) at a rate based on market forces; and (ii) consequent on the assessment by the microcredit institutions of the risks involved in providing the loan to the borrower.</p> <p>It also stipulates that institutions must provide customers with the effective annual interest rate (EAIR) (for which the formula for calculation is outlined in the First Schedule of the Microcredit Act), and where interest rates are being advertised, the EAIR should be the most prominent interest rate advertised.</p>
14. Can microcredit institutions accept deposits from members of the public?	No. The Microcredit Act expressly prohibits the acceptance of deposits from the public or banking business (as defined by the Banking Services Act).
15. Is there a floor or a limit on the amount that a microcredit institution may lend?	No. The Microcredit Act does not impose a minimum or maximum value on loans issued by microcredit institutions; there is only a proscription around to whom those funds are lent. A licensee under the Microcredit Act is authorized to lend to micro, small and medium sized businesses and to individuals as defined under the Microcredit Act.
16. Can microcredit institutions issue loans or collect loan repayment in a foreign currency?	Any dealing in foreign currency (including the repayment of loans) runs the risk of breaching section 22A (3) of the Bank of Jamaica Act. Microcredit institutions are, therefore, expected to limit dealings to Jamaican Dollars only. Only authorized foreign exchange dealers - such as cambios or commercial banks - are permitted to deal in foreign exchange. It means, therefore, that the microcredit institution would have to apply for either a cambio licence or commercial banking licence in order to deal in foreign currencies.
17. Why are fit and proper assessments necessary?	The requirement to be assessed for fitness and propriety is a statutory obligation, and the assessment puts the Supervisor in a position to determine the adequacy of the probity and competence of proposed managers, directors and owners of applicants. In addition to being the tool for collecting information related to fit and proper assessments, the Microcredit Fit and Proper Personal Questionnaire (PQ) is also used to access information to manage conflict of interest risks arising in relation to section 35 of the Microcredit Act and to identify connectivity with existing owners, operators and directors of other microcredit institutions.

<p>18. Who are the individuals that must be fit and proper?</p>	<p>Fit and proper assessments are required for substantial shareholders (persons who own 20% or more of shares in a microcredit institution), directors, nominated officers and certain senior officers* of the microcredit institutions. <i>*Senior officers include the chief executive officer, president or vice-president (however designated), general manager, company secretary, chief financial officer, financial controller, chief accountant, general accountant or treasurer. Other personnel within the Microcredit organization are <u>not</u> required to undergo a fit and proper assessment.</i></p>												
<p>19. With respect to fit and proper assessments, what is the due diligence report?</p>	<p>The institution's due diligence report is a summary of the checks that applicants undertake to satisfy themselves that candidates being proposed for certain senior positions within the organization are indeed fit and proper. Three main areas are assessed when conducting fit and proper tests, namely:</p> <ol style="list-style-type: none"> 1. Competence – is the candidate able to discharge the responsibilities of the position they hold in a satisfactory and efficient manner? 2. Probity – has the candidate's character and/or business dealings been called into question? 3. Financial Soundness – is the candidate an undischarged bankrupt and/or severely indebted, so much so that he/she would be susceptible to bribes or can be unduly influenced? <p>In the summary, we would wish to understand:</p> <ol style="list-style-type: none"> 1. What checks were done by the applicants to satisfy themselves that the candidate is suitable, fit and proper; 2. Who did those checks; and 3. The findings of those checks. 												
<p>20. What are the expectations for the size and composition of the board of directors for microcredit institutions?</p>	<p>Microcredit institutions are expected to establish a board of directors (per section 28 of the Microcredit Act), and the Board should be comprised of members suitably qualified to effectively carry out its functions.</p> <p>The Bank of Jamaica has introduced a tiered approach for the minimum number of directors expected, but, in any event, the composition of the board should be adequate to the size and complexity of the business. This tiered approach is also extended to audit and compliance oversight and is as follows:</p> <table border="1" data-bbox="849 938 2421 1297"> <thead> <tr> <th>CLASSIFICATION</th> <th>VALUE OF GROSS LOAN PORTFOLIO</th> <th>MINIMUM NO. OF DIRECTORS</th> <th>AUDIT/COMPLIANCE</th> </tr> </thead> <tbody> <tr> <td>Tier 1</td> <td>Under J\$75 million</td> <td>Three (3) directors</td> <td>Functions may be combined; overseen by same independent board member where only one exists.</td> </tr> <tr> <td>Tier 2</td> <td>J\$75 million and over</td> <td>Five (5) directors</td> <td>Functions separated; overseen by separate independent board members</td> </tr> </tbody> </table> <p>The following apply to all microcredit institutions:</p> <ul style="list-style-type: none"> ▪ One-third of the Board members should be independent board members. ▪ The role of Chairman of the Board should be separated from the role of CEO/Head of the microcredit institution. 	CLASSIFICATION	VALUE OF GROSS LOAN PORTFOLIO	MINIMUM NO. OF DIRECTORS	AUDIT/COMPLIANCE	Tier 1	Under J\$75 million	Three (3) directors	Functions may be combined; overseen by same independent board member where only one exists.	Tier 2	J\$75 million and over	Five (5) directors	Functions separated; overseen by separate independent board members
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21. Who is an independent director?	<p>An independent director does not have direct or indirect connection or relationship with the microcredit institution other than board membership. The independent director:</p> <ul style="list-style-type: none"> ▪ Is not employed by the microcredit institution or its affiliates or is a director of any of its affiliates. ▪ Is not a shareholder owning more than 20% of the shares of the microcredit institution, or that of another microcredit institution. ▪ Does not have shareholder's voting rights. ▪ Does not have an immediate relative* who is a director or senior manager of the microcredit institution or who holds shares exceeding 20% of the voting rights of the microcredit institution. <i>*In relation to any person, "immediate relative" means the person's spouse, children (including step children) and their spouses, parents, brothers or sisters.</i>
22. What are the minimum expectations for the internal audit function in microcredit institutions?	<p>The internal audit function is an internal control function that monitors compliance of the business with its statutory and other legal obligations as well as internal policies and procedures. Minimum expectations are as follows:</p> <ul style="list-style-type: none"> ▪ The role may be employed or contracted by the business. ▪ The role must be independent of operational and decision-making activities.
23. What are the minimum expectations for the Nominated Officer function?	<p>As a licensee under the Microcredit Act is also designated as a Financial Institution, the Nominated Officer function is a mandatory job function under the Terrorism Prevention Act (TPA) and regulations under The Proceeds of Crime Act (POCA).</p> <p>The Nominated Officer is responsible for ensuring the implementation of effective Money Laundering/Financing of Terrorism (ML/FT) prevention measures. Minimum expectations are as follows:</p> <ul style="list-style-type: none"> ▪ The officer must be employed by the business and function at the management level; and ▪ The role must be independent of operational and decision-making activities. ▪ For Tier 1 institutions (those with gross loan portfolio of under \$75 million) the Internal Audit and Nominated Officer functions may be combined and overseen by the same independent board member, where only one exists.
24. What special allowances have been made for small companies with respect to financial statements?	<p>Where a microcredit operator is a small company, as defined by the Companies Act, the accounts are to be prepared in accordance with the seventh schedule of the Companies Act by an external auditor who is a registered public accountant (section 35 of the Microcredit Act refers). The qualification as a small company removes the need for audited financial statements. A list of registered public accountants may be accessed at the Public Accountancy Board at the following link: https://pab.gov.jm/list-of-rpas</p>
25. What is the licensing fee?	<p>Upon the grant of a licence, each licensee will be required to pay a licensing fee as follows:</p>

	<ul style="list-style-type: none"> ▪ J\$10,000 for the first \$10 million of the fee base (total value of gross loans as at the financial year end as evidenced in the Balance sheet as at the year-end), plus \$1,000 for each additional \$10 million or part thereof in the fee base. Example 1 – Fee base/gross loan portfolio of \$20 million would attract a licensing fee of J\$11,000 Example 2 – Fee base/gross loan portfolio of \$100 million would attract a licensing fee of J\$19,000 ▪ For start-ups – there is a flat fee of J\$10,000
<p>26. Are there other fees related to microcredit licensing?</p>	<p>For a list of the fees applicable to microcredit regulation, the Microcredit Fee Regulations may be viewed at the following link: https://boj.org.jm/core-functions/financial-system/microcredit-regulation/microcredit-institutions/. In addition to the licensing fee, it outlines the following:</p> <ol style="list-style-type: none"> 1. Annual Fee – paid annually on or before the anniversary of the grant of a licence – same as the licensing fee 2. Reinstatement Fee – paid for the reinstatement of a licence which was suspended – 50% of the licensing fee 3. Replacement fee for lost, defaced or destroyed licence - J\$5,000 4. Fee for change of registered name of licensee - J\$5,000 <p>The Microcredit Fee Regulations do not contemplate fees applicable for services provided by other partner agencies. So, there may be instances where other fees are applicable and they are not expressly mentioned by the BOJ. This could include, but is not limited to, fees for microcredit licensing and regulation-related business conducted with partner agencies such as:</p> <ul style="list-style-type: none"> ▪ The Financial Investigations Division (for Comprehensive Financial Profile, or to access Go-AML platform) ▪ The Police Criminal Records Officer (for Police Records) ▪ Other governmental partner agencies

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