

THE BANK OF JAMAICA ACT

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SCHEDULE

THE BANK OF JAMAICA ACT

[1st October, 1960.]

PART I. *Preliminary*

Law	15 of 1992,
32 of 1960.	2 of 1995,
Acts	10 of 2001,
37 of 1964,	17 of 2002,
31 of 1966,	28 of 2003
7 of 1969	S. 2,
Sch.,	1 of 2004,
12 of 1971,	7 of 2005,
22 of 1971,	15 of 2009,
18 of 1973,	2 of 2010
44 of 1975,	S. 13,
33 of 1976,	32 of 2010
10 of 1977,	S. 30,
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21 of 1978,	3rd. Sch.,
15 of 1984,	26 of 2013
4 of 1985,	2nd Sch.,
8 of 1989,	6 of 2014
32 of 1991,	10th Sch.,
11 of 1992	24 of 2015.
Sch.,	

1. This Act may be cited as the Bank of Jamaica Act. Short title.
2. In this Act unless the context otherwise requires— Interpreta-
 - “approved foreign currency” means any foreign currency 18/1973
 - declared by order of the Minister after consultation S. 2.
 - with the Bank to be an approved foreign currency;
 - “approved money transfer and remittance agency or agent” 1/2004
 - means a company which is approved by the Minister to S. 2.
 - carry on the business of transferring or transmitting
 - money or any representation of monetary value, by any
 - means from or to Jamaica;
 - “authorized dealer” means, in relation to any foreign 11/1992
 - currency, a person for the time being authorized by an Sch.
 - order of the Minister to act for the purposes of this
 - Act as an authorized dealer in relation to that foreign
 - currency or foreign currency instruments;
 - “authorized officer” means the Supervisor, Deputy Super- 15/1992
 - visor or any other person authorized to perform func- S. 2(a).
 - tions on behalf of the Supervisor or the Deputy Super-
 - visor under this Act;
 - “Bank” means the Bank of Jamaica established under this 6/2014
 - Act; 10th Sch.
 - “bank” has the meaning assigned to it in the *Banking*
 - Services Act*;

- “Board” means the Board of Directors of the Bank appointed under section 6;
- 6/2014
10th Sch. “building society” has the meaning assigned to it in the *Banking Services Act*;
- 37/1964
S. 2. “Commonwealth” means the Commonwealth as defined in section 2 of the Jamaican Nationality Act;
- 6/2014
10th Sch. “deposit taking institution” has the meaning assigned to it in the *Banking Services Act*;
- 10/1977
S. 2. “Deputy Governor” means a Deputy Governor of the Bank appointed pursuant to section 6;
- 15/1992
S. 2(c). “Deputy Supervisor” means the Deputy Supervisor of Banks and Financial Institutions appointed under section 34B;
- 6/2014
10th Sch. “financial institution” has the meaning assigned to it in the *Banking Services Act*;
- “financial year” means the financial year of the Bank;
- 11/1992
Sch. “foreign currency” means any currency other than Jamaican currency; and any reference to foreign currency except so far as the context otherwise requires, includes a reference to any right to receive foreign currency in respect of any credit or balance at a bank;
- 11/1992
Sch. “foreign currency instrument” means an instrument denominated in or giving a right to foreign currency;
- 6/2014
10th Sch. “foreign financial regulatory authority” has the meaning assigned to it in the *Banking Services Act*;
- 11/1992
Sch. “foreign securities” includes shares, stock, bonds, notes (other than promissory notes) debentures or debenture stock on which capital monies and dividends are payable in foreign currency;
- 15/1992
S. 2(d). “functions” includes duties and powers and all activities necessary to give effect to the objects specified in section 5;
- “Governor” means the Governor of the Bank appointed pursuant to section 6;

- “merchant bank” has the meaning assigned to it in the *Banking Services Act*; 6/2014
10th Sch.
- “notes” and “coins” mean respectively notes and coins of the currency of the Island;
- “perform”, in relation to functions, includes exercise, and grammatical variations of the expression shall be construed accordingly;
- “prescribed liabilities” means the liabilities specified by the Bank, by notice published in the *Gazette*; 6/2014
10th Sch.
- “prudential criteria” means criteria and standards established under this Act for the purpose of setting outside limits and constraints on banks and specified institutions for the protection of depositors, shareholders and potential shareholders and for ensuring the safety and soundness of the financial system; 2/1995
S. 2.
6/2014
10th Sch.
- “regulator” has the meaning assigned to it in the *Banking Services Act*; 6/2014
10th Sch.
- “regulatory counterparts” means— 6/2014
10th Sch.
- (a) the designated authority as defined in the *Banking Services Act*;
 - (b) a foreign financial regulatory authority;
 - (c) a regulator;
 - (d) an authority operating in a country other than Jamaica which undertakes functions similar to the designated authority;
 - (e) the Jamaica Deposit Insurance Corporation;
 - (f) an authority operating in a country other than Jamaica which undertakes functions similar to the Jamaica Deposit Insurance Corporation;

BANK OF JAMAICA

- (g) the International Monetary Fund, the World Bank, or any other such multi-lateral agency;
- (h) the Caribbean Financial Action Task Force, or any other similar international organization that recommends or sets international standards;
- (i) an independent observer or assessor;

“Senior Deputy Governor” means a Senior Deputy Governor of the Bank appointed pursuant to section 6;

15/1992
S. 2(e).
15/1992
S. 2(f).
6/2014
10th Sch.

“specified financial institution” means a person or undertaking (not being a bank, merchant bank or building society) whose business includes the granting of loans or other credit facilities or the accepting of deposits and who is declared by the Minister by notice in the *Gazette* to be a specified financial institution for the purposes of this Act.

15/1992
S. 2(g).

“Supervisor” means the Supervisor of Banks and Financial Institutions appointed under section 34B;

6/2014
10th Sch.

“Supervisory Committee” means the committee constituted by section 6 of the *Banking Services Act*;

15/1992
S. 2(g).

“Supervisory Department” means the Department of Supervision of Banks and Financial Institutions established under Part VA;

PART II. *Constitution*

Establish-
ment of
Bank of
Jamaica.

3.—(1) There is hereby established for the purposes of this Act a Bank to be known as the Bank of Jamaica.

(2) The Bank shall be a body corporate having perpetual succession and a common seal and, subject to the provisions of this Act, with power to acquire, hold and dispose of land and other property of whatever kind and to enter into contracts and to do all things necessary for the purposes of its functions.

(3) The Bank may sue and be sued in its corporate name and may for all purposes be described by that name.

(4) The seal of the Bank shall be authenticated by the signature of the Governor, the Senior Deputy Governor or a Deputy Governor and one other director authorized to act in that behalf and shall be judicially and officially noticed.

10/1977
S. 3.
15/1992
S. 3(a).

(5) All documents, other than those required by law to be under seal, made by and all decisions of the Board may be signified under the hand of the Governor, the Senior Deputy Governor or any director or officer authorized to act in that behalf.

4. The Bank shall have its principal place of business in Kingston and may maintain such branches, agencies and correspondents (whether in Jamaica or elsewhere) as the Board may think necessary.

Place of
business.

5. The principal objects of the Bank shall be to issue and redeem notes and coins, to keep and administer the external reserves of Jamaica, to influence the volume and conditions of supply of credit so as to promote the fullest expansion in production, trade and employment, consistent with the maintenance of monetary stability in Jamaica and the external value of the currency, to foster the development of money and capital markets in Jamaica and to act as banker to the Government.

General
objects of
Bank.

6.—(1) There shall be a Board of Directors of the Bank which, subject to the provisions of this Act, shall be responsible for the policy and the general administration of the affairs of the Bank.

Board of
Directors.
6/2014
10th Sch.

(2) The Board shall consist of the following directors—

- (a) the Governor, appointed under section 6A;
- (b) the Senior Deputy Governor, appointed under section 6D;
- (c) the Financial Secretary; and

(d) six- other directors appointed by the Minister by instrument in writing.

(3) Notwithstanding subsection (2)(d), the Minister may, by instrument in writing (whether in the same instrument of appointment as Deputy Governor, or by subsequent instrument), appoint to be directors, one or more Deputy Governors appointed under section 6D so, however, that any such appointment shall not be taken into account in determining the number of directors that may be appointed under subsection (2).

(4) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any director in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

(5) Where any director is exempt from liability by reason only of the provisions of subsection (3) the Bank shall be liable to the extent that it would be if that director were a servant or agent of the Bank.

Schedule.

(6) The provisions of the Schedule shall have effect as to the tenure of office of the directors and the operations of the Board and otherwise in relation thereto.

Appointment
of Governor.
6/2014
10th Sch.

6A.—(1) The Governor shall appointed by the Governor-General in Council by instrument under the Broad Seal.

(2) The appointment of the Governor shall not constitute the appointment of a public officer for the purpose of section 123 of the Constitution of Jamaica.

(3) A person appointed as Governor shall hold office for a period of not less than seven years and may be reappointed.

Function of
Governor.
6/2014
10th Sch.

6B. The Governor, or, in his absence, the Senior Deputy Governor, or, in the absence of the Governor and the Senior Deputy Governor, a Deputy Governor designated by the Minister, shall be in charge of the day-to-day management and operations of the Bank and shall be answerable to the Board

for his acts and decisions.

6C.—(1) The Governor-General in Council, may remove the Governor from office.

Removal of
Governor.
6/2014
10th Sch.

(2) The Cabinet may tender advice under subsection (1) if the Cabinet is satisfied that the Governor should be removed for cause or that any of the conditions set out in paragraph 5 of the Schedule, exists.

(3) The Cabinet may tender advice under this section whether or not the Board has made a recommendation that the Governor be removed from office.

6D.—(1) The Senior Deputy Governor and Deputy Governors shall be appointed by the Minister on the recommendation of the Board, by instrument in writing for a period not exceeding five years, on such terms and conditions as may be specified.

Senior
Deputy
Governor
and Deputy
Governors.
6/2014
10th Sch.

(2) Where a Senior Deputy Governor or Deputy Governor is also recommended to be the Deputy Supervisor, the appointment of that officer as Deputy Supervisor shall be made in accordance with section 34B.

(3) Subject to subsection (4), in any case where the Senior Deputy Governor or a Deputy Governor who was not previously carrying out the functions of Deputy Supervisor, is appointed as Deputy Supervisor during the term of the Deputy Governor's appointment, the appointment as Deputy Governor shall be deemed to have expired and his appointment as Deputy Supervisor shall commence.

(4) Nothing contained in this section or section 6A, shall affect or prejudice the terms of any existing appointment in place as at the date this section comes into effect in relation to the Governor, a Senior Deputy Governor, a Deputy Governor or a director.

(5) The Governor, Senior Deputy Governor and Deputy Governors shall devote the whole of their professional services to the Bank and while holding office shall not, without the approval of the Board—

(a) receive any salary or supplementation thereto from

any source other than the Bank; or

(b) occupy any other office or employment, whether remunerated or not.

Power to
appoint
officers,
agents and
servants.

7.—(1) Subject to subsection (2), the Bank may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, such officers, agents and servants as the Board considers necessary for the due performance of the functions of the Bank.

15/1992
S. 5(a).

(2) An annual salary exceeding the prescribed rate shall not be assigned to any post without the prior approval of the Minister; and no appointment to any post to which an annual salary exceeding the prescribed rate is assigned shall be made without the prior approval of the Minister.

18/1973
S. 4.

(3) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any public officer in the service of Jamaica to any office with the Bank and any public officer so appointed shall, in relation to pension, gratuity or other allowance, and to other rights as a public officer, be treated as continuing in the service of the Government.

15/1992
S. 5(b).

(4) In subsection (2) the prescribed rate means a rate of two hundred thousand dollars per annum or such higher rate as the Minister may, by order, prescribe.

15/1992
S. 5(b).

(5) The Bank may, with the approval of the Minister, make regulations establishing schemes for pensions, gratuities and other retiring benefits in respect of the officers and servants of the Bank and such regulations may include provisions for the grant of benefits to the dependants or the legal personal representatives of such officers and servants.

15/1992
S. 5(b).

(6) The Bank may provide for training of such employees of the Bank or other persons as appear to the Board to be suitable for training in the subjects of money and banking, statistics, finance and such other subjects as the Board considers necessary.

PART III. *Capital and Reserve*

Capital of
the Bank.

8.—(1) The authorized capital of the Bank shall be two million dollars.

(2) Upon the establishment of the Bank there shall be paid by the Government from the Consolidated Fund in respect of such capital the sum of five hundred thousand dollars.

(3) The balance of fifteen hundred thousand dollars shall be paid from the Consolidated Fund at such times as the Board with the approval of the Minister may require.

(4) Subject to the approval of the House of Representatives the capital of the Bank may from time to time be increased by resolution of the Board.

(5) The amount of any increase specified in a resolution referred to in subsection (4) shall be paid from the Consolidated Fund. 15/1992 S. 6.

9.—(1) The Bank shall establish and maintain a General Reserve Fund— General Reserve Fund.

(a) to which, subject to subsection (2), shall be transferred at the end of each financial year the net profits of the Bank after allowing for the expenses of the operation and after provision has been made for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds and other contingencies including the provision for a sufficient reserve against exceptional expenditure; and 18/1973 S. 6 (a).

(b) upon which shall be charged any net losses of the Bank at the end of any financial year. 18/1973 S. 6 (b).

(2) Whenever the sums standing to the credit of the General Reserve Fund amount to five times the Bank's authorized capital the residue of any such net profits as are referred to in paragraph (a) of subsection (1) shall be paid to the Consolidated Fund. 15/1992 S. 7 (a).

(3) If any net losses referred to in subsection (1) exceed the amount of the General Reserve Fund at the end of the financial year— 15/1992 S. 7 (b).

- (a) a sum equivalent to the excess shall be paid to the Bank from the Consolidated Fund; or
- (b) if, in the opinion of the Minister, such payment cannot be made then such securities as may be agreed between the Bank and the Minister shall be issued to the Bank and such securities shall be charged on the Consolidated Fund.

15/1992
S. 7 (c).

(4) Where a sum has been paid from the Consolidated Fund pursuant to subsection (3) (a) it shall be repaid by the Bank from the General Reserve Fund at such time and in such amounts as the Minister may approve, so, however, that the repayment of the sum shall not at any time have the effect of reducing the General Reserve Fund to less than five times the Bank's authorized capital.

PART IV. *Currency, Coinage and Legal Tender*

Currency
of the
Island.
7/1969
1st Sch.

10.—(1) The currency of the Island shall be the decimal currency provided for in this Part and shall consist of the notes and coins in such currency issued by the Bank under this Act.

(2) The monetary unit, or unit of currency, of the Island is the dollar.

(3) The denominations of money in the currency of the Island are the dollar and the cent.

(4) A cent is one-hundredth part of a dollar.

Parity
of the
Jamaica
dollar.
22/1971
S. 2.
15/1992
S. 8.
31/1966
S. 2.

11.—(1) The parity of the Jamaica dollar shall be fixed on such basis as the Minister may from time to time, after consultation with the Governor, by order, declare.

(2) An order made under subsection (1) may contain such consequential, supplemental or ancillary provisions (including modifications of the provisions of this Act) as the Minister may consider necessary or expedient for the purposes of the order.

(3) An order made under subsection (1) shall be subject to negative resolution.

31/1966
S. 2.

12.—(1) Subject to section 14, the Bank shall have the sole right and authority to issue notes and coins in the Island.

Sole right to issue notes and coins.
18/1973
S. 7.
15/1992
S. 9(b).

(2) No person other than the Bank shall issue in Jamaica notes or coins, or any documents or tokens payable to bearer on demand, having the appearance of, or purporting to be, or which are likely to pass as or be confused with notes or coins issued by the Bank.

(3) Any person who contravenes subsection (2) shall be guilty of an offence and liable—

15/1992
S. 9(b).

(a) on summary conviction in a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment;

(b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

13. Notes issued by the Bank shall be exempt from the payment of stamp duties.

Exemption from stamp duty on notes.

14.—(1) The Minister may after consultation with the Bank—

Denominations and forms of notes and coins.

(a) approve, subject to subsection (2), the denominations, form and design of notes and coins to be issued by the Bank;

18/1973
S. 8(a).

(b) by order determine the standard weight and composition of coins to be issued by the Bank and the amount of remedy (or variation from the standard weight and composition) which may be allowed in the making of such coins.

18/1973
S. 8(c).

(2) The power of the Minister under paragraph (a) of subsection (1) shall be exercised on the recommendation of the Bank, so, however, that where on any occasion the Minister disagrees with a recommendation of the Bank he shall require the Bank to reconsider that recommendation and may, if a recommendation acceptable to him is not thereafter furnished by the Bank, exercise the power aforesaid on that occasion otherwise than on the recommendation of the Bank.

Legal
tender.
7/1969
1st Sch.
26 of 2013
2nd Sch.
15/2009
S. 2.

15.—(1) Subject to provisions of subsections (2) and (3) and of section 16, a tender of payment of money—

(a) if made in notes, shall be legal tender for the payment of any amount; and

15/2009
S. 2.

(b) if made in coins, shall be legal tender for the payment of an amount not exceeding the face value of a maximum of fifty coins in any combination of denominations.

15/2009
S. 2.

(c) [*Deleted by Act 15 of 2009, S.2.*]

15/2009
S. 2.

(d) [*Deleted by Act 15 of 2009, S.2.*]

15/2009
S. 2.

(e) [*Deleted by Act 15 of 2009, S.2.*]

(2) A coin that is bent, mutilated or defaced, or that has been reduced in weight otherwise than by abrasion through ordinary use shall not be legal tender.

26/2013
2nd Sch.

(3) Nothing in this section affects the operation of section 101A of the Proceeds of Crime Act.

Demonetiza-
tion of
notes and
coins.

16.—(1) The Bank shall have power on giving three months' notice in the *Gazette* to call in any notes and coins on payment of the face value thereof and any such notes or coins with respect to which a notice has been given under this section shall, on the expiration of the notice, cease to

be legal tender, but shall be redeemed by the Bank upon such conditions as may be prescribed.

(2) A person shall not be entitled to recover from the Bank the value of any lost, stolen, mutilated, or imperfect note or coin. The circumstances in which, and the conditions and limitations subject to which, the value of lost, stolen, mutilated or imperfect notes or coins may be refunded as of grace shall be within the absolute discretion of the Bank.

(3) If the Minister considers it necessary or expedient so to do he may, by order published in the *Gazette*, direct that such notes and coins as may be specified in the order shall cease to be legal tender as from such date as may be specified in the order, not being less than ten days from the date of publication in the *Gazette*; and as from the date so specified the notes and coins so specified shall not be redeemed by the Bank unless the Bank is satisfied that any omission to redeem those notes or coins prior to that date arose from circumstances which, in the opinion of the Bank, in their absolute discretion, were such as to excuse the omission.

21/1978
S. 2.

17. [*Repealed by Act 15 of 1992.*]

18. Every contract, sale, payment, bill, note, instrument and security for money, and every transaction, dealing, matter and thing whatever relating to money or the liability to pay any money which is made, executed or entered into, done or had, shall be made, executed, entered into, done and had according to the currency of the Island and not otherwise unless they are made, executed, entered into, done or had according to the currency of some other country, so, however, that nothing in the section shall operate so as to invalidate a will or other testamentary instrument.

Contracts,
etc., to be
in currency.

7/1969
1st Sch.

Functions
of Bank in
relation to
currency.

19. The Bank shall—

- (a) arrange for the printing of notes and the minting of coins for circulation in Jamaica;
- (b) issue, re-issue and redeem such notes and coins;
- (c) arrange for the safe custody of unissued stocks of notes and coins and for the preparation, safe custody and destruction of plates and paper for the printing of notes and dies for the minting of coins.

20. [Repealed by Act 15 of 1992.]

Reserve
assets in
relation to
currency
issue.
18/1973
S. 11.

21.—(1) The Bank shall hold assets of an amount in value sufficient to cover the value of the total amount of notes and coins for the time being in circulation.

(2) [Deleted by Act 15 of 1992.]

15/1992
S. 12 (b).

(3) For the purposes of subsection (1) such assets shall include all or any of the following—

- (a) gold coin or gold bullion;
- (b) foreign currency notes or coins;
- (c) money at call or on deposit with banks outside of Jamaica;
- (d) securities, including Treasury bills, issued or guaranteed by any government other than the Government of Jamaica;
- (e) securities issued by international financial institutions of which Jamaica is a member and which

are denominated in a currency other than the currency of Jamaica;

- (f) any other foreign assets which are denominated in currencies which are readily convertible into gold or any approved foreign currency;
- (g) Special Drawing Rights allocated to Jamaica pursuant to section 1 of Article XXI of the Fund Agreement.

(4) For the purposes of this section—

- (a) the value of coins in circulation shall be such portion, not less than seventy-five *per centum*, of the value of coins issued by the Bank and not redeemed, as the Minister shall specify by order;
- (b) “Fund Agreement” has the meaning assigned to it in section 2 of the Bretton Woods Agreements Act.

22. The Minister, after consultation with the Bank, may make regulations—

Power of Minister to make regulations.

- (a) prescribing anything required to be prescribed under this Part or paragraph (b) of section 30;
- (b) with respect to any matter relative to currency and coinage not provided for in this Act.

PART IVA. *Dealings in Foreign Currency*

11/1992
Sch.

22A.—(1) Except as provided in subsections (2) and (3), any person may buy, sell, borrow or lend foreign currency or foreign currency instruments.

Foreign currency transactions.

(2) No person shall carry on the business of buying, selling, borrowing or lending foreign currency or foreign currency instruments in Jamaica unless he is an authorized dealer.

(3) It shall be unlawful for any person to buy, sell, borrow or lend foreign currency or foreign currency instruments in a transaction involving the payment of Jamaican currency, unless the payment is made to or, as the case may be, by an

authorized dealer.

Ministerial
directions to
certain classes
of persons.
6/2014
10th Sch.

22B.—(1) Any person of a category specified in subsection (2) shall not acquire foreign assets except in accordance with such directions as may from time to time be given to the person by the Minister in relation to the acquisition of foreign assets.

6/2014
10th Sch.

(2) The categories of persons referred to in subsection (1) are—

- (a) authorized dealers;
- (b) persons to whom any powers of the Minister under this Act are delegated;
- (c) merchant banks;
- (d) insurance companies;
- (e) credit unions;
- (f) building societies;
- (g) persons who, with the approval of the Minister, operate exchange bureaux;
- (h) managers and trustees of collective investment schemes registered under the *Securities Act*;
- (i) persons who operate or manage superannuation or pension funds;
- (j) approved money transfer and remittance agents and agencies.

6/2014
10th Sch.

(3) Reference in subsection (1) to the acquisition of foreign assets includes a reference to the acquisition of foreign assets pursuant to an arrangement under which such assets are exchanged for Jamaican currency or for other assets located in Jamaica.

6/2014
10th Sch.

(4) Any directions given under subsection (1)—

- (a) may be either general or special;
- (b) may be revoked or varied by subsequent directions; and

(c) shall be given to such persons and in such manner as the Minister thinks appropriate, and if so given, shall be valid for all purposes.

(5) Notwithstanding paragraph (c) of subsection (3), a person shall not, by virtue of any direction given by the Minister under this Act, be convicted of an offence against this Part or Part IVB, unless the direction was served on him or he knew or avoided getting to know, of the giving thereof, so, however, that where reasonable steps were taken for the purpose of bringing the purport of the direction to his notice, it shall be for him to show that he neither knew nor avoided getting to know, of the giving thereof.

6/2014
10th Sch.

1/2004
S. 3(b).

(6) The Minister may, to such extent and subject to such restrictions and conditions as he may think proper, delegate to the Bank of Jamaica any of his powers under this Part or Part IVB and references in this Part or Part IVB shall be construed accordingly.

6/2014
10th Sch.

1/2004
S. 3(b).

(7) Any documents stating that any direction is given under any of the provisions of this Part or Part IVB by the Minister, and purporting to be signed on his behalf, shall be evidence of the facts stated in the document.

6/2014
10th Sch.

1/2004
S. 3(b).

(8) In this section “foreign assets” includes—

6/2014
10th Sch.

- (a) foreign currency;
- (b) foreign currency instruments;
- (c) real estate situated outside of Jamaica;
- (d) foreign securities;
- (e) any other assets located outside of Jamaica.

22C. The Minister may by order exempt any person or class of persons from any obligation or prohibition imposed under or pursuant to any provision of this Part or Part IVB and such exemption may be either absolute or conditional.

Exemption.

1/2004
S. 4.

Offences.

1/2004

S. 4.

22D.—(1) Any person who contravenes any provisions of this Part or Part IVB or fails to comply with any requirement imposed by or under this Part or Part IVB shall be guilty of an offence and shall be liable—

(a) on summary conviction in a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment;

(b) on conviction before a Circuit Court to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

1/2004

S. 4.

(2) Where an offence is committed under this Part or Part IVB the Court may, if it thinks fit—

(a) in relation to an offence involving any foreign currency or foreign currency instrument, order the foreign currency or foreign currency instrument, as the case may be, to be forfeited; and

(b) impose a larger fine not exceeding three times the amount or value of the currency or instrument, as the case may be.

1/2004

S. 4.

(3) No proceedings for an offence punishable under this Part or Part IVB shall be instituted, except by or with the consent of the Director of Public Prosecutions.

(4) Subsection (3) shall not be construed as preventing the issue or execution of a warrant for the arrest of any person in respect of such an offence or the remanding in custody or on bail of any person charged with such an offence.

Punishment
without pro-
secution of
offences in
connection
with
directions.

2/1995

S. 3(c).

1/2004

S. 5(a).

22E.—(1) This section shall apply to any offence under section 22D(1), being an offence—

(a) committed by a person who with the approval of the Minister, operates an exchange bureau or a money transfer and remittance agency or as a money transfer and remittance agent; and

(b) specified in—

1/2004
S. 5(b).
Appendix.

- (i) Part A of the Appendix in relation to a person who operates an exchange bureau;
- (ii) Part B of the Appendix in relation to a person who operates a money transfer and remittance agency or as a money transfer and remittance agent.

(2) The Governor may, with the approval of the Director of Public Prosecutions, give to any person referred to in subsection (1) (a) who, in the opinion of the Director of Public Prosecutions, has committed an offence to which this section 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 a fixed penalty under this section.

(3) No person shall be liable to be convicted of the offence if the fixed penalty is paid in accordance with this section and the requirement in respect of which the offence was committed is complied with before the expiration of the fifteen days following the date of the notice referred to in subsection (2) or such longer period (if any) as may be specified in that notice or before the date on which proceedings are begun, whichever event last occurs.

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

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

(6) Payment of a fixed penalty under this section shall be made to the Collector of Taxes specified pursuant to subsection (7); and in any proceedings a certificate that payment of a 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 subsection (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 subsection (4), proceedings will not be taken for the offence; and
 - (ii) the amount of the fixed penalty and the Collector of Taxes to whom and the address at which it may be paid.

Appendix.

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

(9) In any proceedings for an offence to which this section applies, no reference shall be made after the conviction of the accused to the giving of any notice under this section or to the payment or non-payment 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 or non-payment.

(10) The Minister may, by order, make provision as to any matter incidental to the operation of this section, and in particular, any such order may—

- (a) prescribe—
 - (i) the form of notice under subsection (2), and

the Collector of Taxes to whom a fixed penalty is payable;

- (ii) the nature of the information to be furnished to the Collector of Taxes along with any payment;
- (iii) the arrangements for the Collector of Taxes to furnish to the Bank, information with regard to any payment pursuant to a notice under this section;

(b) amend the Appendix.

Appendix.

22F. A person who, with the approval of the Minister, operates an exchange bureau, a money transfer and remittance agency or as a money transfer and remittance agent, shall pay, in respect of such operation, such annual fee as the Bank, with the approval of the Minister, may by notice determine.

Fees.
2/1995
S. 4.
1/2004
S. 6.

PART IVB. *Money Transfers and Remittances*

1/2004
S. 7.

22G.—(1) Except with the approval of the Minister, no person shall carry on the business of a money transfer and remittance agency or operate as a money transfer and remittance agent.

Money
transfer and
remittance
agency or
agent.

(2) Any person who carries on the business of a money transfer and remittance agency or who operates as a money transfer and remittance agent shall do so in accordance with such directions as may be issued by the Minister from time to time, and the provisions of section 22B(3) shall apply with necessary modifications in relation to directions issued under this subsection.

PART V. *Banking*

23. Subject to the provisions of this Act, the Bank may for the purpose of the performance of its functions—

Powers of
the Bank.

- (a) accept deposits of money;
- (b) pay money whether by demand drafts or other instrument payable at its own offices or at the offices of its agents or correspondents;
- (c) buy and sell gold coin and gold bullion;
- (d) buy, sell, discount and re-discount—
 - (i) inland or foreign bills of exchange or promissory notes maturing within two hundred and seventy

18/1973
S. 13(a).

days of the date of acquisition;

(ii) Treasury Bills issued by the Government of Jamaica or by any other government;

(e) buy and sell (whether in the open market or otherwise) securities issued or guaranteed by the Government of Jamaica or by any other government or issued by international financial institutions of which Jamaica is a member.

15/1992
S. 13 (a).
18/1973
S. 13 (b).

(f) grant to financial institutions loans and advances for fixed periods not exceeding six months on the security of all or any of the following—

15/1992
S. 13 (b).

(i) gold coin or gold bullion;

(ii) Treasury Bills of the Government of Jamaica or any other government;

18/1973
S. 13 (c).

(iii) securities issued or guaranteed by the Government of Jamaica or by any other government;

(iv) such bills of exchange and promissory notes as are eligible for purchase, discount or re-discount by the Bank;

(v) warehouse warrants or their equivalent (securing possession of goods) in respect of finished or semi-finished products, duly insured and accompanied by a letter of hypothecation from the owner:

Provided that a loan granted on any such security as is mentioned in sub-paragraph (iii) or (iv) shall not exceed seventy-five *per centum* of the current market value of that security;

18/1973
S. 13 (d).

(g) buy and sell foreign currencies;

(h) maintain deposits in any other bank whether in Jamaica or elsewhere and utilize any such deposit as the Board thinks expedient for the due performance of the functions of the Bank;

15/1992
S. 13 (e).

(i) make arrangements or enter into an agreement with any bank or financial institution within or outside Jamaica to borrow in such manner, at such rates of interest and upon such other terms and conditions as it may think fit, any foreign currency which the Board may think it expedient to acquire;

- (j) with the approval of the Minister grant loans and advances for fixed periods to, or subscribe to, hold and sell the shares of any corporation which with the approval of or under the authority of the Government is established for the purpose of promoting the development of a money market or securities market in Jamaica or of improving the financial machinery for the financing of economic development; 18/1973
S. 13(e).
37/1964
S. 10(d).
- (k) do any other banking business incidental or ancillary to or consequential upon the performance of its functions;
- (l) in relation to the exercise of its borrowing powers under paragraph (i) issue debentures, bonds or other appropriate instruments and may establish a sinking fund for the redemption of any such instruments; 15/1992
S. 13(d).
- (m) make loans and advances for fixed periods to persons who are in the whole-time service of the Bank for the purpose of facilitating the acquisition by them of housing or motor vehicles; 18/1973
S. 13(f).
15/1992
S. 13(e).
- (n) make arrangements or enter into an agreement with any bank, financial institution, confirming house or government agency outside Jamaica for facilitating transactions supported by letters of credit, on behalf of local importers or exporters, as the case may be; 15/1992
S. 13(e).
- (o) negotiate and maintain lines of credit from financial institutions outside Jamaica; 15/1992
S. 13(e).
- (p) issue standby letters of credit. 15/1992
S. 13(e).
- 24.—(1)** Except as authorized by this Act the Bank shall not—
- (a) engage in any trade; Restrictions on business of the Bank.
15/1992
S. 14(b).
- (b) purchase the shares of any other bank or of any other company or grant loans on the security

of any shares in any bank or company;

- (c) lend money or make advances other than on any such security as is specified in paragraph (f) of section 23 or for the purposes prescribed in paragraphs (j) and (m) of that section except that where the security for a debt due to the Bank has or is likely to become in the opinion of the Board inadequate, the Bank may secure itself on any land the property of the debtor and may acquire such land which shall, however, be resold at the earliest suitable opportunity;
- (d) accept for discount, or as guarantee for an advance made by the Bank, bills or notes signed by any director, officer or employee of the Bank;
- (e) make loans or advances without security;
- (f) purchase, acquire or lease real property except in accordance with paragraph (c) and except so far as the Board considers necessary or expedient for the provision or future provision of business premises for the Bank and its agencies and of residences for the Governor, Senior Deputy Governors, Deputy Governors, officers and employees of the Bank;

18/1973
S. 14.

10/1977
S. 6.
15/1992
S. 14(a).

15/1992
S. 14(b).

(2) The Bank may, with the approval of the Board, grant to persons who are in the whole-time service of the Bank, credit facilities of such amount and on such terms as the Board may, from time to time, approve.

Minimum
discount and
re-discount
rates.

25. The Bank shall from time to time fix and announce its minimum rates for discounts and re-discounts.

Bank as
bankers'
banker.
6/2014
10th Sch.

26. The Bank may act as banker to banks in Jamaica and as agent and correspondent to banks abroad.

27.—(1) The Bank may promote establishment of clearing and settlement systems and provide facilities for the clearance and settlement of transactions between financial institutions and also act as the central counter-party of a system and provide liquidity or payment guarantees to individual systems or participants.

Clearance and settlement systems and facilities. 32/2010 S. 30.

(2) In order to ensure overall stability of the financial system, the Bank shall exercise oversight powers over the national payments system, including securities settlement systems, for the purpose of preventing or controlling systemic risk.

(3) In exercise of its oversight powers, the Bank shall have power to issue directions to individual systems or participants, as well as general or individual standards and guidelines, to undertake all necessary audit and inspections and to impose penalties for breaches of the applicable laws and regulations.

(4) In subsection (1)—

“central counter-party” means a partnership, agency, association, body corporate or other entity in a payment or securities clearing and settlement system which is interposed between the participants, and which acts as the exclusive counter-party of these entities with regard to their transfer orders;

“clearing and settlement system” or “system” means a system or arrangement for the clearing or settlement of—

(a) payment obligations or payment messages in which—

(i) there are at least three participants, at least one of which is the Bank or a bank;

(ii) clearing or settlement is in Jamaican currency or other currencies as determined by the Bank; and

(iii) the payment obligations that arise from clearing within the system or arrangement are ultimately settled through adjustments to the account or accounts of one or more of the participants at the bank;

(b) securities and derivatives transactions, foreign exchange transactions or other transactions, where the system or arrangement also clears or settles payment obligations arising from those transactions.

Reserve
requirements.
6/2014
10th Sch.

28.—(1) Every deposit taking institution or specified financial institution shall maintain, in the form of a deposit with the Bank, a cash reserve.

(2) Subject to subsection (3), the cash reserve to be maintained by a bank or merchant bank shall be not less than five nor more than twenty-five *per centum* of prescribed liabilities and the cash reserve to be maintained by a building society or a specified financial institution, shall be such percentage as may be prescribed; and, subject to those limits—

- (a) in the case of a bank, the cash reserve shall be such percentage of its prescribed liabilities as prescribed by notice issued by the Bank and published in the *Gazette*;
- (b) in the case of a merchant bank, the cash reserve shall be such percentage of its prescribed liabilities as prescribed by notice issued by the Bank and published in the *Gazette*;
- (c) in the case of a building society, the cash reserve shall be such percentage of its prescribed liabilities in respect of deposits and withdrawable shares as prescribed by notice issued by the Bank and published in the *Gazette*;
- (d) in the case of a specified financial institution the cash reserve shall be such percentage of its prescribed liabilities including withdrawable shares (where applicable) as prescribed by notice issued by the Bank and published in the *Gazette*;

(3) A notice under subsection (2) may make different provisions as respect different types of prescribed liabilities specified in the notice, so, however that if any such notice prescribes marginal cash reserve requirements for increases in specified prescribed liabilities such requirements shall not exceed one hundred *per centum* of the increase in such liabilities.

(4) Without prejudice to the generality of subsection (3), a notice under subsection (2) may require that where a portion of the prescribed liabilities is payable in foreign currency then such percentage of the prescribed liabilities so payable as is specified in the notice shall be held in foreign currency.

(5) Where any such percentage is to be increased—

- (a) the increase shall be so effected as not to exceed two percentage points in any one period of thirty days; and
- (b) it shall be the duty of the Bank to give all deposit taking institutions or as the case may be, specified financial institutions at least 15 days' notice of the date on which the increase is to take effect.

(6) Subject to subsection (7), for the purpose of determining the amount of the cash reserve required to be maintained by a deposit taking institution or specified financial institution during any month—

- (a) the amount of its deposit with the Bank shall be the amount of such deposit as at the close of business on each business day in the month;
- (b) the amount of its prescribed liabilities shall be the average amount of such liabilities at the close of business on Wednesdays in each of the four consecutive weeks ending with last Wednesday but one of the preceding in each month.

(7) The Bank may, by notice published in the *Gazette*, vary the method to be used in calculating the cash reserve required to be maintained under this section.

(8) Where a deposit taking institution or specified financial institution fails to maintain the required cash reserve, that institution shall pay to the Bank, interest calculated in respect of each business day that the deficiency persists at such rate as the Bank may specify by notice.

(9) For the purpose of this section—

“deficiency” means the amount by which the sum (if any) actually deposited by the deposit taking institution or specified financial institution with the Bank falls short of the required cash reserve;

“marginal cash reserve requirements” means in relation to any increase in prescribed liabilities, such percentage of the increase as is required to be maintained with the Bank for the purposes of this section.

(10) The coming into effect of this section shall not affect any requirements on deposit taking institutions relating to the maintenance of a cash reserve that were in existence prior to the coming into effect of this section, unless and until those requirements are varied in accordance with this Act.

(11) The power conferred by subsection (2) may be exercised—

(a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case;

(b) so as to make, as respects the cases in relation to which it is exercised—

(i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);

(ii) the same provision for all cases in relation to which the power is exercised or different provisions for different cases or classes of case, or different provisions as respects the same case or class of case for different purposes;

- (iii) any such provision either unconditionally or subject to any specified condition.

28A.—(1) Without prejudice to the provisions of section 28, and subject to subsection (2), the Bank may, with the approval in writing of the Minister, require—

Special
deposits.
6/2014
10th Sch.

- (a) a deposit taking institution; and
(b) any specified financial institution,

to maintain with the Bank in the form of a deposit (in this section referred to as a “special deposit”) an amount not exceeding twenty *per centum* of the amount of the prescribed liabilities of such deposit taking institution or such specified financial institution.

(2) A deposit taking institution or specified financial institution may comply, in whole or in part, with a requirement made under subsection (1) by investments in the form of—

- (a) Treasury bills issued by the Government of Jamaica;
(b) certificates of deposit issued by the Bank; or
(c) such other form of securities as the Bank may approve.

(3) Interest at such rate as the Minister may, by order, determine, shall be paid by the Bank on the amount of any special deposit referred to in subsection (1).

(4) The power conferred by subsection (1) may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
(b) so as to make, as respects the cases in relation to which it is exercised—
(i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
(ii) the same provision for all cases in relation to which the power is exercised or different

provisions for different cases or classes of case, or different provisions as respects the same case or class of case for different purposes;

- (iii) any such provision either unconditionally or subject to any specified condition.

(5) Where a deposit taking institution or specified financial institution on any day fails to comply with a requirement made pursuant to subsection (1), that deposit taking institution or specified financial institution shall pay to the Bank in respect of that day interest calculated at a daily rate of one sixth of one per cent (or such other rate as the Minister may, by order, approve) on the sum by which the amount of the special deposit in respect of that deposit taking institution or specified financial institution falls short of the amount stated in the requirement as aforesaid.

Power to vary
liquid asset
requirements.
6/2014
10th Sch.

29.—(1) Every deposit taking institution or specified financial institution shall so conduct its business as to ensure that its stock of liquid assets is on the average not less than *the per centum* specified under this section.

(2) The liquid assets that shall be maintained pursuant to this subsection shall be—

- (a) in the case of a bank or merchant bank, such percentage of its average prescribed liabilities as prescribed by notice issued by the Bank and published in the *Gazette*;
- (b) in the case of a building society, such percentage of its average prescribed liabilities in respect of deposits and withdrawable shares as may be prescribed by notice issued by the Bank and published in the *Gazette*;
- (c) in the case of any specified financial institution such percentage of its prescribed average liabilities, including withdrawable shares (where applicable) as may be prescribed by notice issued by the Bank and published in the *Gazette*,

so, however, that a percentage prescribed pursuant to this subsection shall not be less than five nor more than fifty *per centum* or, subject to subsections (2A) and (2B) such other percentage as the Minister may specify by order, subject to affirmative resolution.

(2A) An order made under subsection (2) shall, be subject to revocation or amendment, remain in force for a period of ninety days or such longer period as may be authorized under subsection (2B).

(2B) The House of Representatives and the Senate may, from time to time, by resolution, extend an order made under subsection (2A) for such period not exceeding ninety days as may be specified in the resolution.

(3) Where any such percentage under subsection (2) is to be increased—

- (a) the increase shall be so effected as not to exceed five percentage points in any one period of thirty days; and
- (b) it shall be the duty of the Bank to give all deposit taking institutions or as the case may be, specified financial institutions at least fifteen days' notice of the date on which the increase is to take effect.

(4) Without prejudice to the generality of subsection (2) a notice under subsection (2) stating the minimum liquid assets to be maintained may require that where a portion of the prescribed liabilities is payable in foreign currency then such percentage of the liquid assets so payable as is specified in the notice shall be held in foreign currency, so however, that the percentage so specified shall not be less than fifteen nor more than fifty *per centum*.

(5) Subject to subsection (2), for the purpose of determining the amount of the liquid assets required to be maintained by a deposit taking institution or specified financial institution during any month—

- (a) the amount of its liquid assets shall be the average amount of such assets at the close of business on each

business day of the month; and

- (b) the amount of its prescribed liabilities shall be the average amount of such liabilities at the close of business on Wednesdays in each of the four consecutive weeks ending with the last Wednesday but one of the preceding month.

(6) The Bank may, by notice published in the *Gazette*, vary the method to be used in calculating the average of the liquid assets required to be maintained under this section.

(7) For the purposes of this section “liquid assets” means the following assets which shall be unencumbered—

- (a) notes and coins;
- (b) cash reserves on deposit with the Bank in accordance with section 28;
- (c) cash balances with the Bank in excess of such cash reserves mentioned in paragraph (b);
- (d) short term instruments issued by the Bank;
- (e) money at call or short notice, held with another deposit taking institution (repayable on demand or on not more than fourteen days’ notice), less any amount held for the deposit taking institution;
- (f) Treasury Bills issued by the Government of Jamaica;
- (g) short term debt securities or instruments issued by the Government of Jamaica, whether denominated in Jamaican dollars or foreign currency;
- (h) such other assets, whether denominated in Jamaican dollars or a foreign currency, as the Bank specifies by notice published in the *Gazette*,

and for the purposes of paragraphs (d) and (g) “short term” in relation to an asset refers to the maturity date which will occur within a period not exceeding nine months; and for the purposes of paragraph (e) so much only of the items mentioned at paragraph (e) shall be taken into account as do not exceed such percentage of prescribed liabilities as the Bank may specify by notice published in the *Gazette*.

(8) Where a deposit taking institution or a specified financial institution, during any month, fails to maintain as liquid assets the amount which it is required to maintain under this section, that institution shall pay to the Bank in respect of the entire month aforesaid interest calculated at such rate as the Bank may, from time to time, by notice, approve on the sum by which the amount of the liquid assets (if any) maintained by that bank falls short of the amount of the liquid assets which it is required to maintain.

(9) A notice under subsection (2) may make different provisions as respects different types of prescribed liabilities specified in the notice, so, however, that if any such notice prescribes marginal liquid assets requirements for increases in specified prescribed liabilities such requirements shall not exceed one hundred *per centum* of the increase in such liabilities.

(10) The power conferred by subsection (2) may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
- (b) so as to make, as respects the cases in relation to which it is exercised—
 - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
 - (ii) the same provision for all cases in relation to which the power is exercised or different provisions for different cases or classes of case, or different provisions as respects the same case or class of case for different purposes;
 - (iii) any such provision either unconditionally or subject to any specified condition.

(11) The coming into operation of this section shall not affect any existing requirements on deposit taking institutions

relating to the maintenance of liquid assets were in existence prior to the coming into operation of this section, until and unless those requirements are varied in accordance with this Act.

(12) In subsection (9), “marginal liquid assets requirements” means in relation to any increase in specified prescribed liabilities, such percentage of the increase as is required to be maintained as liquid assets for the purposes of this section.

Power of
Bank to
require
informa-
tion from
commercial
banks and
specified
financial
institutions.
18/1973
S. 17.
15/1992
S. 18.
2/1995
S. 5(b).
6/2014
10th Sch.
18/1973
S. 17.

30.—(1) The Bank may—

(a) require any commercial bank or specified financial institution to furnish, within such time and in such form as the Bank thinks necessary, such information as the Bank thinks requisite for the purpose of ascertaining whether that bank or specified financial institution is complying with the provisions of section 28, 28A or 29 of this Act;

(b) require any commercial bank or specified financial institution to furnish, within such time and in such form as the Bank thinks necessary, such information of any prescribed class as the Bank considers requisite for the proper discharge of its functions and responsibilities;

(c) require any person mentioned in section 22B(1) to furnish, within such time and in such form as the Bank thinks necessary, such information as the Bank thinks requisite for the purpose of ascertaining whether that person is complying with the provisions of section 22B.

2/1995
S. 5(a).

(2) Any person who fails to furnish information in accordance with a requirement made under paragraph (a), (b) or (c) of subsection (1) shall—

2/1995
S. 5(c).

(a) be guilty of an offence and liable on summary conviction in a Resident Magistrate’s Court to a fine not exceeding one hundred and fifty thousand dollars; and

31. [Repealed by Act 15 of 1992.]

32. The Bank may by notice prescribe the minimum ratio which, after the expiration of six months from the date of service of the notice, assets held in Jamaica by commercial banks and specified financial institutions shall bear to their deposit liabilities in Jamaica, but any variation of such a ratio shall not exceed five percentage points in any one period of six months.

Local
assets
ratio.15/1992
S. 20.

33.—(1) The Bank may, after consultation with the Minister and after giving thirty days' notice to commercial banks and such specified financial institutions as are affected, by notice prescribe—

Credit
controls
over
specified
financial
institutions
or com-
mercial
banks.18/1973
S. 19.44/1975
S. 4.15/1992
S. 21 (a).15/1992
S. 21 (b) (i)
and (ii).

(a) the maximum or minimum rates of interest, discounts or other charges which such institutions or commercial banks may impose for specified types of loans, advances or other credit;

(b) the maximum or minimum rates of interest which such institutions or commercial banks may pay on deposits; and

(c) the volume, terms and conditions of credit (including instalment credit) which may be extended through loans and advances or investments by such institutions or commercial banks, so, however, that such amounts shall not in respect of each commercial bank or financial institution be less than ninety-five *per centum* of the respective amounts of the loans and advances by that bank or financial institution outstanding at the date of the notice.

15/1992
S. 21(b) (iii).

(2) A notice under subsection (1) shall be published in the *Gazette* and shall state the date on which it shall take effect:

15/1992
S. 21 (c).

Provided that, in the case of a notice with reference to paragraph (c) of subsection (1), the date on which such notice takes effect—

- (a) for the purpose of any reduction in the volume, terms and conditions of credit which commercial banks and specified financial institutions may extend through loans and advances or investments, shall not be less than ninety days after the date on which the notice was issued; and
- (b) for any other purpose, shall not be less than thirty days after the date referred to in paragraph (a)

44/1975
S. 4.

(3) The power conferred by subsection (1) may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
- (b) so as to make, as respects the cases to which it is exercised—

- (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);

- (ii) the same provision for all cases in relation to which the power is exercised or different provisions for different cases or classes of case, or different provisions as respects the same case or class of case for different purposes;

- (iii) any such provision either unconditionally or subject to any specified condition.

8/1989
S. 3.
15/1992
S. 21 (d) (i).
15/1992
S. 21 (d) (ii).

(4) Where a specified financial institution or commercial bank on any day fails to comply with the provisions of a notice under subsection (1) (c), that specified financial institution or commercial bank shall pay to the Bank in respect of that date interest calculated at a daily rate of one-sixth of one per cent (or such other rate as the Minister may, by order, approve) on the sum by which the amount of loans and advances (including instalment credit) outstanding on

percent (or such other rate as the Minister may, by order, approve) on the sum by which the amount of loans and advances (including instalment credit) outstanding on that day exceeds the amount specified in the notice.

15/1992
S. 21(d)(iii).

33A. [*Repealed by Act 15 of 1992.*]

34.—(1) The Bank may from time to time—

Power of
Bank to
fix maxi-
mum
foreign
currency
balances.
18/1973
S. 19.
15/1992
S. 23(a).

(a) by instrument in writing fix, or prescribe the manner of determination of, the maximum amount of the working balances which commercial banks and specified financial institutions may hold in foreign currencies generally or in any specified foreign currency or currencies;

(b) require commercial banks and specified financial institutions to exchange with the Bank all or any specified part of the surpluses in excess of such maximum amount for an equivalent amount of Jamaican currency.

15/1992
S. 23(a).

(2) The Bank may by instrument in writing and subject to such terms and conditions as it may deem fit, permit any commercial bank or specified financial institution to hold working balances in any specified foreign currency in excess of such maximum amount fixed or determined for such currency under subsection (1).

15/1992
S. 23(b).

(3) In ascertaining whether the working balances of any commercial bank or specified financial institution in any foreign currency or currencies are in excess of the maximum amount fixed or determined under subsection (1) there may be deducted from such balances the liabilities in foreign currencies into which such currency or currencies are convertible.

15/1992
S. 23(b).

PART VA. *Supervision and Examination of Banks and Specified Financial Institutions*

15/1992
S. 24.

34A. There shall be established for the purposes of this Act, a department in the Bank to be called the Supervisory Department.

Supervisory
Department.
6/2014
10th Sch.

34AA.—(1) The Supervisory Department shall be responsible for the promotion of the safety and soundness of deposit taking

Supervisory
Department.
6/2014
10th Sch.

institutions and the deposit taking system and, for this purpose, the Supervisory Department shall be charged with—

- (a) the supervision and examination of licensees under the Banking Services Act and any other enactment;
- (b) the supervision of—
 - (i) specified financial institutions; and
 - (ii) credit bureaux licensed under section 4 of the Credit Reporting Act;
- (c) provide such analyses, advice and recommendations to the Supervisor and to Supervisory Committee for the effective carrying out of their functions under this Act, and the Banking Services Act;
- (d) carry out such functions as may be assigned to it by the Supervisor, including furtherance of implementation of decisions of the Supervisor and of the Supervisory Committee under the Banking Services Act.

(2) Unless directed otherwise, by the Supervisory Committee, the Supervisor shall settle the parameters of any regulatory collaboration, the duration of the collaboration, any cost sharing and other comparable matters related to the collaboration.

(3) The Supervisor shall—

- (a) cooperate with relevant agencies in the orderly resolution of failed deposit taking institutions, financial holding companies and financial groups to minimize impact on the financial system;
- (b) collaborate with regulatory counterparts and competent authorities, locally and overseas, in order to ensure that the appropriate level of collaboration and sharing of information can be undertaken with them;
- (c) facilitate regulatory cooperation with one or more regulatory counterpart referred to in paragraph (b) for the purpose of implementing the directives issued under the financial stability mandate of the Bank.

and in cooperating or collaborating with regulatory counterparts pursuant to this Act, the Supervisor shall, ensure that this is done in compliance with Jamaica's international obligations and in accordance with the laws of Jamaica.

(4) In this section, "collaboration" includes facilitating cooperation pursuant to information sharing to facilitate ongoing supervision of licensees and financial groups, the investigation of regulatory breaches, financial and other crimes and related enforcement action and for development and implementation of strategy for the resolution of a financial institution in accordance with the parameters of any arrangement to strengthen financial sector oversight and formally implement coordinated monitoring and information sharing amongst the responsible financial regulatory agencies in Jamaica.

(5) The Supervisor shall submit to the Parliament, through the Minister, an annual report relating generally to the execution of the functions of the Supervisor under this Act and the Banking Services Act and of the Supervisory Committee under the Banking Services Act.

(6) At least every three years, there shall be a review undertaken by qualified, independent experts of—

- (a) the effectiveness of the Supervisory framework as set out under this Act, the Banking Services Act and any other enactment;
- (b) the processes and procedures carried out in furtherance of the supervision mandate pursuant to this Act, the Banking Services Act and any other enactment; and
- (c) the performance of the Supervisor and Supervisory Committee in relation to their respective mandates under this Act, the Banking Services Act and any other enactment,

and the report of this review shall be provided to the Minister and the Supervisor.

34B.—(1) For the purposes of section 34A, the functions of the Supervisor under this Act, the Banking Services Act and any other enactment shall be carried out by the Governor.

(2) The Board shall appoint—

- (a) the Deputy Supervisor, on the recommendation of the Supervisor, who shall be a fit and proper person; and
- (b) such other officers and employees as may be necessary for the efficient operation of the Supervisory Department.

(2A) The Deputy Supervisor shall be appointed under subsection (2) for a term of not less than five years and not more than seven years, subject to the conditions set out in paragraph 5 of the Schedule and be eligible for reappointment so, however, that date of expiration of the appointment of the Deputy Supervisor shall not be less than twelve months from the date of expiration of the appointment of the Supervisor.

(2B) The Board may terminate the appointment of the Deputy Supervisor on the recommendation of the Supervisor for cause or where the Board is satisfied that the Deputy Supervisor has failed to meet the qualifications contained in paragraph 5 of the Schedule.

(2C) A person below the rank of Deputy Governor shall not be eligible for appointment as the Deputy Supervisor.

(3) The Deputy Supervisor shall, subject to any directions of the Supervisor—

- (a) be responsible for—
 - (i) the general administration of the Supervisory Department; and
 - (ii) the technical supervision and examination operations of the Supervisory Department; and

(b) perform such duties as may be assigned to him by the Supervisor.

(4) In the absence or incapacity of the Supervisor, the Deputy Supervisor shall undertake the functions and responsibilities of the Supervisor as set out in this Act and the Banking Services Act.

(5) The Supervisor, Deputy Supervisor and any officer appointed pursuant to subsection (2)(b) shall be fully employed in the service of the Bank and, while holding office, shall not, without the permission of the Board, occupy another office of employment, whether remunerated or not.

(6) The Supervisor with the approval of the Board may, where the circumstances so warrant, in writing, authorize any other person to assist the Supervisor and the Deputy Supervisor in the performance of their functions under this Act.

(7) Nothing contained in this section shall affect or prejudice the terms of any existing appointment or agreement, arrangements or memorandum of understanding in place relating to an incumbent Deputy Supervisor at the date of commencement of this Act.

34BB.—(1) For the purposes of this Act, there is established a committee to be known as the Financial Regulatory Committee.

Financial
Regulatory
Committee.
6/2014
10th Sch.

(2) The objective of the Financial Regulatory Committee shall be to facilitate information sharing, co-ordination and cooperation among regulatory authorities.

(3) The Financial Regulatory Committee shall establish appropriate policies and procedures by way of written agreement, arrangement or memorandum of understanding, subject to the approval, in writing, of the Minister, for the purposes of meeting the objectives set out in subsection (2).

(4) The Financial Regulatory Committee shall consist of—

- (a) the Governor, who shall be the chairman;
- (b) the Financial Secretary;

- (c) the Executive Director of the Financial Services Commission; and
- (d) the chief executive officer of the Jamaica Deposit Insurance Corporation.

(5) Nothing contained in this section shall invalidate any agreement, arrangement or memorandum of understanding that has been executed, in writing, between or among the parties named in subsection (4) for the objective set out in subsection (2) that was in existence at the time of the coming into operation of this section.

(6) Subsections (1) and (2) of section 34D and section 34E shall apply *mutatis mutandis* to members of the Financial Regulatory Committee and any person acting in support of the Financial Regulatory Committee as they apply in relation to the authorized officer and other authorized person referred to in section 34D or the persons specified in section 34E.

(7) The Financial Regulatory Committee shall meet at such times as may be necessary for the transaction of business, being not less than seven times in each year, and such meeting shall be held at any such places and times and on such days as the Committee may determine.

(8) Proper records of all proceedings of the Financial Regulatory Committee shall be kept.

(9) Subject to the provisions of this section, the Financial Regulatory Committee may make rules to regulate its proceedings.

34C.—(1) Where—

- (a) any authorized officer; or
- (b) any person being considered for appointment pursuant to section 34B,

is a shareholder (whether directly or indirectly) in any licensee under the Banking Services Act, specified financial institution or credit bureau, he shall notify the Supervisor, in writing, of his interest and the Supervisor shall so notify the Board, in writing.

- (2) The Board may, if it thinks fit upon receipt of a

notice referred to in subsection (1), in writing require the officer or person concerned to dispose of any shares held by him in any licensee under the Banking Services Act, specified financial institution or credit bureau or of any interest in such shares within such time as the Board may specify.

34D.—(1) An authorized officer and any other person authorized pursuant to section 34B to give assistance shall not—

Secrecy of
authorized
officer.
6/2014
10th Sch.

- (a) disclose information regarding the operations of any licensee under the Banking Services Act or specified financial institution to any person other than—
 - (i) the Minister or his nominee;
 - (ii) the Governor, Senior Deputy Governor or Deputy Governors;
 - (iii) any member of the Supervisory Committee through the Supervisor or Deputy Supervisor;
 - (iv) any officer of the Supervisory Department;
 - (v) the Chief Executive Officer of the Jamaica Deposit Insurance Corporation, the Executive Director of the Financial Services Commission, the Financial Secretary or his nominee, to facilitate coordination among financial regulatory agencies;
 - (vi) the head of a regulatory counterpart, his deputy or a person formally nominated to receive information on behalf of such head;
- (b) subject to paragraph (c), disclose other than for the purposes of this Act, or the Banking Services Act, any information regarding the affairs of a customer of a licensee under the Banking Services Act or specified financial institution, obtained in consequence of the performance of duties under this Act;
- (c) disclose other than for the purposes of the investigation of a financial crime, or the contravention of a licensee's obligation under any other enactment any

information,

obtained in consequence of the performance of duties under this Act.

(2) Any person who contravenes the provisions of subsection (1) commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding three million dollars or to imprisonment for a term not exceeding two years, or on conviction in the Supreme Court to a fine or imprisonment.

(3) No civil or criminal action, suit or other proceedings may be brought against any authorized officer or other person authorized under section 34B who in good faith makes a disclosure pursuant to section 34D(1).

Protection
for autho-
rized officers,
etc.
6/2014
10th Sch.

34E.—(1) No liability is incurred by the Bank or any person specified in paragraphs (a) to (d) as a result of anything done by him *bona fide* in exercise of any power, or the performance of any function or duty, conferred or imposed by or under this Act, that is to say—

- (a) an authorized officer;
- (b) the Minister;
- (c) any person appointed pursuant to section 34B;
- (d) any person appointed by the Minister pursuant to regulations made under this Act or appointed by the Supervisor pursuant to paragraph 1(3) of Part C of the Fifth Schedule to the Banking Services Act or any other enactment to perform functions in connection with the temporary management of a licensee under the Banking Services Act or of a specified financial institution.

Fifth
Schedule.

(2) No action, suit or other proceedings may be brought or instituted personally against an authorized person, or any other person authorized under section 34B, in respect of any lawful act done or omission made in good faith, in the course of carrying out the provisions of this Act or the Banking Services Act.

34F.—(1) The Minister may, in accordance with the recommendations of the Bank, make regulations prescribing prudential criteria and minimum solvency standards for specified financial institutions that are not licensees under the Banking Services Act.

Regulations.
2/1995
S. 6.
6/2014
10th Sch.

(2) Without prejudice to the generality of subsection (1), regulations made under that subsection may include provisions in relation to—

- (a) minimum capital requirements;
- (b) requirements for ensuring capital adequacy and the required capital ratios;
- (c) the building of reserves from profits;
- (d) limitations on the acquisition of fixed assets;
- (e) the maintenance of cash reserves and liquid assets;
- (f) the submission of returns to the Supervisor at prescribed intervals and publication of accounts on a regular basis;
- (g) restrictions on—
 - (i) loans to directors, officers and connected persons;
 - (ii) large exposures to single persons and groups;
 - (iii) the volume of equity investments which may be held in the investment portfolio of a commercial bank or specified financial institution;
- (h) requirements for loan loss reserves;
- (i) the transfer of control of specified financial institutions;
- (j) matters regarding the making of contact with auditors by the Bank;
- (k) the establishment of branches abroad by specified financial institutions;

- (l) the treatment of—
- (i) credit facilities;
 - (ii) assets and investments;
 - (iii) interest;
 - (iv) new financial instruments;
- (m) reporting requirements for large exposures and large deposits;
- (n) the measurement of capital consequent on investment of specified financial institutions in a subsidiary or affiliate;
- 17/2002
S. 2(a). (o) the qualification required by auditors of specified financial institutions and the frequency and scope of audits;
- 17/2002
S. 2(a). (p) measures for the assessment and control of market risks by commercial banks and specified financial institutions;
- 17/2002
S. 2(a). (q) the carrying out of investment activities by commercial banks and specified financial institutions, whether such activity is carried out on the institution's own account or on behalf of its customers;
- (r) the imposition of penalties for breaches of the regulations;
- (s) the taking of such steps as the Minister considers necessary where the Minister has reasonable cause to believe that a specified financial institution is or appears likely to become unable to meet its obligations.

(3) Regulations made under this section shall be subject to affirmative resolution.

(4) The power conferred by subsection (1) may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case;

(b) so as to make, as respects the cases in relation to which it is exercised—

- (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
- (ii) the same provision for all cases in relation to which the power is exercised or different provisions for different cases or classes of case, or different provisions as respects the same case or class of case for different purposes;
- (iii) any such provision either unconditionally or subject to any specified condition.

(5) Notwithstanding section 29 of the Interpretation Act, regulations made under this section may provide for the imposition of penalties on summary conviction in a Resident Magistrate's Court not exceeding a fine of two million dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

17/2002
S. 2(b).

(6) The Bank may, subject to affirmative resolution, make rules to be known as "the Supervisory Rules", in relation to money laundering, terrorism financing and the proliferation of weapons of mass destruction.

6/2014
10th Sch.

PART VB. *Financial System Stability*

24/2015
S. 4.

Interpretation of Part VB

34G. In this Part, unless the context otherwise requires—

Interpretation
of Part VB.
24/2015
S. 4.

"Committee" means the Financial System Stability Committee established by section 34H;

"connected person" has the meaning ascribed thereto in the *Banking Services Act*;

"financial institution" means any one or more of the entities specified or persons referred to in section 34L(3);

“financial institution” means any one or more of the entities specified or persons referred to in section 34L(3);

“financial system stability”, in relation to Jamaica, means the orderly operation of financial institutions, financial markets and the payment and settlement infrastructure, and the capability of these components that make up the financial system to absorb internal and external shocks without substantial impairment to the financial system and the real economy;

“macro-prudential oversight” includes—

- (a) the detection of risks to financial system stability and the taking of effective measures to mitigate and control the risks;
- (b) assessments of vulnerabilities in the financial system, including those arising as a result of the links between the financial system and developments in the other parts of the Jamaican economy and in the global economy; and
- (c) the exchange of information among relevant regulatory authorities and overseas regulatory authorities pertinent to the matters referred to in paragraph (a) or (b);

“relevant Government agency” means any Ministry, department of Government or agency of Government that collects data on any economic activity taking place in Jamaica or affecting Jamaica;

“risks” includes potential shocks that could disrupt the orderly functioning of—

- (a) financial institutions in Jamaica;
- (b) financial markets in Jamaica; or

- (c) Jamaica's payment and settlement infrastructure.

Financial System Stability Committee

34H.—(1) For the purposes of this Act, there is constituted a committee to be known as the Financial System Stability Committee, which shall perform the functions set out in section 34I.

Constitution, functions and procedure of Financial System Stability Committee. 24/2015 S. 4.

(2) The Committee shall consist of six *ex-officio* members and two members appointed pursuant to subsection (4).

(3) The *ex-officio* members of the Committee shall be—

- (a) the Governor, who shall be the chairman;
- (b) the Senior Deputy Governor or the Deputy Governor or other senior officer of the Bank, with assigned responsibility for the Bank's financial system stability mandate;
- (c) the Financial Secretary;
- (d) the Deputy Supervisor;
- (e) the Executive Director of the Financial Services Commission; and
- (f) the Chief Executive Officer of the Jamaica Deposit Insurance Corporation.

(4) Subject to subsection (10), the Minister may appoint, on the recommendation of the Governor, two persons to be members of the Committee (hereinafter referred to as the "appointed members").

(5) The appointed members shall be persons who—

- (a) are knowledgeable or experienced in financial regulation, public expenditure or the formulation of macro-economic and fiscal policies;

- (b) have the relevant expertise, qualifications or experience to make a valuable contribution towards the macro-prudential oversight of the Jamaican economy;
- (c) do not have any financial or other interest which could cause or result in a conflict of interest in respect of the activities of the Committee; and
- (d) do not fall within any of the grounds for revocation referred to in subsection (9).

(6) The following persons shall not be eligible for appointment to the Committee—

- (a) members of the House of Representatives or the Senate;
- (b) members of the Council of the Kingston and St. Andrew Corporation or any municipal council or any parish council;
- (c) public officers; and
- (d) directors, officers, employees or external auditors of a financial institution or the connected persons in relation to the financial institution.

(7) The appointment of the appointed members of the Committee shall be evidenced by instrument in writing signed by the Minister, which shall specify the period of office of the member, which shall not exceed three years.

(8) Every appointed member shall be eligible for reappointment.

(9) Notwithstanding any provision in this Part to the contrary, the Minister may, at any time, revoke the appointment of any appointed member for—

- (a) physical or mental infirmity, which would prevent that member from continuing to perform the functions of a member;

- (b) bankruptcy or compounding with or suspending payment to his creditors;
- (c) being convicted of an offence involving dishonesty;
- (d) failing to carry out the functions required of a member of the Financial System Stability Committee; or
- (e) engaging in activities that can be reasonably considered to be incompatible with his continued membership of the Financial System Stability Committee.

(10) The names of all members of the Committee as first constituted and any change in the membership of the Committee shall be published in the *Gazette*.

(11) The Bank shall, from time to time, assign such staff, including a secretary, as may be necessary to assist the Committee in the performance of its functions.

(12) The Committee shall be responsible for ensuring the keeping of minutes of each of its meetings and all other relevant records.

(13) Subject to the provisions of this Part, the Committee may regulate its own proceedings.

34I. The Committee shall—

- (a) make financial system stability assessments in relation to developments in the financial system and international markets;
- (b) promote the regular exchange of information among members of the Committee regarding the monitoring of risks to Jamaica's financial system stability;
- (c) assess the links between the financial sector and developments in other sectors of the Jamaican economy and the global economy;

Functions of
Committee.
24/2015
S. 4.

- (d) give oversight to the design and conduct of periodic stress tests regarding plausible systemic threats to Jamaica's financial system stability;
- (e) engage in periodic consultation with financial sector representatives, when necessary, in order to seek their views and obtain their input in assisting the Committee's understanding of developments that may impact Jamaica's financial system stability;
- (f) consider the circumstances which trigger action in respect of any financial institution or a class thereof, as may be required under this Part;
- (g) contribute to the development and implementation of mechanisms and procedures for financial sector crisis planning, management and resolution;
- (h) recommend measures to secure international cooperation in support of Jamaica's financial system ability;
- (i) make arrangements to obtain information from overseas regulatory authorities and other reputable sources on conditions in the global financial markets that may impact financial system stability in Jamaica;
- (j) prepare and provide periodic and special reports to the Minister, which assess Jamaica's financial system stability;
- (k) make recommendations to the Bank in relation to carrying out the Bank's mandate of financial system stability;
- (l) make recommendations to the Bank in relation to potential conflicts between financial system stability policy decisions and other policy areas; and
- (m) carry out any other activity which may be determined

by the Committee to be in support of the objective of financial system stability.

34J.—(1) The provisions of section 34D(1)(a)(i) to (v) shall, as they apply to an authorized officer, apply *mutatis mutandis* to—

Secrecy of
Committee
members.
24/2015
S. 4.

- (a) members of the Committee and persons working on behalf of the Committee; and
- (b) members of staff of the Bank who are engaged in macro-prudential supervision.

(2) Noting in this section empowers the Committee to share any information—

- (a) that is specific to any customer; or
- (b) in a manner which may impede or interfere with any regulatory cooperation which either the Bank, the Financial Services Commission or any other relevant regulatory authority undertakes as part of its functions.

34K. The provisions of section 34E shall, as they apply to Bank or persons mentioned in that section, apply *mutatis mutandis* to—

Indemnity of
Committee
members.
24/2015
S. 4.

- (a) members of the Committee and persons working on behalf of the Committee; and
- (b) members of staff of the Bank who are engaged in macro-prudential supervision.

*Functions of the Bank in Relation to
Financial System Stability*

34L.—(1) The Bank shall be responsible for conducting macro-prudential oversight of the financial institutions specified in subsection (3), for the purpose of maintaining the stability of the financial system.

Bank
responsible
for macro
prudential
oversight.
24/2015
S. 4.

(2) Where a financial institution specified in subsection (3) is the subject of a concern affecting financial system stability and that financial institution is regulated by—

- (a) the Bank through its Supervisory Department, the Financial System Stability Committee shall consult with respect to that financial institution with the Supervisory Committee; or
- (b) a relevant regulatory authority other than the Bank, the Bank shall act in consultation with that regulatory authority with respect to that financial institution.

(3) The financial institutions referred to in subsection (1) are—

- (a) a body corporate which is supervised or regulated by the Bank, the Financial Services Commission or any other relevant regulatory authority; or
- (b) a person who undertakes any one or more of the financial services referred to in subsection (4) and which person has been designated as a financial institution by the Bank for the purposes of this Part.

(4) The financial services referred to in subsection (3)(b) are—

- (a) banking business;
- (b) lending;
- (c) consumer credit;
- (d) financing commercial transactions;
- (e) transfer of money or value;
- (f) issuing electronic money;
- (g) financial guarantees and commitments;
- (h) dealing in securities and trading in other financial instruments;

- (i) participation in security issues;
- (j) individual and collective portfolio management;
- (k) insurance business and insurance related financial services;
- (l) investment of moneys and other financial assets on behalf of third parties;
- (m) pension fund management; and
- (n) any other service designated as a financial service by the Governor acting in consultation with the relevant regulatory authority, may designate by notice published in the *Gazette*.

(5) Where it is satisfied that a person who carries on the business of providing any one or more of the financial services referred to in subsection (3) (not being a person referred to in subsection (3)(a)) is undertaking any one or more financial services referred to in subsection (4), the Bank may, by instrument in writing by the Governor designate, by notice published in the *Gazette*, the person as a financial institution for the purposes of this Part.

34M. The Bank may, in the event of, or in anticipation of, threats to financial system stability—

- (a) buy and sell securities and other obligations, to the extent and under conditions determined necessary by the Bank, for the purpose of promoting financial system stability;
- (b) make loans, provide guarantees or other credit facilities to financial institutions, in such currency and upon such terms and conditions as the Bank may determine, and to the extent determined necessary by the Bank for the purpose of promoting stability in the financial system;

Provision of
emergency
liquidity
assistance to
financial
institutions.
24/2015
S. 4.

- (c) enter into international arrangements to ensure co-ordination of actions that may be taken with regard to financial institutions based outside of Jamaica that are or may be the parent, subsidiary or branch affiliate of a financial institution based in Jamaica;
- (d) with regard to the provision of emergency liquidity assistance to financial institutions, require and accept collateral in such form and upon such terms and conditions as the Bank may determine, whether or not denominated in Jamaican currency or located in Jamaica; or
- (e) enter into any other type of financial transaction or arrangement deemed by the Bank to be necessary to promote or preserve financial system stability.

Power to
request
inspection.
24/2015
S. 4.

34N.—(1) Where the circumstances set out in subsection (2) occur in respect of a financial institution, the Bank shall consult with another relevant regulatory authority and request that the regulatory authority perform an inspection of the financial under the jurisdiction of the other regulatory authority.

(2) An inspection under subsection (1) shall be undertaken in any case where the Bank determines that the financial institution's condition or conduct poses or could pose a threat to the stability of the financial system.

(3) In making its determination under subsection (2), the Bank shall consult with the relevant regulatory authority as to the focus, scope and methodology of the inspection to be undertaken.

(4) Nothing in this section, precludes the Bank from obtaining information, directly from any financial institution,

for the purpose of carrying out its functions under this Part.

(5) For the purposes of subsections (1) and (3), where the financial institution referred to in subsection (2) is regulated by the Bank—

- (a) the consultation required by subsections (1) and (3) shall be between the Financial System Stability Committee and the Supervisory Committee of the Bank; and
- (b) the request shall be made by the Financial System Stability Committee to the Supervisory Committee of the Bank.

340.—(1) The Bank may—

- (a) after consultation with another relevant regulatory authority or relevant Government agency, require that regulatory authority or Government agency to provide any information in the possession of or accessible to that regulatory authority or Government agency, where the information will assist the execution of the functions of the Financial System Stability Committee under this Part; or
- (b) enter into special arrangements with the Statistical Institute of Jamaica for the Bank to receive information to assist the Bank under this Part.

(2) Every financial institution shall provide to the Bank (through the relevant regulatory authority or relevant Government agency) financial, statistical or other information which is—

- (a) pertinent to the Bank's function of promoting and maintaining financial system stability; and

Power of
Bank to
require
information.
24/2015
S. 4.

(b) specified by the Bank, in consultation with the Committee.

(3) Every person who—

(a) resides or has a permanent establishment in Jamaica;

(b) carries out an international transaction by acquiring external financial assets and liabilities from persons,

shall be subject to the provisions of this section; and the Bank shall preserve the confidentiality of the identity of the person providing information to the Bank under this section and any specific information so provided.

Power of
Bank to
issue
prescriptive
rules,
standards
and codes.
24/2015
S. 4.

34P.—(1) The Bank may, in consultation with the Committee and relevant regulatory authority, and having regard to the purposes specified in subsection (2), issue rules, standards and codes, which shall be applicable to any financial institution or a category thereof, and which rules, standards and codes shall relate to macro-prudential oversight under this Part.

(2) The rules, standards and codes referred to in subsection (1) shall be for the purpose of—

(a) establishing and enforcing standards of conduct by financial institutions;

(b) preserving and maintaining stability in the financial system; and

(c) specifying the time required for compliance by financial institutions to which such rules, standards and codes apply.

(3) Where there is—

- (a) a breach by a financial institution, or a class thereof, of any rules, standards and codes under subsection (1); or
- (b) a delay in contravention of subsection (2)(c) by a financial institution, or class thereof, in complying with the rules and standards and codes set by the Bank,

the relevant regulatory authority which has oversight for the financial institution, or class thereof, shall take such action as it is empowered to do, under any enactment which governs that regulatory authority.

34Q. The Bank shall establish and maintain a central database which shall—

Bank to establish and maintain central database. 24/2015 S. 4.

- (a) contain data collected by the Bank in pursuance of its functions under this Part; and
- (b) be available to the Committee.

34R. The Bank shall, within three months after the end of each financial year, publish a report on matters relating to the stability of the financial system, having due regard to any relevant obligations of secrecy and confidentiality relating to individual financial institutions and persons.

Publication of financial stability report. 24/2015 S. 4.

PART VI. Relations with the Government

35.—(1) The Bank may act as banker to the Government and shall be entrusted with such Government banking business in Jamaica and abroad as may be assigned to it by the Minister.

Power of Bank to act as banker to the Government, public corporations and local authorities. 15/1992 S. 25(a). 15/1992 S. 25(b).

(2) The Bank may, subject to affirmative resolution, make rules to be known as “the Supervisory Rules”, in relation to money laundering, terrorism financing and the proliferation of weapons of mass destruction.

15/1992
S. 25(b).

(3) In subsection (2)—

“public corporation” means—

- (a) a statutory body or authority;
- (b) a company registered under the Companies Act, being a company in which the Government or an agency of Government, whether by the holding of shares or by other financial input, is in a position to influence the policy of the company;

“local authority” means—

- (a) in relation to the parishes of Kingston and St. Andrew, the Council of the Kingston and St. Andrew Corporation as constituted under the Kingston and St. Andrew Corporation Act;
- (b) in relation to any other parish, the Parish Council of that parish.

Advances
to the
Government
33/1976
S. 2.

36.—(1) The Bank may in any financial year make temporary advances to the Government which shall—

- (a) not exceed in the aggregate thirty *per centum* of the estimated revenue of Jamaica for that financial year; and
- (b) be repaid not later than three months after the end of that financial year.

(2) Where such advances are not duly repaid the power of the Bank to grant further advances in any subsequent financial year shall not be exercisable unless and until the outstanding advances have been repaid.

10/1977
S. 7.

(3) For the purpose of this section and section 37 "financial year" means the financial year of the Government.

37. The Bank shall not in any financial year purchase or otherwise acquire, on a primary issue, securities issued or guaranteed by the Government of a nominal value exceeding forty *per centum* of the estimated expenditure of the Government in that financial year, or such other percentage as the House of Representatives may from time to time by resolution approve.

Limitation on power of Bank to purchase securities issued or guaranteed by the Government.
10/1977
S. 8.
15/1992
S. 26.

38. The Bank shall, at the request of the Minister and subject to such terms and conditions as maybe agreed between the Minister and the Bank, act as agent for the Government in the payment of interest and principal in respect of Government Securities (within the meaning of the Public Debt Management Act).

Management of the public debt.

11/2012
3rd. Sch.

39. Where regulations made under the Loans (Local Authorities) Act provide for a Registrar in relation to registered stock issued pursuant to that Act, the Bank may, at the request of the Minister perform the functions of such Registrar.

Power of Bank to act as Registrar for loans to local authorities.
37/1964
S. 14.

40. The Bank may act generally as agent for the Government where it can do so appropriately and consistently with its functions under this Act.

Power of Bank to act as agent for the Government.

41. The Minister may from time to time after consultation with the Governor give to the Bank in writing such directions of a general nature as appear to the Minister to be necessary in the public interest, including without prejudice to the generality of the foregoing provisions directions to review the state of credit

Power of Bank to act as agent for the Government.
Power of Minister to give general directions.

in any sector of the economy and either to make recommendations for improving the supply of credit or to take steps to foster the provision of credit to that sector of the economy.

PART VIA. *Depository of Securities*

Depository of securities and other instruments. 2/2010 S. 3.

41A.—(1) The Bank may establish, operate or participate in, a depository of securities or other instruments.

(2) For the purposes of subsection (1), the Bank may—

- (a) enter into agreements with depositories of securities or of other instruments and carry out transactions under the terms of those agreements as may be necessary for the settlement of transactions between members of those depositories and the members of any depository operated by the Bank; and
- (b) make rules and guidelines for the operation of the depository.

(3) Any depository of securities or other instruments operated by the Bank without legislative authority before the date of commencement of the Government Securities Dematerialization Act is hereby declared to have been validly and lawfully operated and the Bank and all officers and agents thereof are hereby indemnified from any legal action arising due to the establishment of, operation of, and participation in such depository.

PART VII. *Accounts and Reports*

Bank's financial year.

42. The financial year of the Bank shall end on the thirty-first day of December.

Accounts and audit.

43.—(1) The accounts of the Bank shall be audited by auditors appointed annually by the Board with the approval of the Minister.

(2) Without prejudice to the provisions of subsection (1) the Minister may at any time require the Auditor-General to examine and report on the accounts of the Bank as a whole

or any aspect of the Bank's operations and the Bank shall provide the Auditor-General with all necessary and proper facilities for such an examination.

44.—(1) The Bank shall, within three months after the end of each financial year, cause to be made and transmit to the Minister— Reports.

- (a) a report dealing generally with the operations of the Bank during the last preceding financial year; and
- (b) a copy of the annual statement of accounts of the Bank certified by the auditors.

(2) The Minister shall as soon as possible after their receipt—

- (a) cause a copy of the report together with the annual statement of accounts and the auditors' report thereon to be laid before each House of Parliament; and
- (b) cause a copy of the annual statement of accounts to be published in the *Gazette*;

(3) The Bank shall as soon as practicable after the close of business on the second and fourth Wednesday in each month cause to be made and published in the *Gazette* and transmit to the Minister a statement showing its assets and liabilities at the close of business on that day. 37/1964
S. 15.

45. The Board may with the approval of the Minister make under the seal of the Bank by-laws for the good order and management of the Bank. Power to
make by-
laws.

46. [*Deleted by Act 28 of 2003, S. 2.*] 28/2003
S. 2.

47.—(1) Except in so far as may be necessary for the due performance of his functions under this Act, every officer and servant of the Bank shall preserve, and aid in preserving, secrecy with regard to all matters relating to the affairs of any licensee under the Banking Services Act or any other financial institution, or of any customer of any such licensee under the Banking Services Act or any other financial institution, that may Secrecy.
6/2014
10th Sch.

come to his knowledge in the course of his duties; and any such officer or servant who communicates any such matter to any person other than the Board or an officer of the Bank authorized in that behalf by the Governor or suffers or permits any unauthorized person to have access to any books, papers or other records relating to any licensee under the Banking Services Act or any other financial institution, or to any customer of any such licensee under the Banking Services Act or any other financial institution, commits an offence and shall be liable on conviction thereof to a fine of three million dollars or to imprisonment with or without hard labour for a term not exceeding three years.

(2) No officer or servant of the Bank shall be required to produce in any court any book or document or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Act, except on the direction of the court or in so far as may be necessary for the purpose of carrying into effect the provisions of this Act.

(3) Every officer and servant of the Bank and every external auditor of the Bank—

- (a) shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of the Bank that may come to his knowledge in the course of his duties; and
- (b) shall not communicate any such matter to any person other than a person authorized in that behalf by the Minister or the Governor.

(4) Any officer, servant or external auditor of the Bank who contravenes subsection (3) commits an offence and shall be liable on conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars or to imprisonment for a term not exceeding two years.

Verifying
false state-
ment, account
or list.

48. Any director, officer or auditor of the Bank who verifies any statement, account or report required to be furnished to the Minister pursuant to this Act, or who is concerned with delivering or transmitting the same to the Minister, knowing the

same to be false in a material particular shall be guilty of an offence and liable—

15/1992
S. 29(a).

- (a) on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years;
- (b) on conviction before a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

49. Any person who transmits or is concerned with transmitting any statement to the Bank pursuant to this Act knowing the same to be false in a material particular shall be guilty of an offence and liable—

Transmitting
false state-
ment.
18/1973
S. 22.
15/1992
S. 29(a).

- (a) on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years;
- (b) on conviction before a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

50. Every offence under this Act may be tried summarily before a Resident Magistrate, so, however, that the maximum penalty which may be imposed on a person summarily convicted shall be a fine of fifty thousand dollars or imprisonment with or without hard labour for a term of two years.

Trial of
offences.

15/1992
S. 29(b).

51. Every notice under this Act by the Bank may be served by registered post.

Service of
notice.

52. All currency notes issued under the Currency Notes Law and Jamaica coins within the meaning of the Currency, Coinage and Legal Tender Law which have not been called in or demonetized under either of those Laws shall be deemed for all purposes to be notes and coins issued by the Bank under this Act.

Transitional.
Cap. 88
1953 Edtn.
(Repealed).
Cap. 89
1953 Edtn.
(Repealed).

- Tenure of office.
6/2014
10th Sch.
1. The term of office of every director other than the Governor, the Senior Deputy Governor and the Financial Secretary shall be specified in the instrument appointing each director and—
- (a) subject to the section 34B(2A) in relation to the Deputy Supervisor, or the Deputy Governors, the term shall not exceed five years;
 - (b) for every other director, the term shall not exceed three years, but such director retiring on the expiration of his term of office shall, subject to paragraph 2, be eligible for reappointment.
- Disqualification of directors.
6/2014
10th Sch.
2. A person may not be appointed or remain a director who—
- (a) is a member of either House of Parliament;
 - (b) is a director, officer or employee of or has any ownership interest in any licensee under the Banking Services Act, any other regulated financial institution or any specified financial institution or credit bureau;
 - (c) is a member of the Council of the Kingston and St. Andrew Corporation or of any Municipal Council or Parish Council.
- Temporary appointment.
37/1964
S. 16(a).
3. The Minister may appoint any person who might be appointed a director to act temporarily in the place of any director who is absent or unable to act.
- Resignation.
- 4.—(1) Any director other than the Governor may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Governor and from the date of the receipt by the Minister of such instrument such director shall cease to be a director of the Bank.
- (2) The Governor may at any time resign his office by instrument in writing addressed to the Minister.
- 37/1964
S. 16(b).
- Revocation of appointment.
18/1973
S. 24.
15/1992
S. 30(c).
5. The Minister may terminate the appointment of any person as Governor, Senior Deputy Governor, Deputy Governor or Director if such person—
- (a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;
 - (b) becomes bankrupt or compounds with, or suspends payment to, his creditors;
 - (c) is convicted and sentenced to a term of imprisonment or to death;
 - (d) is convicted of any offence involving dishonesty;
 - (e) fails to carry out any of the functions conferred or imposed on him under this Act.

SCHEDULE, *cont'd.*

6. The names of all members of the Board as first constituted and every change in the membership thereof shall be published in the *Gazette*. Publication of membership.

7.—(1) The Board shall meet as often as they deem necessary or expedient for the due performance of their functions and of the functions of the Bank (but not less frequently than ten times in each year) and such meetings shall be held at such places, on such days and at such times as the Governor determines. Procedure and meetings.

(2) The Governor, or in the event of his absence or inability to act, the Senior Deputy Governor shall preside at the meetings of the Board. 15/1992 S. 30(d)(i).

(3) The quorum of the Board shall be four directors, including the person presiding pursuant to sub-paragraph (2), and such person shall have a casting vote where the voting is equal. 15/1992 S. 30(d)(ii).

(4) The validity of any proceeding of the Board shall not be affected by any vacancy amongst the directors or by any defect in the appointment of a director.

8. There shall be paid to the Governor and the other directors such remuneration, if any (whether by way of salaries, travelling or other allowances) as the Minister may determinate. Remuneration of directors. 6/2014 10th Sch.

9. Where a director contravenes paragraph 2 of this Schedule, the director shall declare any ownership interest or position to the Board and shall elect to— Share-holdings by directors. 6/2014 10th Sch.

(a) resign his position; or

(b) dispose of the ownership interest within such time as may be directed by the Board.

2/1995
S. 7.

APPENDIX

(Section 22E)

*Offences in respect of which liability to conviction may
be discharged by payment of fixed penalty*1/2004
S. 8(a).

<u>Offence</u>	<u>Fixed Penalty</u>
PART A	
1. Purchase of foreign currency in breach of directions given under section 22B, by an exchange bureau operated in a hotel	\$ 5,000.00
2. Failure to observe limits as to amount of foreign currency to be purchased or sold in any one transaction	\$10,000.00
3. Failure to display rates at which foreign currency is being purchased or sold	\$ 5,000.00
4. Failure to remit foreign currency to the Bank in accordance with directions	\$ 5,000.00
5. Selling less than the prescribed amount of gross purchases of foreign currency to the Bank ...	\$10,000.00
6. Holding more than three days' gross purchases of foreign currency	\$ 5,000.00
7. Failure to keep accounts and records in respect of the business of the exchange bureau separate and apart from any other business in foreign currency carried on by the operator thereof ...	\$ 5,000.00
8. Failure to issue or take receipts	\$ 5,000.00
9. Buying or selling foreign currency at a location other than that approved in the authorization ...	\$10,000.00
10. Failure to display certificate of authorization ...	\$ 5,000.00
11. Failure to keep proper accounts or to make returns	\$ 5,000.00
12. Failure to allow examination of accounts, etc. ...	\$10,000.00
13. Failure to afford to an authorized officer unimpeded access for the purpose of carrying out any inspection authorized by or under the Act	\$10,000.00

APPENDIX, *cont'd.*

<u>Offence</u>	<u>Fixed Penalty</u>	
PART B		1/2004 S. 8(b).
1. Failure to observe limits as to the amount of cash accepted for transmission out of Jamaica ...	\$100,000.00	
2. Failure to keep accounts and records in respect of the remittance business, separate and apart from any other business carried on	\$100,000.00	
3. Carrying on the business of a money transfer and remittance agent or agency at a location other than that approved by the Minister ...	\$ 50,000.00	
4. Failure to display certificate of authorization ...	\$ 50,000.00	
5. Failure to keep proper accounts or to make returns	\$100,000.00	
6. Failure to allow examination of accounts and records	\$100,000.00	
7. Failure to allow an authorized officer unimpeded access for the purpose of carrying out any inspection authorized by or under the Act	\$100,000.00	