

JAMAICA

No. 7 – 2005

I assent,

[L.S.]

H. F. COOKE,
Governor-General.

10th day of March, 2005.

AN ACT to Amend the Bank of Jamaica Act.

[The date notified by the Minister
bringing the Act into operation]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the Authority of the same, as follows:—

1. This Act may be cited as the Bank of Jamaica (Amendment) Act, 2005, and shall be read and construed as one with the Bank of Jamaica Act (hereinafter referred to as the principal Act) and all amendments thereto, and shall come into operation on a date to be appointed by the Minister by notice published in the *Gazette*.

Short title,
construction
and
commence-
ment.

2. Section 2 of the principal Act is amended by inserting next after the definition of “notes” the following—

Amendment
of section 2
of principal
Act.

“overseas regulatory authority” means an authority which exercises functions similar to that of the Bank or the Financial Services Commission, in a country outside Jamaica;”.

Amendment
of section
34D of
principal Act.

3. Section 34D of the principal Act is amended—

- (a) in subsection (1) by inserting in sub-paragraph (a) (iv) immediately after the word “nominee” the words “or the Solicitor General”;
- (b) in subsection (2) by deleting the words “fifty thousand” and substituting therefor the words “three million”.
- (c) by inserting immediately after subsection (2) the following—

“ (3) Subject to subsection (5), the Bank may disclose to an overseas regulatory authority information necessary to enable that authority to exercise regulatory functions including the conduct of civil or administrative investigations and proceedings to enforce laws, regulations and rules administered by that authority.

(4) The Bank may decline to exercise its powers under subsection (3) unless the overseas regulatory authority undertakes to make such contribution towards the costs of the exercise as the Bank considers appropriate.

(5) Nothing in subsection (3) authorizes a disclosure by the Bank unless—

- (a) the Bank has satisfied itself that the overseas regulatory authority is subject to adequate legal restrictions on further disclosures, including the provision to the Bank of—
 - (i) an undertaking of confidentiality on the part of the authority; or
 - (ii) an undertaking by the authority not to disclose the information provided without the consent of the Bank;
- (b) the Bank is satisfied that the assistance requested by the overseas regulatory authority is required for the purposes of that authority’s regulatory functions, including the conduct of civil or administrative

investigations or proceedings to enforce laws administered by the authority; and

(c) the Bank is satisfied that information provided following the exercise of its powers under subsection (3) will not be used—

(i) in criminal proceedings; or

(ii) in civil or administrative proceedings,

against the person providing the information.

(6) Where, in the opinion of the Bank, it appears necessary in relation to any request for assistance received from an overseas regulatory authority to invoke the jurisdiction of a Supreme Court Judge, the Bank shall—

(a) immediately notify the Attorney General of the particulars of the request; and

(b) send him copies of all documents relating to the request,

and the Attorney General shall be entitled to appear or take part in any proceedings in Jamaica, or in any appeal from such proceedings, arising directly or indirectly from any such request.

(7) Where pursuant to subsection (3), the Bank properly supplies information to a requesting party, the information supplied shall be deemed to be legally and lawfully given under this Act; and every person liable to be proceeded against on the ground that such information was unauthorized or unlawfully given, or was otherwise acting illegally or improperly, for any such reason only, is hereby acquitted, freed, discharged and indemnified as against all persons whatsoever and whomsoever, from liability arising from the supply of that information”.

Amendment
of section 47
of principal
Act.

4. Section 47 of the principal Act is amended in subsections (1) and (4) by deleting the words "fifty thousand" and substituting therefor the words "three million".