



## Report of Investigation

**Concerning Allegations of Conflict of Interest, Corruption and Irregularities in Relation to the Acquisition of Shares in FirstRock Capital Holdings Limited, by the Airport Authority of Jamaica (AAJ) and the Norman Manley International Airport Limited (NMIAL)**

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**INTEGRITY COMMISSION**  
**May 2023**



This Publication until tabled in Parliament shall be confidential.

Section 55 and 56 of the Integrity Commission Act states:

"(4) Anything said or information supplied or any document or thing produced by any person for the purpose or in the course of any investigation by or proceedings before the Commission under this Act, shall be absolutely privileged in the same manner as if the investigation or proceedings were proceedings in a court of law.

(5) For the purposes of the Defamation Act, any report made by the Commission under this Act and any fair and accurate comment thereon shall be deemed to be privileged.

56.— (1) Subject to section 42(3)(b), every person having an official duty under this Act, or being employed or otherwise concerned in the administration of this Act (hereinafter called a concerned person) shall regard and deal with as secret and confidential, all information, statutory declarations, government contracts, prescribed licences and all other matters relating to any matter before the Commission, except that no disclosure made by the Commission or other concerned person in the proceedings for an offence under this Act or under the Perjury Act, by virtue of section 17(2) of that Act, shall be deemed inconsistent with any duty imposed by this subsection.

(2) The obligation as to secrecy and confidentiality imposed by this section, in relation to any documents, or information obtained under this Act continues to apply to a person despite the person having ceased to have an official duty, be employed or otherwise concerned in the administration of this Act.

(3) Every concerned person who is required under subsection (1) to deal with matters specified therein as secret and confidential who at any time communicates or attempts to communicate any such information, declaration, letter and other document or thing referred to in subsection (1) disclosed to him in the execution of any of the provisions of this Act to any person—

(a) other than a person to whom he is authorized under this Act to communicate it; or

(b) otherwise than for the purpose of this Act,

commits an offence and shall be liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to a term of imprisonment not exceeding one year.

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## Chapter 1 – Introduction

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### **Executive Summary**

- 1.0 This investigation report concerns allegations of conflict of interest, corruption and irregularities in relation to the acquisition of shares in FirstRock Capital Holdings Limited, by the Airport Authority of Jamaica (AAJ), and the Norman Manley International Airport Limited (NMIAL), during the period February 2019 to January 2020.
- 1.1 The report confirms that the AAJ and NMIAL each acquired 14,259,000 shares in FirstRock Capital Holdings Limited during the period February 2019 to January 2020, at a cost of US\$1,499,972.00. The total value of the shares acquired by both equated to US\$2,999,944.00. The investigation revealed breaches of the AAJ/NMIAL Group Investment Policy (2017), the Public Bodies (Amendment) Regulations (2017), the Articles of Association for the NMIAL and the Board Charter and the Corporate Governance Guidelines of the AAJ and NMIAL.
- 1.2 Recommendations to the AAJ, NMIAL and the Ministry of Finance and the Public Service are also outlined herein, which relate to improving the corporate governance arrangements and decision making at the AAJ and NMIAL, and by extension other public entities.



## Chapter 2 – Background

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2.1 This chapter outlines the background information concerning the investigation.

### Jurisdiction

2.1.2 The investigation was conducted pursuant to Section 33(1)(a) and (b) of the Integrity Commission Act (ICA), which empowered the Director of Investigation (DI) to investigate the matter. The referenced provisions are outlined in greater detail in Appendix 1.

### Allegations

2.1.3 The investigation was initiated by the DI on his “own initiative” on July 1, 2021, following allegations in the media. The allegations were outlined in a Gleaner article dated June 27, 2021, under the caption, “*Hutchinson held shareholdership and directorship of First Rock while chairing public body that invested \$400m*”. They were as follows:

- a) “AAJ and its wholly-owned subsidiary, the Norman Manley International Airport (NMIA) Limited, acquired shares in First Rock first from a private placement in February 2019 in the amount of US\$1 million (US\$500,000 each), the same time Hutchinson bought one million units of shares, [and that] an additional US\$2 million worth of shares – split equally between the NMIA and AAJ – were later acquired from an initial public



offering (IPO) in January 2020, bringing the total investments by the two public entities to US\$3 million, the group confirmed.

- b) *"...with approximately 14.3 million shares each, the NMIAL and the AAJ were listed as the third and fourth largest shareholders, respectively, in First Rock, according to the company's unaudited financial statement for the quarter ending March 31, 2021. Combined, the two entities control approximately 10 per cent of First Rock Capital Holdings' share holdings."*
- c) *"For a year, Fay Hutchinson overlapped as a director of First Rock Capital Holdings, in which she's a shareholder, while serving as deputy and then board chair of Airports Authority of Jamaica (AAJ), a public entity which, along with a subsidiary, invested over US\$3 million (J\$409 million) in the company";*
- d) *"Hutchinson resigned from First Rock's board on March 17, 2021, one year into her appointment, amid growing internal dissent at the Robert Montague-led Ministry of Transport over the "unacceptable state of affairs"; and*
- e) *"Hutchinson was first appointed to the AAJ's board on April 6, 2016 for a three-year term under the tenure of then Transport Minister Mike Henry [and that] she was promoted to deputy chair when the new board was named in May 2019. Montague took over as portfolio minister in March 2018".*



## Individuals Pertinent to the Investigation

2.1.4 The following persons were considered pertinent to the investigation:

- (a) Mr. Audley Deidrick, President and Chief Executive Officer, Airport Authority of Jamaica (AAJ) and Norman Manley International Airport Limited (NMIAL);
- (b) Mrs. Fay Hutchinson, former Board Director, AAJ;
- (c) Hon. William Shagoury, former Chairperson, AAJ;
- (d) Mr. Denton Campbell, former Board Director, AAJ;
- (e) Mr. Dudley Beek, former Board Director, AAJ;
- (f) Mr. Leroy Lindsay, former Board Director, AAJ and NMIAL;
- (g) Mrs. Juliet Rose, former Board Director, AAJ;
- (h) Ms. Claudette Ramdanie, former Board Director, AAJ;
- (i) Mrs. Epsi Cooper-Reid, former Board Director, AAJ;
- (j) Mr. Donahue Martin, former Board Director, AAJ;
- (k) Mrs. Pauline Bowla, former Board Director, AAJ;
- (l) Mr. Neil Seaton, former Chairperson, NMIAL;
- (m) Captain Ludlow Johnson, former Board Director, NMIAL;
- (n) Mr. Mark Hart, former Board Director, NMIAL;
- (o) Colonel Torrance Lewis, former Board Director, NMIAL;
- (p) Mr. Thomas Chin, former Board Director, NMIAL;
- (q) Mr. Kent Gammon, former Board Director, NMIAL;
- (r) Mrs. Julia Moncrieffe Wiggan, former Board Director, NMIAL;
- (s) Mrs. Donna Reid, former Board Director, NMIAL; and
- (t) Mr. Lloyd Pommels, former Board Director, NMIAL.





## Chapter 3 – Terms of Reference

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- 3.1 This chapter outlines the scope of the investigation and the issues that were explored.
- 3.2 The objectives of the investigation were to determine, *inter alia*, as follows:
- a) The veracity of the allegation that during the period February 2019, to January 2020, the Airport Authority of Jamaica (AAJ), and Norman Manley International Airport Limited (NMIAL) “invested over US\$3 million” in FirstRock Capital Holdings Limited;
  - b) The process(es), if any, which was/were undertaken by the AAJ, and the NMIAL, to acquire shares in FirstRock Capital Holdings Limited’s Private Offer and Initial Public Offering (IPO);
  - c) Whether the Minister of Finance & the Public Service’s approval was required for the AAJ, and the NMIAL, to acquire shares in FirstRock Capital Holdings Limited’s Private Placement and IPO and if so, whether same was first obtained prior to the referenced acquisition;
  - d) Whether there were any irregularities and/or evidence of corruption on the part of any official(s)/officer(s) who was/were integral to the process, which allegedly led to the acquisition of shares in FirstRock Capital Holdings Limited’s Private Offer and Initial Public Offering (IPO);



- e) Whether the AAJ and the NMIAL complied with the AAJ's 2017 Group Investment Policy, and/or any other applicable Government of Jamaica (GoJ) policies, in the acquisition of shares in FirstRock Capital Holdings;
- f) Whether Mrs. Fay Hutchinson was a member of the AAJ Board of Directors for the period 2016 – 2021;
- g) The role(s), if any, played by Mrs. Fay Hutchinson in relation to the acquisition of shares by the AAJ and the NMIAL, in FirstRock Capital Holdings Limited's Private Offer and IPO;
- h) Whether there was a conflict of interest on the part of any public official(s)/officer(s) of the AAJ or the NMIAL, in relation to the acquisition of shares in First Rock Capital Holdings Limited's Private Offer and IPO; and
- i) To determine whether recommendations ought to be made in respect of the subject matter.



## Chapter 4 – The Investigation

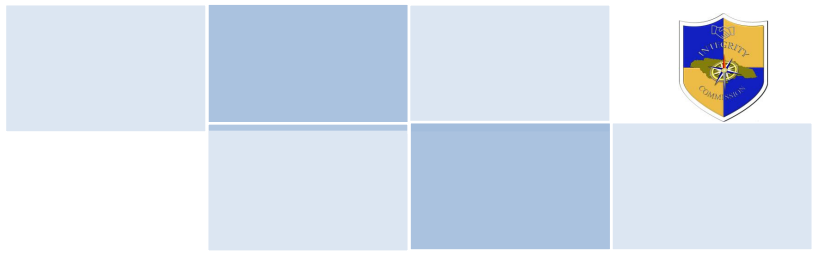
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4.1 This chapter sets out the investigative actions that were undertaken throughout the course of the investigation.

### The Investigation

4.2 The following actions were taken pursuant to the investigation:

- a) During the period August 4, 2021 to December 14, 2021, eleven (11) Notices were served on individuals, who were deemed pertinent to the investigation, to provide written statements;
- b) During the period August 30, 2021 to April 12, 2022, twenty (20) Witness Statements were obtained;
- c) During the period June 7, 2022 to September 13, 2022, five (5) Judicial Hearings were conducted;
- d) Documentation and witness statements pertaining to matters touching, and concerning the deliberations, which were had in relation to the acquisition of shares in First Rock Holdings Limited, by the AAJ, and the NMIAL were reviewed; and



e) The Airports Authority Act, the Integrity Commission Act, Public Bodies Management and Accountability Act, and other relevant legislation and policies were reviewed.

4.2.1 A review and cross-referencing of the statements, and supporting documentation, were conducted to inform the DI's conclusions and recommendations.



## Chapter 5 – Law, Policies, Evidence and Discussion of Findings

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This chapter sets out the law, policy, evidence and findings concerning the investigation.

### **Background for the Airports Authority of Jamaica (AAJ) and the Norman Manley International Airport Limited (NMIAL)**

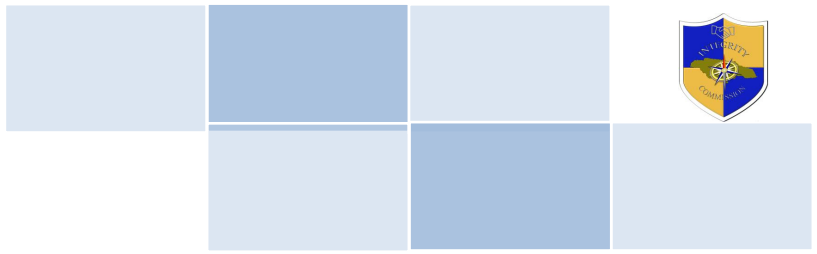
5.1 The AAJ was “established in 1974 under the Airports Authority Act as an independent statutory body, with initial responsibility (ownership and management) for the nation's two international airports; namely Norman Manley International Airport and Sangster International Airport.”<sup>1</sup>

5.1.1 By way of correspondence issued by the Ministry of Transport and Mining, the constitution of the AAJ Board, at the time of the referenced transactions was as follows:

Table 1

<b>AAJ Board of Directors</b>	
<b>July 2, 2018 to April 5, 2019</b>	<b>May 13, 2019 to May 12, 2022</b>
Hon. William Shagoury – Chairman	Honourable William Shagoury – Chairman
Mrs. Fay Hutchinson – Deputy Chairperson	Mrs. Fay Hutchinson – Deputy Chairperson
Mr. Denton Campbell	Mr. Dudley Beek
Mr. Dudley Beek	Mr. Leroy Lindsay
Mr. Leroy Lindsay	Mr. Denton Campbell
Mrs. Juliet Rose (nee Mair)	Mrs. Epsi Cooper-Morgan
Ms. Claudette Ramdanie	Mr. Donahue Martin
Mrs. Epsi Cooper-Reid	Ms. Pauline Bowla

<sup>1</sup> <https://airportsauthorityjamaica.aero/our-business/>: Accessed November 3, 2021.



Ms. Tanya Bedward <sup>2</sup>	Ms. Tanya Bedward <sup>3</sup>
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5.1.2 NMIA Airports Limited (“NMIAL”) is a limited liability company incorporated under the Companies Act of Jamaica in October 2003. It is a wholly owned

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<sup>2</sup> Letter dated July 26, 2018, from Ms. Tanya Bedward, Senior Director, Transport Policy (Actg.), Ministry of Transport and Mining addressed to Mr. Audley Deidrick, President, Airports Authority of Jamaica.

<sup>3</sup> Letter dated June 12, 2019, from Ms. Tanya Bedward, Senior Director, Transport Policy (Actg.), Ministry of Transport and Mining addressed to Mr. Audley Deidrick, President/CEO, Airports Authority of Jamaica.



subsidiary of the Airports Authority of Jamaica (AAJ) with a Board of Directors that is distinct from that of the AAJ.<sup>4</sup>

5.1.3 By way of correspondence issued by the Ministry of Transport and Mining, the constitution of the NMIAL Board, at the time of the referenced transactions was as follows:

Table 2

<b>NMIAL Board of Directors</b>	
<b>January 16, 2017 to May 1, 2019</b>	<b>May 13, 2019 to May 12, 2022</b>
Mr. Neil Seaton – Chairman	Mr. Neil Seaton – Chairman
Mr. Mark Hart	Mr. Mark Hart
Captain Ludlow Johnson	Honourable William Shagoury
Colonel Torrance Lewis (Deceased)	Mr. Thomas Chin
Mr. Leroy Lindsay	Mr. Leroy Lindsay
Mr. Audley Deidrick, Chief Executive Officer, NMIAL (Resigned from the Board effective September 17, 2018)	Mr. Kent Gammon
Mrs. Julia Moncrieffe Wiggan <sup>5</sup>	Mrs. Donna Reid
	Mr. Lloyd Pommels
	Mrs. Julia Moncrieffe Wiggan. <sup>6</sup>

## **Board Charter & Corporate Governance Guidelines of the AAJ**

5.2.1 Based on the allegations, the DI considered it prudent to review the policy governing the operation and functions of the AAJ Board of Directors.

<sup>4</sup> Norman Manley International Airports Limited Board Charter and Corporate Governance Guidelines.

<sup>5</sup> Letter dated January 30, 2017 from the Ministry of Transport and Mining, addressed to Mr. Kent Gammon.

<sup>6</sup> Letter dated July 4, 2019 from Ministry of Transport and Mining, addressed to Mr. Audley Deidrick, Chief Executive Officer, NMIAL.



5.2.2 The Board Charter and the Corporate Governance Guidelines of AAJ detail that, *“The Board of Directors of the AAJ is empowered by the AA [Airport Authority] Act (Second Schedule), and is charged with the responsibility for the policy and the general administration of the affairs of the AAJ. Additionally, the Board of Directors is required to adopt and adhere to the recommended practices of the (i) Corporate Governance Framework for Public Bodies in Jamaica 2011, Revised 2012 (ii) Public Bodies Management and Accountability Act, 2001.”*

5.2.3 The referenced Charter further details that the Board of Directors shall:

*“Approve the strategic direction of the Authority in line with GOJ policy directives including the approval of annual and triennial strategic and corporate plans, budgets and capital development programmes.*

*Administer the business and affairs of the AAJ including the review of management decisions, ongoing monitoring of corporate business performance, plans and strategies, risk assessment...”<sup>7</sup>*

5.2.4 Further to the foregoing, the DI highlights the Second Schedule of the Airport Authority Act which provides that decisions of the Board should be taken by majority vote.

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<sup>7</sup> The Board Charter of AAJ revised 2018.





## **Board Charter & Corporate Governance Guidelines of the NMIAL**

5.2.5 The DI reviewed the policy governing the operation and functions of the NMIAL Board of Directors. Notwithstanding, the DI wishes to highlight that by way of letter dated March 3, 2023, Mr. Audley Deidrick, Chief Executive Officer, NMIAL, addressed to the DI, provided a copy of the Board Charter and indicated that, *"...the Charter, which governed the management of the Board of Directors of NMIA Airports Limited for the period January 2019 to December 2020, was approved by the full board of NMIA Airports Limited, however, the document was not signed."*<sup>8</sup>

5.2.6 The abovementioned Board Charter governing the NMIAL Board of Directors indicates that the Board of Directors is charged with the overall responsibility for governance of NMIAL. It is charged with the strategic management and oversight of NMIAL. The Board leads in the practice of effective corporate governance principles and monitors to ensure that the Management and staff of NMIAL also adhere to the highest standards of conduct, transparency and governance.

5.2.7 The Board Charter further stipulates that the Board of Directors is required to adopt and adhere to the recommended practices of the (i) Corporate Governance Framework for Public Bodies in Jamaica 2011, Revised 2012, and (ii) Public Bodies Management and Accountability Act, 2001.<sup>9</sup>

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<sup>8</sup> Letter dated March 3, 2023 from Mr. Audley Deidrick, Chief Executive Officer, NMIAL, addressed to Mr. Kevon Stephenson, DI.

<sup>9</sup> Norman Manley International Airports Limited Board Charter and Corporate Governance Guidelines. Pg 5.



5.2.8 The DI highlights here that the NMIAL being a duly incorporated limited liability company is governed to a significant degree by its Articles of Association. These will be examined in greater detail below.

### **Background on FirstRock Capital Holdings Limited**

5.3.1 FirstRock Capital Holdings Limited is an International Business Company (IBC) incorporated in St. Lucia on October 4, 2017.<sup>10</sup> The entity is an investment holding company, with its core focus on real estate investments.<sup>11</sup> The DI's enquiries with the Companies Office of Jamaica revealed that the FirstRock Capital Holdings Limited *"is not a company registered in Jamaica and does not appear on the register of companies."*<sup>12</sup>

5.3.2 Notwithstanding the foregoing, the DI's enquiries further revealed that a subsidiary of FirstRock Capital Holdings Limited, known as FirstRock Capital Resource Limited was incorporated in Jamaica on September 15, 2017.<sup>13</sup> The DI is also in possession of FirstRock Capital Holdings Limited's Information Memorandum, dated January 10, 2019, which states, *"FirstRock Capital Resource is a limited liability company incorporated in Jamaica, that was incorporated to execute the business strategy of the [FirstRock Capital Holdings Limited], and to manage the [FirstRock Capital*

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<sup>10</sup> The Prospectus of FirstRock Capital Holdings Limited dated December 5, 2019.

<sup>11</sup> Witness Statement of Mr. Norman Reid, Chairman, FirstRock Capital Holdings Limited, dated January 3, 2021, pg. 1.

<sup>12</sup> Witness Statement of Inger Hainsley-Bennett, Customer Service Manager, Office of the Registrar of Companies, Jamaica, dated December 15, 2021, pg. 1.

<sup>13</sup> Companies Office of Jamaica Database Search.



Holdings Limited's] assets in a manner that in each case is consistent with the objectives, guidelines, and constraints outlined in the [FirstRock Capital Holdings Limited's] policies."<sup>14</sup>

5.3.3 The Board of Directors for FirstRock Capital Holdings at the time of the referenced transactions were as follows:

Table 3

<b>First Rock Capital Holdings Limited Board of Directors</b>	
<b>As at January 10, 2019</b>	<b>As at March 2020</b>
Dr. David Lowe – Chairman	Mr. Norman Reid – Chairman
Mr. Norman Reid – Deputy Chairman	Mr. Alton Morgan – Deputy Chairman
Mr. Douglas Halsall – Director	Mr. Douglas Halsall – Director
Mr. York Page Seaton – Director	Mr. York Page Seaton – Director
Ms. Lisandra Rickards – Director	Mrs. Fay Hutchinson – Director
Mr. Alton Morgan – Director	Ms. Kisha Anderson – Director, <sup>15</sup>
Mr. Pierre Shirley – Director	
Ms. Natalie Augustin – Company Secretary <sup>16</sup>	

### **Details of Shares Acquired (Private Placement & Initial Public Offering) in FirstRock Capital Holdings Limited by the AAJ and the NMIAL**

5.4.1 Between February 2019 and January 2020, AAJ and NMIAL invested US\$2,999,944 in FirstRock Capital Holdings Limited. The following table outlines the details of the shares purchased:

<sup>14</sup> FirstRock Capital Holdings Limited Information Memorandum dated January 10, 2019.

<sup>15</sup> FirstRock Capital Holdings Limited Annual Report 2020.

<sup>16</sup> Ibid.



Table 4 AAJ/NMIAL Investments in FirstRock Capital Holdings Limited <sup>17</sup>

	AAJ	NMIAL	Total
<b>Private Placement – February 2019:</b>			
Shares	5,000,000	5,000,000	
Price	US\$0.10	US\$0.10	
<b>Cost</b>	<b>US\$500,000</b>	<b>US\$500,000</b>	<b>US\$1,000,000</b>
<b>Initial Public Offering (IPO) – January 2020:</b>			
Shares	9,259,000	9,259,000	
Price	US\$0.108	US\$0.108	
<b>Cost</b>	<b>US\$999,972</b>	<b>US\$999,972</b>	<b>US\$1,999,944</b>
<b>Total Investment</b>			
Volume	14,259,000	14,259,000	
<b>Cost</b>	<b>US\$1,499,972</b>	<b>US\$1,499,972</b>	<b>US\$2,999,944</b>
% Holdings	4.985	4.985	

5.4.2 Mr. Norman Reid, Chairman, FirstRock Capital Holdings Limited indicated in his witness statement submitted to the Commission, *inter alia*, that, “I am aware that during the period of January 2019 to February 2020, the Airports Authority of Jamaica and its wholly owned subsidiary NMIA Airports Limited acquired 28,518,000 shares in First Rock Capital Holdings Limited at a total cost of US\$2,999,944.00”.<sup>18</sup>

### **Payment Details of the AAJ and NMIAL’s Private Placement in February 2019**

5.5 In February 2019, the AAJ acquired shares in FirstRock Capital Limited at a cost of US\$500,000.00. The DI is in possession of documentary evidence dated

<sup>17</sup> Witness Statement of Mr. Audley Deidrick, President and CEO, AAJ and NMIAL, dated August 30, 2022, pg. 6.

<sup>18</sup> Statement dated January 3, 2022 of Mr. Norman Reid, Chairman, FirstRock Capital Holdings Limited.



February 11, 2019, which confirms that two transfers were made from the AAJ's debit account, in the amount of USD\$300,000.00 and USD\$200,000.00, for the acquisition of shares, by way of private placement, in FirstRock Capital Holdings Limited.<sup>19</sup>

5.5.1 In February 2019, the NMIAL acquired shares in FirstRock Capital Limited at a cost of US\$500,000.00. Having regard to the foregoing, the DI is in possession of documentary evidence dated February 11, 2019, which confirms two transfers, in the amount of USD\$300,000.00 and USD\$200,000.00, for the acquisition of shares in relation to FirstRock Capital Holdings Limited, from an account held by the NMIAL.

### **Payment Details of the AAJ and NMIAL's Initial Public Offering (IPO) – January 2020**

5.5.2 In January 2020, the AAJ acquired 9,259,259 shares in FirstRock Capital Holdings Limited at a cost of US\$1,000,001.50. The DI is in possession of a copy of an AAJ cheque requisition form dated January 21, 2020. The form particularizes a request, made to Sagicor Investment Jamaica Limited, for the preparation of a cheque in the amount of US\$1,000,001.50, for the purchase of 9,259,259 shares in FirstRock Capital Holdings Limited.

5.5.3 In January 2020, the NMIAL acquired 9,259,259 shares in FirstRock Capital Holdings Limited at a cost of US\$1,000,001.50. The DI is in possession of a copy of an NMIAL cheque requisition form dated January 29, 2020. The form

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<sup>19</sup> See printout of NCB Business Online payment details dated February 11, 2019. S



detailed a request, made to Sagicor Investment Jamaica Limited, for the preparation of a cheque in the amount of US\$1,000,001.50, for the purchase of 9,259,259 shares in FirstRock Capital Holdings Limited.

### **Rules Governing the making of investments by the AAJ and the NMIAL**

5.6 Section 17 of the Airports Authority of Jamaica Act states that, *“All moneys of the Authority not immediately required to be expended in the meeting of any obligations or the performance of any functions of the Authority may be invested in such securities or other investments as may be approved generally or specifically by the Minister responsible for finance and the Authority may, with the approval of the said Minister, sell all or any of such securities or other investments.”*<sup>20</sup>

5.6.1 Consistent with the foregoing, the AAJ/NMIAL Group Investment Policy dated February 2017 provides as follows:

#### *“1.0 Background*

1.1 *In accordance with the requirements of Section 17 of the Airports Authority Act, 1974, this investment policy has received, via letter dated 2017 November 29, the non-objection of the Ministry of Finance and the Public Service relative to the implementation of the provisions stated herein.*

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<sup>20</sup> Section 17 of the Airports Authority of Jamaica Act.



#### 4.0 Investment Instruments

Investments shall be diversified in accordance with the guidelines detailed below, so as to control the risk of loss resulting from over-concentration of the portfolio in certain instruments and entities. The listing of acceptable investment instruments and the assigned investment bands is as below and is subject to periodic review and amendment:

- Government of Jamaica (GOJ) Repurchase Agreements (REPOs) – 0 – 70%
- GOJ Bonds (inflation indexed) – 0 – 10%
- Equity (“blue chip” equities only)– 0 – 5%
- Unit Trusts – 0 – 5%
- Mutual Funds – 0 – 10%

5.6.2 The DI highlights here that the policy specifically states the acceptable investment instruments to be utilized; these do not include Private Placements nor do they include Initial Public Offerings.

5.6.3 Subsequent to the AAJ/NMIAL Investment Policy dated February 2017, the AAJ and the NMIAL revised its policy in March 2019.

#### **Amendment of the AAJ/NMIAL 2017 Group Investment Policy to Facilitate Investments in Initial Public Offerings (IPOs)**

5.7 As stated above, prior to its amendment, the referenced Policy did not allow for investments in Initial Public Offerings (IPOs) and Private Placements. The DI notes hereunder paragraphs 1.1, 5.1 and 5.2, of the referenced policy which



were amended to include specific reference to investments in IPOs and Private Placements:

### **“1.0 Background**

1.1 *In accordance with the requirements of Section 17 of the Airports Authority Act, 1974, the 2017 February version of this investment policy received, via letter dated 2017 November 29, the non-objection of the Ministry of Finance and the Public Service relative to the implementation of the provisions stated herein.*

### **5.1 Equity Investments**

*Specific evaluation criteria are provided to allow for the assessment of Equity investments arising from Initial Public Offerings (IPOs) and Private Placements.*

*For the purpose of this policy, definitions for IPO and Private placement are provided.*

- a) An IPO is the process of offering shares in a private company to the public for the first time.*
- b) A Private Placement is defined as a sale of stocks, bonds, or securities directly to a private investor, rather than as part of a public offering.*





## 5.2 Evaluation Criteria

The criteria that will be used to evaluate IPOs and Private Placements in determining their suitability for investment are as follows:

1. Ownership and structure – reputable
2. Business plan – sound with detailed forecast financial statements provided, assumptions outlined and risk factors clearly considered
3. Working capital – must be positive. Current Ratio must be at least 1
4. Debt to equity ratio – less than 50%
5. Probability – Net Profit margin and Return on Equity must be positive and increasing
6. Dividend Growth – positive dividend growth"<sup>21</sup>

5.7.1 The justification for the amendment of the referenced Policy was provided by the AAJ/NMIAL and was predicated on the following<sup>22</sup>:

- 1) The significant transformation in the GoJ securities market and “the recognition of a mismatch of long term needs (by the GoJ) with short term money (repurchase agreements – REPOs)”;
- 2) The restriction in access to repurchase agreements (repos) and the possibility of low investment returns;

<sup>21</sup> Airports Authority of Jamaica/NMIA Airports Limited, February 2019 AAJ Group Investment Policy, pgs. 1-3.

<sup>22</sup> Proposal to amend the Airports Authority of Jamaica/NMIAL Airports Limited Investment Policy, pg. 1.



- 3) The downward pressure on interest rates in the repurchase agreement market, and the Bank of Jamaica (BoJ) reductions in repo reference rate six (6) times with the current rate being 2.00%; and
- 4) The claim that *“REPOs which dominated the GOJ backed investment market are no longer a viable option for wide-scale investment if a reasonable rate of return on invested funds is desired.”*

5.7.2 Further, and as it relates to whether the Ministry of Finance & the Public Service, was consulted in relation to the amendment of the AAJ/NMIAL 2017 Group Investment Policy, Ms. Darlene Morrison, Financial Secretary, stated that *“The AAJ by way of letter dated March 19, 2019, submitted its revised investment policy for the Ministry’s review. The Ministry reviewed the March 2019 revised policy and provided its no-objection on the revised policy to the AAJ by way of letter dated April 23, 2019, recommending inter alia, that the Policy be further updated to ensure consistency with the Public Bodies (Amendment) Regulations 2017, relating to the Acquisition and Disposition of shares.”*<sup>23</sup>

5.7.3 Ms. Darlene Morrison further indicated that *“...the Ministry’s specific approval is not required for a public body’s investment policy. However, such policy should be consistent with the requirements of governing Legislation and any guidance issued by this Ministry. Notwithstanding, it is a practice for the Ministry to review and give its no-objection to investment policies developed by public bodies.”*<sup>24</sup>

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<sup>23</sup> Witness statement of Ms. Darlene Morrison, Financial Secretary, Ministry of Finance & Public Service, dated November 4, 2021, pg. 3.

<sup>24</sup> Ibid.



5.7.4 In support of the assertion made by Ms. Darlene Morrison, Regulation 22 (1) of the Public Bodies (Amendment) Regulations 2017 stipulates that, “Every public body that acquires, holds or disposes of shares shall put in place and maintain protocols regarding authorization levels, procedures and controls for the acquisition, holding and disposal of shares.”<sup>25</sup>

5.7.5 Note, the DI does not observe any policy or legislation which requires the “no objection” of the Ministry of Finance and the Public Service in order to amend the referenced investment policy. Notwithstanding, the practice whereby the referenced Ministry issues its “no objection” in the instant regard is consistent with Section 17 of the AAJ Act, which empowers the Minister to *inter alia*, “generally or specifically” approve investments by the AAJ.

**The Genesis and Sequence of Events which Led to the Acquisition of Shares - Private Placement and Initial Public Offering (IPO) in FirstRock Capital Holdings Limited, by the AAJ, during the period February 2019 and January 2020 respectively**

5.8 By way of a statement dated August 30, 2021, Mr. Audley Deidrick, President and CEO of the AAJ and the NMIAL, outlined, *inter alia*, the sequence of events, which led to the acquisition of shares in FirstRock Capital Holdings Limited, via private placement:

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<sup>25</sup> Section 22 (1) of the Public Bodies (Amendment) Regulations 2017.



- 1) In January 2019, the *“Management of the AAJ/NMIAL was approached by an agent of First Rock Capital Holdings Limited (First Rock) with a proposal to participate in a Private Placement.”*
- 2) On February 1, 2019, an analysis of the Proposal *“was prepared by Management and transmitted electronically to the Finance Committee of the Board, outlining the pros and cons of investing in First Rock. In analyzing the proposal for the Private Placement, Management was guided by the general parameters for such investments as set out in the 2017 Group Investment Policy which was approved by the Ministry of Finance by way of letter dated November 2017.”*
- 3) During the period February 7-9, 2019, *“A Corporate Planning Retreat was held with both (AAJ & NMIAL) Boards in attendance. At the Retreat, members of the AAJ Board met to consider and approve the Private Placement investment. The investment was approved by a majority vote. Prior to the approval of the Private Placement, the AAJ Board directed that the 2017 Group Investment Policy be amended to make specific reference to investments in IPOs and Private Placements as the existing Policy only made reference to investments in equity. Further, the Board directed that upon amendment, the Policy should be submitted to the Ministry of Finance for endorsement.”*



- 4) On February 11, 2019, the AAJ purchased five (5) million shares (at US\$0.10 per share) at a value of US\$500,000.00, in First Rock Capital Holdings Limited.
- 5) On March 19, 2019, the AAJ directed a “correspondence to the Ministry of Finance enclosing the amended Group investment Policy for the Ministry’s review and endorsement...”.<sup>26</sup>
- 6) On April 23, 2019, the Ministry of Finance & the Public Service wrote to the AAJ, and advised, *inter alia*, that the Ministry “...has examined the updated Policy and offers no objection to the proposed amendments.”<sup>27</sup>

5.8.1 As it relates to the acquisition of shares by AAJ, in the FirstRock Capital Holdings, by way of Initial Public Offering (IPO), the DI notes hereunder, the sequence of activities which was provided by Mr. Deidrick:

- 1) On January 9, 2020, the Management of the AAJ, “having reviewed the audited financials of First Rock, the Prospectus and the performance of the shares, prepared an Investment Proposal board, providing an analysis of the investment opportunity for the AAJ to purchase additional shares in First Rock.”

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<sup>26</sup> Witness Statement dated August 30, 2021 from Audley Deidrick, President & Chief Executive Officer of NMIAL and AAJ

<sup>27</sup> Letter dated April 23, 2019, from Ms. Carlene O’Connor, for Financial Secretary, Ministry of Finance & the Public Service, addressed to Mr. Samuel Manning, Senior Director Finance, Airport Authority of Jamaica.



- 2) On January 14, 2020, *“the AAJ Finance Committee considered the proposal for the acquisition of the additional shares and made a recommendation to the Board to proceed with the acquisition”*.
- 3) On January 17, 2020, *“the AAJ Board considered the Finance Committee's recommendation and approved [in] the investment by way of the round-robin method”*.
- 4) On January 22, 2020, *“AAJ Board ratified the round-robin approval to purchase the additional shares”*.

**The Genesis and Sequence of Events which Led to the Acquisition of Shares - Private Placement and Initial Public Offering (IPO) in FirstRock Capital Holdings Limited, by the NMIAL during the period February 2019 and January 2020 respectively**

5.9 By way of statement dated August 30, 2021, submitted by Mr. Audley Deidrick, the sequence of events which led to the acquisition of shares by NMIAL in FirstRock Capital Holdings Limited, via private placement, is as follows:

- 1) In January 2019, *“The Management of NMIAL was approached by an agent of First Rock with an investment pitch for NMIAL to acquire shares in First Rock.”*
- 2) On February 1, 2019, an analysis of the Proposal *“was prepared and transmitted electronically to the Finance Committee, outlining the pros and cons of investing in First Rock. In analyzing the Proposal for the Private*



*Placement, Management was guided by the general parameters for such investments as set out in the 2017 Group Investment Policy.”*

- 3) *On February 4, 2019, “...the NMIAL Finance Committee instructed Management to amend the 2017 Group Investment Policy to make specific reference to Initial Public Offerings (IPO) and Private Placements for proper classification and clarity. This amendment was approved at the NMIAL Board of Directors meeting on 2019 February 06.”*
- 4) *During the period February 7-9, 2019, “A Corporate Planning Retreat was held with both Boards in attendance. On the penultimate day of the Retreat, members of the NMIAL Board met to consider and approve the Private Placement investment. The investment was approved by a majority vote of Directors present.”*
- 5) *On February 8, 2019, the NMIAL purchased five (5) million shares (at US\$0.10 per share) at a value of US\$500,000.00, in First Rock Capital Holdings Limited.*
- 6) *On April 10, 2019, at a NMIAL Board of Directors Meeting, “two (2) Directors indicated that they were not involved in the 2019 February 8 vote for the approval of the investment in First Rock. They contended that as members of the Finance Committee, due process required that the Finance Committee, after its deliberation on the matter, submits the recommendation for the Private Placement in First Rock to the Board for consideration and ultimate approval. The submission was subsequently prepared and submitted to the Board.”*



7) *On July 4, 2019, "The NMIAL Board ratified the 2019 February 8 decision to purchase shares in the private Placement with the support of the two (2) directors who had initially expressed a concern with the process."*<sup>28</sup>

5.9.1 As it relates to the NMIAL's acquisition of shares in FirstRock Capital Holdings Limited, by way of Initial Public Offering (IPO) in January 2020, the DI notes hereunder, the sequence of activities which was provided by Mr. Deidrick:

- 1) *On January 9, 2020, "... the Management of the AAJ/NMIAL having reviewed the audited financials of FirstRock, the Prospectus and the performance of the shares prepared a Board Brief, providing an analysis of the investment opportunity for NMIAL to purchase additional shares in First Rock."*
- 2) *On January 22, 2020, "The matter for the purchase of additional shares in First Rock was submitted to the Board by way of the round robin procedures for approval."*
- 3) *On January 24, 2020, the Finance Committee further considered the matter and made a recommendation for "the NMIAL to proceed with the investment but not at the level that was initially proposed."*

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<sup>28</sup> Witness Statement dated August 30, 2021 from Audley Deidrick, President & CEO of NMIAL and AAJ





4) On January 29, 2020, “the NMIAL Board considered the Finance Committee’s recommendation and approved the purchase of the additional shares at the level initially recommended”.

**Details of the Analysis Conducted on FirstRock Capital Holdings Limited’s Proposal by the AAJ and the NMIAL in the Acquisition of Shares, by way of Private Placement**

5.10 Having regard to the captioned, the AAJ and the NMIAL conducted an analysis of the investment opportunity, which was a requirement, under the AAJ/NMIAL Group Investment Policy.

5.10.1 The analysis, dated February 1, 2019, for both AAJ and NMIAL, revealed that there were two criteria to be met, in order for an investment opportunity to be compliant with the AAJ/NMIAL Group Investment Policy:

- Criterion 1: The financial strength of the entity; and
- Criterion 2: The proposed financial investment instrument.

5.10.2 As it relates to Criterion 1, paragraph 9 of the referenced policy outlines the following categories of authorized financial institutions:

- Category A: Commercial banks;
- Category B: Securities dealers related by ownership to commercial banks/other financial institutions; and
- Category C: Other (Stand alone) securities dealers<sup>29</sup>

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<sup>29</sup> Document dated February 1, 2019 entitled “Analysis of the Investment in First Rock Capital Holdings Limited”



5.10.3 Having regard to the foregoing, the analytical assessment further outlined that FirstRock Capital Holdings Limited falls within Category C of the referenced Policy. The evaluation criteria applied to entities within Category C, are outlined in the table below:

Table (2) Analysis of First Rock Capital Holdings Limited

#	Criteria	Assessment	Criteria met
1.	1 Year in Operation – must be at least 2 years	Being established now – share offering underway	No
2.	Ownership and structure – reputable	Affiliated with First rock Capital Resource Limited which will execute the strategy of First Rock Capital Holdings. Board of Directors composed of financial industry leaders such as David Lowe, Chairman, CEO of Caribbean Producers Jamaica Limited and Lisandra Rickards, CEO of the Branson Centre of Entrepreneurship.	Yes
3.	Working capital – must be positive.  Current ratio must be at least 1.	No audited financial statements available as the company is just being established.	No  No
4.	Net Assets – must have positive balance sheet	No audited financial statements available as the company is just being established.	No
5.	Capitalization Capital/Total Assets ratio must be at least 6%	No audited financial statements available as the company is just being established.	No

5.10.4 As it relates to Criterion 2 (Proposed Financial Instrument), paragraph 4 of the AAJ/NMIAL 2017 Group Investment Policy, states, *inter alia*, that “Investments shall be diversified in accordance with the guidelines detailed below, so as to control the risk of loss resulting from over-concentration of the portfolio in certain instruments and entities. The listing of acceptable investment instruments and the assigned investment bands is represented below and is subject to periodic review and amendment:



- Government of Jamaica (GOJ) Repurchase Agreements (REPOs) – 0 – 70%
- GOJ Bonds (inflation indexed) – 0 – 10%
- Equity (“blue chip” equities only) – 0 - 5%
- Unit Trusts – 0 – 5%
- Mutual Funds – 0 – 10%<sup>30</sup>

5.10.5 It should be noted that the referenced analytical assessment concluded that *“the proposed investment falls in the allowable category of equity”*.<sup>31</sup>

5.10.6 Notwithstanding the management of AAJ and NMIAL’s conclusion regarding the proposed investment, the DI notes the definition of “blue chip” equities stocks, provided by the Jamaica Stock Exchange, which states that “blue chip” equities *“are issued by very solid and reliable companies with long histories of consistent growth and stability. Blue chip equity stocks usually pay small but regular dividends and maintain a fairly steady price throughout market ups and downs.”*<sup>32</sup>

5.10.7 The above draws into sharp focus the accuracy of the determination that the referenced First Rock Capital Holdings investment by AAJ and NMIAL is properly a “blue chip” equity, consistent with the 2017 AAJ/NMIAL Group Investment Policy. The DI’s consideration is based on the fact that a history of growth and stability could not be determined in the absence of audited financial statements.

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<sup>30</sup> Section 4 of the 2017 AAJ Group Investment Policy.

<sup>31</sup> Ibid.

<sup>32</sup> <https://www.jamstockex.com/wp-content/uploads/2015/03/A-Guide-to-Jamaica-Securities-Stock-Market.pdf>



5.10.8 The referenced analytical assessment also considered the following critical factors:

- 1) Whether the management have a good track record – the response to this query was 'Yes', (see Table 2 above);
- 2) What is the value of the shares being offered - the response to this query was 'Favourable', on the basis that the shares being offered by Private Placement tend to have a lower valuation as entities want to leave room for the price to appreciate;
- 3) Will the investment help the AAJ Group's overall investment strategy – the response to this query was 'Yes', on the basis that the Group manages funds primarily in REPOs and so there is the benefit to be gained from risk diversification and enhanced income growth with the investment in equities directly; and
- 4) Risk consideration - the response to this query was 'Mitigated', on the basis that the Jamaica Central Securities Depository (JCSD) would handle the receipt of funds with respect to shares and all dividend payouts.

5.10.9 The DI notes that of the five conditions outlined under Criterion 1 of the Group Investment Policy, 2017, only one (1) condition was met by FirstRock Capital Holdings Limited.



5.10.10 The DI further notes that Criteria 2 of the Group Investment Policy, 2017 was not met based on the definition of blue-chip equities.

5.10.11 The DI highlights that the referenced assessment was conducted in accordance with the Amended Group Investment Policy, which was not yet in force at the time of the assessment. To reiterate, the Amended Group Investment Policy was not approved by the Board until March 2019 and the Ministry of Finance and the Public Service gave its no-objection on April 23, 2019.

**Details of the Analysis Conducted on FirstRock Capital Holdings Limited’s Proposal by the AAJ and the NMIAL in the Acquisition of Shares, by way of Initial Public Offering**

5.11 Having regard to the captioned, the AAJ and the NMIAL conducted an analysis of the investment venture, undertaken on January 9, 2020.

5.11.1 The relevant portions of the respective assessments are provided below:

Investment Proposal prepared by the AAJ

*“2.0 Board Action Required*

*1. Approve investments per below, representing in each instance, 2% of AAJ’s cash/cash equivalents, as at 2019 October 31 of J\$6.6 billion:*

- a. US\$ 1,000,000 in the Victoria Mutual Wealth Management Limited (VMWML) tailored investment solution.*
- b. US\$1,000,000 be invested in First Rock Capital (FRC) shares*

...



### 3.0 Summary of Analysis

The review of the proposed investments show:

- a. Above average returns when compared with the existing return being earned on the investment portfolio. Returns from the proposed investment exceeded the existing returns earned by between 1% to 7% (after factoring in all related charges).
- b. Opportunities to further diversify the current risk level of the portfolio within the pre-established limits of the investment policy. This is primarily by increasing the current holdings in:
  - bonds from 4% to 5% (allowable limit is 10%)
  - unit trusts from nil to 2% (allowable limit is 5%)
  - equity from 1% to 3% (allowable limit is 5%)
- c. Increased frangibility of the investments, i.e., the ability to readily access funds as necessary owing to the listing of FRC shares on the Jamaica Stock Exchange (JSE).
- d. Compliance with the policy requirements for investment in equity instruments, as both the qualitative and quantitative (financial) criteria were met by FRC.

...

#### 4.0 Analysis

...

#### 4.2 Eligibility of Investment Instruments

The proposed investment instrument falls in the allowable categories of (see section 5 of the policy extracted and highlight below)



- Equity (FRC); and
- Unit trust product with the addition of a GOJ bond product (VMWML...

...

### 5.0 Internal Fund Management – Investment Instruments

*Investments shall be diversified in accordance with the guidelines detailed below, so as to control the risk of loss resulting from over-concentration of the portfolio in certain instruments and entities. The listing of acceptable investment instruments and the assigned investment bands is as below and is subject to periodic review and amendment:*

- Government of Jamaica (GOJ) Repurchase Agreements (REPOs) – 0 – 70%
- GOJ Bonds (inflation indexed) – 0 – 10%
- Equity (“blue chip” equities only) – 0 – 5%
- Unit Trusts – 0 – 5%
- Mutual Funds – 0 – 10%

...

*The review showed that both on the basis of historical performance for the twenty three (23) months to 2019 September 30 and with respect to the prospective performance as outlined in the five year period ended 2024 December 31, FRC’s financial performance meets the requirements per the AAJ Group investment policy. The only anomaly is the forecast debt to equity performance which for two (2) of the five (5) year forecast period exceeds the 50% threshold. It should also be noted that while the working capital ratio (current ratio) declined significantly between 2020 and 2022 (although at no*



time did it fall below the established benchmark of 2:1) this was due to a significant increase in Other Liabilities and a fall in Bank and cash balances as FRC actions its pipeline opportunities. However, subsequent to 2021 there are no further swings in the elements of the ratio and its performance stabilizes and by 2024 has started to rise. FRC's future viability and profitability per the financial ratios appear solid."<sup>33</sup>

### Investment Proposal prepared by the NMIAL

#### "2.0 Board Action Required

Approve investments per below, representing 2.9% of NMIAL's cash/cash equivalents, as at 2019 December 31 of J\$4.7 billion:

- US\$1,000,000 be invested in First Rock Capital (FRC) shares

#### 3.0 Summary of Analysis

The review of the proposed investments show:

- a. Above average returns when compared with the existing return being earned on the investment portfolio. Returns from the proposed investment exceeded the existing returns earned by approximately 7% (after factoring in all related charges).
- b. Opportunities to further diversify the current risk level of the portfolio within the pre-established limits of the investment policy. This is primarily by increasing the current holdings in equity from 1.59% to 4.49% (allowable limit is 5%)

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<sup>33</sup> AAJ's Investment Proposal dated January 9, 2020.





- c. *Increased frangibility of the investments, i.e., the ability to readily access funds as necessary owing to the listing of FRC shares on the Jamaica Stock Exchange (JSE).*
- d. *Compliance with the policy requirements for investment in equity instruments, as both the qualitative and quantitative (financial) criteria were met by FRC.*

...

#### 4.0 Analysis

##### 4.1 Eligibility of Investment Instruments

*The proposed investment instrument falls in the allowable category of equity (see section 5 of the policy extracted and highlight below)*

##### 5.0 Internal Fund Management – Investment Instruments

*Investments shall be diversified in accordance with the guidelines detailed below, so as to control the risk of loss resulting from over-concentration of the portfolio in certain instruments and entities. The listing of acceptable investment instruments and the assigned investment bands is as below and is subject to periodic review and amendment:*

- *Government of Jamaica (GOJ) Repurchase Agreements (REPOs) – 0 – 70%*
- *GOJ Bonds (inflation indexed) – 0 – 10%*
- *Equity (“blue chip” equities only) – 0 – 5%*
- *Unit Trusts – 0 – 5%*
- *Mutual Funds – 0 – 10%*



...

*The review showed that both on the basis of historical performance for the twenty three (23) months to 2019 September 30 and with respect to the prospective performance as outlined in the five year period ended [sic] 2024 December 31, FRC's financial performance meets the requirements per the AAJ Group investment policy. The only anomaly is the forecast debt to equity performance which for two (2) of the five (5) year forecast period exceeds the 50% threshold. It should also be noted that while the working capital ratio (current ratio) declined significantly between 2020 and 2022 (although at no time did it fall below the established benchmark of 2:1) this was due to a significant increase in Other Liabilities and a fall in Bank and cash balances as FRC actions its pipeline opportunities. However, subsequent to 2021 there are no further swings in the elements of the ratio and its performance stabilizes and by 2024 has started to rise. FRC's future viability and profitability per the financial ratios appear solid."*<sup>34</sup>

### **Approvals Granted by the AAJ and the NMIAL Boards of Directors for the Acquisition of Shares (Private Placement) in FirstRock Capital Holdings Limited**

5.11.2 In an effort to determine the decision-making process which led to AAJ and NMIAL's participation in the Private Placement offering by FirstRock Capital Holdings Limited, the DI reviewed the AAJ and NMIAL Board Charters. The DI highlights the guidance provided in relation to Board meetings. The referenced documents indicate that, "During each financial year, there shall be regular monthly Board meetings. Special Board meetings may

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<sup>34</sup> NMIAL's Investment Proposal dated January 9, 2020.



occur at such other times as the Chairman or any member of the Board may request." The documents further state that, "Each Director is expected to attend all Board Meetings..."<sup>35</sup>

5.11.3 The DI further notes the section of the referenced documents which speaks to the roles and responsibilities of the Chairman, said section indicates that the Chairman's responsibilities include **"Engaging all Board members and ensuring that they are fully informed of any business issue on which a decision has to be taken."**<sup>36</sup>

5.11.4 The DI also highlights the text entitled **Company Meetings and Resolutions, Law. Practice and Procedure, 2<sup>nd</sup> Edition**, which provides guidance and best practice for the procedures in relation to company meetings. In this regard, Section 20.04 of the referenced text indicates that, "Provisions of a company's articles of association or any applicable shareholders' agreement may contain specific requirements regulating the timing of meetings of directors and any required period of notice for a meeting of the board. In the absence of any such provision all that is required is that fair and reasonable notice of the meeting be given to the members of the board."<sup>37</sup>

5.11.5 Further, the DI highlights Article 103 of the Articles of Association of the NMIAL which states, "Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be determined by a majority of votes...It shall not be

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<sup>35</sup> Board Charter for AAJ and NMIAL.

<sup>36</sup> Ibid.

<sup>37</sup> Section 20.04 of the Company Meetings and Resolutions, Law. Practice and Procedure, 2<sup>nd</sup> Edition



*necessary to give notice of a meeting of Directors to any Director for the time being absent from Jamaica.”<sup>38</sup>*

5.11.6 In relation to the AAJ and NMIAL’s decision to participate in the Private Placement offering by FirstRock Capital Holdings Limited, and the approvals granted, the DI notes Mr. Audley Deidrick’s statement, which indicates that *“the decision to purchase shares during the Private Placement was made by the Board by way of a majority vote at a Joint Board Retreat [AAJ & NMIAL] on 2019 February 8.”<sup>39</sup>*

5.11.7 According to the referenced statement, the names of the former members of the AAJ Board of Directors in attendance at the Joint Board Retreat were:

- 1) Mr. William Shagoury, Chairman;
- 2) Ms. Fay Hutchinson, Deputy Chairman;
- 3) Ms. Epsi Cooper Morgan, Director;
- 4) Ms. Tanya Bedward, Director;
- 5) Ms. Juliet Mair, Director;
- 6) Mr. Denton Campbell, Director;
- 7) Mr. Leroy Lindsay, Director;
- 8) Ms. Claudette Ramdanie, Director; and
- 9) Mr. Dudley Beek, Director.<sup>40</sup>

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<sup>38</sup> Section 103 of the Articles of Association of the NMIAL

<sup>39</sup> Statement dated August 30, 2021 from Audley Deidrick, President & CEO, NMIAL and AAJ.

<sup>40</sup> Ibid, pg. 5.



5.11.8 The DI notes that all the Board of Directors of the AAJ were present at the Retreat.

5.11.9 Mr. Deidrick further stated that the names of the former members of the NMIAL Board of Directors, in attendance at the Joint Board Retreat were:

- 1) Mr. Newlyn 'Neil' Seaton, Chairman,
- 2) Mr. Kent Gammon, Director;
- 3) Mr. Leroy Lindsay, Director;
- 4) Ms. Donna Reid, Director;
- 5) Ms. Julia Wiggan Moncrieffe, Director; and
- 6) Mr. Ludlow Johnson, Director.<sup>41</sup>

5.11.10 In relation to the February 8, 2019 Joint Board Retreat, and documentation of the decisions taken therein, Mr. Deidrick stated, *inter alia*, that "... there was no formal audio recording or documentation of any deliberations emanating from the meeting. It was during one of the breaks in the Retreat, that the matter that was previously discussed at the Finance Committees, was considered by members of the Board and certain decisions taken."<sup>42</sup>

5.11.11 Notwithstanding Mr. Deidrick's assertion that the matter was discussed at the Finance Committees, the DI has reviewed the AAJ and the NMIAL's minutes for the Finance Committee Meetings for the period 2019 to 2021. In this regard,

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<sup>41</sup> Ibid, pg. 4.

<sup>42</sup> Witness Statement of Mr. Audley Deidrick, President and CEO, AAJ and NMIAL dated December 29, 2021, pgs. 1&2.



the DI does not observe any discussion on investments into FirstRock Capital Holdings Limited.

5.11.12 Further to the representations made by Mr. Deidrick regarding the vote taken at the Joint Board Retreat, the DI made enquiries of the AAJ and NMIAL Board members, who were said to be in attendance. Their responses are as follows:

### AAJ

(a) By way of statement dated October 25, 2021, Ms. Fay Hutchinson, former Chairman, AAJ Board, indicated that, *"In February 2019, we meaning the Board, attended a Retreat in Ocho Rios [where we were asked for our vote], I advised that I was in favour of First Rock Holdings Limited because I, myself have invested in First Rock Holdings Limited."*<sup>43</sup>

(b) By way of statement dated April 6, 2022, Mr. Leroy Lindsay, former Director, AAJ and NMIAL Boards, indicated that at the retreat held in 2019, *"...I gave my go ahead at the retreat for the investment opportunity after Mr. Manning spoke to me about First Rock Capital Holdings Limited, informally. Mr. Manning went around to the Members to get whether they were in favour of the investment opportunity. He had ticked my name on a piece of paper once I communicated that I was in favour of the investment opportunity."*<sup>44</sup>

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<sup>43</sup> Statement dated October 25, 2021 from Mrs. Fay Hutchinson, former Chairman, AAJ Board.

<sup>44</sup> Statement dated April 6, 2022, Mr. Leroy Lindsay, former Director, AAJ and NMIAL Boards.



(c) By way of statement dated March 28, 2022, Ms. Tanya Bedward, former Director, AAJ Board, indicated that, *"...At the Board retreat ... I was aware that discussions took place, but I wasn't aware that a vote was actually taken on the matter. I requested additional information and did not vote at that time."*<sup>45</sup>

(d) By way of statement dated April 12, 2022, Ms. Juliet Mair, former Director, AAJ Board, indicated that the investment opportunity into FirstRock Capital Holdings, *"...did not come up in a presentation at the Retreat but it was during one of the breaks, when the matter was discussed. I remember at the time it was decided that the retreat was not the right procedure for us to learn about the matter and as such it was decided that it was for the Finance Committee to review the opportunity and then guide the matter to the Board. When I heard the discussion, it was in a group of about three or four of us, so the discussions surrounding this investment, was not in a formal manner...The manner in which the discussions occurred was not common which was the reason why I agreed with the recommendation that the matter be brought forward in a proper manner, through the Finance Committee...I do not remember a meeting where a vote was taken on who was in favour versus who was not."*<sup>46</sup>

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<sup>45</sup> Statement dated March 28, 2022 from Ms. Tanya Bedward, former Director, AAJ Board.

<sup>46</sup> Statement dated April 12, 2022 from Ms. Juliet Mair, former Director, AAJ Board.



(e) By way of statement dated March 30, 2022, Mr. Dudley Beek, Director, AAJ Board, advised that he voted in favour of the first transaction regarding FirstRock Capital Holdings Limited.<sup>47</sup>

(f) By way of statement dated December 2, 2021, Mr. William Shagoury, former Chairman, AAJ Board, indicated that, *"...any decision taken by me on behalf of the AAJ and the NMIAL, including my vote to invest in First Rock Capital Holdings, was taken after considering the opinion of my fellow Directors and the opinion of management, hence casting my vote in good faith based on the said information provided to me."*<sup>48</sup>

## **NMIAL**

(g) By way of statement dated November 22, 2021, Mr. Newlyn Seaton, former Chairman, NMIAL Board, indicated that, *"...I had nothing to do with the acquisition of shares in First Rock Capital Holding Limited for the period January 2019 – January 2020. I recused myself from the original suggestion of the acquisition of shares in First Rock Capital Holding Limited...I did not vote for the approval for the acquisition of shares."*<sup>49</sup>

(h) By way of Judicial Hearing held on September 13, 2022, Mr. Newlyn Seaton also stated that in relation to the Retreat, *"...I don't recall there was a decision whether or not First Rock should participate. My recollection is that the First Rock issue came up and the then Director of*

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<sup>47</sup> Statement dated March 30, 2022 from Mr. Dudley Beek, Director, AAJ Board.

<sup>48</sup> Statement dated December 2, 2021, Mr. William Shagoury, former Chairman, AAJ Board.

<sup>49</sup> Statement dated November 22, 2021, Mr. Newlyn Seaton, former Chairman, NMIAL Board





*Finance, Mr. Manning, said he would investigate whether or not it was proper for us to invest in First Rock. That much I can recall.*"<sup>50</sup>

- (i) By way of transcript taken from the Judicial Hearing held on June 7, 2022, with Mrs. Julia Moncrieffe-Wiggan, former Director, NMIAL Board, the following was noted:

*Mrs. Moncrieffe-Wiggan: "They are saying they took a decision, that the Board took a decision to do the investment and I wasn't aware of that and so I wanted the records to reflect that I wasn't aware and so I was not a part of that decision.*

*Investigator: At the time was it indicated when this decision was taken, where it was taken?*

*Mrs. Moncrieffe-Wiggan: Yes. They did say that it was at the Retreat, because they had a Retreat, right. So they said that the decision was taken at the Retreat.*

*Chairman: Were you present at the Retreat?*

*Mrs. Moncrieffe-Wiggan: I was at the Retreat.*

*Chairman: And while at the Retreat was there a presentation on it?*

*Mrs. Moncrieffe-Wiggan: No. Not to my knowledge. But I wasn't a part, I would not know. As I said before I just don't know. I wasn't a part of anything."*<sup>51</sup>

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<sup>50</sup> Transcript of Judicial Hearing held on September 13, 2022 with Mr. Newlyn Seaton, former Director, NMIAL Board, pg 26.

<sup>51</sup> Transcript of Judicial Hearing held on June 7, 2022, with Mrs. Julia Moncrieffe-Wiggan, former Director, NMIAL Board, pgs 38-39.



(j) By way of transcript taken from Judicial Hearing held on July 11, 2022 with Mr. Kent Gammon, former Director, NMIAL Board, the following representations were made by him: *"...I first became aware of the investment [which took place in February of 2019] in March of 2019 at a Finance subcommittee meeting...at the retreat, I was there along with my Finance Committee Board member Julia Moncrieffe Wiggan. I recall a meeting being held with certain members of the Board; I remember seeing a meeting, we weren't sure what the meeting was about..."*<sup>52</sup>

Mr. Gammon further stated, *inter alia*, that: *"When the March meeting came about now for the Finance Committee of Norman Manley, we were advised by [by Mr Samuel Manning] – you know, that an investment was placed and we are making you aware. I said to him [Mr. Manning], well, when was this? He said in February at the retreat. I said well, I don't know about this investment and I should have been made aware of it because I am the Chairman [of the Finance Committee] ... it was a little unusual but it was an Airports Authority decision, that is what I was told; it was made by them [Airport authority]; they recommended it to their [Airport Authority] Board and the Board approved it."*<sup>53</sup>

5.11.13 The DI highlights hereunder an excerpt of the NMIAL Finance Committee Meeting Minutes dated April 26, 2019, in relation to certain concerns raised by Mrs. Julia Moncrieffe-Wiggan and Mr. Lloyd Pommells, then Directors of the

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<sup>52</sup> Transcript of Judicial Hearing held on July 11, 2022, with Mr. Kent Gammon, former Director, NMIAL Board, pgs 32-33.

<sup>53</sup> Ibid.



NMIAL Board of Directors in respect of the process, which led to the acquisition of shares by way of Private Placement:

*“Director Wiggan expressed her concern regarding how the matter was handled giving the appearance that the members had a full understanding of the issue, supported the process and approved it. [Director Wiggan further] opined that this was not correct and was very misleading given that the Directors were present at all occasions and they were not a part of the process.”<sup>54</sup>*

- 5.11.14 The referenced Meeting Minutes also indicated that NMIAL Board Director, Mr. Lloyd Pommells *“...that something as speculative as this investment should not have been sent via email for approval but rather should have been tabled at a meeting of the Finance Committee for full discussion of the pros and cons”<sup>55</sup>*
- 5.11.15 In addition, according to the same Meeting Minutes Mr. Gammon, Chairman of the Finance Committee, stated that *“it was an aberration and, like Director Wiggan, his concern was the manner with which the issue was dealt with, with the knowledge of certain Board Directors not being aware of same”<sup>56</sup>*
- 5.11.16 Subsequent to the NMIAL Finance Committee Meeting held on April 26, 2019, the NMIAL held a Board Meeting on July 4, 2019, wherein the Finance Committee recommended that a motion be moved to accept and approve

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<sup>54</sup> Minutes of the NMIAL Finance Committee dated April 26, 2019, pg. 3.

<sup>55</sup> Minutes of the NMIAL Finance Committee dated April 26, 2019, pg. 3.

<sup>56</sup> Ibid.



the investment retroactively from February 2019. The Minutes of the said Board Meeting confirmed that the recommendation was adopted by the Board.<sup>57</sup>

5.11.17 The DI highlights here, that at the time of the acquisition of the shares, by way of Private Placement, in FirstRock Capital Holdings Limited, the amended Group Investment Policy, which allows for investment opportunities such as the Private Placement, was not yet approved by the Board nor was the no-objection from the Ministry of Finance and the Public Service received.

5.11.18 The DI notes here that his efforts to contact Mr. Samuel, then Senior Director of Finance, AAJ were unsuccessful. Ms. Nicola Reid, NMIAL advised the DI that Mr. Manning was no longer with the AAJ and that he had migrated.<sup>58</sup>

### **Approvals Granted by the AAJ and the NMIAL Boards of Directors for the Acquisition of Shares (Initial Public Offering) in FirstRock Capital Holdings Limited**

5.12 Having regard to the acquisition of shares in the FirstRock Capital Holdings Limited IPO, by the AAJ, in January 2020, Mr. Deidrick indicated, *inter alia*, that approval was granted by the following members of the AAJ Board of Directors, by way of the round-robin method:<sup>59</sup>

- 1) *William Shagoury – Chairman;*
- 2) *Fay Hutchinson - Deputy Chairman;*
- 3) *Dudley Beek – Director;*

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<sup>57</sup> Minutes of the Meeting of the Board of Directors of the NMIAL dated July 4, 2019, pg. 7.

<sup>58</sup> Witness Statement of Ms. Nicola Reid, Director of Finance, NMIAL dated November 26, 2021.

<sup>59</sup> Witness Statement of Mr. Audley Deidrick, President and CEO, AAJ and NMIAL dated December 29, 2021, pg. 5.



- 4) Leroy Lindsay – Director;
- 5) Denton Campbell – Director;
- 6) Epsi Cooper – Director;
- 7) Donahue Martin – Director; and
- 8) Tanya Bedward - Director.

5.12.1 The DI highlights here that Mrs. Pauline Bowla indicated in her Witness Statement that she abstained from voting concerning the acquisition of shares in the FirstRock Capital Holdings Limited IPO. Mrs. Bowla indicated that her reason for abstaining was that she needed more information on the investment proposal.<sup>60</sup>

5.12.2 The DI enquired from Mr. Deidrick during a Judicial Hearing held on August 16, 2022, the meaning of “round-robin method. Mr. Deidrick advised, *inter alia*, “...Whatever the decision is being sought on is communicated to the members and their response is secured directly.”<sup>61</sup>

5.12.3 In relation to the ratification of the approval which was granted by the AAJ Board of Directors, the Minutes of the Board Meeting dated January 22, 2020 states, *inter alia*, the following:

*“The Board ratified its approval provided via the round-robin procedure of the investments of US\$1,000,000.00 in the Victoria Mutual Wealth*

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<sup>60</sup> Witness Statement of Mrs. Pauline Bowla dated March 29, 2022.

<sup>61</sup> Transcript of Judicial Hearing held on August 16, 2022, with Mr. Audley Deidrick, President and CEO, AAJ and NMIAL.



*Management Limited tailored investment solution and of US\$1,000,000.00 in First rock Capital shares.”<sup>62</sup>*

5.12.4 As it relates to the approval by the Directors of the AAJ Board, by way of round-robin, Ms. Cheryl Blake, Special Projects Officer, AAJ advised the DI that she obtained six (6) votes indicating approval of the investment opportunity by the Directors. Specifically, Ms. Blake stated, *“I have Shagoury, Beek, Tanya, Lindsay, Donahue, so that’s five written and Miss Epsi was a phone call so she is six.”<sup>63</sup>*

5.12.5 Ms. Blake further indicated that the email which was sent to the members of the AAJ Board seeking approval for the investment in FirstRock Capital Holding Limited, for the IPO, was addressed to the following: William Shagoury, Denton Campbell, Fay Hutchinson, Leroy Lindsay, Tanya Bedward, Donahue Martin, Pauline Bowla, Dudley Beek and Epsi Cooper-Morgan.<sup>64</sup> The referenced email is provided before for examination.

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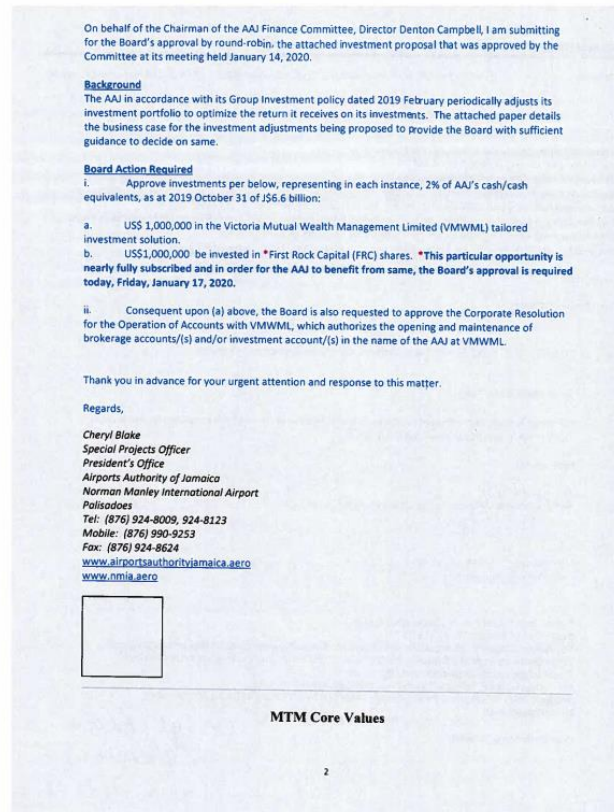
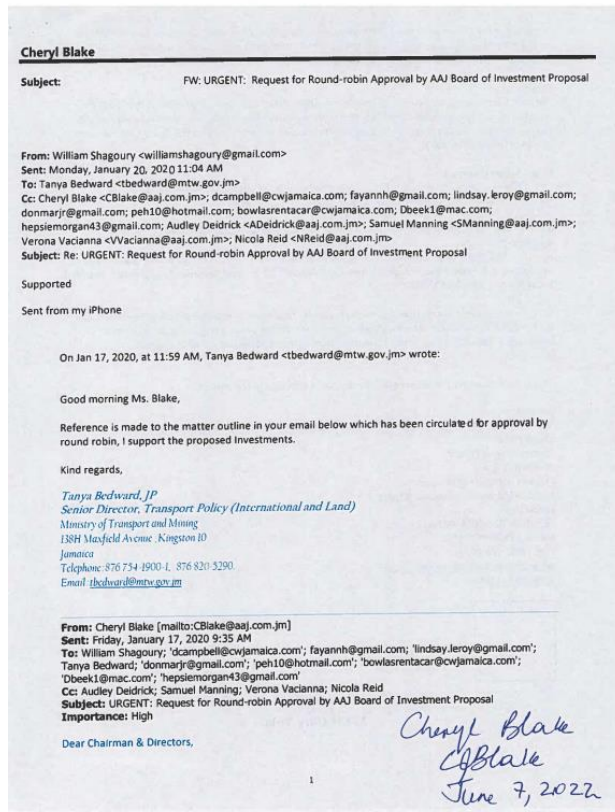
<sup>62</sup> Minutes of the Meeting of the Board of Directors of the Airports Authority of Jamaica held on Wednesday, January 22, 2020, pg. 5.

<sup>63</sup> Transcript of Judicial Hearing on June 7, 2022 - Ms. Cheryl Blake, Special Projects Officer, AAJ

<sup>64</sup> Ibid.



## Plate 1 - Email sent to AAJ Board members



5.12.6 Based on the foregoing, the DI highlights that six (6) of the nine (9) Board members responded.

5.12.7 Further, Ms. Blake indicated that, "There was no response from Denton Campbell, or Fay Hutchinson, but [what was told to me by Mr. Deidrick or somebody from the Finance Committee] they would have given their approval at Finance Committee level and so I didn't get a response from them via e-mail..."<sup>65</sup>

<sup>65</sup> Ibid.



5.12.8 Having regard to Ms. Blake's representations above, the DI enquired whether the Finance Committee had any role in the approval process. In this regard, the DI perused Minutes of the AAJ Finance Committee Meeting held on January 14, 2022, which indicated that in relation to the purchase of shares in FirstRock Capital Holdings Limited, in the amount of US\$1,000,000.00, the Committee supported the initiative and the matter to be taken to the Board for approval. The following members were present at the referenced Meetings:

- Mr. Denton Campbell;
- Mrs. Fay Hutchinson;
- Ms. Tanya Bedward; and
- Mrs. Epsi Cooper-Morgan

5.12.9 As it relates to the acquisition of shares in the FirstRock Capital Holdings Limited IPO, by the NMIAL, in January 2020, Mr. Deidrick further stated that approval was granted by the following members of the Board of Directors:

- 1) *Kent Gammon – Director;*
- 2) *Leroy Lindsay – Director;*
- 3) *William Shagoury, former Director;*
- 4) *Lloyd Pommells, former Director; and*
- 5) *Thomas Chin, former Director.*<sup>66</sup>

5.12.10 Mr. Deidrick stated that *“The equity participation in the initial public offering was approved by a unanimous vote of the Directors who were present at the meeting (save for Chairman Newlyn Seaton who recused himself and did not*

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<sup>66</sup> Witness Statement of Mr. Audley Deidrick, President and CEO, AAJ and NMIAL dated August 30, 2021





*participate in the deliberations on the matter). This decision was subsequently ratified by the Board at its meeting held on 2020 January 22.”<sup>67</sup>*

5.12.11 Further, and as it relates to the methodology that was utilized to obtain Board approval for the acquisition of shares by NMIAL, Mr. Deidrick also advised the DI that “... approval was sought by way of the Round Robin procedure, and the responses were provided electronically, via media, whatsapp, telephone and email [and that] responses provided pertaining to the approval of the IPO by the AAJ and NMIAL in January 2020 and records of all electronic responses, same would have to be clarified by Counsel ... as some record of the approvals granted may be available.”<sup>68</sup>

5.12.12 The Minutes of the Board Meeting of the NMIAL dated January 29, 2020 confirms that the Board of the NMIAL ratified its approval, which was provided by way of the round-robin procedure for the investment of US\$1,000,000.00 in FirstRock Capital Holdings Limited shares.<sup>69</sup>

5.12.13 As it relates to the votes cast by the Directors of the NMIAL Board, by way of round-robin, Ms. Cheryl Blake, Special Projects Officer, AAJ advised the DI that she obtained four (4) votes indicating approval of the investment opportunity by NMIAL Board Directors. Specifically, Ms. Blake advised that, “Mr. Shagoury says I approve, Leroy Lindsay says I support this investment, Kent Gammon

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<sup>67</sup> Witness Statement of Mr. Audley Deidrick, President and CEO, AAJ and NMIAL dated December 29, 2021, pg. 2.

<sup>68</sup> Witness Statement of Mr. Audley Deidrick, President and CEO, AAJ and NMIAL dated December 29, 2021, pg.3.

<sup>69</sup> Minutes of the Meeting of the Board of Directors of the NMIAL dated January 29, 2020, pg. 8.



wrote to Samuel Manning to say: *Dear Samuel, I approve. Proceed. Thomas Chin wrote, I approve the investment as per the e-mail.*"<sup>70</sup>

5.12.14 Ms. Blake advised that the email which was sent to the members of the NMIAL Board seeking approval for the investment in FirstRock Capital Holding Limited, for the IPO, was addressed to the following: Neil Seaton, Leroy Lindsay, Mark Hart, Julia Moncrieffe-Wiggan, Kent Gammon, Lloyd Pommels, Thomas Chin and Donna Reid. The referenced email is provided below for examination.

**Plate 2- Email sent to NMIAL Board members**

**Cheryl Blake**

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**Subject:** FW: URGENT: Request for Round-robin Approval by NMIAL Board - Investment Proposal

**From:** Leroy Lindsay <lindsay.leroy@gmail.com>  
**Sent:** Thursday, January 23, 2020 6:48 AM  
**To:** Cheryl Blake <CBlake@aaj.com.jm>  
**Cc:** diamond paints <diamondpaints@cwjamaica.com>; Mark Hart <mhart@cpj.com>; Julia Moncrieffe Wiggan <JWiggan@mtw.gov.jm>; kentgammon@gmail.com; tsdyzt@icloud.com; donmareid@hotmail.com; bunnypommm@yahoo.com; William Shagoury <williamshagoury@gmail.com>; Audley Deidrick <Adeidrick@aaj.com.jm>; Samuel Manning <SManning@aaj.com.jm>; Nicola Reid <NReid@aaj.com.jm>; Verona Vacianna <VVacianna@aaj.com.jm>  
**Subject:** Re: URGENT: Request for Round-robin Approval by NMIAL Board - Investment Proposal

Dear Cheryl

I support this investment  
 Regards  
 Leroy

On Wed, Jan 22, 2020, 4:42 PM Cheryl Blake <CBlake@aaj.com.jm> wrote:

Dear Chairman & Directors,

On behalf of the Chairman of the NMIAL Finance Committee, Director Kent Gammon, I am submitting for the Board's approval by round-robin, the attached investment proposal that is being recommended in his capacity as Chairman of the Committee.

**Background**

NMIA Airports Limited (NMIAL) in accordance with its Group Investment policy dated 2019 February periodically adjusts its investment portfolio to optimize the return it receives on its investments. The attached paper details the business case for the investment adjustment being proposed to provide the Board with sufficient guidance to decide on same.

**Board Action Required**

i. Approve investment per below, representing 2.9% of NMIAL's cash/cash equivalents, as at 2019 December 31 of J\$4.7 billion:

1

a. US\$1,000,000 be invested in \*First Rock Capital (FRC) shares. \*This particular opportunity is nearly fully subscribed, therefore, the Board's approval is required urgently.

Thank you in advance for your urgent attention and response to this matter.

Regards,

*Cheryl Blake*  
 Special Projects Officer  
 President's Office  
 Airports Authority of Jamaica  
 Norman Manley International Airport  
 Palsadoes  
 Tel: (876) 924-8009, 924-8123  
 Mobile: (876) 990-9253  
 Fax: (876) 924-8624  
[www.airportsauthorityjamaica.aero](http://www.airportsauthorityjamaica.aero)  
[www.nmia.aero](http://www.nmia.aero)

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<sup>70</sup> Transcript of Judicial Hearing on June 7, 2022 - Ms. Cheryl Blake, Special Projects Officer, AAJ



5.12.15 Based on the foregoing, the DI highlights that four (4) of the eight (8) Board members responded. However, the DI acknowledges the fact that Mr. Neil Seaton had recused himself from matters concerning FirstRock Capital Holding Limited due to a conflict of interest issue.

### **Approvals by the Ministry of Finance & the Public Service in relation to the Acquisition of Shares by the AAJ and the NMIAL**

5.13 The DI highlights here Section 23(3) of the Public Bodies (Amendment) Regulations 2017 which provides, *inter alia*, that “a public body shall not, without the prior approval of the Minister, acquire shares of any entity other than those of a publicly listed company on a Stock Exchange operating in Jamaica.”<sup>71</sup>

5.13.1 By way of statement dated November 4, 2021, Ms. Darlene Morrison, Financial Secretary, Ministry of Finance & the Public Service, advised, *inter alia*, that “AAJ and NMIAL’s acquisition of the shares in First Rock, prior to the company going public therefore required the approval of the Honourable Minister of Finance and the Public Service”.<sup>72</sup>

5.13.2 Having regard to the foregoing, the DI enquired whether the Minister of Finance & Public Service was consulted, prior to the investments into FirstRock Capital Holdings Limited, Dr. the Hon. Nigel Clarke, Minister of Finance & the Public Service, advised the DI, *inter alia*, that, “[he] was not consulted prior to the

<sup>71</sup> Section 23(3) of the Public Bodies (Amendment) Regulations 2017.

<sup>72</sup> Witness statement dated November 4, 2021 from Ms. Darlene Morrison, Financial Secretary, Ministry of Finance & the Public Service.



*decisions that were made by the AAJ and the NMIAL to undertake the referenced investments in FirstRock Capital Holdings Limited.”<sup>73</sup>*

5.13.3 Dr. the Hon. Nigel Clarke further stated that, *“In [his] capacity of Minister of Finance and the Public Service [he] did not provide AAJ or NMIAL with a no-objection or an endorsement or any other form of approval in relation to the referenced investment undertakings.”<sup>74</sup>*

5.13.4 Similarly, Ms. Darlene Morrison, Financial Secretary, Ministry of Finance & the Public Service, advised the DI that, *“Neither [herself] nor the Ministry was consulted prior to the decisions that were made by the AAJ and NMIAL to acquire shares in FirstRock Holdings Limited [and that] no instructions were issued by [her] or the Ministry of Finance and the Public Service regarding AAJ and NMIAL’s investment in First rock capital Holdings.”<sup>75</sup>*

5.13.5 Further, Mr. Audley Deidrick, President and CEO of AAJ and NMIAL advised the DI, *inter alia*, that, *“It is to be noted that the AAJ Finance Team, which piloted the analyses and recommendations had no knowledge of the Public Bodies (Amendment) Regulations, 2017 at the time of the decision in February 2019”.*<sup>76</sup>

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<sup>73</sup> Witness Statement of Dr. the Hon. Nigel Clarke, Minister of Finance & the Public Service, pg. 1.

<sup>74</sup> Ibid.

<sup>75</sup> Witness Statement of Ms. Darlene Morrison, Financial Secretary, Ministry of Finance & the Public Service, dated November 4, 2021, pgs. 1-2.

<sup>76</sup> Witness Statement dated August 30, 2021 from Mr. Audley Deidrick, President and CEO of AAJ and NMIAL, pg 7.



## **Allegation Regarding Conflict of Interest on the Part of Mrs. Fay Hutchinson**

5.14 The DI will now examine the allegation that, "*Fay Hutchinson overlapped as a director of First Rock Capital Holdings, in which she's a shareholder, while serving as deputy and then board chair of Airports Authority of Jamaica (AAJ), a public entity which, along with a subsidiary, invested over US\$3 million (J\$409 million) in the company*"<sup>77</sup>.

5.14.1 By way of a definition, the Organization for Economic Cooperation and Development (OECD) Policy Brief 2003 defines a conflict of interest as "*a conflict between the public duty and private interests of a public official, in which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities.*"<sup>78</sup>

5.14.2 Having regard to the AAJ/NMIAL's position on the issue of Conflict of Interest, the Board Charter and Corporate Governance Guidelines of the AAJ, details a section entitled 'Conflicts of Interest and Disclosure', the DI highlights the section, *inter alia*, as follows:

*"A Director must avoid conflicts between his/her personal interests and those of the AAJ. If he/she is in any way, whether directly or indirectly, interested in a transaction or proposed transaction with the AAJ, he/she shall as soon as practicable after the relevant facts come to his/her*

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<sup>77</sup>Gleaner article dated June 28, 2021, under the caption, "*Hutchinson held shareholdership and directorship of First Rock while chairing public body that invested \$400m*"

<sup>78</sup> OECD 2003, Guidelines for Managing Conflict of Interest in the Public Service, pg. 15.



knowledge declare the nature of his/her interest at a meeting of the Directors of the AAJ. These shall include but not be limited to:

- Any interest in contracts or proposed contracts with the AAJ;
- General disclosure on interest in a firm, which does business with the AAJ;
- Interest in securities held by the AAJ; and
- Emoluments received by the AAJ.

Disclosure shall also be made to the Corporate Governance Committee in writing and such disclosure shall be recorded in the Minutes of both the Corporate Governance Committee and Board Meetings.

The Director shall then excuse himself/herself from the Board meetings when the Board is deliberating over any such contract and shall not vote on any such issue. The Disclosure of a Director's interest shall include interests of his/her family and affiliates."<sup>79</sup>

5.14.3 The DI considers it prudent to note hereunder Section 17 of the Public Bodies Management & Accountability Act (2001):

*“(1) Every director and officer of a public body shall, in the exercise of his powers and the performance of his duties - (a) act honestly and in good faith in the best interests of the public body; and (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances including, but not limited to*

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<sup>79</sup> The Board Charter and the Corporate Governance Guidelines of AAJ. Revised September 2018.



*the general knowledge, skill and experience of the director or officer.*

*(2) A director who is directly or indirectly interested in any matter which is being dealt with by the board - (a) shall disclose the nature of his interest at a board meeting; (b) shall not take part in any deliberation of the board with respect to that matter."*

5.14.4 In addition, the Airports Authority of Jamaica Board Charter & Corporate Governance Guidelines stipulates that the "Board of Directors shall...ensure that the AAJ complies with all relevant laws, regulations and, as far as possible, best industry practices;"<sup>80</sup> In so doing, all Board Directors are expected to, *inter alia*: 1) Act with honesty and integrity; 2) be open and transparent in his/her dealings; 3) avoid placing himself/herself in a position of conflict of interest; 4) strive to earn and sustain a high level of public trust; 5) avoid activities that may bring himself/herself or the AAJ in disrepute; 6) act fairly and impartially; 7) avoid bias, discrimination, caprice or self-interest; and 8) ensure information gained as a Director is only applied to proper purposes and is kept confidential .<sup>81</sup>

5.14.5 Further, the DI notes hereunder, extracts of a Statement provided by Mrs. Fay Hutchinson on October 25, 2021:

a) The representation that "I [Fay Hutchinson] invested in First Rock Holdings Limited, spending a USD\$100,000.00, minimum required to invest." <sup>82</sup>

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<sup>80</sup> Airports Authority of Jamaica Board Charter & Corporate Governance Guidelines, sheet 3.

<sup>81</sup> Ibid.

<sup>82</sup> Ibid. pg. 2.



b) That “I [Fay Hutchinson] *did not write a formal declaration of my investment with First Rock Holdings Limited however, I did communicate to the Board of AAJ that I have invested with First Rock Holdings Limited.*”

c) The representation that, “I [Fay Hutchinson] *would like to state that at the time AAJ bought shares both in March 2019 and January 2020, I was not yet appointed to the Board of FirstRock Holdings Limited.*”<sup>83</sup>

5.14.6 By way of letters dated July 26, 2018 and June 12, 2019, Mrs. Fay Hutchinson was appointed as Deputy Chairperson of the AAJ Board, for the periods July 2, 2018 to April 5, 2019, and to May 13, 2019 to May 12, 2022:<sup>84</sup>

5.14.7 Subsequent to Mrs. Hutchinson’s appointment as Deputy Chairperson of the AAJ Board in May 2019, she was appointed as Chairman of the AAJ Board, with an effective date of November 23, 2020 to November 22, 2023.<sup>85</sup>

5.14.8 With regard to the appointment of Mrs. Hutchinson to the Board of Directors for FirstRock Capital Holdings Limited, Mr. Norman Reid, Chairman of the referenced entity, indicated in his Statement to the DI dated January 3, 2022, that “Mrs. Fay Hutchinson was appointed to the Board of Directors of FirstRock Capital Holdings Limited on March 4, 2020, and resigned from the post on

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<sup>83</sup> Witness statement of Mrs. Fay Hutchinson dated October 25, 2021, pg. 1.

<sup>84</sup> See letter dated June 12, 2019, from Ms. Tanya Bedward, Senior Director, Transport Policy (International and Land), to Mr. Audley Deidrick, President/Chief Executive Officer, Airports Authority of Jamaica.

<sup>85</sup> See letter dated December 10, 2020, from Mr. Francosis Graham, Acting Director, Transport Policy (International and Land), for Permanent Secretary, to Mr. Audley Deidrick, President/Chief Executive Officer, Airports Authority of Jamaica.





March 17, 2021."<sup>86</sup> Mr. Norman Reid also advised that the "... current status of Mrs. Hutchinson is solely a shareholder."<sup>87</sup>

5.14.9 In relation to whether Mrs. Hutchinson made a conflict of interest declaration regarding her alleged affiliation with FirstRock Capital Holdings Limited, by way of statement dated October 7, 2021, Mr. Deidrick stated, *inter alia*, the following:

*"To the best of my recollection, no conflict of interest declaration was made by Mrs. Fay Hutchinson with respect to the deliberations and subsequent actions/decisions which were taken by the Airports Authority of Jamaica in relation to the investment in First Rock Capital Holdings Limited.*

*For the avoidance of doubt, it is to be noted that at the time of the acquisitions of the shares (that being February 2019 and January 2020), Mrs. Fay Hutchinson was not a member of the Board of Directors of First Rock Capital Holdings Limited.*

*...It should be further noted that during the deliberations for the acquisition of shares in First Rock Capital Holdings Limited by way of private placement, which occurred at a Joint Board Retreat in February 2019, Mrs. Fay Hutchinson verbally disclosed that she personally invested in First Rock Capital Holdings Limited."<sup>88</sup>*

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<sup>86</sup> Witness Statement of Mr. Norman Reid, Chairman, FirstRock Capital Holdings Limited, January 3, 2021.

<sup>87</sup> Ibid.

<sup>88</sup> Witness Statement of Mr. Audley Deidrick, President and CEO, AAJ and NMIAL dated October 7, 2021, pgs. 2-3.



5.14.10 Mr. William Shagoury, then Chairman, AAJ, also concurred with the foregoing Statement provided by Mr. Deidrick, that Mrs. Fay Hutchinson indicated that she owned shares in FirstRock Capital Holdings Limited.<sup>89</sup>

5.14.11 Mr. Shagoury indicated that, *"At the retreat, when the Board met again to deliberate the investment, Director Mrs. Fay Hutchinson, mentioned that she owned some shares in First Rock Capital Holdings. There was no indication that she owned substantial shares...Based on the disclosure made, no issue of conflict of interest was raised by the Director and/or management who we relied on to guide us."*<sup>90</sup>

5.14.12 The DI highlights that, in January 2020, at the time of AAJ's acquisition of shares in FirstRock Capital Holdings Limited, Mrs. Fay Hutchinson was the Deputy Chairman of the AAJ Board. Subsequently, in March 2020, Mrs. Hutchinson became a member of the Board for FirstRock Capital Holdings Limited. The DI is of the view that Mrs. Hutchinson's role and involvement in the AAJ share acquisition and subsequent appointment to the FirstRock Capital Holdings Limited Board, a mere two months later, raises serious conflict of interest concerns.

5.14.13 In light of the foregoing, the DI reiterates that at the time of the deliberations and subsequent decisions that were made for the AAJ and the NMIAL to undertake the investments, Mrs. Fay Hutchinson was a shareholder of FirstRock Holdings Limited. Mrs. Hutchinson also acknowledged in a statement submitted

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<sup>89</sup> Witness Statement of Mr. William Shagoury, then Chairman, AAJ, dated December 2, 2021.

<sup>90</sup> Ibid.



to the DI on November 2, 2021<sup>91</sup>, that she was a member of the AAJ Finance Committee, the same Committee, which made the recommendation for the acquisition of the shares.

5.14.14 The DI highlights that Mrs. Fay Hutchinson's conduct in the foregoing regard raises serious concerns when juxtaposed to the rules regarding conflicts of interest, contained in the AAJ's Board Charter and Corporate Governance Guidelines. The DI notes that Mrs. Hutchinson's utterances did not amount to a formal, written declaration of a conflict of interest, neither did she recuse herself from further meetings, discussions and/or transactions regarding the acquisition of shares by the AAJ. Further, Mrs. Hutchinson, in her capacity as a member of the Finance Committee voted to recommend both investments into First Rock Capital Holdings Limited.

5.14.15 The DI further highlights that Mrs. Hutchinson's statement that, "*I advised that I was in favour of First Rock Holdings Limited because I, myself have invested in First Rock Holdings Limited*"<sup>92</sup> may have prejudiced or influenced the decision of the other Board Members to invest in FirstRock Capital Holdings Limited.

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<sup>91</sup> Further statement of Mrs. Fay Hutchinson, dated November 2, 2021, pg. 1.

<sup>92</sup> Statement dated October 25, 2021 from Mrs. Fay Hutchinson, former Chairman, AAJ Board.



## Chapter 6 – Conclusions

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6.1 This chapter outlines the conclusions drawn by the Director of Investigation.

### **The Acquisition of shares into FirstRock Capital Holdings Limited by the AAJ and the NMIAL**

6.2 The DI concludes that the AAJ and NMIAL each acquired 14,259,000 shares in FirstRock Capital Holdings Limited during the period February 2019 to January 2020, at a cost of US\$1,499,972.00. The total value of the shares acquired by the Group was US\$2,999,944.00.

The DI's conclusion is based on representations made by the duly authorized officers of the entities which were supported by documentary evidence which confirmed that the transfers were made from accounts held by AAJ and NMIAL for the acquisition of shares in FirstRock Capital Holdings Limited.

### **The Process which led to the Acquisition of Shares into FirstRock Capital Holdings Limited**

6.3 The DI concludes that the decision of the AAJ Board to invest in FirstRock Capital Holdings Limited by way of Private Placement without first obtaining the approval of the Minister for Finance as required by the **Section 17 of Airport authority Act** was ultra vires. The DI further concludes that the said Board of



Directors deliberately violated the Airport Authority Act and the Group Investment policy. The DI's conclusion is supported by Mr. Deidrick's own admission that having recognized that the referenced policy did not permit Private Placements and IPO, the Board directed that the Policy be amended to cover same in consultation with the Ministry of Finance and the Public Service. Notwithstanding, the AAJ Board approved and made the referenced investments prior to the necessary amendments and approval being made and obtained respectively.

6.4 As it relates to the 'meeting' held during the AAJ/NMIAL's Board retreat for the purpose of approving NMIAL's investment by way of private placement, the DI concludes that the NMIAL acted in contravention to Article 103 of its Articles of Association. The DI's conclusion is on the basis that the referenced Article requires that Notice of Board of Directors' meetings be given to Directors who are within the jurisdiction. The DI finds that at least two Directors, that is, Mrs. Julia Moncrieffe Wiggan and Mr. Kent Gammon, who were present at the retreat were not given Notice of the referenced meeting.

The DI further concludes that the referenced meeting which was held in contravention of Article 103 cannot properly be considered to be a meeting of the Board of Directors and therefore any decision made therein could be considered null, void and of no effect. More particularly, the decision made by those Directors present at the meeting to make an investment into FirstRock Capital Holdings Limited by way of private placement was ultra vires.



- 6.5 Further, and as it relates to the representations made by Mr. Audley Deidrick, President & CEO, AAJ/NMIAL, that there was a 'majority vote' taken at the Joint Retreat, held in February 7-9, 2019, concerning the process which led to the acquisition of shares, by way of Private Place, the DI concludes that there was no evidence of a formal balloting at the said Retreat and that the approach taken was cavalier at best.
- 6.6 Further to the above, the DI concludes that the cavalier attitude to decision making by the Board of Directors of both the AAJ and the NMIAL raises significant concerns for the good governance and the entities' financial health and wellbeing. The DI's conclusion is premised on the informal approach taken by the respective Boards in respect of their significant investment in a Company with no proven track record, in breach of applicable legislation and policy as well as the inadequacy of the due diligence/assessment conducted. The conduct outlined above falls well below the standard of behavior which would be expected of a reasonable and prudent Board making an investment decision of this nature.
- 6.7 In addition to the foregoing, the DI concludes that the AAJ and the NMIAL breached Section 23(3) of the Public Bodies (Amendment) Regulations (2017) in its acquisition of shares in FirstRock Capital Holdings Limited, during the period February 2019 to January 2020. The DI's conclusion is grounded in the fact that the referenced section prohibits a public body from acquiring shares in a company that is not publicly listed on the Jamaican Stock Exchange, without the prior approval of the Minister of Finance.



6.8 The DI concludes that the quality of the assessment conducted by the AAJ and NMIAL and which grounded the acquisition of the shares in FirstRock Capital Holdings Limited was inadequate, unsound and flawed. The DI's conclusion is premised on the following factors:

- i. Contrary to the assessment's conclusions, only one of five (1/5) conditions outlined under Criterion 1 of the AAJ/NMIAL 2017 Group Investment Policy was in fact met by FirstRock Capital Holdings Limited; and
- ii. Criterion 2 of the AAJ/NMIAL 2017 Group Investment Policy was not met based on the definition of blue-chip equities. In the absence of audited financial statements, there was no evidence that FirstRock Capital Holdings Limited demonstrated a history of growth and stability.

6.9 The DI concludes that the AAJ and NMIAL's February 2019 share acquisition, in FirstRock Capital Holdings, by way of Private Placement, was irregular and lacked transparency. The AAJ and the NMIAL demonstrated a complete disregard of the principles of accountability and transparency in the processes which led to the acquisition of the shares in FirstRock Capital Holdings Limited.

The DI's conclusion is predicated on the fact that Mr. Audley Deidrick, President & CEO, AAJ and NMIAL failed to provide any documentary evidence to substantiate the assertion that a vote was taken by the Board of Directors concerning the referenced acquisition of shares. Furthermore, it



should be noted that statements provided by several members of the Board of Directors of AAJ and NMIAL, indicated that they were unaware of the voting process which allegedly took place at the Joint Retreat held February 7-9, 2019.

### **Allegations concerning Mrs. Fay Hutchinson's appointment to the Board of AAJ and the FirstRock Capital Holdings Limited**

6.10 The DI concludes that Mrs. Fay Hutchinson was a shareholder in FirstRock Capital Holdings Limited while serving on the Board of the AAJ and at the time when she voted in favour of the AAJ's investment in the referenced company.

6.11 The DI concludes that Mrs. Hutchinson, Deputy Chairperson of the AAJ Board, breached the Conflict of Interest procedures outlined in the Board Charter and Corporate Governance Guidelines of the AAJ. The DI's conclusion is based on the failure on the part of Mrs. Hutchinson to formally advise the Board of her personal investment in FirstRock Capital Holdings at the point of being made aware of the investment opportunity. Further, in keeping with the procedures stated in the Board Charter, Mrs. Hutchinson failed to then recuse herself from voting on any decision concerning AAJ and the FirstRock Capital Holdings Limited. The foregoing is further aggravated by the fact that Mrs. Hutchinson also served as a member of the Finance Committee of the AAJ Board, the Committee which made the recommendation for the acquisition of the shares in FirstRock Capital Holdings Limited to the full Board.





6.12 The DI concludes that Mrs. Hutchinson breached Section 17 of the Public Bodies Management & Accountability Act (2001). This conclusion is made on the premise that Mrs. Hutchinson voted in favour of the acquisition of the shares and in so doing, *inter alia*, indicated to her colleague Directors that she herself had invested in FirstRock Capital Holdings. The foregoing raises concerns as to whether Mrs. Hutchinson acted in good faith consistent with her obligations under the referenced provision. The DI further concludes that the abovementioned utterances by Mrs. Hutchinson may have prejudiced or influenced the decision of the other Board Members to invest in FirstRock Capital Holdings Limited.

6.13 The DI concludes that the AAJ Board, specifically the Chairman, The Hon. Mr. William Shagoury, failed to address the referenced conflict of interest concerning Mrs. Hutchinson with the level seriousness and urgency warranted in the circumstances. The DI's conclusion is premised on the pronouncement made by Mrs. Hutchinson that she advised the Board of her own personal investment (US \$100,000) in FirstRock Capital Holdings Limited at the Joint Board Retreat. Notwithstanding her indication, the DI has found no evidence to suggest that any action was taken by the Chairman or anyone else to engage the policies and procedures of the entity which were available to them at the material time with a view to managing/resolving the conflict of interest situation presented.

The DI further concludes that by virtue of the declaration of conflict and recusal by Director Newlyn Seaton occasioned by his less direct interest in FirstRock Capital Holdings Limited when compared to that of Mrs. Hutchinson, the Boards of the AAJ and NMIAL ought reasonably to have had in their



contemplation, the need for formal declaration of conflict of interest and recusal on Mrs. Hutchinson's part by virtue of her very clear and direct interest in FirstRock Capital Holdings Limited.

6.14 The DI concludes that Mrs. Hutchinson held concurrent directorship on the AAJ Board and the Board of FirstRock Capital Holdings Limited. Mrs. Hutchinson was appointed to the FirstRock Capital Holdings Limited Board on March 4, 2020, while she was serving on the AAJ Board as Deputy Chairperson. This conduct on the part of Mrs. Hutchinson is egregious and has no doubt caused significant damage to the credibility and reputation of the AAJ.

6.15 The DI concludes that the entity's (AAJ/NMIAL) Accounting Officer, Mr. Deidrick failed to discharge his duties under the Financial Audit and Administration Act. The DI has so concluded as he has seen no evidence to suggest that the Accounting Officer made any attempts to advise the Board on appropriate financial procedures or to at all enforce the provisions of the germane policies and/or legislation.



## Chapter 7 – Recommendations

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7.1 This chapter outlines the recommendations of the Director of Investigation.

### **Recommendation to the President and CEO of the AAJ and the NMIAL**

7.2 The DI recommends that the Accounting Officer and the Board of Directors of the AAJ and the NMIAL immediately implement the necessary administrative mechanisms to ensure that proper records are kept when taking decisions in relation to their financial undertakings. The DI's recommendation is based on the failure of the AAJ and the NMIAL to adequately document all the critical steps that were undertaken to acquire the shares in question. The state of affairs observed in the instant case is inconsistent with the provisions and spirit of the Financial Audit and Administration Act and the Public Bodies Management and Accountability Act as well as the tenets of good governance, transparency and accountability.

7.3 The DI recommends that the necessary checks and balances be implemented to ensure that the Accounting Officer and the Board of Directors of the AAJ and the NMIAL scrupulously adhere to their internal policies as well as the laws, policies, regulations or guidelines which govern their operations.

7.4 The DI recommends that the AAJ and NMIAL ensure that all members of Boards of Directors become familiar with the Financial Administration and



Audit Act, Public Bodies Management & Accountability Act (2001) and other applicable legislation, particularly section 17(2) of the latter, which addresses the issue of conflict of interest management and other critical governance issues. The DI's recommendation is prompted by Mr. Deidrick's admission that the AAJ's finance team was unaware of the Public Bodies (Amendment) Regulations at the time of the decision to invest by way of private placement.

- 7.5 The DI recommends that the AAJ and the NMIAL facilitate a training programme for their respective Board members in corporate governance, with primary focus on the management of conflicts of interest, ethics and integrity and prudent financial management. The DI's recommendation is based on the plethora of breaches identified in the course of this investigation.

### **The Minister of Transport and Mining and/or other relevant Ministers**

- 7.6 As it relates to the negligent conduct of a number of the Board Directors of the AAJ and NMIAL, the DI recommends that, if not yet done, the Honourable Minister of Transport and Mining gives serious consideration to the tenure of the referenced Directors. The DI also recommends that checks be made to ascertain whether any of those Directors are presently serving on other public Boards and where this is found, considerations be given to those appointments as well. The foregoing may mitigate the possibility of the conduct identified in this matter being replicated in other entities.



The DI further recommends, that in making the foregoing considerations, credit be given to those Directors who attempted to carry out the necessary due diligence, declared conflict and abstained from participating in the decision making process as well as those who were not given an opportunity to participate in the decision making process. See paragraphs 5.11.11 to 5.11.15 above.

**Recommendation to the Honourable Minister of Finance and Financial Secretary, Ministry of Finance and the Public Service**

- 7.7 Given the risks which are associated with the emerging complexities and uncertainties in today's investment environment and the need for public bodies to ensure financial prudence, the DI recommends that the Ministry of Finance and the Public Service conducts a comprehensive audit of the investment related autonomy given to public bodies with a view to developing a comprehensive policy or legislative framework that will allow those entities to better identify, manage and mitigate investment risks and facilitate financial prudence.
- 7.8 As it relates to the insubstantial assessment/due diligence conducted by the AAJ and NMIAL and the breaches identified in the decision making process with respect to the investments in FirstRock Capital Investment Limited, the DI recommends that the Financial Secretary and/or the Honourable Minister of Finance and the Public service cause a comprehensive review to be undertaken of the investments in question with a view to determining whether the investment was financially prudent and



whether value for money was obtained. The DI further recommends that where it is found that the government suffered loss due to a breach of fiduciary on the part of the Accounting Officer and the Board of Directors, that the appropriate sanctions be imposed.

### **Recommendation to the Permanent Secretary, Ministry of Transport and Mining**

- 7.9 As it relates to the conduct and stewardship of Mr. Deidrick in his capacity as Accounting Officer of the AAJ and NMIAL and the breaches of policy and law identified, the DI recommends that the Permanent Secretary of the Ministry of Transport and Mining conducts a comprehensive review of said conduct and stewardship and take such action as may be necessary and appropriate in the all the circumstances of the instant case.

### **Recommendations to the Most Honourable Prime Minister**

- 7.10 Given the prevalence of conflicts of interests in Jamaica, and the detrimental impact they have on public confidence in government and good governance, it is recommended that the Most Honourable Prime Minister commissions a general review of this issue with a view to introducing legislation and/or regulations to clarify how these should be managed.



The DI further recommends, that consideration be given to the creation of a regime to facilitate the application/institution of pecuniary sanctions and/or forfeiture proceedings against officials who benefit from knowingly engaging in the practice.

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Kevon A. Stephenson, J.P  
Director of Investigation

May 24, 2023  
Date



## Appendices

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### Appendix 1

Section 6(1)(a) of the ICA states, *inter alia*, that:

*“...the functions of the Commission shall be to —*

- (a) investigate alleged or suspected acts of corruption and instances of non-compliance with the provisions of this Act;”*

Section 33(1)(a) and (b) of the ICA states, *inter alia*, that:

*“The Director of Investigation shall—*

- (a) without prejudice to the provisions of any other enactment, and subject to any general or specific direction of the Commission, investigate, in the manner specified by or under this Act, any allegation that involves or may involve an act of corruption or any allegation relating to non-compliance with the provisions of this Act, on the basis of any complaint, information or notification referred to him by the decision of the Commission or by the Director of Information and complaints;*

- (b) subject to section 52(2), monitor and where necessary, investigate, in the manner specified by or under this Act, the*





award, implementation or termination of any government contract, and the grant, issue, variation, suspension or revocation of any prescribed licence, with a view to ensuring that—

- (i) *in the case of a government contract, it is awarded impartially, on merit and in a financially prudent manner and in circumstances which do not involve impropriety, breach of any applicable law relating to procurement or other irregularity, and that the implementation or termination of the contract conforms to the terms thereof, without prejudice to the functions of any public body in relation to the contract; and*

...”