

A BILL

ENTITLED

AN ACT to Amend the Bank of Jamaica Act.

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

1.—(1) This Act may be cited as the Bank of Jamaica (Amendment) Act, 2018, and shall be read and construed as one with the Bank of Jamaica Act (hereinafter referred to as the “principal Act”) and all amendments thereto.

Short title
and
commence-
ment.

(2) This Act shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Amendment
of section 2
of principal
Act.

2. Section 2 of the principal Act is amended by—

- (a) deleting the definitions of “Deputy Governor”, “Governor”, “Senior Deputy Governor”, “Supervisor” and “Supervisory Department” and substituting therefor the following new definitions, respectively—

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

“Governor” means the Governor of the Bank appointed pursuant to section 6A;

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

“Supervisor” means the Governor, acting in the capacity as Supervisor of banks, financial holding companies and other specified financial institutions, pursuant to the provisions of this Act, the *Banking Services Act* and any other enactment;

“Supervisory Department” means the Supervisory Department established under Part VA;”;

- (b) inserting the following new definitions—

“fiscal year” means the period of twelve months ending on the 31st day of March in any year;

“monetary liabilities” means all liabilities of the Bank including notes and coins in circulation issued by the Bank except—

- (a) liabilities due by the Bank to ministries and departments of Government, statutory bodies and an Executive Agency as designated under the *Executive Agencies Act*;

- (b) the Consolidated Fund; and

- (c) liabilities due by the Bank to the International Monetary Fund;

“marketable securities” means such securities as may be agreed between the Bank and the Minister that can be readily bought and sold at a fair price.

3. The principal Act is amended by inserting next after section 2, the following new sections—

Insertion of new section 2A in principal Act.

“ Meaning of fit and proper person.

2A.—(1) For the purposes of this Act, an individual, whether in Jamaica or elsewhere is a fit and proper person if—

- (a) the individual—
 - (i) has not been convicted of an offence involving dishonesty or of an offence listed in the Second Schedule to the *Proceeds of Crime Act* or an offence that is similar to any such offence in another jurisdiction;
 - (ii) is not bankrupt within the meaning of the *Insolvency Act*; and
 - (iii) is in compliance with any tax and other statutory requirements imposed on the individual;
- (b) the individual’s employment record or any other information does not give the Minister, acting on the advice of the Governor, reasonable cause to believe that the individual carried out any act involving dishonesty or any act involving impropriety in the engagement of banking business or other financial services; and

- (c) the individual is, in the opinion of the Minister, acting on the advice of the Governor—
 - (i) a person of sound probity, and is able to exercise competence, diligence and sound judgment in fulfilling his functions under this Act or any other relevant enactment;
 - (ii) a person whose appointment to the Board or a statutory committee established under this Act will not result in a conflict of interest; and
 - (iii) a person who possesses the knowledge, skills and experience which are necessary for the intended functions to be carried out by that person.

(2) The Minister, acting on the advice of the Governor, shall have regard to any evidence that the individual—

- (a) has engaged in any business practice appearing to the Minister to be deceitful or oppressive or otherwise improper or which reflects discredit to his method of conducting business; or
- (b) has contravened any provision of any enactment designed for the protection of the public against financial loss due to—
 - (i) dishonesty, incompetence or malpractice by persons concerned in the provision of banking, insurance, investment

or other financial services or in the management of companies; or

(ii) bankruptcy.

Non-application of the provisions of the *Public Bodies Management and Accountability Act*.

2B. The provisions of the *Public Bodies Management and Accountability Act* shall not apply to this Act.”.

4. Section 5 of the principal Act is repealed and replaced as follows—

Repeal and replacement of section 5 of principal Act.

Principal objects and functions of the Bank.

5.—(1) The principal objects of the Bank shall be the maintenance of price stability and financial system stability with the primary objective being the maintenance of price stability.

(2) The functions of the Bank shall include the following—

- (a) to formulate and implement monetary policy;
- (b) the implementation of prudential and macro-prudential policies;
- (c) to issue and redeem notes and coins;
- (d) to hold and manage the external reserves of Jamaica;
- (e) to foster the development of money and capital markets in Jamaica;
- (f) to act as banker and financial agent of the Government; and
- (g) to act as banker to deposit taking institutions.

(3) The Bank shall have all the powers necessary, incidental or ancillary to give effect to its objects and carry out its functions.

(4) The Bank shall carry out its functions with a view to achieving the principal objects specified under subsection (1).”.

Amendment
of section 6
of principal
Act.

5. Section 6 of the principal Act is amended as follows—

(a) by deleting subsection (1) and substituting therefor the following—

“ (1) There shall be a Board of Directors of the Bank which, subject to the provisions of this Act, shall be responsible for the strategy, policies, general oversight and administration of the affairs of the Bank.”;

(b) in subsection (2)—

(i) by deleting paragraph (c) and substituting therefor the following—

“ (c) a Deputy Governor, appointed to the Board by the Governor-General in Council, acting upon the recommendation of the Board; and”;

(ii) by deleting paragraph (d) and substituting therefor the following—

“ (d) five other directors appointed by the Governor-General in Council.”;

(c) by deleting subsection (3) and substituting therefor the following—

“ (3) Subject to subsection (3A), a Deputy Governor who is appointed to the Board pursuant to subsection (2)(c) shall not be appointed for a term which shall end on a date that is later than the date when his term of appointment as Deputy Governor comes to an end”;

(d) by inserting next after subsection (3), the following new subsection—

“ (3A) Where a Deputy Governor no longer holds the office of Deputy Governor, for any reason

whatsoever, his term of appointment as a member of the Board shall come to an end.”;

- (e) by inserting next after subsection (6) the following new subsection—

“ (6A) The Governor General in Council may terminate the appointment of a director appointed to the Board if the Director—

- (a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill-health;
- (b) is bankrupt within the meaning of the *Insolvency Act*;
- (c) is convicted and sentenced to a term of imprisonment;
- (d) is convicted of an offence involving dishonesty;
- (e) fails to carry out any of the functions conferred or imposed on him under this Act.”.

6. Section 6A of the principal Act is amended by deleting subsection (3) and substituting therefor the following—

Amendment
of section 6A
of principal
Act.

“ (3) A person appointed as Governor shall hold office for a term of five years and may be re-appointed, and such appointment shall be on such terms and conditions as may be determined by the Minister, after consultation with the directors of the Board appointed pursuant to section 6(2)(d).”.

7. Section 6B of the principal Act is amended as follows—

Amendment
of section 6B
of principal
Act.

- (a) by renumbering the section as section 6B(1) and thereafter, deleting the subsection as renumbered and substituting therefor the following—

“ (1) The Governor, or, in his absence, the Senior Deputy Governor, or in the absence of the Governor and the Senior Deputy Governor, a Deputy Governor designated by the Board after consultation with the

Minister, shall be in charge of the day to day management and operations of the Bank and shall be answerable to the Board for his acts and decisions.”;

- (b) by inserting next after subsection (1), as renumbered, the following new subsection—

“ (2) In addition to the day to day management and operations of the Bank, the Governor shall have such other responsibilities and functions as are vested in him under and by virtue of the provisions of this Act and any Regulations made under this Act, the *Banking Services Act* and any other enactment.”.

Amendment
of section 6C
of principal
Act.

8. Section 6C of the principal Act is amended as follows—

- (a) by deleting the marginal note and substituting therefor the following—

“ Removal of
Governor and
Senior Deputy-
Governor.”;

- (b) in subsections (1), (2) and (3), by inserting immediately after the word “Governor” wherever it appears in these subsections, the following—

“or Senior Deputy Governor”.

Amendment
of section 6D
of principal
Act.

9. Section 6D of the principal Act is amended as follows—

- (a) by deleting subsection (1) and substituting therefor the following—

“ (1) The Senior Deputy Governor shall be appointed by the Governor-General in Council upon the recommendation of the Board, by instrument in writing, for a period not exceeding five years, on such terms and conditions as may be determined by the Board, after consultation with the Minister.”;

- (b) by inserting next after subsection (1), the following new subsections—

“ (1A) Subject to subsection (1B), the Deputy Governors shall be appointed by the Board, upon the recommendation of the Governor, by instrument in writing, for a period not exceeding five years, on such terms and conditions as may be determined by the Board, acting upon the recommendation of the Governor.

(1B) Notwithstanding subsection (1A), where a Deputy Governor is also being appointed as a Deputy Supervisor pursuant to section 34B(2), the term of appointment of the Deputy Governor shall be the same as is applicable to his appointment as Deputy Supervisor under section 34B(2A).”;

- (c) by deleting subsection (3) and substituting therefor the following—

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

- (d) by inserting next after subsection (5), the following new subsection—

“ (5A) The Board may terminate the appointment of a Deputy Governor, if the Deputy Governor—

- (a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill-health;
- (b) is a bankrupt ;

- (c) is convicted and sentenced to a term of imprisonment;
- (d) is convicted of an offence involving dishonesty;
- (e) fails to carry out any of the functions conferred or imposed on him under this Act.”.

Amendment
of section 7
of principal
Act.

10. Section 7 of the principal Act is amended as follows—

- (a) in subsection (1), by deleting the following—

“Subject to subsection (2) the,” and substituting therefor the word “The”;

- (b) by deleting subsections (2) and (4) and re-numbering the remaining subsections accordingly.

Amendment
of section 8
of principal
Act.

11. Section 8 of the principal Act is amended as follows—

- (a) in subsection (1), by deleting the words “two million” and substituting therefor the words “twenty eight billion”;
- (b) by deleting subsection (2) and substituting therefor the following—

“ (2) On or before the day on which this Act comes into operation, there shall be paid by the Government, by issue to the Bank, marketable securities in respect of such capital, in the sum of twenty two billion six hundred and forty million dollars.”;

- (c) by deleting subsection (3) and substituting therefor the following—

“ (3) The difference between the authorized capital and the paid up capital of the Bank shall be paid by the Government by the issue to the Bank of marketable securities as such times as the Board, with the approval of the Minister, may, require.”.

12. The principal Act is amended by inserting next after section 8 the following new section—

“ Statutory
capital of
Bank.

8A. The statutory capital of the Bank shall comprise the paid-up capital of the Bank plus the sums standing to the credit of the General Reserve Fund established under section 9.”.

Insertion of
new section
8A in
principal Act.

13. Section 9 of the principal Act is amended by deleting subsections (2), (3), and (4) and substituting therefor the following—

“ (2) Where, at the end of any financial year, the audited financial statements of the Bank, as at the end of that financial year, disclose that the statutory capital of the Bank is below three percent of the monetary liabilities of the Bank, the Government shall, within four months of the start of the fiscal year immediately following, issue marketable securities to the Bank of an amount that is at least equivalent to the amount by which the statutory capital would have fallen short of three percent of monetary liabilities, which shall be a charge on the Consolidated Fund.

Amendment
of section 9
of principal
Act.

(3) Pursuant to subsection (2), in the event that the marketable securities are not so issued to the Bank, the Board shall, before the end of the financial year in which the issue ought to have been made, increase the capital of the Bank by the required amount, pursuant to section 8(4).

(4) The following amounts shall be paid by the Bank into the Consolidated Fund from distributable earnings—

- (a) where, as at the end of any financial year, the audited financial statements of the Bank disclose that the statutory capital is above eight percent of the monetary liabilities, an amount equivalent to one hundred percent of the distributable earnings for such financial year shall be paid into the Consolidated Fund within four months of the start of the fiscal year immediately following;
- (b) where, as at the end of any financial year, the audited financial statements of the Bank disclose that the statutory capital is equal to or above three percent of

the monetary liabilities and less than or equal to eight percent of such monetary liabilities, an amount equivalent to twenty-five percent of the distributable earnings for such financial year shall be paid into the Consolidated Fund within four months of the start of the fiscal year immediately following;

- (c) where, as at the end of any financial year, the audited financial statements of the Bank disclose that the statutory capital is below three percent of monetary liabilities, no payment shall be made by the Bank into the Consolidated Fund.

(5) For the purposes of subsection (4), “distributable earnings” means the profits of the Bank, excluding—

- (a) unrealized foreign exchange gains; and
- (b) other unrealized gains; for the financial year, to which is added, the total amount of—
 - (i) unrealized foreign exchange gains; and
 - (ii) other unrealized gains;

from prior financial years that are realized during the financial year.”.

Amendment
of section 23
of principal
Act.

14. Section 23 of the principal Act is amended by—

- (a) deleting the proviso to paragraph (f) and substituting therefor the following—
 - “ Provided that the maximum loan or advance granted against any such security as is mentioned in subparagraph (iii) or (iv), shall be based on the Bank’s determination of the risk of such security losing its value during the life of the loan;”;
- (b) deleting paragraph (j).

15. The principal Act is amended by inserting next after section 34F the following new Parts—

Insertion of new Parts VAA and VAB in principal Act.

“ PART VAA.—*Monetary Policy Committee*

Interpretation of Part VAA. 34FA. In this Part, unless the context otherwise requires—

“Committee” means the Monetary Policy Committee established by section 34FB;

“government company” means a company registered under the *Companies Act*, being a company in which the Government or an agency of the Government, is in a position to direct the policy of that company;

“medium term” means, in relation to the establishment of an inflation target, a period of not less than thirty-six months.

Monetary Policy Committee. 34FB.—(1) For the purposes of this Act, there is constituted a Committee to be known as the Monetary Policy Committee which shall have the responsibility for formulating the monetary policy of the Bank.

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

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

- (a) the Governor, who shall be the chairman;
- (b) the senior executive of the Bank who is responsible for monetary policy; and
- (c) a senior executive of the Bank appointed by the Board, on the recommendation of the Governor.

(4) Subject to the provisions of this Part, the Governor-General in Council shall appoint two

persons to be members of the Committee (hereinafter referred to in this Part as the “appointed members”).

(5) The appointed members shall be persons who—

- (a) satisfy the fit and proper criteria specified under section 2A;
- (b) have the relevant expertise, qualifications or experience in economics, banking, finance, commerce, accounting, business or law; and
- (c) do not fall within any of the grounds for revocation referred to in subsection (9).

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

- (a) members of the Board of the Bank;
- (b) members of the House of Representatives or the Senate;
- (c) members of the Council of a Municipal Corporation, City Municipality or Town Municipality;
- (d) persons who are employed with the Government, a statutory body or authority, an Executive Agency as designated under the *Executive Agencies Act* or a government company on a full time or contractual basis; and
- (e) directors, officers, employees or external auditors of a financial institution.

(7) The appointment of the appointed members of the Committee shall be evidenced by instrument in writing signed by the Governor-General, which shall specify the term of office of the member, which shall be five years.

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

(9) Notwithstanding any provision in this Part to the contrary, the Governor-General in Council may, at any time, revoke the appointment of any appointed member if the appointed member—

- (a) fails to satisfy the fit and proper requirements specified under section 2A;
- (b) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill-health;
- (c) fails to carry out the functions required of a member of the Committee; or
- (d) engages in activities that can be reasonably considered to be incompatible with his continued membership of the Committee.

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

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

(12) The Committee shall meet at such times as may be necessary for the transaction of business, being not less than eight times in each year, and such meeting shall be held at such places and times and on such days as the Committee may determine and such dates and times shall be published in such manner as may be prescribed.

(13) The chairman shall preside at all meetings of the Committee and in the absence of the chairman from any meeting, the members present shall elect one of their members to preside at that meeting.

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

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

(16) The decisions of the Committee shall be by a majority of votes of the members and, in addition to an original vote, the chairman or the person presiding shall have a casting vote in any case in which the voting is equal.

(17) There shall be paid to the appointed members of the Committee, such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Bank may determine.

Secrecy of
Committee
members.

34FC. A member of the Committee and persons working on behalf of the Committee shall not disclose non-public information regarding the operations of the Committee or the performance of his functions under this Part, save and except as may be authorized by the Committee or the chairman.

Indemnity of
Committee
members.

34FD. The provisions of section 34E shall, as they apply to the Bank or persons mentioned in that section, apply *mutatis mutandis* to members of the Committee and persons working on behalf of the Committee.

Functions of
Monetary
Policy
Committee.

34FE.—(1) Without limiting the provisions of section 34FB(1), the Committee shall be responsible for—

- (a) determining the monetary policy of the Bank;

- (b) considering the results of research and analysis relevant to the formulation and implementation of monetary policy;
- (c) requesting that the Bank conducts such additional analysis as the Committee may deem necessary;
- (d) considering information and analysis of developments in financial markets, the domestic economy and the global economy.

(2) In carrying out its functions under this Part, the Committee shall seek to achieve and maintain price stability as defined in the inflation target set by the Minister pursuant to section 34FF.

Inflation
targets.

34FF.—(1) Subject to subsection (2), the Minister shall, after consultation with the Governor, provide to the Bank the inflation target that is to be achieved on a continuous basis over the medium term which shall specify the target measure applicable for inflation and the periods at which performance will be measured.

(2) The inflation target shall be expressed as a range, for a specified medium-term period and shall be set by the Minister, after consultation with the Governor.

(3) The inflation target shall be reviewed by the Minister at such periods as may be determined by him, after consultation with the Governor at the time of providing the target.

(4) Where, pursuant to the provisions of this section, the inflation target has been set, the Bank shall promptly publish a notice to this effect, in a daily newspaper circulated in Jamaica and on the Bank's website, indicating the target and such other information which it considers necessary.

(5) The Bank shall, within sixty days of failing to meet the inflation target, notify the Minister of the failure and publish a notice to this effect on its website and such notice shall include the reasons for the failure to meet such target and any action (if any) that is proposed to be taken by the Bank to restore inflation to the target range and any other information as the Bank considers necessary.

(6) The Minister shall, on receipt of a notification made to him pursuant to subsection (5), cause a copy of the notification to be tabled in Parliament.

Publication
of monetary
policy.

34FG.—(1) The Committee shall publish statements of the performance of the Bank with respect to its monetary policy, its achievements in relation to the inflation target and shall also issue monetary policy updates.

(2) The statements referred to in subsection (1) shall be prepared at the end of every six months or such other period, (not exceeding six months) as may be determined by the Committee or as may be directed by the House of Representatives and shall be submitted by the chairman of the Committee to the Minister, who shall promptly cause a copy of the statements to be tabled in the House of Representatives and the chairman of the Committee shall be available to present the statements to the House of Representatives and to answer questions in relation thereto as may be required.

(3) The Committee shall, at the end of each meeting or as soon as practicable thereafter, cause to be published on the Bank's website, a summary of decisions made at its meeting and the reasons therefor and shall, further, within six weeks of the conclusion of said meeting, cause to be published on the Bank's website, the minutes of the meeting.

(4) The Committee shall provide regular reports to the Board on its operations, at such frequency as the Board may require.

PART VAB.—*Financial Policy Committee*

Interpretation
of Part VAB.

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

“Committee” means the Financial Policy Committee;

“government company” means a company registered under the *Companies Act*, being a company in which the Government or an agency of the Government, is in a position to direct the policy of that company.

Constitution
and functions
of Financial
Policy
Committee.

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

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

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

- (a) the Governor, who shall be the chairman;
- (b) the Senior Deputy Governor;
- (c) the senior executive of the bank who is responsible for the financial system stability oversight function of the Bank; and
- (d) the Deputy Supervisor.

(4) Subject to the provisions of this Part, the Governor-General in Council shall appoint two

persons to be members of the Committee (hereinafter referred to in this Part as the “appointed members”).

(5) The appointed members shall be persons who—

- (a) satisfy the fit and proper criteria specified under section 2A;
- (b) have knowledge and experience which is relevant to the functions of the Committee;
- (c) have the relevant expertise, qualifications or experience in economics, finance, commerce, accounting or business; and
- (d) do not fall within any of the grounds for revocation referred to in subsection (9).

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

- (a) members of the Board of the Bank;
- (b) members of the House of Representatives or the Senate;
- (c) members of the Council of a Municipal Corporation, City Municipality or Town Municipality;
- (d) persons who are employed with the Government, a statutory body or authority, or an Executive Agency as designated under the *Executive Agencies Act* or a government company on a full time or contractual basis; and
- (e) directors, officers, employees or external auditors of a financial institution.

(7) The appointment of the appointed members of the Committee shall be evidenced by

instrument in writing signed by the Governor-General, which shall specify the period of office of the member, which shall be five years.

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

(9) Notwithstanding any provision in this Part to the contrary, the Governor-General in Council may, at any time, revoke the appointment of any appointed member if the appointed member—

- (a) fails to satisfy the fit and proper requirements specified under section 2A;
- (b) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill-health;
- (c) fails to carry out the functions required of a member of the Committee; or
- (e) engages in activities that can be reasonably considered to be incompatible with his continued membership of the Committee.

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

(11) The Committee shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at the Bank and at such times and on such days as the Committee may determine.

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

(13) The chairman shall preside at all meetings of the Committee and in the absence of the chairman from any meeting, the members present shall elect one of their members to preside at that meeting.

(14) The decisions of the Committee shall be by a majority of votes of the members and, in addition to an original vote, the chairman or the person presiding shall have a casting vote in any case in which the voting is equal.

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

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

(17) There shall be paid to the appointed members of the Committee, such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Bank may determine.

Protection of
members of
Committee.

34FJ.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Committee, in respect of any act done *bona fide* in pursuance or execution or intended execution of the provisions of this Part.

(2) Where any member of the Committee is exempt from liability by reason only of the provisions of this Part, the Bank shall be liable to the extent that it would be if the said member were an employee or an agent of the Bank.

Secrecy of
Committee.

34FK.—(1) A member of the Committee and persons working on behalf of the Committee, shall not disclose information regarding the performance of his functions under this Part, save and except as may be authorized by the Committee or by the Chairman of the Committee.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction in a Circuit Court, to a fine or imprisonment for a term not exceeding three years or to both such fine and imprisonment.

Functions of
the
Committee.

34FL. The Committee shall—

- (a) be responsible for determining financial policies, that is, those policies that govern the conduct and promote the proper functioning of the financial system and for decisions on all issues relating to financial policy, including policy matters relating to—
 - (i) prudential supervision and macro prudential policy (financial system stability);
 - (ii) statutory mandates or functions delegated by the Minister in relation to remittances and cambios;
 - (iii) payments and settlement systems;
 - (iv) credit reporting; and
 - (v) other financial policy matters for which the Bank is given responsibility;
- (b) consider and make determinations on the following matters—
 - (i) the making of regulations, Supervisory Rules and Codes of Conduct under Part XXVI of the *Banking Services Act*, in relation to

the operation of persons or
bodies licensed under that
Act; and

- (ii) standards of sound practices for persons or bodies licensed under that Act.”.

Amendment
of section
34M of
principal Act.

16. Section 34M of the principal Act is amended as follows—

- (a) in paragraph (b), by inserting the following immediately before the word “make”—

“notwithstanding section 23(f),”;

- (b) by deleting paragraph (d) and substituting therefor the following—

“(d) notwithstanding section 23(f), provide emergency liquidity assistance to financial institutions, provided that—

- (i) the financial institution has demonstrated that it has failed to access loans from the financial market or, in the opinion of the Bank, the financial institution is likely to fail in so doing;
- (ii) the financial institution will be charged interest on the loan or advance at a rate to be determined by the Bank;
- (iii) any discount which may be applied by the Bank to collateral provided by the financial institution in relation to the loan or advance, shall take into account the Bank’s determination of the risk of the collateral losing value and the amount of such loss during the life of the loan or advance;

- (iv) remedial measures, agreed by the Bank, are adopted and approved by the board of directors of the financial institution to strengthen its financial viability; and
- (v) the financial institution is solvent.”.

17. Section 36 of the principal Act is hereby repealed and replaced as follows—

Repeal and replacement of section 36 of principal Act.

“ Advances to the Government.

36.—(1) Subject to subsection (2), the Bank may, in any fiscal year, in which there occurs an event declared by the Prime Minister to be a national emergency, make temporary advances to the Government which shall—

- (a) not cumulatively exceed five percent of the average of the recurrent revenue of Jamaica for the three fiscal years immediately preceding the year in which advances are made;
- (b) bear interest at a rate specified by the Bank, after giving consideration to prevailing market rates; and
- (c) be repaid not later than four months after the end of the fiscal year in which the advances are made, either in cash or with marketable securities.

(2) Notwithstanding subsection (1)(c), where the advances made by the Bank to the Government are not repaid in accordance therewith, the Bank shall not—

- (a) extend the period specified for repayment thereof; or
- (b) grant further advances in any subsequent fiscal year, unless and until the outstanding advances have been repaid.”.

Repeal and replacement of section 37 of principal Act.

18. Section 37 of the principal Act is hereby repealed and replaced as follows—

“ Limitation on power of Bank to purchase securities issued or guaranteed by the Government.

37.—(1) The Bank shall not purchase or otherwise acquire, on a primary issue, securities issued or guaranteed by the Government.

(2) Notwithstanding the provisions of this section, the Bank shall have a discretion to purchase or otherwise acquire, on the secondary markets, such securities and in such amounts as may be determined by the Bank for the purpose of replacing maturing securities, implementing monetary policy, the maintenance of financial system stability or to support the working of the clearing and settlement systems.”.

Repeal and replacement of section 41 of principal Act.

19. Section 41 of the principal Act is hereby repealed and replaced as follows—

“ Power of the Minister to give general directions.

41.—(1) Subject to subsection (2), the Minister may, from time to time, after consultation with the Governor, issue to the Bank, in writing, such directions of a general nature as appear to the Minister to be necessary in the public interest.

(2) Notwithstanding subsection (1), the Minister shall not issue to the Bank directions in relation to monetary policy or supervisory matters pursuant to the provisions of the *Banking Services Act*.”.

Repeal and replacement of section 43 of principal Act.

20. Section 43 of the principal Act is hereby repealed and replaced as follows—

“ Accounts and audit.

43.—(1) The Bank shall keep proper accounts and other records in relation to its functions and shall prepare annually a statement of accounts in accordance with generally accepted accounting principles promulgated from time to time, by the Institute of Chartered Accountants of Jamaica or a successor to or other body, performing the same functions as the Institute of Chartered Accountants of Jamaica.

(2) The accounts of the Bank shall be audited annually by an external auditor appointed by the Board.

(3) An external auditor appointed under subsection (2) shall be a registered public accountant within the meaning of section 2 of the *Public Accountancy Act*.

(4) The external auditors shall be entitled at all reasonable times to examine the accounts of the Bank.

(5) The Auditor-General shall be entitled at all times to examine the accounts and other records in relation to the Bank.”.

21. Section 44 of the principal Act is amended by inserting next after subsection (2) the following new subsection—

Amendment of section 44 of principal Act.

“ (2A) The Governor shall, within three months after the end of each financial year, submit a report to the Minister in relation to the performance and main activities of the Board and Committees of the Board over the preceding financial year and the Minister shall, as soon as practicable after the receipt of the report, cause a copy of the report to be laid before the House of Representatives and the Senate and the Governor shall present the report to the House of Representatives and answer questions in relation thereto, as may be required.”.

22. The principal Act is amended by inserting next after section 45 the following new section—

Insertion of new section in principal Act.

“ Making of Regulations relating to governance. 45A.—(1) The Minister may, acting on the recommendation of the Board, make regulations relating to the governance of the Bank.

(2) Regulations made under subsection (1) shall be subject to affirmative resolution.”.

Insertion of
new section
in principal
Act.

23. The principal Act is amended by inserting next after section 50 the following new section—

“Enforce-
ment.

50A.—(1) If the court is satisfied, on an application by the Attorney-General, that any person has contravened any of the provisions of this Act or Regulations made under this Act, the Court may exercise any of the powers referred to in subsection (2).

(2) The Court may—

- (a) order the person concerned to pay to the Crown such pecuniary penalty not exceeding one million dollars; or
- (b) grant an injunction restraining that person from engaging in conduct described in subsection (1).

(3) In exercising its powers under this section, the Court shall have regard to—

- (a) the nature and extent of the default;
- (b) the nature and extent of any loss suffered by any person as a result of the default;
- (c) the circumstances of the default;
- (d) any previous determination against the person concerned.”.

Amendment
of Schedule
of principal
Act.

24. The Schedule to the principal Act is hereby amended as follows—

- (a) by deleting paragraph 1 and substituting therefor the following—

“ Tenure of
office.

1.—(1) Subject to subparagraphs (2) and (3) the term of office of a director appointed pursuant to section 6(2)(d). (hereinafter referred to as “an appointed director”), shall be for a period of ten years.

(2) Upon the date of commencement of this Act, the first five appointed directors to be appointed to the Board shall be appointed for a period of ten years, eight years, six years, four years and two years respectively, and the directors so appointed shall be eligible for reappointment following the expiry of their respective terms.

(3) Subject to subparagraph (4), where a vacancy arises in respect of the membership of a director prior to the expiry of the full term of ten years or prior to the expiry of the term of a director appointed pursuant to subparagraph (2), as the case may be, the director appointed as a replacement shall be appointed for the unexpired term of his predecessor and shall be eligible for re-appointment for a fixed term of ten years.

(4) An appointed director who serves a full term of ten years as a director shall not be eligible for reappointment, save and except for the first director who is appointed for such period on the date of commencement of this Act.”;

(b) in paragraph 2—

(i) by deleting subparagraph (c) and substituting therefor the following—

“ (c) is a member of the Council of a Municipal Corporation, City Municipality or Town Municipality;”;

(ii) by inserting next after subparagraph (c), the following new subparagraphs—

“ (d) is a person employed with the Government, statutory body or authority, an Executive Agency as designated under the *Executive Agencies Act* or a government company on a full time or contractual basis;

(e) is a person who does not satisfy the fit and proper requirements specified in section 2A.”;

(c) by inserting next after paragraph 2, the following new paragraph—

<p>“ Qualifica- tion of directors appointed under section 6(2)(d).</p>	<p>2A. A person appointed as director pursuant to section 6(2)(d) (appointed director) shall not be an employee of the Bank, and shall be selected from amongst persons with experience or knowledge in economics, banking, finance, commerce, accounting, business or law.”;</p>
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(d) by deleting paragraph 3;

(e) in paragraph 4, by—

(i) inserting next after subparagraph (1), the following new subparagraph—

“ (1A) Upon receipt of the instrument by the Minister pursuant to subparagraph (1), he shall so advise the Governor-General of such resignation.”;

(ii) deleting subparagraph (2) and substituting therefor the following—

“ (2) The Governor and Senior Deputy Governor may, at any time, resign from their respective offices by instrument in writing addressed to the Minister and upon receipt of said instrument, the Minister shall so advise the Governor-General of such resignation.”;

(f) in paragraph 5, by deleting—

(i) the word “Minister” and substituting therefor the words “Governor-General in Council”; and

- (ii) the words “Deputy Governor or Director” after the words “Senior Deputy Governor”;
- (g) by deleting paragraph 8 and substituting therefor the following—
 - “ (8) There shall be paid to the appointed directors such remuneration if any (whether of honorarium, salaries or fees) and such allowances as the Minister may determine after consultation with the Governor.”;
- (h) by inserting next after paragraph 8, the following new paragraph—

“ Establish-
ment of
Commit-
tees.

8A. The Board shall establish an Audit and Risk Committee and such other committees as it considers necessary to assist it in the exercise of its functions.”.

25. The provisions of the Acts referred to in the First Column of the Schedule are amended in the manner specified in relation thereto in the Second Column of that Schedule.

Consequen-
tial amend-
ments to
other Acts.

First Column

Second Column

Enactments

Amendments

Banking Services Act

- | | |
|-------------|--|
| Section 2 | <p>Insert the following new definition in proper numerical sequence—</p> <p style="padding-left: 40px;">“Financial Policy Committee” means the Financial Policy Committee established under section 34 FI of the Bank of Jamaica Act;”.</p> |
| Section 5 | <p>1. Renumber the section as section 5(2).</p> <p>2. Insert immediately before subsection (2), as renumbered, the following new subsection—</p> <p style="padding-left: 40px;">“ (1) The primary objective of the Supervisory Committee in relation to the exercise of its supervisory functions under this Act and any other enactment, shall be to promote the safety and soundness of deposit taking institutions and the deposit taking system.”.</p> |
| Section 7 | <p>1. In subsection (1), delete subparagraphs (h) and (m) and re-letter the remaining paragraphs accordingly.</p> <p>2. In paragraph (j), as re-lettered, insert the word “and” after the semi-colon.</p> <p>3. Delete the semi-colon after (k) as re-lettered and substitute therefor a full stop.</p> |
| Section 131 | Delete the words “Supervisory Committee” and substitute therefor the words “Financial Policy Committee”. |
| Section 132 | Delete the words “Supervisory Committee” and substitute therefor the words “Financial Policy Committee”. |

First Column

Second Column

Enactments

Amendments

Second Schedule

- Paragraph 1
1. Delete “and” at subparagraph (3)(a).
 2. Renumber subparagraph (3)(b) as (3)(c) and insert the following as subparagraph (3)(b)—

“ (b) are not members of the Board; and”
 3. Delete subparagraph (4) and substitute therefor the following—

“ (4) The appointed members shall be appointed by the Governor-General in Council.”.
- Paragraph 5
1. In subparagraph (1), delete the words “not exceeding three” and substitute therefor the word “five”.
 2. In subparagraph (3), delete the following—

“, on the advice of the Minister” and substitute therefor the words “in Council”.

*Public Bodies
Management
and
Accountability
Act*

Section 5(3) Delete the subsection.

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Bank of Jamaica Act and make consequential amendments to the *Banking Services Act* and the *Public Bodies Management and Accountability Act* in an effort to strengthen the governance structure of the Bank and to provide for its modernization, in keeping with international best practices.

**NIGEL CLARKE,
Minister of Finance and the
Public Service.**

A BILL

ENTITLED

AN ACT to Amend the Bank of Jamaica Act.

**As introduced by the Honourable Minister of Finance
and the Public Service.**

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