

**A BILL
ENTITLED**

AN ACT to Amend the Bank of Jamaica Act.

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:-

Short title and commencement.

1. – (1) This Act may be cited as the Bank of Jamaica (Amendment) Act, 2020, 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.

(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. – (1) Section 2 of the principal Act is amended as follows –

(a) by renumbering the section as section 2(1);

(b) in subsection (1) as renumbered, by –

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

““bankrupt” means a bankrupt within the meaning of the
Insolvency Act;

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

“government company” means a company registered
under the Companies Act, being a company that is
wholly owned by the Government or an agency of
Government or in which the Government or any
agency of Government holds more than fifty per

centum of the shares;

“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;

“statutory committee” means the –

- (a) Financial Policy Committee, the Financial System Stability Committee, the Financial Regulatory Committee, and the Monetary Policy Committee established under sections 34FI, 34H, 34BB and 34FB, respectively; and
- (b) the Supervisory Committee constituted under section 6 of the Banking Services Act;

“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;”;

- (ii) inserting the following new definitions in the proper alphabetical sequence –

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

“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 and are issued in accordance with the Public Debt Management Act and which shall be charged on the Consolidated Fund;

“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 executive agencies as designated under the Executive Agencies Act;
- (b) the Consolidated Fund; and
- (c) liabilities due by the Bank to the International Monetary Fund;”.

(c) by inserting the following new subsections –

“ (2) Where the provisions of this Act require that a person or entity shall, prior to making a decision, act on the advice of another person or entity –

- (a) the person or entity, that is required to make the decision, shall solicit the advice from another person or entity that is required to provide the advice; and
- (b) the advice received pursuant to paragraph (a) shall be taken into account by the person or entity that is required to make the decision, but the advice need not however be taken.

(3) Where the provisions of this Act require that a person or entity shall act on the recommendation of another person or entity, prior to making a decision, the following shall apply –

- (a) the person or entity that is required to make the decision shall solicit the recommendation from the person or entity that is required to provide the recommendation;
- (b) where pursuant to paragraph (a), a recommendation is received but is not accepted by the person or entity that is required to make the decision, such person or entity may proceed to make the decision otherwise than in keeping with the recommendation that was made.

(4) Where the provisions of this Act require that a person or entity shall make a decision after consultation with another person or entity, the following shall apply –

- (a) the person or entity that is required to consult shall do so at the time at which proposals in relation to the making of the decision are at a formative stage;
- (b) the person or entity to be consulted shall –
 - (i) be provided with sufficient information and be given a reasonable period of time so as to allow for proper consideration of the proposals; and
 - (ii) be advised of the time frame within which a response is to be provided;
- (c) the person or entity that is required to make the decision shall not await a response beyond the timeframe given for consideration of the proposals pursuant to paragraph (b);
and
- (d) where feedback is received as a result of any consultations, it need not be followed by the person or entity that is required to make the decision.”.

**Insertion of
new sections in
principal Act.**

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

“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 of the Proceeds of Crime Act or an offence that is similar to any such offence in another jurisdiction;

(ii) is not bankrupt; 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 the Bank of Jamaica.”.

Repeal and replacement of section 5 of principal Act.

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

“Principal objectives and functions of the Bank.

5. – (1) The principal objectives 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 that are necessary, incidental or ancillary to give effect to its objectives and carry out its functions.

(4) The Bank shall carry out its functions with a

view to achieving the principal objectives specified under subsection (1) and shall do so in a manner that recognizes the growth and employment objectives of the Government.”.

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 –

(a) the strategy and policies of the Bank; and

(b) the general oversight and administration of the affairs of the Bank.”;

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

“ (1A) The Board shall, in carrying out its responsibilities under subsection (1), oversee the general functions of the statutory committees of the Bank, (save and except for the decisions made by said committees) in order to ensure that said functions are carried out in accordance with their statutory mandate.

(1B) Notwithstanding the provisions of subsection (1)(b), the general oversight and administration of the affairs of the Bank by the Board shall not affect the responsibilities entrusted to the Governor under section 6B, in relation to the day-to-day management and operations of the Bank and any decisions relating thereto.

(1C) Notwithstanding subsection (1), the Board shall not be responsible for the development and implementation of the financial policy or monetary policy of the Bank.”.

(c) 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.”;

(d) 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” .;

(e) by inserting next after subsection (3), the following new subsection –

“ (3A) Where a Deputy Governor who is appointed to the Board pursuant to subsection (2)(c) 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.”;

(f) by inserting next after subsection (6) the following new subsection –

“ (6A) The Governor-General in Council may terminate the appointment of a person who is appointed as a director to the Board if the person –

(a) becomes of unsound mind or becomes permanently unable to perform the functions as director by reason of ill-health;

- (b) is 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 the person as director under this Act;
- (f) engages in activities that may be reasonably considered to be incompatible with the functions as a director of the Board.”.

Amendment of section 6A of principal Act.

6. Section 6A of the principal Act is amended as follows –
- (a) by deleting subsection (3) and substituting therefor the following –
 - “ (3) A person appointed as Governor shall, subject to section 6C, hold office for a term of five years and may be re-appointed.”;
 - (b) by inserting next after subsection (3), the following new subsection –
 - “ (3A) Pursuant to subsection (1), the appointment as Governor shall be on such terms and conditions and for such emoluments as may be determined by the Minister after consultation with the directors of the Board appointed pursuant to section 6(2)(d).”.

Amendment of section 6B of principal Act.

7. Section 6B of the principal Act is amended as follows –
- (a) by renumbering the section as section 6B(1) and thereafter, deleting subsection (1) 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 in respect of actions and decisions in relation thereto.”;

- (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 the Governor 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, by instrument in writing, upon the recommendation of the Board, for a period not exceeding five years.”;

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

“ (1A) Pursuant to subsection (1), the appointment of the

Senior Deputy Governor shall be on such terms and conditions and for such emoluments as may be determined by the Minister acting on the recommendation of the directors of the Board appointed pursuant to section 6(2)(d).

(1B) Subject to subsection (1D), the Deputy Governors shall be appointed by the Board, by instrument in writing, on the recommendation of the Governor, for a period not exceeding five years.

(1C) Pursuant to subsection (1B), the appointment of the Deputy Governors shall be on such terms and conditions and for such emoluments as may be determined by the Minister acting on the recommendation of the directors of the Board appointed pursuant to section 6(2)(d).

(1D) Notwithstanding subsection (1B), where a Deputy Governor is also appointed as 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 appointment as Deputy Governor, the appointment as Deputy Governor shall be deemed to have expired and the new appointment of the person 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 the Deputy Governor under this Act.”.

Amendment of section 7 of principal Act.

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

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

“ (1) The Bank may appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, such officers, agents and employees as the Board considers necessary for the due performance of the functions of the Bank.”;

- (b) by inserting next after subsection (1) the following new subsection –

“ (1A) Subsection (1) shall not apply to the Governor who is appointed under section 6A and the Senior Deputy Governor or Deputy Governors who are appointed in accordance with section 6D.”.

- (c) by deleting subsections (2) and (4).

Amendment of section 8 of principal Act.

11. The principal Act is amended by deleting section 8 and substituting therefor the following –

“Capital of the Bank.

8. – (1) Subject to subsection (3), the capital of the Bank shall be twenty billion five hundred and seventy seven million dollars.

(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 billion five hundred and seventy three million dollars.

(3) Notwithstanding subsection (1), the capital of the Bank may be increased from time to time by a resolution passed by the House of Representatives.

(4) Pursuant to subsection (3), the amount of any increase specified in the resolution shall be paid by the Government by the issue to the Bank of marketable securities and shall be a charge on the Consolidated Fund.”.

Insertion of new section 8A in principal Act.

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.”.

Amendment of section 9 of principal Act.

13. Section 9 of the principal Act is amended by deleting the section and substituting therefor the following –

“General Reserve Fund.

9. – (1) The Bank shall establish a General Reserve Fund –

(a) which shall be credited –

(i) at the end of each financial year with the net profits of the Bank determined in accordance with general accounting principles promulgated by the Institute of

Chartered Accountants of Jamaica; and

- (ii) with the value of any marketable securities issued to the Bank pursuant to subsection (2); and

- (b) upon which shall be charged any net losses of the Bank at the end of any financial year.

(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 six 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.

(3) In the event that the marketable securities are not issued by the Government to the Bank within the period specified in subsection (2), the Board shall –

- (a) notify the Minister in writing thereof and request that the marketable securities be issued to the Bank before the end of the fiscal year in which they are due to be issued; and
- (b) transmit a copy of the notice to the Speaker of the House of Representatives, who shall have the notice laid in the House of Representatives.

(4) Where at the end of any financial year, distributable earnings are greater than zero, the following shall apply –

- (a) an amount equivalent to one hundred percent of the distributable earnings for such financial year shall be paid by the Bank into the Consolidated Fund, within four months of the commencement of the fiscal year immediately following, in the case where the audited financial statements of the Bank disclose that the statutory capital is above eight percent of the monetary liabilities;
- (b) an amount equivalent to twenty five percent of the distributable earnings for such financial year shall be paid by the Bank into the Consolidated Fund, within four months of the commencement of the fiscal year immediately following, in the case where the audited financial statements of the Bank disclose that the statutory capital is equal to or above five percent of the monetary liabilities and less than or equal to eight percent of such monetary liabilities;
- (c) no amount shall be paid by the Bank into the Consolidated Fund in the case where the audited financial statements of the Bank disclose that the statutory capital is below five

percent of the monetary liabilities.

(5) For the purpose of subsection (4),

“distributable earnings” means the profits of the Bank, excluding unrealized foreign exchange gains and other unrealized gains for the financial year, to which is added unrealized foreign exchange gains and other unrealized gains from prior financial years that –

(a) are realized during the financial year; or

(b) have been realized in a prior financial year but have not previously been included in

distributable earnings.”.

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 sub-paragraph (iii) or (iv), shall be based on the Bank’s determination of the risk of such security losing its fair value during the life of the loan;”;

(b) deleting paragraph (j).

Amendment of section 24 of principal Act.

15. Section 24 of the principal Act is amended in subsection (1) (c) by deleting the words “paragraphs (j) and” and substituting therefor the word “paragraph”.

Insertion of new Parts VAA and VAB in principal Act.

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

“ **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;

“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 –

- (a) three *ex-officio* members; and
- (b) two members, who shall be appointed pursuant to subsection (4).

(3) Pursuant to subsection (2) (a), the three *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.

(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) an appointed director of the Board of the Bank;
- (b) a member of any other statutory committee where this would result in more than one member of the Committee being a member of another statutory committee or a member of any statutory committee being on more than two statutory committees;
- (c) members of the House of Representatives or the Senate;
- (d) members of the Council of a Municipal Corporation, City Municipality or Town Municipality; and
- (e) 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
- (f) directors, officers, employees or auditors of a

financial institution or a partner or employee of an external auditor 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, upon the recommendation of the Board, revoke the appointment of any appointed member if the appointed member –

- (a) no longer satisfies the fit and proper requirements specified under section 2A;
- (b) becomes of unsound mind or permanently unable to perform the functions as an appointed member of the Committee by reason of ill-health;
- (c) fails to carry out the functions required of a member of the Committee;
- (d) engages in activities that can reasonably be considered to be incompatible with the appointed member's continued membership of the Committee; or
- (e) contravenes section 34FC.

(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 Minister may determine after consultation with the Board.

**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 their 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 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; and
- (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, set the inflation target, which the Bank is to achieve and thereafter, notify the Bank, in writing of said target.

(2) The Minister shall, within fourteen days of notifying the Bank of the inflation target, cause said notification to be tabled in the House of Representatives and published on the official website of the Ministry.

(3) In setting the inflation target in accordance with subsection (1), the Minister shall specify the target measure applicable for inflation and the periods at which performance will be measured.

(4) Pursuant to subsection (3), the target measure applicable for inflation shall be the annual point to point change in the Consumer Price Index as measured by the Statistical Institute of Jamaica or such other measure as the Minister may specify.

(5) Where the Bank fails to meet the inflation target, the Bank shall, within sixty days of failing so to do, notify the Minister of said failure, the reasons for

such failure and action (if any), that is proposed to be taken by the Bank to restore inflation to the target range, in addition to such other information as the Bank considers necessary.

(6) Upon receipt of the notification under subsection (5), the Minister shall cause the notification to be published on the official website of the Ministry.

(7) The Governor shall also cause a copy of the notification to be published on the official website of the Bank.

(8) The inflation target shall be reviewed by the Minister, at such periods as may be determined by the Minister, after consultation with the Governor at the time when the target is set pursuant to subsection (1), provided that such periods shall not exceed three years from the date on which the target is set.

**Publication
statements
on monetary
policy *etc.***

34FG. – (1) The Committee shall –

- (a) publish statements on the performance of the Bank with respect to its monetary policy and achievements in relation to the inflation target; and
- (b) issue monetary policy updates.

(2) The statements referred to in subsection (1) (a) shall –

- (a) be prepared at the end of every six months or at such other period as may be determined by the Committee or as may be directed by the House

of Representatives, save however that, such period shall not exceed six months; and

(b) be submitted by the chairman of the Committee to the Minister.

(3) The Minister shall, upon receipt of the statements submitted to him pursuant to subsection (2), cause a copy of the statements to be tabled in the House of Representatives and after a debate upon the motion to refer the statements to the Standing Finance Committee of the House of Representatives, the statements shall stand so referred and the Committee may require the Governor to attend a meeting of the Committee to answer any questions in relation thereto.

(4) 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 four weeks of the conclusion of said meeting cause to be published on the Bank's website, the minutes of the meeting.

(5) 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.

**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 –

- (a) four ex-officio members; and
- (b) 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 stability oversight function of the Bank or, where such person is either the Governor, Senior Deputy Governor or Deputy Supervisor, such other senior executive of the Bank as the Board may determine; 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 the knowledge and experience that are relevant to the functions of the Committee;
- (c) have the relevant expertise, qualifications or experience in economics, banking, finance, commerce, accounting, business or law;
- (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) an appointed member of the Board of the Bank;
- (b) a member of another statutory committee where this would result in more than one member of the Committee being a member of another statutory committee or a member of any statutory committee being on more than two statutory committees;
- (c) members of the House of Representatives or the Senate;
- (d) members of the Council of a Municipal Corporation, City Municipality or Town Municipality;;
- (e) 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

- (f) directors, officers, employees or external auditors of a financial institution or a partner or employee of an external auditor 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, on the recommendation of the Board, revoke the appointment of any appointed member if the appointed member –

- (a) no longer satisfies 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 reasonably be considered to be incompatible with the appointed member's 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, not less than four times per year 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 Minister may determine, after consultation with the Board.

Protection of members of Committee.

34FJ. – (1) Subsections (1) and (2) of section 34E shall apply *mutatis mutandis* to members of the Committee and any person acting on behalf of the Committee as they apply in relation to persons specified in section 34E.

(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 settlements 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 34H of

17. Section 34H of the principal Act is amended –

- principal Act.**
- (a) in subsection (5), by renumbering paragraph (a) as paragraph “(aa)” and inserting immediately before the renumbered paragraph, the following new paragraph –
- “(a) satisfy the fit and proper criteria specified under section 2A;”;
- (b) in subsection (6) by –
- (i) deleting paragraphs (b), (c) and (d) and substituting therefor the following –
- “(b) members of the Council of a Municipal Corporation, City Municipality or Town Municipality;
- (c) 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;
- (d) directors, officers, employees or external auditors of a financial institution or a partner or employee of an external auditor of a financial institution or the connected persons in relation to the financial institution; and
- (ii) inserting after paragraph (d), the following new paragraphs –
- “(e) an appointed Director of the Board;
- (f) a member of another statutory committee where this would result in more than one member of the Committee being a member of another statutory committee or a member of any statutory committee being on more than two statutory committees.”;

(c) by inserting next after subsection (13) the following new subsection –

“ (14) 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 Minister may determine after consultation with the Board.”.

Amendment of section 34M of principal Act.

18. 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 Bank is satisfied that the financial institution has made efforts to access loans from within the financial market and has failed to do so or, in the opinion of the Bank, 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) the Board of Directors of the financial institution has undertaken to implement such remedial

measures agreed by the Bank to strengthen its financial viability;

- (v) the financial institution is solvent, that is to say, its assets exceed its liabilities.”

Repeal and replacement of section 36 of principal Act.

19. Section 36 of the principal Act is hereby repealed and replaced as follows –

“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 Minister by Order, 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, as determined by the Minister after consultation with the Governor.

(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 unless and until the outstanding advances have been repaid.

(3) An order made by the Minister under subsection (1) shall be subject to affirmative resolution.”.

Repeal and replacement of section 37 of principal Act.

20. 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) For the purposes of this section –

“secondary market transaction” means a transaction in securities that has been fully paid up in an unrelated prior transaction;

“unrelated prior transaction” means a prior transaction which is not effected in contemplation of a subsequent sale of security to the Bank;

“primary issue” includes the issuance of securities which is not a secondary market transaction.

(2) The Bank shall not purchase or otherwise acquire on a primary issue, securities issued or guaranteed by the Government, save and except for such securities which may be issued by the Government to the Bank pursuant to sections 8(2) and (4) and 9(2) and (3).

(3) Notwithstanding subsection (2), 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 –

- (a) replacing maturing securities;
- (b) implementing monetary policy;
- (c) maintaining financial system stability; and
- (d) supporting the working of the clearing and settlement systems.”.

Repeal and replacement of section 41 of principal Act.

21. 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, purchases and sales by the Bank of foreign exchange, decisions to increase or reduce external reserves, the management of external reserves or supervisory matters pursuant to the provisions of the Banking Services Act.”.

Repeal and replacement of section 43 of principal Act.

22. 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) Without prejudice to the provisions of subsection (2), the Minister may at any time require the Auditor-General to examine and report on the accounts of the Bank as a whole or any aspect of the Bank's operations and the Bank shall provide the Auditor-General with all necessary and proper facilities for such an examination.

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

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

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

Amendment of section 44 of principal Act.

23. Section 44 of the principal Act is amended by inserting next after subsection (2) the following new subsections –

“ (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 for the preceding financial year.

(2B) The Minister shall as soon as practicable after receipt of a report submitted under subsection (2A), cause a copy of the report to be tabled in the House of Representatives and after a debate upon the motion to refer the report to the Standing Finance Committee of the House of Representatives, the report shall stand so referred and the Committee may require the Governor to attend a meeting of the Committee to answer any questions in relation thereto.”.

**Insertion of
new section in
principal Act.**

24. The principal Act is amended by inserting next after section 45 the following new section –

“Governance rules. 45A. – (1) The Bank shall comply with the governance rules as set out in the Second Schedule.

(2) The Minister may by order, after consultation with the Board, amend the Second Schedule.

(3) An order under subsection (2) shall be subject to affirmative resolution.”.

**Insertion of
new section in
principal Act.**

25. The principal Act is amended by inserting next after section 50 the following new section –

“Enforcement. 50A. – (1) If the Court is satisfied on an application by the Attorney General that a person has contravened any of the following provisions of this Act –

[(a) section 44 of the Act; (Submission of annual report and audited financial statements);

(b) rule 3 of the Second Schedule; (Corporate governance);

- (c) rule 6 of the Second Schedule; (Audit and Risk Committee audits);
- (d) rule 8 of the Second Schedule; (Duties of Audit and Risk Committee);
- (e) rule 15 of the Second Schedule; (General duties of Auditors);
- (f) rule 16 of the Second Schedule; (Failure to furnish information to Auditors);
- (g) rule 18 of the Second Schedule (Fiduciary duties);
- (h) rule 22 of the Second Schedule; (Levels of emoluments);
- (i) rule 24 of the Second Schedule (Other reports by the Bank),

the court may exercise any of the powers under 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
the Schedule to
the principal
Act.**

26. The Schedule to the principal Act is hereby amended as follows –

- (a) by renaming the Schedule as the “First Schedule”;
- (b) by deleting paragraph 1 of the First Schedule as renamed 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 person appointed to replace the director shall be appointed for the unexpired term of the director who is being replaced 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 shall not be eligible for reappointment, save and except for the first appointed director who is appointed for the first period of ten years in accordance with subparagraph (2).”;

(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, a statutory body or an authority, an Executive Agency as designated under the Executive Agencies Act or a government company, on a full time or contractual basis;

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

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

“Qualification of directors appointed under section 6(2)(d). 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.”;

- (d) by deleting paragraph 3;
- (e) in paragraph 4, by –
 - (i) inserting after subparagraph (1), the following new subparagraph –
 - “ (1A) Upon receipt of the instrument by the Minister pursuant to subparagraph (1), the Minister shall so advise the Governor-General in Council of such resignation.”;
 - (ii) deleting subparagraph (2) and substituting therefor the following –
 - “ (2) The Governor or 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 in Council of such resignation.”;
- (f) in paragraph 5 –
 - (i) in the chapeau, by deleting –
 - (A) the word “Minister” and substituting therefor the words “Governor-General in Council”; and
 - (B) the words “Deputy Governor or Director” after the words “Senior Deputy Governor”;
 - (ii) by deleting paragraph (b) and substituting therefor the following –
 - “ (b) becomes bankrupt;”;
- (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 –

“Establishment of Committees. 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.”.

Insertion of new Schedule.

27. The principal Act is amended by inserting next after the First Schedule the following new Schedule –

“ **SECOND SCHEDULE** (Section 45A)

The Bank of Jamaica (Governance) Rules

Citation. 1. These Rules may be cited as the Bank of Jamaica (Governance) Rules.

Role and remit of the Board. 2. – (1) Pursuant to section (5) of the Act, the Board shall, in carrying out its responsibility for the strategy, policies, general oversight and administration of affairs of the Bank –

- (a) set the overarching medium to long term strategy of the Bank;
- (b) monitor the audit functions of the Bank;
- (c) appoint the auditor and the chief internal auditor of the Bank;
- (d) determine the internal organizational structure and framework of the Bank including its accounting, auditing, internal controls and risk management framework and related policies;
- (e) approve the human resources framework of the Bank and establish overarching policies relating

to the human resources function;

- (f) approve the budget of the Bank;
- (g) approve the annual accounts and financial statements of the Bank; and
- (h) establish procedures for periodic evaluation of the Board and its statutory committees.

(2) In carrying out its functions, the Board may establish such committees from amongst its members as it may deem necessary, including the Audit and Risk Committee established in accordance with rule 6.

**Corporate
governance of
the Bank.**

3. The Board shall –

- (a) take such steps as are necessary –
 - (i) for the efficient and effective management of the Bank;
 - (ii) to ensure the accountability of all persons who manage the resources of the Bank;
- (b) ensure that there are adequate information, control, evaluation and reporting systems within the Bank; and
- (c) set specific and measurable objectives and performance targets for the Bank.

**Power of
Financial
Secretary to
request
information
from Board.**

4. The Financial Secretary in the Ministry of Finance may, from time to time, request the Board to supply information on the Bank's financial operations, and the Board shall comply with the request within such time as may be specified in the request by the

Financial Secretary.

**Establishment of
Audit and Risk
Committee.**

5. – (1) Subject to subparagraphs (2) and (3), the Board shall establish an Audit and Risk Committee which shall consist of not less than three members.

(2) The majority of the members of the Committee appointed pursuant to subparagraph (1) shall be members of the Board who are appointed in accordance with section (6)(2) (d).

(3) The members of an Audit and Risk Committee shall not be officers or employees of the Bank.

(4) At least one member of the Audit and Risk Committee shall be a person who holds a professional accounting qualification.

(5) Subject to subparagraph (1), and for the purpose of ensuring that the Audit and Risk Committee has the capability to perform its duties, the Board may co-opt to the Audit and Risk Committee, individuals who are not members of the Board but who possess a broad range of qualifications relevant to the functions of the Bank.

(6) Every member co-opted pursuant to this paragraph shall –

(a) be a fit and proper person in accordance with section 2A;

(b) have all the rights and responsibilities of the other members of the Audit and Risk Committee

with respect to the work of the Committee; and

- (c) observe strict secrecy with respect to all the affairs and transactions of the Bank and all matters relating thereto and shall not disclose information regarding the performance of his functions on the committee, save and except as may be authorized by the Committee.

Auditor of Bank to attend meetings of the Audit and Risk Committee and the Board.

6. – (1) The auditor of the Bank shall be given notice of, and attend every meeting of the Audit and Risk Committee, in relation to matters concerning the functions of the auditor or on which the auditor has made a report.

(2) The Board of the Bank may give notice to the auditor to attend a meeting of the Board to discuss any matter concerning the functions of the auditor or arising from a report submitted by the auditor.

Duties of the Audit and Risk Committee.

7. – (1) The Audit and Risk Committee of the Bank shall –

- (a) advise the Board on the adequacy, efficiency and effectiveness of the accounting practices and internal control structures and systems of the Bank and the independence of the auditors appointed to audit the Bank;
- (b) review and advise the Board –
- (i) on the financial statements that are to be included in the annual report of the Bank;
- (ii) on the auditor's management letter and

the annual auditor's report;

(iii) on any other reports from the auditor that may reasonably be considered by the Board;

(c) oversee the internal audit functions of the Bank;

(d) in the case of any special audit or examination, review and advise the Board with respect to the report of that audit or examination;

(e) advise the Board on the risk management framework, policies and procedures of the Bank and make recommendations in relation thereto;

(f) review the risk management activities and risk exposures of the Bank and advise the Board on the adequacy of steps taken to monitor and minimize such exposures;

(g) advise the Board on the Bank's risk profile and performance within established risk tolerance limits;

(h) perform such other functions as are assigned to it by the Board.

(2) The Audit and Risk Committee shall keep detailed records of its meetings and such records shall be made available to the auditor of the Bank during any audit or examination.

Code of audit practices.

8. The auditors of the Bank shall observe the code of audit practices prepared by the Financial Secretary pursuant to section 10 of the Public Bodies

Management and Accountability Act.

**Consultation
with Auditor-
General.**

9. The auditor or examiner of the Bank may at any time consult the Auditor-General on any matter relating to an audit or special examination conducted by the Auditor-General in relation to the Bank.

**Eligibility for
appointment as
auditor.**

10. Pursuant to section 43 of the Act, a person shall not be eligible for appointment as an auditor of the Bank if he is a director, officer or employee of the Bank, or is a business partner of any director, officer or employee of the Bank.

**Procedure to be
adopted where
Board does not
recommend
renewal of
appointment of
auditor or
where the
auditor
withdraws
services.**

11. – (1) Where the Board does not recommend the renewal of the appointment of an auditor, the Board shall promptly give written notice to the Auditor-General and the Minister, stating the reasons therefor.

(2) Where an auditor withdraws his services in relation to the Bank, he shall promptly give notice in writing to the Auditor-General and the Minister, stating his reasons therefor.

(3) Where a notice is received by the Auditor General pursuant to subparagraphs (1) and (2), the Auditor General shall enquire into the matter and report his findings to the Minister.

**Audit of
accounts of Bank
by Auditor-
General.**

12. – (1) Notwithstanding anything to the contrary contained in any other enactment, the Auditor-General may, if he thinks fit, audit the accounts of the Bank and the operational efficiencies of the Bank and, shall do so if the House of Representatives, by resolution,

so directs.

(2) The Auditor-General's report on his examination and audit of any accounts audited pursuant to subparagraph (1) shall be submitted to the Minister and the Speaker of the House of Representatives.

(3) Upon the receipt of the report submitted pursuant to subparagraph (2), the Speaker of the House of Representatives shall forthwith cause the report to be tabled in the House of Representatives and upon tabling of said report, the Minister shall present the report to the House of Representatives subject to the requirements of subparagraph (4).

(4) In presenting the report to the House of Representatives the Minister shall –

- (a) obtain the observations of the Bank on any matter to which attention has been drawn by the Auditor-General in his report; and
- (b) cause such observations to be presented to the House of Representatives, together with the report.

Powers of Auditor-General to order audit of books of Bank.

13. – (1) In exercise of the duties of the Auditor-General under paragraph 12, the Auditor-General may authorize any person who is a registered public accountant under the Public Accountancy Act, to inspect, examine or audit the books and accounts of the Bank which the Auditor-General may require to be

examined or audited and that person shall report his findings to the Auditor-General.

(2) In exercise of the duties of the Auditor-General in relation to the Bank, the Auditor-General, or any auditor appointed by the Auditor-General shall have like powers as are vested in the Auditor-General for the purpose of examining accounts under sections 25 and 28 of the Financial Administration and Audit Act.

(3) The Bank shall pay the person authorized pursuant to subparagraph (1) such fees as may be determined by the Auditor-General, after consultation with the Board of the Bank.

General duties of auditor.

14. – (1) In auditing the accounts of the Bank, the auditors shall ascertain and thereafter report to the Board whether in their opinion –

- (a) the provisions of the Act, these Rules or any other relevant enactment relating to the money and property of the Bank have been complied with;
- (b) the rules and procedures framed and applied are sufficient to secure an effective check on the assessment, collection and proper allocation of the revenue and other receipts of the Bank; and
- (c) essential records have been made and proper practices have been observed in the compilation of the accounts.

(2) The auditor shall report in writing to the Board whenever the auditor –

(a) has reasonable grounds for believing that the Bank's circumstances have changed, are changing or are likely to change in such a manner as to –

(i) materially and adversely affect the viability of the Bank; or

(ii) otherwise impair the Bank's ability to carry out its functions;

(b) becomes aware of an occurrence or transaction that adversely affects or might reasonably be expected to adversely affect the Bank;

(c) becomes aware that the Board or any member thereof or any officer of the Bank has contravened a provision of these Rules or any other relevant enactment.

(3) The auditor may prepare separate auditor's reports on the Bank's financial statements if, in the auditor's opinion, separate reports would be more appropriate.

(4) The auditor shall submit such other reports respecting the Bank as the Auditor-General may require.

Auditor's right to information.

15. The directors of the Board, former directors, officers, employees or agents of the Bank shall furnish to the auditor such information and explanation and

records, documents, books of accounts and vouchers of the Bank as the auditor may require in order to enable the auditor to prepare any report required by the Act.

Errors and omissions.

16. – (1) A director or officer of the Bank shall, on becoming aware of any material error or omission in a financial statement to which a report prepared by the auditor relates, forthwith notify the auditor of that error or omission.

(2) An auditor or former auditor of the Bank who is notified pursuant to paragraph (1) or becomes aware of any material error or omission in a financial statement to which a report prepared by the auditor or former auditor relates, shall forthwith notify each director of the Board of that error or omission.

(3) Where the auditor or former auditor of the Bank notifies the directors of the Board of an error or omission in accordance with subparagraph (2), the auditor or former auditor shall issue a correction to the report and a copy thereof shall be given to the Auditor-General and the Minister.

Duty of care.

17. – (1) Every director of the Board, officer, employee or agent of the Bank shall, in the exercise of their powers and the performance of their duties –

(a) act honestly and in good faith in the best interests of the Bank; and

(b) exercise the care, diligence and skill that a reasonably prudent person would exercise in

comparable circumstances, such comparable circumstances including, but not limited to, the general knowledge, skill and experience of the director of the Board, officer, employee or agent.

(2) A director of the Board 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 to the Board at the earliest opportunity;
- (b) shall not take part in any deliberation of the Board with respect to that matter.

**Dissent of
absent director
of the Board.**

18. A director of the Board who was absent from a Board meeting at which a resolution was passed or any other action was taken, shall be deemed to have consented thereto unless, within seven days after becoming aware of that resolution or action, as the case may be, the director –

- (a) causes written notice of his dissent to be appended to the minutes of the meeting; or
- (b) delivers such notice to the registered office of the Bank or sends such notice by registered mail addressed to that office.

**Reliance on
statement.**

19. – (1) A director of the Board, officer, employee or agent of the Bank shall not be liable for a breach of duty under paragraph 17(1) if he reasonably relies in good faith on a report of an attorney-at-law,

accountant, engineer, valuer or any other person whose profession gives authority to a statement made by him including any director, officer, employee or agent who has provided such report in his professional capacity.

(2) A director of the Board, officer, employee or agent of the Bank shall not be in breach of his duty under paragraph 17(1) if he believed in the existence of information which, if true, would render the director's, officer's, employee's or agent's exercise of care, diligence and skill in the performance of his duty to be reasonably prudent.

(3) For the purposes of this paragraph, a director, officer, employee or agent shall be deemed to have acted with due care, diligence and skill where, in the absence of fraud or bad faith, the director, officer, employee or agent reasonably relied, in good faith, on documents relating to the affairs of the Bank, including financial statements, reports of experts or on information presented by other directors or, where appropriate, other officers, employees or agents of the Bank.

**Indemnification
of directors.**

20. – (1) Except in respect of an action by or on behalf of the Bank to obtain a judgment in its favour, the Bank may indemnify –

- (a) a director, officer, employee or agent of the Bank;
- (b) a former director, officer, employee or agent of

the Bank or a person who acts or acted at the request of the Bank as a director, officer, employee or agent of the Bank of which the Bank is or was a member or creditor, and his legal representatives, against all costs, liabilities, charges and expenses (including an amount paid to settle an action or satisfy a judgment) reasonably incurred by him in respect of any civil, criminal or administrative action or proceeding, to which he is made a party by reason of being, or having been, a director, officer, employee or agent of the Bank.

(2) Subparagraph (1) does not apply unless the director, officer agent or servant to be so indemnified –

- (a) acted honestly and in good faith, with a view to the best interests of the Bank; and
- (b) in the case of a criminal or administrative action or proceeding that was enforced by a monetary penalty, had reasonable grounds for believing that his conduct was lawful.

Levels of emoluments.

21. – (1) In the exercise of any powers conferred on the Board in relation to –

- (a) emoluments payable to the employees of the Bank pursuant to section 7; or
- (b) any other policies and guidelines applicable pursuant to the provisions of the Act,

the Board shall, subject to subparagraph (2), establish

compensation policies and guidelines that it considers adequate to employ and retain the qualified and skilled staff that are needed to achieve the objectives of the Bank.

(2) Pursuant to subparagraph (1), where the Board forms the opinion that the compensation policies and guidelines would deviate from the policies and guidelines issued from time to time by the Minister responsible for the public service, the Board shall first consult with the Minister before implementing its compensation policies and guidelines.

**Contents of
annual reports.**

22. Without prejudice to the provisions of these Rules or any relevant enactment in relation to the preparation of annual reports by the Bank, such reports shall be prepared in accordance with Part I of the Appendix to the Rules.

**Other reports by
the Bank.**

23. The Bank shall prepare in such form as may be approved by the Board, and submit to the Minister, the half-yearly, quarterly and other reports in accordance with Part II of the Appendix to the Rules.

**APPENDIX (Paragraphs 22
and 23)**

PART I. *Contents of Annual Reports*

The following matters shall be included in the annual reports of the Bank –

1. Audited financial statements, including –
 - (a) explanatory notes; and
 - (b) notes to the financial statements, including accounting policies.
2. A statement of the emoluments of the directors and senior executives of the Bank, for that year.
3. A report of the board of directors and committees of the Board which shall include –
 - (a) a review of the main activities from the reporting period;
 - (b) a statement on any proposed change in the nature and scope of the activities of the Bank.

PART II. *Other Reports*

Other reports shall be submitted as may be required, from time to time by the Minister and such reports shall contain such information as may be specified by the Minister after consultation with the Board.”.

Consequential amendments to other Acts and the Standing Orders of the House of Representatives. Schedule.

28. The provisions of the Acts and Standing Orders 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.

Transitional provisions.

29. – (1) Upon the date of commencement of this Act, the appointment of all Directors of the Board of the Bank shall terminate with immediate effect and such Director shall be eligible for re-appointment in accordance with sections 6(2)(d) and 6(6).

(2) Nothing contained in section 6A shall affect or prejudice the terms and conditions of any existing appointment that was made in relation to the Governor, Senior Deputy Governor and Deputy Governor, prior to the date of commencement of this Act.

SCHEDULE**(Section 28)****First Column****Second Column****Enactments and Standing Order****Amendments****Banking Services Act**

Section 2

Insert the following new definition in proper alphabetical order –

“Financial Policy Committee” means the Financial Policy Committee established under section 34FI of the Bank of Jamaica Act;”.

Section 5

1. Renumber the section as section 5(2).

2. Insert immediately before subsection (2), as renumbered, the following new subsection –

“ (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.”.

- Section 7
1. In subsection (1), delete subparagraphs (h) and (m) and re-letter the remaining paragraphs accordingly.
 2. In paragraph (j), as re-lettered, insert the word “and” after the semi-colon.
 3. Delete the semi-colon after (k) as re-lettered and substitute therefor a full stop.

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”.

Second Schedule

- Paragraph 1
1. Delete “and” at subparagraph (3)(a).
 2. Re-number subparagraph 3(b) as subparagraph (3)(d) and insert the following as the new subparagraphs (3) (b) and (c) –
 - “(b) who are not members of the board of directors of the Bank;
 - (c) who are not members of another statutory committee of the Bank as defined in section 2 of the Bank of Jamaica Act where this would result in more than one member of the Supervisory Committee being a member of another statutory committee of the Bank or a member of any statutory committee being on

more than two statutory committees of the Bank;”.

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.

**Public
Procurement
Act**

First Schedule

1. Delete the full stop after subparagraph (o) and substitute therefor a colon.

2. Insert the following new subparagraphs after subparagraph (o) –

“ (p) the procurement of Bank notes and coins for issue by the Bank of Jamaica;

(q) the implementation by the Bank of Jamaica of monetary policy and foreign exchange policy through financial contracts.”.

**Standing Order
of the House of
Representatives**

Order 69 Amend by inserting after paragraph (7) the following new paragraph –

“ (7A) Any report laid before the House of Representatives by the Minister pursuant to sections 34FG(3) and 44(2B) of the Bank of Jamaica Act and after debate upon the motion to refer the reports to Standing Finance Committee, said reports shall stand so referred.”.

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

