



THE
JAMAICA GAZETTE
SUPPLEMENT

PROCLAMATIONS, RULES AND REGULATIONS

253

Vol. CXXI

TUESDAY, OCTOBER 13, 1998

No. 62

No. 81

THE DEPOSIT INSURANCE ACT, 1998

(Act 3 of 1998)

THE DEPOSIT INSURANCE REGULATIONS, 1998

In exercise of the power conferred upon the Minister by section 25 of the Deposit Insurance Act, 1998, the following Regulations are hereby made on the recommendation of the Jamaica Deposit Insurance Corporation:—

Preliminary

1. These Regulations may be cited as the Deposit Insurance Regulations, 1998.
- 2.—(1) In these Regulations, unless the context otherwise requires—
 - "applicant" means a financial institution that makes an application for deposit insurance pursuant to these Regulations;
 - "company" means a body corporate whether incorporate under the laws of Jamaica or of any other country;

"control" in relation to the activities of a financial institution or other company means the power of a person to secure by means of the holding of shares or the possession of voting power in or in relation to that financial institution or other company, or by any agreement or by virtue of any other powers conferred by the articles of association or other document regulating the management of the affairs of the financial institution or other company, that the affairs of the financial institution or other company are conducted in accordance with the wishes of that person; and for the purposes of these Regulations a person who controls a policyholder is considered to control any other policyholder that is controlled by the policyholder;

"financial statement" includes a balance sheet, profit and loss account, statement of retained earnings, income statement and a statement of changes in financial position;

"officer" in relation to a policyholder means a director, manager, secretary or other similar officer of the policyholder or any person acting in that capacity;

"policy" means the policy of deposit insurance issued pursuant to section 14 of the Act;

"regulatory authority" in relation to an applicant, means any authority that is empowered to supervise or regulate financial institutions, capital Markets or securities transactions; and that has jurisdiction over the applicant;

"relevant year" means the year 1997;

"Return of Insurable Deposits" means the form of return specified by the Corporation from time to time for insurable deposits as defined in section 2 of the Act;

"subsidiary" where used to indicate a relationship between one company and another means a company that is controlled by the other;

(2) For the purposes of these Regulations the following persons shall be treated as being connected with a particular financial institution ("F") and the financial institution with them, and shall be so treated notwithstanding that at the relevant time any of the persons in question (not being individuals) had not yet come into existence or had ceased to exist—

- (a) a holding company or subsidiary of F;
- (b) a subsidiary of a holding company of F;
- (c) a holding company of a subsidiary of F;
- (d) any company of which F has control;
- (e) any company of which F and persons connected with F together have control;
- (f) any company which together with F constitute a group;
- (g) an individual who is a director, manager or a person who has control of F or any partner or any immediate relative of such director, manager or person as aforesaid;
- (h) any company of which any of the persons referred to in paragraph (g) is a director, manager or has control.

(3) "group" in relation to an inter-connection between one company ("X") and any other company, means X and—

- (a) any other company which is its holding company or subsidiary;
- (b) any other company which is a subsidiary of the holding company;
- (c) any company which directly or indirectly controls or is controlled by any company referred to in paragraph (a) or (b);
- (d) any company which is controlled by a person who directly or indirectly controls a company referred to in paragraph (a), (b) or (c).

(4) For the purposes of these Regulations a company is a holding company of any company that is its immediate, intermediate or ultimate subsidiary.

Application for Deposit Insurance

Form 1. 3. An application for deposit insurance pursuant to subsection (1) of section
Schedule. 12 of the Act shall be in the form set out as Form 1 in the Schedule.

4. Where the applicant for deposit insurance was carrying on the business of taking deposits during the relevant year a Return of Insurable Deposits in the form set out as Form 2 in the Schedule shall accompany the application.

Form 2.

Policy and Certificate of Deposit Insurance

5. Subject to the provisions of Part IV of the Act the Corporation shall upon approval of an application made under regulation 3, issue a policy of deposit insurance in the form set out as Form 3 in the Schedule and a certificate to that effect in the form set out as Form 4 in the Schedule.

Form 3.

Form 4.

Premiums

6. The initial premium to be paid to the Corporation pursuant to section 14 of the Act by a financial institution whose application for deposit insurance has been approved, and which has carried on the business of taking deposits during the relevant year, shall be a rate equivalent to 0.10 per cent of the total value of the insurable deposits held by the financial institution on the 31st December of that year.

7. The annual premium to be paid to the Corporation pursuant to section 14 of the Act by a policyholder shall be a rate equivalent to 0.10 per cent of the total value of insurable deposits held by the policyholder on the 31st December of the year immediately preceding.

8. The annual premium payable under section 14 of the Act shall be payable on or before the policy due date; however, the policyholder may with the prior written consent of the Corporation pay the annual premium in two equal instalments, the first such instalment being due on the policy due date and the second instalment being due not later than six months after the policy due date.

Financial Statements

9. Financial statements submitted by or on behalf of an applicant or policyholder, as the case may be, shall be—

- (a) prepared in the manner prescribed by the enactment under which the operations of that institution are licensed or, failing such prescription, in accordance with the accounting standards and guidelines established by the Institute of Chartered Accountants of Jamaica; and
- (b) audited in accordance with the auditing standards and guidelines established by the Institute of Chartered Accountants of Jamaica.

Updated and Additional Information

10. Where the Corporation considers it to be necessary or desirable in furtherance of its principal objects, the Corporation may require an applicant or policyholder, as the case may be, to provide or cause to be provided to the Corporation any additional information concerning the business and affairs of the applicant or policyholder, or of any of its directors or officers, or of any person connected with or exercising control over the applicant or policyholder.

SCHEDULE

(Regulations 3, 4 and 5)

Form 1

THE DEPOSIT INSURANCE ACT

Application for Deposit Insurance

(Pursuant to section 12 (1))

NOTE: Where additional space in which to answer is required, the applicant shall complete the answer on a separate page that shall be marked as an attachment and cross-referenced to the item to which it pertains. Each such separate page shall be initialled by the signatories to this application or such other persons authorized in their place.

Section A: General Applicant Information:

- 1. Corporate name of the applicant.....
- 2. (a) Date of incorporation/registration of the applicant.....
- (b) Date on which applicant commenced business.....
- 3. Country of incorporation of the applicant.....
- 4. If incorporated in Jamaica, give address, telephone and facsimile number (s) of the registered office of the applicant.....

SCHEDULE, *contd.*Form 1, *contd.*

5. Address, telephone and facsimile numbers of the principal place of business if different from paragraph 4 above.....
.....
6. Information in respect of the officer who is authorized to represent applicant with respect to this application:
Full name.....
Job title.....
Address.....
Telephone number (s).....
Facsimile number (s).....
7. If the applicant is incorporated outside of Jamaica:
 - (a) Address of the head office.....
.....
 - (b) Address of the principal office in Jamaica.....
.....
 - (c) Name of one of its officers who is the authorized agent in Jamaica.....
.....
 - (d) Name of one of its officers who is alternate authorized agent in Jamaica.....
.....
8. Submit certified copies of applicant's Memorandum of Association, Articles of Association, Certificate of Incorporation or other constituting documents (locally incorporated applicants only).
9. Submit certified copies of applicant's constituting documents and copies of the powers of attorney of the authorized agents (if the applicant is incorporated outside Jamaica).

Form 1, *contd.*

(Home or Business)

[illegible]

Designation

[illegible]

SCHEDULE, *contd.*Form 1, *contd.*

12. Name and address of each branch of the applicant in Jamaica:

Name

Address

.....

.....

.....

.....

13. Information in respect of the external auditor(s) of the applicant:

(a) Name

(b) Address

(c) Telephone number (s)

(d) Facsimile number (s)

(e) Contact person (s)

14. Name and address of banker (s) of the applicant

.....

.....

15. The applicant must attach a copy of its latest audited balance sheet and profit and loss accounts in respect of all business transacted by it in the previous financial year and prepared in the manner prescribed in its governing statute or any regulations made under the Bank of Jamaica Act.

Section B: Information on Corporate Structure

16. Information on persons with at least 20% of voting shares of the applicant.

Name	Occupation	Address (Home and Business)	Number and type of Shares held and J\$ Amount
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.....

.....

.....

.....

SCHEDULE, *contd.*Form 1, *contd.*

17. If the applicant is the subsidiary of another company, name, address and nature of business of that other company:

.....

.....

.....

.....

18. Name and address, and nature of business of all subsidiaries of the applicant.

.....

.....

.....

.....

19. Where applicable, attach a corporate organizational chart, showing clearly, the relationship of the applicant to other companies with which it forms part of a group.

20. Attach the certified copy of the latest Annual Return of the applicant required under sections 121 and 122 of the Companies Act, or the information required pursuant to those sections which has not been requested herein.

Section C: Other Information

21. Has the applicant, its holding company, subsidiaries or any of their officers ever under the laws of any jurisdiction:—

(Tick the appropriate box. Submit details separately, where "yes" is indicated).

	<u>Yes</u>	<u>No</u>
(a) been refused deposit insurance?	<input type="checkbox"/>	<input type="checkbox"/>
(b) held deposit insurance that has been suspended, revoked, or been the subject of investigation?	<input type="checkbox"/>	<input type="checkbox"/>
(c) been refused a licence to accept deposits?	<input type="checkbox"/>	<input type="checkbox"/>
(d) had its licence as a deposit-taking financial institution suspended, revoked, or the subject of an investigation?	<input type="checkbox"/>	<input type="checkbox"/>
(e) been found guilty of fraud, misappropriation of funds, or violation of laws regulating the provision of financial services or securities trading?	<input type="checkbox"/>	<input type="checkbox"/>

SCHEDULE, *contd.*Form 1, *contd.*

22. Give details of any pending litigation to which the applicant is a party that might materially affect the capital base of the applicant.....

.....
.....
.....

Signed by Authorized Signatory..... Date.....

Print Full Name..... Title.....

Signed by Authorized Signatory..... Date.....

Print Full Name..... Title

Affix Corporate Seal

Section D: Documents Submitted (Tick as appropriate)

- | | |
|--|--------------------------|
| (1) Certified copy of Certificate of Incorporation. | <input type="checkbox"/> |
| (2) Certified copy Memorandum of Association and Articles of Association or document certifying incorporation. | <input type="checkbox"/> |
| (3) Copy of latest audited financial statement. | <input type="checkbox"/> |
| (4) Certified copies of the last Annual Return required under sections 121 and 122 of the Companies Act. | <input type="checkbox"/> |
| (5) Corporate Organizational Chart. | <input type="checkbox"/> |
| (6) Other (<i>please specify</i>). | <input type="checkbox"/> |

SCHEDULE, *contd.*

Form 2

THE DEPOSIT INSURANCE ACT

Return of Insurable Deposits

(Name of Institution)

JS'000

- | | |
|---|-----------|
| 1. Total Deposit Liabilities as at December 31st, _____ | _____ |
| 2. Deduct: Deposits not insurable | _____ |
| 3. Total Amount of Insurable Deposits | ===== |
| 4. Premiums Payable (0.10 per cent of
total value of insurable deposits) | JS. _____ |

NOTE: The conversion rate for insurable deposits denominated in foreign currencies should be the applicable rate of exchange on December 31st of the preceding year.

TOTAL DEPOSIT LIABILITIES AS REFLECTED IN THE FINANCIAL
STATEMENTS AS OF DECEMBER 31ST OF THE YEAR PRECEDING THE
POLICY DUE DATE

Deposit Liabilities which qualify for Deposit Insurance.

JS'000

- | | |
|---|-------|
| 1. demand and savings deposits | _____ |
| 2. time deposits and certificates of deposits of
all maturities | _____ |
| 3. shares in a building society (i.e. other than capital
shares, deferred shares or a preference shares) | _____ |
| 4. foreign currency deposits | _____ |
| 5. managers' cheques | _____ |
| 6. money orders | _____ |

SCHEDULE, *contd.*Form 2, *contd.*

JS'000

7. drafts	_____
8. travellers cheques issued by the policyholder	_____
9. prepaid letters of credit	_____
10. credit balances of deposit instruments in transit	_____
11. interest accrued and/or payable on all deposits other than the deposits of other policyholders, statutory bodies or Government companies	_____
12. ANY OTHER DEPOSIT LIABILITIES (ATTACH AS A SCHEDULE TO THE RETURN)	_____
TOTAL	=====

DEDUCTIONS OF DEPOSIT LIABILITIES
WHICH DO NOT QUALIFY FOR INSURANCE

JS'000

1. deposits from other policyholders	_____
2. deposits from statutory bodies or Government companies	_____
TOTAL	=====

Certified Correct:

Authorised Signatory_____
Print Full Name_____
Title_____
Date

SCHEDULE, *contd.*

Form 3

THE DEPOSIT INSURANCE ACT

Policy of Deposit Insurance

(Pursuant to section 12 (2))

Effective Date of the Policy and Amendments

1. This policy shall take effect:—

- (a) in the case of a financial institution duly licensed to carry on the business of accepting deposits and which has been approved by the Corporation for deposit insurance pursuant to section 14 of the Act, but has not yet accepted its first insurable deposit, on the day on which the institution accepts such a deposit; and
- (b) in the case of a financial institution carrying on the business of accepting deposits during the calendar year immediately preceding the commencement of the Act, upon the approval of its application for deposit insurance.

2.—(1) This policy is deemed to be amended consequentially or replaced when the legislation prescribing the form and provisions of this policy is amended or replaced.

(2) In the circumstances described in (1), the Corporation may issue to the policyholder new policies in accordance with the amendment or replacement of the said legislation and such new policy shall take effect from the date the amendment or replacement comes into effect.

Term

3. Subject to the satisfactory compliance with the requirements of the Act, and the enactment under which the policyholder is licensed, this policy is renewable annually, and shall continue in effect until its cancellation in accordance with sections 15 and 16 of the Act or any amendments thereof.

Conditions

- 4. All provisions of this policy shall be considered to be conditions of this policy.
- 5. The policyholder shall comply with the Act, its governing statute, any applicable regulations, its incorporating instrument, and any undertaking that it has given to the Corporation, the Bank of Jamaica or any regulatory authority having jurisdiction over the policyholder or any aspect of its business, and with any compliance order, cease and desist order, directive, restriction or other similar document issued at any time by the Corporation, the Bank of Jamaica or any regulatory authority which has jurisdiction over the applicant.

Premiums

6. This policy is renewable on the payment of the annual premium in accordance with the provisions of the Act and any regulations made thereunder.

SCHEDULE, *contd.*Form 3, *contd.*

7.—(1) The policyholder shall, complete and certify a Return of Insurable Deposits in the form prescribed and shall submit that Return to the Corporation at such times as the Corporation may require before the policy due date.

(2) For the purpose of making the calculation of annual premium the policyholder shall determine the total value of insurable deposits by using the method set out in the Return of Insurable Deposits.

8. Where the policyholder fails to pay the prescribed premium at the prescribed time the policyholder shall pay the penalty stipulated in section 14 (5) of the Act.

9.—(1) Where the policyholder, the Corporation or a Bank of Jamaica representative who is making an examination or inspection under the Bank of Jamaica Act, discovers an error in the Return of Insurable Deposits and the policyholder has been notified thereof, the policyholder shall forthwith complete and file with the Corporation an amended Return of Insurable Deposits certified by an authorized signatory of the policyholder.

(2) Where, based on an amended Return of Insurable Deposits, the Corporation determines that an additional amount of initial premium or annual premium should have been paid, the policyholder shall pay to the Corporation—

- (a) the additional amount forthwith in accordance with the relevant provisions of the Act; and
- (b) any interest on that amount that is charged by the Corporation in accordance with section 14 (5) of the Act, which interest shall accrue from and including the due date until the day immediately before the date of payment.

Information

10. The policyholder shall provide—

- (a) lists of persons with whom the policyholder forms a group; and
- (b) lists of the names, addresses, telephone numbers, occupations and titles of the directors and officers of the policyholder and of each of its holding companies and subsidiaries.

11. The Corporation for the purpose of monitoring or assessing the compliance of the policyholder with the conditions of this policy or where the Corporation considers it to be necessary or desirable in furtherance of its objects as set out in section 4 of the Act, may by notice in writing request the policyholder to provide the following information within such period as may be specified in the notice—

- (a) its financial statements and such returns, statements and information including those required under section 16 of the Banking Act, section 16 of the Financial Institutions Act or regulation 44 of the Bank of Jamaica (Building Societies) Regulations, 1995, as the case may require, for the period specified, prepared on a consolidated or unconsolidated basis, plus those where applicable, of its holding company and subsidiaries;

SCHEDULE, *contd.*Form 3, *contd.*

- (b) a statement certified by an authorised signatory of the policyholder, that sets out:
- (i) a profile of insurable deposits in the format requested;
 - (ii) a profile of insured deposits in the format requested;
 - (iii) a detailed description of the system that is used by the policyholder to compile information on its deposit liabilities; and
 - (iv) a detailed listing of the amounts, status and dates of maturity of loans that are made and of other assets, and of debentures that are issued and that are not insured under the Act, and of other liabilities.

12.—(1) The policyholder shall, forthwith, provide a copy of—

- (a) any compliance order, cease and desist order, directive, restriction, or other similar document issued at any time in respect of the institution by or on the application of any regulatory authority; and
- (b) any undertaking given by the policyholder to any regulatory authority.

(2) The policyholder shall, forthwith, notify the Corporation in writing of—

- (a) any actual or pending change in the control of the policyholder or its subsidiaries;
- (b) any actual or pending amalgamation, merger, arrangement or other reorganization that involves the policyholder or a significant portion of its assets or liabilities or that involves its subsidiaries;
- (c) any actual or pending change of address of its registered or head office; and
- (d) any changes in information given in furtherance of its application for deposit insurance.

13. The policyholder shall keep the Corporation advised of any material change to any information provided pursuant to Clauses 10 to 12 above.

14. The policyholder hereby consents to the release to any regulatory authority which directly regulates the policyholder's activities and to the Minister responsible for finance of any information provided by the policyholder to the Corporation.

15. The policyholder shall cause its officers, auditors, and former auditors to furnish such information and explanations that pertain to its affairs as the Corporation or any person designated by the Corporation may require.

16. The policyholder shall notify the Corporation in writing of any actual or pending change of its auditors.

17. The policyholder shall notify the Corporation of the termination or cancellation of any bonds or insurance policies that relate to the business of the policyholder.

*SCHEDULE, contd.**Form 3, contd.*

18. The policyholder shall not issue to any person any instrument evidencing that the policyholder has received or is holding money from or on behalf of a person pursuant to a transaction that does not constitute a deposit or part of a deposit insured under the Act unless the instrument bears the following words on its face—

"The deposit to which this instrument relates is not insured under the Deposit Insurance Act".

Records

19.—(1) The policyholder shall prepare and maintain records that accurately and fully describe and disclose its assets, deposit liabilities consisting of insurable and insured deposits, other actual or contingent liabilities, revenue, expenses and shareholders' equity.

(2) Subject to sub-paragraph (3), the policyholder shall retain the records of deposit liabilities referred to in subsection (1) for a period of at least fifteen years after their creation and during such period shall not remove them from Jamaica except with the prior written consent of the Corporation.

(3) Where the policyholder amalgamates or merges with another policyholder or acquires all or substantially all of the assets of another policyholder, the institution that results from the amalgamation or acquisition shall retain the records of deposit liabilities of each predecessor policyholder for a period of at least fifteen years following the date of the amalgamation, merger or acquisition.

Cancellation

20. Subject to the provisions of section 15 (1) of the Act, the Corporation may, by notice in writing to the policyholder, cancel the policy of deposit insurance in accordance with sections 15 and 16 of the Act or any amendment thereof.

Obligations Following Cancellation

21. Notwithstanding the cancellation of a policy, the amount of any insured deposits on the date of cancellation, less any subsequent withdrawals from such insured amounts, shall continue to be so insured for a period of eighteen months from the date of such cancellation. During the period, the policyholder shall continue to be bound by the provisions of this policy.

SCHEDULE, *contd.*

Form 4

THE DEPOSIT INSURANCE ACT
CERTIFICATE OF DEPOSIT INSURANCE
(Pursuant to section 14)

Policy No. _____

The Jamaica Deposit Insurance Corporation hereby certifies that a policy of deposit insurance has been issued to _____

_____ with effect from _____

Chairman
Jamaica Deposit Insurance Corporation

Serial No: _____

Date: _____

Dated this 13th day of October, 1998.

OMAR DAVIES,
Minister of Finance and Planning.

No. 467/067