



STANDARD OF SOUND PRACTICE ON AGENT BANKING

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Standards of Sound Practices are guiding principles issued by the Bank of Jamaica which set out minimum expectations of the Supervisory Authority in relation to its licensees; and against which licensees can evaluate their performance.

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STANDARD OF SOUND PRACTICE ON AGENT BANKING

A. Introduction

Under the Banking Services Act, 2014 (“BSA”), a Deposit Taking Institution (“DTI”) which has received the approval of the Supervisory Committee, can appoint a body corporate to offer banking services on its behalf. The BSA creates the framework which facilitates the offering of certain banking services including deposits and withdrawals through agents. Agent banking therefore adds to the existing delivery channels that are currently available to DTIs, such as branch networks and electronic access channels.

Sections 55 and 108 of the BSA establish the basis for the provision of agent banking in Jamaica and the approach to be applied under the framework.^{1,2} The approach is summarized in two stages as follows:

- a) the Supervisor issuing a non-objection to a DTI to offer banking services through an agent based on an assessment of a DTI’s readiness under section 55 of the BSA; and
- b) the Supervisory Committee approving the DTI to appoint a proposed agent under section 108 of the BSA.

These applications do not need to occur at the same time, but an application under section 108 (1) of the BSA should not be made in a timeline that exceeds 12 months of the date of the issue of the section 55 non-objection.

Section 108 of the BSA outlines the eligibility requirements for an agent within the context of the professional responsibility they would be assuming in offering the permissible banking

¹ Section 55 of the BSA requires a licensee which proposes to undertake new delivery channels for existing businesses or products to notify the Supervisor of its intention to do so and submit such information as may be prescribed. See Appendix 1 for Extract of the BSA.

² Under section 108 of the BSA, a DTI may appoint a company as an agent to offer banking services, provided the DTI obtains the prior written approval of the Supervisory Committee. See Appendix 1 for Extract of the BSA.

services to customers and operating as an extension of DTIs. These responsibilities would include, among other things, the handling of customer information and the protection of sensitive documents in the agent's custody.

The widening of delivery channels for the provision of banking services through non-banking entities poses additional risks which must be appropriately mitigated and managed by a DTI. Therefore, a DTI wishing to extend banking services through agents should demonstrate the following:

- a) compliance with prudential and statutory obligations;
- b) adequacy of its risk management systems and information technology (IT) framework to accommodate agent banking activities; and
- c) consistency between its risk appetite and its business model.

B. Purpose

1. The Standard of Sound Practice on Agent Banking ("the Standard") outlines the minimum expectations of Bank of Jamaica (BOJ) regarding the establishment of agent banking operations under section 108 of the BSA.
2. The Standard addresses the roles and responsibilities of the DTIs, agents, the Supervisor and the Supervisory Committee.
3. The Standard will be reviewed periodically and amended as deemed necessary to ensure its continued relevance and consistency with local statutes and international sound practices.

C. Application and Scope

4. This Standard is applicable to DTIs licensed under the BSA:
 - a) Commercial Banks;

- b) Merchant Banks; and
- c) Building Societies.

D. Legal Status

5. For the avoidance of doubt, in the event of any inconsistency between the governing legislation (i.e. BSA or any regulation thereunder) and this Standard, then the provisions of the governing legislation will prevail.

Contravention or non-observance of the Standard will be regarded by BOJ as evidence of “unsafe and unsound” business practices in accordance with the BSA.³

E. Roles and Responsibilities

E1. The Role of the Supervisor and the Supervisory Committee

E1.1 The Role of the Supervisor

6. Engaging new delivery channels for products and services (Refer section 55 of the BSA) are matters for notice to and express non-objection of the Supervisor. This includes any proposal by a DTI to offer banking services through agents. In such cases, the Supervisor will conduct an assessment to determine whether the DTI has adequately demonstrated its readiness and capacity to offer banking services through agents. (Refer section E2.1).
7. The Supervisor will take agent banking activities into account as part of its ongoing monitoring and overall assessment of the DTI and will include, inter alia:
 - a) due diligence policies and procedures in relation to agent banking;

³ Refer to section 109 and Paragraph 2(a) of Part A of the Fifth Schedule of the BSA.

- b) risk management framework (including internal controls) within the context of agent banking;
 - c) AML/CFT policies and procedures governing agent banking;
 - d) information systems and technology framework;
 - e) obligations under the agency contract⁴; and
 - f) the DTI's ability to meet its regulatory requirements within the context of the agent banking arrangement.
8. Section 108(3) of the BSA entitles the Supervisor to examine the books, documents, records, statements, and other relevant information of an agent, in relation to its operations as an agent of the DTI.

E1.2 The Role of the Supervisory Committee

9. The DTI must obtain approval from the Supervisory Committee in order to appoint an agent. A determination in this regard will be informed by BOJ's assessment of the DTI's application against the requirements in section 108 of the BSA, the Regulations and any other relevant information that may come to the attention of the Supervisor.
10. In considering an application to appoint an agent, the Supervisory Committee must be satisfied that the proposed agent:
- a) is legally incorporated in Jamaica and is compliant with the tax and other statutory requirements imposed by any enactment that are relevant to the company⁵;
 - b) meets the operating, security, financial requirements and non-financial restrictions imposed under the BSA framework;

⁴ See a list of minimum items that the agency agreement should contain in Appendix II.

⁵ Note that compliance with tax obligation is a requirement of fit and proper assessment under section 3(1)(3) of the BSA.

- c) has shareholders (substantial)⁶, directors, officers and principal agent banking employees (key employees)⁷ who are fit and proper; and
 - d) has satisfied the DTI of its suitability to operate as an agent.
11. The Supervisory Committee may prescribe financial or operational thresholds, limits or other financial or non-financial restrictions in relation to the approved banking services offered by an agent. The industry will be informed when this will be the case.
 12. The Supervisory Committee may approve banking services other than those expressly outlined in section 108(1)(a)-(e). (Refer Section F “Permitted Banking Services by Agents”). The industry will be informed when this will be the case.

E2. The Role of the DTI

E2.1. Precursors for an Application by a DTI

13. The ongoing monitoring by BOJ incorporates such matters as the financial soundness of DTIs, with due consideration for any supervisory concerns. Therefore, where proposals are made by the DTI to offer banking services through agents, there should be no substantial outstanding supervisory issues. Where there are outstanding matters that are deemed to be egregious, the application would not be considered for non-objection.
14. Accordingly, a DTI that intends to offer banking services through agents must demonstrate compliance with its ongoing obligations (including statutory and prudential obligations) and have appropriate management systems and processes in place including:

⁶ Shareholders owning twenty per cent (20%) or more of the company.

⁷ Principal agent banking employees refer to:

- a) a person who is contracted below the level of management of an agent to perform functions that –
 - (i) can substantially affect the financial condition or reputation of the agent; and
 - (ii) meet the criteria specified in the guidelines prescribed by the Supervisor; or
- b) a person who is deemed by the Supervisor to be a principal agent banking employee.

- a) adequate information technology framework;
 - b) appropriate risk management processes and systems; and
 - c) robust Anti-Money Laundering / Counter Financing of Terrorism (AML/CFT) framework.
15. To facilitate the assessment process, at a minimum, the DTI is required to submit the following information to the Supervisor:
- a) the business case and strategy for agent banking (including business plan, feasibility study, financial projections as well as the list of services to be offered through agents and other supporting documents);
 - b) the findings of its risk assessment which demonstrates how the delivery of agent banking services impacts its risk profile (including ML/TF risks) and the measures to address these findings. While specific banking services will be offered by the DTI through the agent banking service, the obligation to meet AML/CFT requirements resides with the DTI and cannot be delegated to the agent or proposed agent;
 - c) details of the corporate governance structure (including organisational charts) that will be applicable to agent banking operations; and
 - d) any other information which is deemed necessary by the Supervisor.

E2.2. Applying for Approval to Appoint an Agent Pursuant to Section 108(1) of the BSA

16. A DTI should have a comprehensive policy framework to offer agent banking. At a minimum, the framework should include procedures for:
- a) identifying potential agents; and
 - b) initial and ongoing agent due diligence assessments.
17. Where the DTI proposes to appoint an agent, the DTI is required to submit:
- a) its application in the form prescribed in the First Schedule of the Regulations; and

- b) supporting documents which should include:
- i) the DTI's fit and proper assessments. The BSA has codified a DTI's obligation to have fit and proper directors, officers and key employees. This obligation is extended to the DTI's agents. (Refer to the Standard of Sound Business Practices Guideline to Fit and Proper Assessments for further guidance);
 - ii) if the agent is a regulated body, a non-objection from its regulator;
 - iii) copy of the agency contract⁸;
 - iv) evidence of the agent's incorporation;
 - v) confirmation of the agent's compliance with statutory obligations;
 - vi) the agent's audited financial statements for the last three years of operation or in the case of a small company, financial statements in the form outlined in the Companies Act;
 - vii) the Voluntary Declaration in the form prescribed in section 3 of the First Schedule of the Regulations;
 - viii) due diligence assessment to include additional considerations outlined in Appendix III.
18. The DTI should ensure that each application is duly completed and accompanied by all supporting documentation. **Incomplete applications will be returned.**

E2.3. Management of the Agent Banking Relationship

19. An effective implementation and monitoring of agent banking operations by a DTI includes at a minimum⁹:
- a) having appropriate systems to facilitate real-time transactions by its agents;

⁸ See Appendix II for minimum contents of the agency contract/agreement.

⁹ A comprehensive listing of the requirements is set out in Regulation 8. (See Appendix IV).

- b) conducting its own assessment of the fitness and propriety of the agent's substantial shareholders, directors, officers and principal agent banking employees and ensuring that they are fit and proper on an ongoing basis¹⁰;
- c) providing its agents with such operating manuals as needed to ensure adequate provision of services to the DTI's customers;
- d) ensuring that the agent's operations and information systems used for agent banking are independently audited by a third party. The audit should include:
 - i) physical and logical security of infrastructure;
 - ii) availability of services; and
 - iii) data confidentiality and integrity.
- e) adhering to the agent banking contract which should clearly include the rights, responsibilities and expectations of all parties;
- f) ensuring that agency operations are included in its contingency plans;
- g) ensuring that the agent adheres to its confidentiality obligations as per section 134 of the BSA;
- h) ensuring that the agent banking activities do not impede the DTI's ability to meet its regulatory and customer obligations.

E2.4. Liability for Agent Banking Operations

20. Under the agent banking framework, the DTI will retain liability for transactions conducted with the agent on its behalf. Notwithstanding, the DTI's risk management processes should incorporate sufficient operating safeguards that allow for the appropriate management of the risks of offering banking services through an agent, for example, engagement terms that allow the DTI to be indemnified by the agent from acts of fraud committed by the agent or the agent's employees or officers.

¹⁰ Refer also to the Standard of Sound Business Practices Guideline to Fit and Proper Assessments for further guidance.

E2.5. Customer Relationships

21. The customer should be able to raise any issue concerning transactions conducted through an agent either with the appointing DTI or with the agent who facilitated the transaction. Accordingly, reliance will be placed on the DTI's processes to ensure seamless access to the DTI by the customer.
22. All banking service transactions with an agent are subject to the provisions of the enforceable Code of Conduct pursuant to the BSA. This includes such matters as:
 - a) clear and effective disclosures;
 - a) adequate notification and advisories;
 - b) access to information on transactions conducted by the customer with the agent;
 - c) confidentiality of customer information;
 - d) mechanism and procedures for handling customer complaints, including a complaints resolution mechanism; and
 - e) adequate record-keeping.

E3. The Role of the Agent

23. Notwithstanding the appointing DTI's overall responsibility and liability for agent banking operations, the agent is expected to conduct its approved banking services within the ambit of the Regulations and DTI/agent contract. That is, the agent must, inter alia, observe the confidentiality agreement and have the appropriate infrastructure to protect customer information. DTIs are required to ensure that the agents are made aware of the confidentiality obligations conferred on the agents under section 134 of the BSA, a breach of which constitutes an offence to which a penalty is attached.

F. Permitted Banking Services by Agents

24. The permitted banking services which may be offered by agents are listed in section 108 (1) of the BSA. The permitted banking services are:

- a) deposits and withdrawals;
- b) payments of bills and loan repayments;
- c) electronic transfer of funds;
- d) account balance enquiries; and
- e) collection of know your customer (KYC) and customer due diligence (CDD) documentation on behalf of the DTI.

Subject to regulatory review in each case, services incidental to the foregoing may be permitted, such as delivery of customer related documentation to the DTI and delivery of DTI issued cards to customers.

The BSA allows for the agent to collect KYC and CDD documentation from customers for services or facilities of the DTI within the context of the DTI remaining responsible for the assessment, analysis and verification of the adequacy and acceptability of that documentation.

25. Where the list of permitted services under section 108(1) (a)–(e) is extended, the Supervisory Committee will advise the industry accordingly.

G. Prohibited Activities

26. In accordance with the Regulations, agents are not allowed to:
- a) levy a fee or charge, by whatever name called, for banking services provided;
 - b) undertake banking services in its own name or in its own right;
 - c) continue to offer or undertake agent banking services if the owners and individuals directly concerned with the management of the agent banking operations are not fit and proper;
 - d) provide, render or hold itself out to be providing or rendering banking services which it is not specifically permitted to offer in its instrument of appointment;
 - e) grant loans in the name of, or on behalf of, the appointing DTI;

- f) provide a guarantee in the name of, or on behalf of, the appointing DTI;
- g) subcontract another body to carry out agent banking services on its behalf;
- h) conduct transactions on a customer's behalf without the express permission of the customer;
- i) use customers' funds for purposes other than for the purpose requested by the customer;
- j) represent or cause to be represented in advertisements, notices or any other form of communication that the agent is itself a DTI;
- k) open bank accounts; or
- l) perform any other service or activity which are prohibited by the Supervisory Committee by notice published in the Gazette.

H. Conflict of interest

27. Appointments of agents should be subject to arms-length arrangements. Therefore, the framework considers safeguards to minimize actual and apparent conflicts of interest that could arise including but not limited to the agent being controlled or managed by an officer (as defined in the BSA), key employee or substantial shareholder of the appointing DTI. However, the agent can be owned by a non-decision making employee of an appointing DTI.

I. Required Displays at Agent Locations

28. The appointed agent is required to display or exhibit the following in a conspicuous place at each place of business where it conducts agent banking services:
- a) a certified copy of the appointing DTI's approval to offer banking services through the agent. This refers to the approval granted by the Supervisory Committee to the appointing DTI to offer specified services under section 108 of the BSA;
 - b) a certified copy of the agent's appointment, which shall include a list of the banking services that can be offered by the agent and the effective date of the appointment of

- the agent by the appointing DTI. The certified copy of the agent's appointment refers to the instrument of appointment issued by the appointing DTI to the agent;
- c) name and the logo of the appointing DTI; and
 - d) the contact information by which customers can interact directly with the appointing DTI.

J. Renewal of Approvals

29. Approvals under section 108(1) remain valid and in effect until revoked. The renewal of approvals and fees for applications are not required under this framework.

K. Notification to the Supervisor

30. Subsequent to a DTI's approval to appoint an agent, the DTI is required to notify the Supervisor of:
- a) any intention to make any material changes to the agent banking arrangement/agreement;
 - b) any intention to discontinue banking services at any location operated through an agent;
 - c) any matter that could affect the financial viability or the reputation of the DTI in relation to agent banking services including circumstances that render the agents' substantial shareholders, directors, officers, principal agent banking employees as unfit to hold office; and
 - d) any other matter that is brought to the DTI's attention that could jeopardize the services offered through the agent.

L. Regulatory and Supervisory Regime for Agent Banking

31. The Supervisor may apply the regulatory or administrative measures outlined in the Regulations:
- a) where, in the view of the Supervisor, the DTI has demonstrated poor or ineffective management of its agent relationship(s) or is incapable of doing so effectively, or
 - b) where such relationship(s), in the opinion of the Supervisor, exposes the DTI to undue risks; or
 - c) where the Supervisor believes that there is a breach of the Regulations by an agent.

Alternatively, the Supervisor may recommend to the Supervisory Committee that an approval granted to a DTI under section 108(1) of the BSA be revoked pursuant to section 108(8) of the BSA.

32. An assessment of a DTI's readiness to extend operations to include agent banking services will include consideration of overall compliance with the requirements of the BSA and subsidiary regulations and guidance, as well as, inter alia, a DTI's general track record of compliance with other obligations under other relevant statutes such as Proceeds of Crime Act, Income Tax Act, Terrorism Prevention Act, and Companies Act.

Appendix I
Extract - Banking Services Act, 2014

Section 55

(1) Subject to subsection (3), a licensee that proposes to engage in any matter described in subsection (2) shall, prior to doing so-

- (a) notify the Supervisor of its intention to do so; and
- (b) furnish to the Supervisor such information as may be prescribed.

(2) The matters referred to in subsection (1) are

- (a) new businesses or products;
- (b) new delivery channels for existing businesses or products;
- (c) strategic alliances;
- (d) joint ventures;
- (e) co-branding initiatives; and
- (f) any other matter in relation to which the Supervisor determines that prior notification is required.

(3) The licensee may engage in any matter described in subsection (2) if:

- (a) the Supervisor indicates, in writing, that he does not object; or
- (b) the Supervisor does not object within thirty days of the date on which the notification was made under subsection (1) (a).

(4) A licensee that contravenes subsection (1) commits an offence.

Section 108

(1) Subject to subsections (2) and (4), a deposit taking institution may, with the prior approval of the Supervisory Committee in writing, appoint a person as an agent to offer one or more of the following banking services:

- (a) deposits and withdrawals;
- (b) payments of bills and loan repayments;
- (c) electronic transfer of funds;
- (d) account balance enquiries;

(e) the collection of know your customer and customer due diligence documentation from customers for services or facilities, so, however, that, the deposit taking institution shall remain responsible for the analysis or verification of the adequacy and acceptability of that documentation; and

(f) any other services that the Supervisory Committee may, in writing, approve.

(2) The Supervisory Committee may prescribe financial or operational thresholds, limits or other financial or non-financial restrictions in relation to the services referred to in subsection (1).

(3) The Supervisor shall be entitled at all reasonable times to examine the books, documents, records, statements and other relevant information of an agent, in relation to its operations as an agent of a deposit taking institution, and is accordingly, entitled to exercise the functions set out in Part XIII in relation to the agent, in so far as the Supervisor deems necessary.

(4) A person shall not be eligible for appointment as an agent unless

(a) the person has been authorized by the Supervisor to offer such services;

(b) the person is legally incorporated in Jamaica and is compliant with the tax and other statutory requirements imposed by any enactment that are relevant to the person;

(c) the directors, officers, substantial shareholders and key employees of the person are fit and proper persons;

(d) the person has satisfied the Supervisory Committee that the person is able to meet the operating, security and financial requirements to act as an agent as specified in the Supervisory Rules.

(5) A person who is appointed as an agent, shall be subject to the secrecy obligations set out at section 134.

(6) A deposit taking institution that offers or provides any of the services set out in subsection (1) through a third party without the prior approval of the Supervisory Committee commits an offence.

(7) A person who falsely holds himself out as being authorized by a deposit taking institution to provide any of the services referred to in subsection (1) commits an offence.

(8) The Supervisory Committee may revoke an approval under subsection (I) if a person appointed as an agent

(a) is revealed or discovered subsequently to be a person who is not eligible for appointment as an agent; or

(b) by his actions or omissions, is no longer, in the Supervisory Committee's opinion, eligible to continue to operate as an agent under this section.

(9) Where an approval has been revoked under subsection (8) a deposit taking institution shall terminate the agreement or arrangement pertaining to the appointment of the agent or cause the agreement or arrangement to be terminated and the agreement or arrangement shall contain a clause to this effect or shall be deemed to contain a clause to this effect.

Appendix II
The Agency Contract (Pursuant to section 108 of the BSA)

Minimum areas of coverage in agent specific arrangements should address the following matters:

- a) the appointment of the business entity as the appointing Deposit Taking Institution's (DTI's) agent to provide a clearly defined scope of banking services;
- b) the specific list of banking services that the agent is appointed to offer;
- c) the scope of work to be performed by the agent;
- d) the rights, expectations and responsibilities of the agent and that of the appointing DTI;
- e) the compensation structure for the agent;
- f) recognition that the agent is subject to inspections and other oversight authorities of Bank of Jamaica and the appointing DTI;
- g) recognition that management and oversight responsibilities of the DTI cannot be delegated;
- h) the records management requirements for the agent;
- i) clear acknowledgement that all information/data that the agent collects in relation to agent banking services are collected on behalf of the appointing DTI;
- j) clear acknowledgement of the agent's responsibility for confidentiality and security of customer information and transactions;
- k) reporting requirements from the agent to the DTI which are necessary to enable effective monitoring of the performance of the agent, including reporting of any event that may materially affect the efficiency of service delivery;
- l) clear acknowledgement of the agent's obligation to comply with all applicable regulatory requirements;
- m) clear acknowledgement that revocation of a DTI's approval also terminates the agreement of the agent; and
- n) suitable limits on cash transactions and balances, where applicable and commensurate with the assessed risk of the DTI offering banking services through the agent.

Appendix III
Additional Due Diligence Considerations Pertinent to Applications
Under Section 108 of the BSA

Additional due diligence considerations will include:

- a) Business Strength – this includes business type; legal status of enterprise (company, partnership, sole trader); years in operation; financial security; physical and logical security; and business and operational capacity.
- b) Reputation – among customers, peers, potential agents, banks;
- c) Professional experience, education, training and background of management and other employees;
- d) Cash management capabilities (including systems and capacity to accept and disburse cash);
- e) Revenue performance;
- f) Number of active customer accounts;
- g) Customer support capabilities;
- h) Knowledge of local market conditions;
- i) Overall condition of facilities;
- j) Location of potential agent;
- k) Territorial coverage – including overlay with intended market; overlay with mobile infrastructure; proximity to banking infrastructure; convenience for clients; level of commercial activity;
- l) Branch networks – including number of outlets; urban locations; rural/non-urban locations;
- m) Market coverage – horizontal or vertical or both;
- n) Sales force compensation; sales competency (including the number and quality of sales people and technical competence of the sales team); sales and marketing aggressiveness; sales cycle performance requirements – including pre-sale, post-sale and transaction cycles; and internal sales and marketing support resources.
- o) Price integrity;
- p) Ability to develop new markets;
- q) Training programmes;
- r) Evidence of willingness to share data and local market information; participate in joint; sales and marketing programmes; undergo training; commit resources to agent banking; participate in strategic business planning with the DTI; and
- s) Future growth prospects.

Appendix IV
Extract of The Banking Services (Deposit Taking Institutions) (Agent Banking)
Regulations, 2016

Regulation 8

(1) An appointing deposit taking institution shall be responsible for the management and ongoing monitoring of its agents and in the performance of this function shall –

- (a) conduct periodic reviews of the agent banking operations, at least on an annual basis, to ensure that its agent remains eligible for appointment;
- (b) implement operating safeguards that are appropriately reflective of the risk profile for the agent banking operation;
- (c) provide, from time to time, training designed to –
 - (i) enable the agent to adequately perform the agent banking services and to properly manage its agent banking operations, including implementing proper cash security controls and protocol;
 - (ii) establish or improve the agent’s awareness of the anti-money laundering and combating the financing of terrorism obligations of the appointing deposit taking institution, including proper identification of customers, record keeping requirements and compliance with confidentiality obligations that are applicable to the appointing deposit taking institution; and
 - (iii) sensitize the agent on the requirements of the Act, these Regulations and any other relevant enactment as well as the policies and procedures implemented by the appointing deposit taking institution that are applicable to the agent banking operations;
- (d) facilitate real-time transactions by its agent; and
- (e) ensure that compliance with its statutory obligations, where applicable, extend to the agent banking services carried out through its agent.