



THE
JAMAICA GAZETTE
SUPPLEMENT

PROCLAMATIONS, RULES AND REGULATIONS

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TUESDAY, JANUARY 28, 1997

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No. 12A

THE BANKING ACT

THE BANKING (ESTABLISHMENT OF BRANCHES) REGULATIONS, 1996

In exercise of the powers conferred upon the Minister by subsection (1) of section 38 of the Banking Act, the following Regulations are hereby made:—

Citation. 1. These Regulations may be cited as the Banking (Establishment of Branches) Regulations, -1996.

Interpretation.

2. In these Regulations—

“branch” means an office or place of business (other than a head office, principal office or representative office) where a bank carries on any banking business and includes sub-branches, agencies and sub-agencies of such bank;

“host country authority” means the authority of a country outside Jamaica which in that country performs the supervisory functions that in Jamaica are performed by the Department of Supervision of Banks and Financial Institutions of the Bank of Jamaica;

“representative office” means any office of a bank which is not a head office, principal office or branch.

Prior ministerial approval.

3. A bank shall not establish a branch or representative office or change the location of an existing branch or representative office without the prior approval of the Minister in writing.

Application approval. Schedule.

4. Application to the Minister for approval pursuant to regulation 3, shall be made by the bank concerned through the Bank of Jamaica and shall contain the information set out in the Schedule hereto and such additional information as the Bank of Jamaica or the Minister may require pursuant to regulation 7 or 8.

Requirements to be satisfied.

5. An application under regulation 4 shall not be granted unless the Minister is satisfied as to—

- (a) the history and financial condition of the bank;
- (b) the suitability of its management;
- (c) the adequacy of its capital;
- (d) the convenience and needs of the community to be served; and
- (e) the public interest which will be served by the establishment or, as the case may be, change of location of the branch or representative office.

Requirements for overseas operations.

6. Where an application is for the establishment or relocation outside Jamaica of a branch or representative office, the application shall not be granted unless the Minister after consultation with the Governor of the Bank of Jamaica is satisfied that—

- (a) the host country authority has the necessary capacity for carrying out supervision that complies with generally recognized international standards;
- (b) the host country authority has given its consent to the establishment of the branch or representative office;
- (c) the host country authority and the Bank of Jamaica have reached agreement on the allocation of responsibility for supervision either generally or in respect of specific activities;
- (d) an understanding has been reached, and the respective laws are in place, for each country's authority to be able to gather information from the other and from the branch, head office, or representative office, as the case may be, to the extent necessary for effective supervision;
- (e) an understanding has been reached with the host country authority whereby, if certain minimum standards of supervision are not available in the host country, the Bank of Jamaica may impose restrictive measures necessary to satisfy its prudential concerns;

- (f) the bank's Board of Directors has approved and executed a document authorizing information in respect of the applicant to be given to the host country authority, and the host country authority has agreed to give relevant information on the branch's operations, to the Bank of Jamaica.

Submission of application to Minister.

7. An application under regulation 4 and supporting documents (if any), shall be transmitted to the Minister through the Bank of Jamaica which may require any further particulars to be supplied by the applicant and which shall—

- (a) examine the application and supporting documents;
- (b) make recommendations thereon; and
- (c) forward one copy of the application, the supporting documents and the recommendations to the Minister.

Decision regarding application.

8. The Minister may, after receiving the application, any supporting documents and the recommendations of the Bank of Jamaica under regulation 7, require additional information to be supplied and may—

- (a) grant the application subject to such conditions (if any), as he sees fit; or
- (b) refuse the application.

and any such grant or refusal with reasons therefor shall be notified in writing to the applicant bank.

Notification of material changes.

9. Where there is any material change in any of the particulars furnished with an application under these Regulations, the bank concerned shall in writing inform the Minister and the Bank of Jamaica forthwith.

Cash reserve etc., to include branch liabilities.

10. For the purpose of determining—

- (a) the cash reserve;
- (b) the liquid assets,

which a bank is required to hold under sections 14 and 15 of the Banking Act, the prescribed liabilities of each branch (whether overseas or local) of that bank, may be taken into account.

Foreign currency reserve applies to overseas branch.

11. In respect of any notice issued by the Bank of Jamaica pursuant to section 28 (3A) or section 29 (3A) of the Bank of Jamaica Act, a bank which maintains any overseas branch shall establish arrangements with the branch such as to ensure compliance with the notice.

Prior notice of discontinuation.

12.—(1) The operations of a branch or representative office of a bank may not be discontinued unless the bank has given the Minister six months' written notice of its intention to do so, or such shorter period of notice as the Minister may in writing permit.

(2) The notice pursuant to paragraph (1) shall include information regarding any arrangements effected or contemplated by which the

business of the customers of the branch will be transferred to another branch of the bank.

Continuation of existing branch or office.

13. Where immediately before the commencement of these Regulations, a branch or representative office of a bank was in operation, approval under regulation 4 shall be deemed to have been granted and shall continue in force unless the bank fails within such reasonable time as the Bank of Jamaica may specify in writing, to supply it with such information as pertains to an application under regulation 4 as it may require.

SCHEDULE

(Regulation 4)

PART A *Basic information to be included with application under Regulation 4*

- (1) name of applicant;
- (2) location of proposed branch or representative office;
- (3) status (whether it is to be a branch, sub-branch, agency or sub-agency);
- (4) number of persons likely to be employed;
- (5) approximate date of opening;
- (6) whether management resources would be assigned from the head office in Jamaica to the proposed branch or representative office, and if not, where these resources would be drawn from; and whether the chief management personnel have been designated, their names and other particulars, including business experience, qualifications, and duties;
- (7) approximate population and its density in the area to be served by the branch or representative office;
- (8) number and location of existing banking facilities in that area;
- (9) principal economic activities in that area and the location thereof;
- (10) financial projections for the proposed branch or representative office for its first five years of operations, which should include balance sheet, profit and loss and cash flow data, and the financial and economic assumptions upon which they are based;
- (11) estimated capital expenditure on the proposed branch or representative office specifically—
 - (a) estimated cost of furniture and equipment; and
 - (b) estimated cost of premises;
- (12) main activities to be conducted;
- (13) any other relevant information.

PART B *Additional information in respect of a proposed overseas branch*

- (1) the advantages to the applicant and Jamaica;
- (2) the nature and level of activities to be undertaken by the overseas branch;
- (3) the business plan for the branch and its relationship to the overall business plan of the bank;
- (4) impact on the profitability, the capital base and risk profile of the bank;
- (5) how the bank proposes to monitor and supervise the activities of the proposed overseas branch;
- (6) specific details as to how and from what source the branch will be funded and capitalised;
- (7) relevant details about the host country, in particular—
 - (a) whether exchange control is applicable and if so the basic rules that are relevant;
 - (b) whether, if exchange control is applicable, approval for the operations has been obtained (with supporting documentation);
 - (c) the nature and extent of the supervisory functions performed by the host country, and any information as to whether the supervisory approach varies according to the type of banking establishment supervised, as for example a branch *vis-a-vis* a locally incorporated subsidiary;
 - (d) whether the laws, regulations or practices of the host country restrict the level or type of activities that such an undertaking would be allowed to engage in;
 - (e) whether solvency, liquidity and foreign exchange exposure requirements are imposed by the host country jurisdiction on banks incorporated there, and if so what these are, and whether they would likewise apply to overseas branches of Jamaican banks operating there.
- (8) information as to the existence of secrecy provisions in the legislation of the host country which might prevent or hinder the exchange of relevant prudential information between the host country authority and Bank of Jamaica;
- (9) any other relevant information.

Dated this 28th day of January, 1997.

OMAR DAVIES,
Minister of Finance and Planning.

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