

THE BANKING SERVICES ACT, 2014

(Act of 2014)

ARRANGEMENT OF SECTIONS

PART I. *Preliminary*

1. Short title and commencement.
2. Interpretation.
3. **Meaning of fit and proper person.**

PART II. *Administration*

4. Exercise of functions under this Act.
5. Principles to take into account when performing functions.
6. **Constitution of Supervisory Committee.**
7. **Functions of Supervisory Committee.**
8. Protection of members of Supervisory Committee.
9. Secrecy of Supervisory Committee.

PART III. *Prohibition and Restriction on Deposit Taking*

10. Restriction on deposit taking generally.
11. Prohibition on shell banks.
12. Offence of fraudulent misrepresentation *re* licence, etc.
13. Offence *re* indictment to place money on deposit.
14. Restrictions on dealing with, for or on behalf of prohibited scheme.
15. Offence of holding out to be licensee.
16. Search warrant for contravention of ~~this~~ Part.

PART IV. *Restriction on use of certain words in name or title*

17. Restriction on use of certain words in name or title.

ELEVENTH SCHEDULE

(Section 144)

Consequential Amendment of Enactments

Enactment <hr/>	Amendment <hr/>
<i>Charities Act</i>	
Section 2	Delete the definition of “financial institution” and substitute therefor the following— “ “financial institution” means— (a) a bank as defined in the Banking Services Act; (b) a merchant bank as defined in the Banking Services Act; (c) a building society as defined in the Banking Services Act; (d) a society registered under the Co-operative Societies Act and which carries on credit union business; (e) an insurance company registered under the Insurance Act; (f) a person licensed under the Bank of Jamaica Act to operate an exchange bureau; (g) a person licensed under the Securities Act as a dealer or investment adviser; (h) money transfer and remittance agents and agencies; (i) any other person declared by the Minister, by order published in the <i>Gazette</i> , subject to affirmative resolution, to be a financial institution for the purposes of this Act;”.
<i>Companies Act</i>	
Section 38	Delete from subsection (8) the words “the Banking Act, the Financial Institutions Act” and substitute therefor the words “the Banking Services Act”.

Enactments**Amendment**

Section 159 In subsection (1), delete paragraphs (a), (b), (c), (d), (e), (f), (g) and (h) and substitute therefor the following—

- “ (a) a public company;
- (b) a private company whose articles provide otherwise;
- (c) a bank as defined under the Banking Services Act;
- (d) a merchant bank as defined under the Banking Services Act;
- (e) an insurance company registered under the Insurance Act;
- (f) a company licensed under the Securities Act;
- (g) a building society as defined under the Banking Services Act;
- (h) a society registered under the Co-operative Societies Act and which carries on credit union business;
- (i) an insurance company registered under the Insurance Act;
- (j) a subsidiary of a company, falling within any of the categories in paragraphs (a) to (i),”.

Part II of the Seventh Schedule. 1. In paragraph 8, delete sub-paragraphs (a) (b), (c), (d), (e) and (f) and substitute therefor the following—

- “ (a) a public company;
- (b) a bank as defined under the Banking Services Act;
- (c) a merchant bank as defined under the Banking Services Act;
- (d) an insurance company registered under the Insurance Act;
- (e) a licensee under the Securities Act;
- (f) a building society as defined under the Banking Services Act; or

Enactments

Amendment

- (g) a society registered under the Co-operative Societies Act.”.
2. In paragraph 11, delete sub-paragraphs (a) (b), (c), (d), (e) and (f) and substitute therefor the following—
- “ (a) a public company;
- (b) a bank, merchant bank or building society as defined under the Banking Services Act;
- (c) an insurance company registered under the Insurance Act;
- (d) a licensee under the Securities Act;
- (e) a society registered under the Co-operative Societies Act.”.

*Deposit
Insurance Act*

Section 2

1. In subsection (1), delete the definition of “financial institution” and substitute therefor the following—
- “ “financial institution” means—
- (a) a bank as defined under the Banking Services Act;
- (b) a merchant bank as defined under the Banking Services Act;
- (c) a building society as defined under the Banking Services Act;
- (d) subject to section (3) any other person or undertaking whose business includes the accepting of deposits and who has been designated, by the Minister under section 2 of the Bank of Jamaica Act, to be a specified financial institution.”.
2. In subsection (2), delete from—
- (a) paragraph (b) the words “the Banking Act, Building Societies Act, the Deposit Insurance Act, the Financial Institutions Act” and substitute therefor the words “Banking Services Act, the Deposit Insurance Act”; and

EnactmentsAmendment

- (b) paragraph (c) the words “the Banking Act, the Deposit Insurance Act, Building Societies Act, the Financial Institutions Act” and substitute therefor the words “Banking Services Act, the Deposit Insurance Act”.

Section 5 In subsection (2) (b), delete the words “the Banking Act, Bank of Jamaica Act, Building Societies Act, Financial Institutions Act,” and substitute therefor the words “the Bank of Jamaica Act or Banking Services Act,”.

*Financial
Investigations
Division Act*

Section 2 Delete the definition of “financial institution” and substitute therefor the following—

“ “financial institution” means—

- (a) a bank as defined under the Banking Services Act;
- (b) a merchant bank as defined under the Banking Services Act;
- (c) a building society as defined under the Banking Services Act;
- (d) a society registered under the Co-operative Societies Act and which carries on credit union business;
- (e) an insurance company registered under the Insurance Act;
- (f) a person licensed under the Bank of Jamaica Act to operate an exchange bureau;
- (g) a person licensed under the Securities Act as a dealer or investment adviser;
- (h) money transfer and remittance agents and agencies;
- (i) any other person declared by the Minister, by order subject to affirmative resolution, to be a financial institution for the purposes of this Act;”.

Enactments

Amendment

Insurance Act

Section 2 In subsection (3)(c)(ii), delete the words “the Banking Act, the Deposit Insurance Act, the Financial Institutions Act” and substitute therefor the words “Banking Services Act, the Deposit Insurance Act”.

Moneylending Act

Section 13 In subsection (1), delete from—

- (a) paragraph (d) the words “licensed under the Financial Institutions Act” and substitute therefor the words “operating under the Banking Services Act as a merchant bank”; and
- (b) paragraph (e) the words “licensed under the Banking Act” and substitute therefor the words “operating under the Banking Services Act as a bank”

Proceeds of Crimes Act

Section 2 In subsection (1), delete the definition of “financial institution” and substitute therefor the following—

“ “financial institution” means—

- (a) a bank as defined under the Banking Services Act;
- (b) a merchant bank as defined under the Banking Services Act;
- (c) a building society as defined under the Banking Services Act;
- (d) a society registered under the Co-operative Societies Act and which carries on credit union business;
- (e) an insurance company registered under the Insurance Act;
- (f) a person licensed under the Bank of Jamaica Act to operate an exchange bureau;

EnactmentsAmendment

- (g) a person licensed under the Securities Act as a dealer or investment adviser;
- (h) money transfer and remittance agents and agencies;
- (i) any other person declared by the Minister, by order subject to affirmative resolution, to be a financial institution for the purposes of this Act;”.

Securities Act**Section 2**

1. In subsection (1), delete paragraph (j) of the definition of “securities” and substitute therefor the following—

“ (j) certificates of deposit issued by banks or merchant banks;”.

2. In subsection (2), delete paragraph (a) and substitute therefor the following—

“ (a) a bank as defined in the Banking Services Act;”;

3. In subsection (3), delete from—

(a) paragraph (c) the words “Banking Act” and substitute therefor the words “Banking Services Act”; and

(b) paragraph (d) the words “any licensee under the Financial Institutions Act” and substitute therefor the words “any merchant bank under the Banking Services Act”.

Section 26 Delete subsection (4)(b)(i) and substitute therefor the following—

“ (i) a deposit taking institution under the Banking Services Act;”.

Enactments

Amendment

**Securities
(Collective
Investment
Scheme)
Regulations,
2013**

Regulation 2 Delete paragraph (1) (b) (i) and substitute therefor the following—

“(i) a deposit taking institution under the Banking Services Act;”

*Terrorism
Prevention Act*

Section 2 In subsection (1), delete the definition of “financial institution” and substitute therefor the following—

“ “financial institution” means—

- (a) a bank as defined under the Banking Services Act;
- (b) a merchant bank as defined under the Banking Services Act;
- (c) a building society as defined under the Banking Services Act;
- (d) a society registered under the Co-operative Societies Act and which carries on credit union business;
- (e) an insurance company registered under the Insurance Act;
- (f) a person licensed under the Bank of Jamaica Act to operate an exchange bureau;
- (g) a person licensed under the Securities Act as a dealer or investment adviser;
- (h) money transfer and remittance agents and agencies;
- (i) any other person declared by the Minister, by order subject to affirmative resolution, to be a financial institution for the purposes of this Act;”.

EnactmentsAmendment

*United Nations
Security
Council
Resolutions
(Implementation)
Act*

Section 2 Delete the definition of “financial institution” and substitute therefor the following—

“ “financial institution” means—

- (a) a bank as defined under the Banking Services Act;
- (b) a merchant bank as defined under the Banking Services Act;
- (c) a building society as defined under the Banking Services Act;
- (d) a society registered under the Co-operative Societies Act and which carries on credit union business;
- (e) an insurance company registered under the Insurance Act;
- (f) a person licensed under the Bank of Jamaica Act to operate an exchange bureau;
- (g) a person licensed under the Securities Act as a dealer or investment adviser;
- (h) money transfer and remittance agents and agencies;
- (i) any other person designated by the Minister, by order published in the *Gazette*, subject to affirmative

Enactments

Amendment

resolution, as a financial institution
for the purposes of this Act;”.

Passed in the Honourable House of Representatives with two hundred and sixty-eight (268) amendments this 4th day of June, 2014.

MICHAEL A. PEART
Speaker.

Passed in the Honourable Senate with seventy-five (75) amendments this 13th day of June, 2014.

FLOYD E. MORRIS
President.

On the 18th day of June, 2014 the Honourable House of Representatives agreed to the amendments made by the Senate.

MICHAEL A. PEART
Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

(Sgd.) *Heather E. Cooke*
Clerk to the Houses of Parliament.

