

THE JAMAICA INTERNATIONAL FINANCIAL
SERVICES AUTHORITY ACT

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THE JAMAICA INTERNATIONAL FINANCIAL
SERVICES AUTHORITY ACT

Act
10 of 2011.

[9th May, 2011.]

PART I. *Preliminary*

1. This Act may be cited as the Jamaica International Financial Services Authority Act. Short title.

2. In this Act, except where the context otherwise requires— Interpretation.

“Authority” means the Jamaica International Financial Services Authority established by section 3;

“chairman” means the chairman of the Authority, appointed under paragraph 4 of the Schedule; Schedule.

“Chief Executive Officer” means the Chief Executive Officer of the Authority, appointed under section 8(1);

“document” includes, in addition to a document in writing—

(a) any map, plan, graph or drawing;

(b) any photograph;

(c) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable of (with or without the aid of some other equipment) being reproduced therefrom; or

(d) any film (including microfilm), negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;

“financial institutions” means—

(a) a bank licensed under the *Banking Act*;

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(b) a company—

(i) licensed under the *Financial Institutions Act*; or

(ii) registered under the *Insurance Act*;

(c) a building society registered under the *Building Societies Act*;

(d) a society registered under the *Cooperative Societies Act*;

(e) a person licensed under the *Securities Act* as a dealer or investment advisor;

(f) an individual or entity licensed by a foreign regulator;

(g) any other declared by the Minister, by order subject to affirmative resolution, to be a financial institution for the purposes of this Act;

“financial regulator” includes—

(a) the Bank of Jamaica;

(b) the Financial Services Commission; and

(c) any other person who regulates the provision of international financial services in Jamaica;

“foreign regulator” means a supervisory authority in a country other than the Jamaica which has supervisory duties and responsibilities—

(a) with respect to any person who or body that is incorporated in and provides international financial services in that country; and

(b) which are similar to the duties and responsibilities of the Bank of Jamaica and the Financial Services Commission;

“functions” includes powers and duties;

“international financial service”—

(a) includes any business activity consisting of—

- (i) the formation or management of international business companies;
- (ii) the formation and management of off-shore trusts;
- (iii) offshore banking;
- (iv) international insurance;
- (v) international asset protection and management;
- (vi) international collective investments; or
- (vii) such other business activity as may be prescribed by the Minister by order as an international financial service, being an activity in Jamaica, involving the provision of financial services that is carried on—

(A) exclusively with persons not resident in Jamaica; and

(B) in currency other than the currency of Jamaica; but

(b) does not include—

- (i) banking business carried on by a bank licensed under the *Banking Act*; or
- (ii) the business of accepting deposits carried on by a financial institution licensed under the *Financial Institutions Act*,

for or on behalf of a person who is domiciled or ordinarily resident in Jamaica.

PART II. *Establishment and Functions of Authority*

3.—(1) There is established for the purposes of this Act a body to be called the Jamaica International Financial Services Authority.

Establish-
ment of
Authority.

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(2) The Authority shall be a body corporate to which section 28 of the *Interpretation Act* applies.

Schedule.

(3) The provisions of the Schedule shall have effect as to the constitution and procedure of the Authority and otherwise in relation thereto.

Object of
Act.

4. The object of this Act is to foster the development of an international financial services sector in Jamaica that—

- (a) meets international standards of supervision and regulation;
- (b) is commercially viable so as to promote economic growth;
- (c) creates diversification of the economic base; and
- (d) increases opportunities for employment.

Functions of
Authority.

5.—(1) The functions of the Authority shall be to—

- (a) market and promote Jamaica as a centre for international financial services;
- (b) enhance the reputation of Jamaica as a centre of excellence for the provision of international financial services, and to promote the maintenance of this reputation;
- (c) promote the adoption and maintenance of international standards of the competence, efficiency and competitiveness in the provision of international financial services;
- (d) promote compliance with supervisory and regulatory standards for the conduct of international financial services, including standards for the curtailment of the funding of terrorist activities and the prevention of money laundering;
- (e) promote public awareness and understanding of issues relating to international financial services;
- (f) make recommendations—

- (i) where necessary, for legislative changes relating to international financial services;
- (ii) for the creation or improvement of any facilities likely to enhance the attraction of Jamaica as a centre of excellence for the provision of international financial services;
- (g) establish procedures and develop, implement and monitor a national plan and other plans and programmes relating to international financial services;
- (h) advise the Minister on matters of general policy relating to international financial services in Jamaica; and
- (i) perform such other functions as may be assigned to it, from time to time, by the Minister or by or under this Act or any other enactment.

(2) In performing the functions set out in subsection (1), the Authority may—

- (a) conduct seminars and provide appropriate training programmes and consulting services, and gather and disseminate information relating to international financial services;
- (b) conduct research and commission studies, as necessary, to support the strategic development of international financial services in Jamaica;
- (c) collect, store and disseminate on a continuous basis, reliable and timely information on the trends of international financial services in Jamaica;
- (d) impose fees and introduce other cost recovery measures for services provided by or on behalf of the Authority; and

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- (e) do anything or enter into any arrangement which, in the opinion of the Authority, is necessary to ensure the proper performance of its functions.

(3) In this section—

“terrorist activity” shall be constructed in accordance with the *Terrorism Prevention Act*;

“money laundering” shall be constructed in accordance with Part V of the *Proceeds of Crime Act*.

Delegation of certain functions.

6.—(1) The Authority may by instrument in writing, delegate any of its functions under this Act (other than the power of delegation or the power to make regulations) to any member, officer or agent of Authority.

(2) Every delegation under subsection (1) is revocable by the Authority and the delegation of a function does not preclude the performance of that function by the Authority.

Ministerial directions.

7. The Minister may, after consultation with the chairman, give to the Authority directions of a general character as to the policy to be followed by the Authority in the performance of its functions, as appear to the Minister to be necessary in the public interest, and the Authority shall give effect to the directions.

PART III. *Administration*

Appointment of Chief Executive Officer, other officers and employees.

8.—(1) Subject to subsection(5), the Authority may appoint and employ at such remuneration and subject to such terms and conditions as it thinks fit, a Chief Executive Officer, a secretary and such other officers and employees as it thinks necessary for the proper carrying out of its functions.

(2) The Chief Executive Officer shall be responsible for the day-to-day management of the Authority.

(3) The Chief Executive Officer shall hold office for a period not exceeding three years and may be re-appointed for

periods not exceeding three years at a time.

(4) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any public officer in the service of the Government to any office within the Authority, and any public officer so appointed shall, while so employed, in relation to any pension, gratuity or other allowance and in relation to any other rights as a public officer, be treated as continuing in the service of the Government.

(5) Except with the prior approval of the Minister, no salary in excess of the prescribed rate shall be assigned to any post and no appointment shall be made to any post to which a salary in excess of the prescribed rate is assigned.

(6) In this section—

“prescribed rate” means such rate as the Minister may, by order, prescribe;

“Minister” means the Minister with responsibility for the public service.

9.—(1) The Chief Executive Officer may by instrument in writing, with the approval of the Minister, delegate any of the functions conferred on him by or under this Act to a person specified in the instrument of delegation.

Delegation
of powers
by Chief
Executive
Officer.

(2) A delegation under subsection (1) shall not prevent the performance of the functions delegated or any other function by the Chief Executive Officer.

10. The Authority may, with the approval of the Minister—

(a) enter into arrangements respecting schemes (whether by way of insurance policies or otherwise); or

Pensions,
gratuities and
other retiring
benefits.

(b) make regulations,

for pensions, gratuities and other retiring, disability or death benefits relating to officers and employees of the Authority and such arrangements or regulations may include provisions for the grant of benefits to the dependants and legal personal

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representatives of such officers or employees.

Obligation
to secrecy.

11.—(1) Every member of the Authority or other person having an official duty or being employed in the administration of this Act shall—

- (a) regard and deal with as secret and confidential all information, records or other documents, obtained in the course of his duties under this Act, relating to the operations of a body engaged in international financial services; and
- (b) make and subscribe a declaration to that effect before a Justice of the Peace.

(2) Every person referred to in subsection (1) having possession of or control over any information, records or other documents, commits an offence if, at any time he communicates or attempts to communicate such information or anything contained in such information, records or other documents, to any person—

- (a) other than a member, officer or employee of Authority or other person to whom he is authorized in writing by the Authority to communicate it pursuant to any other law; or
- (b) otherwise than for the purposes of this Act.

(3) A person who is convicted of an offence under subsection (2) is liable on summary conviction in the Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(4) Where the Authority has consented to the communication to any person of any information obtained in the course of its administration of this Act, that person shall—

- (a) regard and deal with such information as secret and confidential; and
- (b) make and subscribe a declaration to that effect before a Justice of the Peace.

(5) A person referred to in subsection (4) who at any time communicates or attempts to communicate any information referred to in that subsection to any person, otherwise than for the purposes of this Act, commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months or to both such a fine and imprisonment.

12.—(1) Notwithstanding section 11, the Authority may disclose information in any of the following circumstances—

Disclosure of
information
in certain
circumstances.

- (a) if ordered by a court for the purposes of any civil proceedings;
- (b) on the prior written request of the Minister to—
 - (i) the Assets Recovery Agency established under section 3 of the *Proceeds of Crime Act*, to facilitate the investigation of an offence under that Act;
 - (ii) any one or more of the authorities prescribed pursuant to subsection (2) and specified in the request, to facilitate the investigation of any criminal offence;
- (c) with the prior written approval of the Minister, to a foreign regulator or a multilateral organization in accordance with regulations made under section 18 of the *Financial Services Commission Act*;
- (d) to the Solicitor-General, in his capacity as a member of a committee convened to facilitate coordination among financial regulatory agencies under section 16 of the *Financial Services Commission Act*.

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(2) The Minister may prescribe by order, subject to affirmative resolution, the authorities to which information may be disclosed for the purposes of subsection (1)(b)(ii).

Protection
of members
of Authority.

13.—(1) No member of the Authority shall be personally liable for any act or default of the Authority done or omitted to be done in good faith in the exercise of any power, or in the performance of any function, conferred or imposed by or under this Act.

(2) Where any member of the Authority is exempt from liability by reason only of the provisions of this section, the Authority shall be liable to the extent that it would be if the said member were an employee or an agent of the Authority.

Minister may
amend
monetary
penalties.

14. The Minister may, by order, subject to affirmative resolution, amend or vary any monetary penalties prescribed in this Act.

PART IV. *Miscellaneous*

Regulations.

15.—(1) The Minister may, after consultation with the Authority, make regulations generally for the better carrying out of the purposes or provisions of this Act.

(2) Regulations made under subsection (1) shall be subject to affirmative resolution.

(3) Notwithstanding section 29(b) of the *Interpretation Act*, regulations made under subsection (1) may provide in respect of a breach of any of the provisions thereof for the imposition of penalties on summary conviction in a Resident Magistrate's Court of a fine not exceeding one million dollars or imprisonment for a term not exceeding twelve months or of both such fine and imprisonment.

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SCHEDULE

(Sections 2 and 3(3))

Jamaica International Financial Service Authority

PART I. *Constitution and General Procedures*

1.—(1) The Authority shall consist of *ex-officio* members and appointed members. Constitution
of Authority.

(2) The following persons shall be *ex-officio* members of the Authority, that is to say—

- (a) the Governor of the Bank of Jamaica;
- (b) the Executive Director of the Financial Services Commission; and
- (c) the Solicitor-General.

(3) The appointed members of the Authority shall be such persons, not less than ten nor more than twelve, as the Minister may appoint, being persons who appear to the Minister to be appropriate for appointment under this paragraph.

(4) An *ex-officio* member may designate a nominee in the case of the absence or inability to act of such a member.

2.—(1) No person shall be qualified for appointment as a member of the Authority who— Disqualification
for appoint-
ment.

- (a) is a member of the Senate or the House of Representatives;
- (b) is a member of a Parish Council, Council of the Kingston and St. Andrew Corporation or a Municipal Council;
- (c) is associated with an entity registered, licensed or otherwise authorized under the laws of Jamaica to provide any international financial service;
- (d) has a direct or indirect proprietary interest in more than five *per cent* of any class of shares in an entity described in paragraph (c);
or
- (e) has been convicted of an offence involving fraud, dishonesty or moral turpitude.

(2) For the purposes of this paragraph, a person shall be regarded as being associated with an entity or other person if the person is—

- (a) connected to the entity or the other person in the capacity of a director, officer, employee, auditor of the entity or other person; or

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(b) an immediate relative of the director, officer, employee or auditor.

(3) In this paragraph "immediate relative" means any of the following—

(a) husband or wife;

(b) son or daughter;

(c) father;

(d) mother;

(e) brother or sister.

Temporary
appointments.

3. The Minister may appoint any person to act temporarily in the place of any appointed member of the Authority in the case of the absence or inability to act of such member.

Chairman
and deputy
chairman.

4.—(1) The Minister shall appoint a chairman and a deputy chairman of the Authority from among the members of the Authority.

(2) In the case of the chairman being absent from or unable to act at any meeting the deputy chairman shall exercise the functions of the chairman, in any case in which the deputy chairman is present at the meeting and is able to so act.

(3) In the case of the chairman and the deputy chairman being absent from or unable to act at any meeting, members of the Authority present at the meeting shall select one of their number to act as a chairman at that meeting.

Leave of
absence.

5. On the application of any member, the Minister may grant leave of absence to the member.

Tenure of
office.

6.—(1) Subject to the provisions of this Schedule, the appointment of every appointed member of the Authority shall be evidenced by an instrument in writing.

(2) The instrument shall specify the period of office of the member, which shall not exceed three years.

(3) Every appointed member of the Authority shall be eligible for re-appointment.

Resignation.

7.—(1) The chairman may, at any time, resign his office by instrument in writing addressed to the Minister.

(2) The resignation shall take effect as from the date of receipt by the Minister of the instrument.

(3) An appointed member other than the chairman may, at any time, resign his office by instrument in writing addressed to the Minister and transmitted through the chairman.

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(4) From the date of the receipt by the Minister of such instrument, the member shall cease to be a member of the Authority.

8. The Minister may revoke the appointment of any member if the member—

Revocation
of appoint-
ment.

- (a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;
- (b) becomes bankrupt or compounds with, or suspends payment to, his creditors;
- (c) is convicted and sentenced to a term of imprisonment or to death;
- (d) becomes disqualified for appointment by virtue of paragraph 2;
- (e) conducts himself in an offensive, disorderly or unprofessional manner which operates to hamper the achievement of the functions of the Authority;
- (f) or otherwise, fails to carry out or to carry out in a competent manner any of the functions conferred or imposed on him under this Act.

9. The names of members of the Authority, as first constituted, and every change in the membership thereof shall be published in the *Gazette*.

Publication
of member-
ship.

10.—(1) The seal of the Authority shall be—

Seal and
execution of
documents.

- (a) kept in the custody of the chairman or the secretary; and
- (b) authenticated by the signatures of the chairman or any other member of the Authority authorized to act in that behalf by the Authority, and the secretary.

(2) All documents (other than those required by law to be under seal) made by, and all decisions of, the Authority may be signified under the hand of the chairman or any member authorized to act in that behalf or the secretary.

11.—(1) The Authority shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Authority may determine.

Procedure and
meetings.

(2) The chairman may, at any time, call a special meeting of the Authority and shall call a special meeting within seven days of the receipt of a written request for that purpose addressed to him by any two members of the Authority.

(3) The chairman or, in the case of his absence or inability to act, the deputy chairman or person elected in accordance with paragraph 4(3), as the case may be, shall preside at meetings of the Authority.

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(4) Decisions of the Authority shall be by a majority of the members present and voting, so, however, that in addition to an original vote the chairman, deputy chairman or other member presiding at a meeting shall have an original and a casting vote in any case in which the voting is equal.

(5) The quorum for meetings of the Authority shall be five or such higher number as the Authority shall determine.

(6) The minutes of each meeting of the Authority shall be kept in proper form and shall be confirmed by the chairman as soon as practicable at a subsequent meeting.

(7) Subject to the provisions of this Schedule, the Authority may regulate its own proceedings.

(8) The validity of any proceedings of the Authority shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

Remuneration.

12. There shall be paid from the funds of the Authority to the chairman, deputy chairman and other members of the Authority such remuneration (whether by way of honorarium, salaries or fees) and such allowances, as the Minister may determine.

Disclosure
of interest.

13.—(1) A member who is in any way directly or indirectly interested in a contract made or proposed to be made by the Authority, or in any other matter which falls to be considered by the Authority, shall disclose or cause to be disclosed the nature of his interest at a meeting of the Authority, and the disclosure shall be recorded in the minutes of the meeting and the meeting and the member shall not—

- (a) in the case of a contract, take part in any deliberation or decision of the Authority with respect to the contract; and
- (b) in the case of any other matter, take part in any deliberation or decision of the Authority with respect to the matter if the Authority decides that the interest in question might affect prejudicially the member's consideration of the matter.

(2) A notice given by a member at a meeting of the Authority to the effect that he is a member of a specific company, firm or other entity and is to be regarded as interested in any contract which is made after the date of the notice with the company, firm or entity shall, for the purposes of sub-paragraph (1), be a sufficient disclosure of his interest in relation to any contract so made.

(3) A member need not attend in person a meeting of the Authority in order to make a disclosure which he is required to make under this paragraph, if he takes reasonable steps to ensure that the disclosure is made by

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notice which is taken into consideration and read at such a meeting.

14. Any summons, notice or other document required or authorized to be served upon the Authority under the provisions of this or any other enactment may, unless there is express provision to the contrary, be served by delivering same to the chairman or secretary, or by sending it by registered post addressed to the secretary at the principal office of the Authority.

Service of documents.

15.—(1) The Authority may, with the approval of the Minister, appoint committees for special purposes connected with the functions of the Authority and which, in the opinion of the Authority, would be better regulated and managed by means of committees.

Appointment of committees.

(2) The number of members of a committee appointed under subparagraph (1), the terms of appointment of such members, the quorum of the committee and the areas within which the committees are to exercise authority shall be determined by the Authority.

(3) A committee appointed pursuant to this paragraph may include persons who are not members of the Authority but shall include at least two of the members of the Authority.

(4) Paragraph 11(8) shall apply *mutatis mutandis* to a member of a committee who is not a member of the Authority as it applies to a member of the Authority.

16. The office of chairman, deputy chairman or member of the Authority shall not be a public office for the purpose of Chapter V of the Constitution of Jamaica.

Office of chairman or member not a public office.

PART II. *Financial Provisions, Accounts
and Reports*

17.—(1) The funds and resources of the Authority shall consist of—

Funds and resources of Authority.

- (a) such sums as may, from time to time, be placed at the disposal of the Authority by Parliament; and
- (b) all other sums and other property which may, in any manner, become payable to or vested in the Authority in respect of any matter relating or incidental to its functions.

(2) The expenses of the Authority, including the remuneration of members, officers and employees, shall be paid out of the funds of the Authority.

18. All moneys of the Authority, not immediately required to be expended for the purpose of meeting any of the obligations or discharging any of the functions of the Authority, may be invested in such securities as may be approved by the Minister, and the Authority—

Power to invest moneys.

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- (a) may, with the approval of the Minister, sell all or any of the securities;
- (b) shall, as soon as practicable, notify the Minister, in writing, of any action taken under this paragraph.

Accounts and
audit.

19.—(1) The Authority shall keep proper accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form satisfactory to the Minister being a form which conforms with established accounting principles.

(2) The accounts of the Authority shall be audited annually by an auditor appointed by the Authority with the approval of the Minister.

(3) An auditor so appointed shall be a registered public accountant within the meaning of the section 2 of the *Public Accountancy Act*.

(4) The members, officers and employees of the Authority shall—

- (a) grant to the auditor appointed under paragraph (2), access to all books or other documents, cash and securities of the Authority; and
- (b) give to the auditor, upon request, all such information as may be within their knowledge in relation to the business of the Authority.

(5) The auditor's fee and any expenses of the audit shall be paid by the Authority.

(6) The Auditor-General shall be entitled at all reasonable times to examine the accounts and other records of the Authority, in relation to the business of the Authority.

Operating
plan.

20. The Authority shall, not later than the 1st day of January in each year, submit to the Minister for his approval an operating plan for that year as to—

- (a) the projects to be promoted or sponsored, by the Authority;
- (b) the operational framework within which the Authority shall carry out its functions; and
- (c) such other matters as the Minister may require.

Returns, etc

21. The Authority shall furnish the Minister with such returns, accounts and other information as he may require with respect to the activities of the Authority and afford him facilities for verifying the information in such manner and at such time as he may reasonably require.

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22.—(1) The Authority shall, within four months after the end of each year, or within such longer period as the Minister may in special circumstances allow, cause to be made and transmitted to the Minister, a report dealing generally with the activities of the Authority during that year which shall include a statement of its accounts audited in accordance with paragraph 19. Annual report
and estimates.

(2) The Minister shall cause copies of the report together with the auditors report to be laid on the table of the House of Representatives and the Senate.

(3) The Authority shall, not later than the 1st day of January in each year submit estimates of revenue and expenditure for the ensuing financial year to the Minister for his approval.

23.—(1) The income of the Authority shall be exempt from income tax. Exemption
from taxes
and duties.

(2) The Authority shall be exempt from liability to pay stamp duty in respect of any instrument executed by it or on its behalf.

(3) Any transfer by the Authority of any property belonging to it or of any right or interest created in, over or otherwise with respect to, any such property, shall be exempt from transfer tax.

(4) The Authority shall be exempt from general consumption tax.

(5) No customs duty, or other similar impost shall be payable upon any article imported into Jamaica or taken out of bond in Jamaica by the Authority and shown to the satisfaction of the Commissioner of Customs to be required for the use of the Authority in the performance of its functions.

