

**THE ROLE OF THE BANK OF
JAMAICA AS THE SUPERVISING
AUTHORITY
UNDER THE CREDIT REPORTING ACT**

Bank of Jamaica
June 2012

Bank of Jamaica's Regulatory Role

- ▶ Pursuant to Section 2 of the Credit Reporting Act (CRA) Bank of Jamaica (BOJ) is designated as the Supervising Authority

Overview of Key Supervisory Powers

- ▶ BOJ's supervisory authority includes powers to:
 - Review and recommend on license applications;
 - Perform ongoing Supervisory Oversight
 - Issue standards
 - Issue directions
 - Investigate complaints by the consumer that are unresolved at level of the credit bureau

Review of Licence Applications

Two-phased approach:

Phase 1 involves a review :

- ▶ Background information on applicant (e.g. corporate profile, regulatory standings in other jurisdictions if applicable etc.)

- ▶ Capital adequacy
 - required minimum start-up capital of US\$100,000 per CRR,
 - sufficiency of resources to support proposed business plan, and
 - establishing source of funding to ensure no AML/CFT concerns;

Review of Licence Applications

cont'd

- ▶ Fitness and Propriety of significant shareholders, proposed directors and managers
- ▶ Proposed corporate governance arrangements
- ▶ Credibility and viability of the Business Plan

Review of Licence Applications

cont'd

- ▶ Appropriateness of IT infrastructure proposals vis.
 - The proposed information systems strategies and arrangements (i.e. software, hardware, networking, and security) are adequate per CRA;
 - The arrangements for any proposal for credit information to be stored in another jurisdiction
 - The proposed information systems governance structure is satisfactory and includes the requisite controls, policies, procedures, management oversight, and audit reviews inclusive of disaster recovery/business continuity planning.

Review of Licence Applications

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Phase 2 assessments:

- Detailed review of organizational structure, proposed staffing and other operational arrangements;
- Further review of IT systems inclusive of prototype demo
- Procedures for disposal of credit information established to be inaccurate/ineligible/ no longer current;
- Proposed operational policies (e.g. as regards general risk management, customer dispute resolution, etc..;
- Proposed arrangements/agreements with credit information providers;
- Scoring methodology, where applicable;
- Insurance arrangements;

Review of Licence Applications

cont'd

Post Licensing

- ▶ The law allows for a six month, or such other period as approved by the Minister, for start-up of operations after licensing.
- ▶ During this period, the BOJ will perform site visits and other confirmatory checks to ensure that the arrangements indicated during the licensing review process have been implemented.
- ▶ At this stage, the credit bureau would be engaging in discussions/agreeing contracts with credit information providers regarding, inter alia, issues of data submission, system development/configuration, and staff training to facilitate start-up.

Review of Licence Applications

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Post Licensing cont'd

- ▶ Confirmation of operational arrangements proposed during pre-licensing stage
- ▶ On-site visits (e.g. review of adequacy of facilities for interface with consumer)
- ▶ Comprehensive walk-through of IT systems
- ▶ Review of Agreements with Credit Information Providers

On-going Oversight

On-going supervision includes:

- ▶ Performing fit and proper assessment of directors, management officers and significant shareholders (holding 10% or more of voting shares) of a credit bureau
- ▶ Annual Inspections;
 - Performing reviews of systems and operational arrangements to ensure compliance with act,
 - Assessing capital adequacy
 - Assessing financial condition

On-going Oversight cont'd

- ▶ Periodic reports from credit bureaus including
 - statutorily required annual report (business volumes, consumer complaints, resolutions etc.)
 - annual audited financial statements and related auditor's report
 - auditors report on the credit bureau's operation
- ▶ Compilation of statistics;
- ▶ Examining and reporting on returns;
- ▶ Providing annual and other reports to the Minister

Supervising Authority entitled to access all information, books, records, documents in performance of its functions.

Issue of Standards

Issue standards relating to:

- Operations of credit bureau;
- Provision of credit information by credit information providers; and
- Risk management

Issue of Directions

Issue written directions to a credit bureau to ensure compliance with provisions of the Act e.g. where:

- ▶ Operators cease to satisfy fit and proper requirements
- ▶ Licence granted based on misleading or false information
- ▶ Credit bureau is insolvent
- ▶ Operating in contravention of the CRA
- ▶ Not providing accurate or reliable information
- ▶ Ceased to operate as a supplier of credit information

Issue of Directions cont'd

- ▶ Supervising Authority can also act to safeguard the confidentiality of the credit information including seizure of the information until appropriate measures are in place
- ▶ Failure to comply with directions can lead to a recommendation to the Minister for revocation of licence

Issue of Directions cont'd

- ▶ Issue written directions to a credit information provider where:
 - Has disclosed credit information without being satisfied after taking reasonable enquiries and investigations to ensure that the information is reliable
 - Has on more than one occasion provided credit information that is not reliable

Issue of Directions cont'd

- Failure to comply with the Directions could lead the Supervisor to issue a Notice prohibiting the provision of credit information by the subject provider.
- Contravention of a notice is an offence.
- Applications can subsequently be made for removal of the notice in accordance with the date specified in the notice (not later than 14 days after the issue of notice). The Supervisor can approve or refuse application.

Investigations of Consumer Complaints

- ▶ If there is a complaint such as dispute over the accuracy or completeness of a credit report, a consumer may make a complaint in person or in writing to the credit bureau.
- ▶ If the consumer is dissatisfied with the outcome after reporting it to the credit bureau, he or she may submit the complaint in writing to the Supervising Authority (i.e. Bank of Jamaica).
- ▶ The Supervising Authority investigates and makes a decision/issue a direction.

Investigations of Consumer Complaints cont'd

- ▶ If either the consumer or credit bureau is dissatisfied with the result, there is a right of appeal to an Appeals Tribunal.
- ▶ The Appeals Tribunal is constituted of at least 3 members appointed by the Minister of Finance, one of whom is an Attorney-at-law.
- ▶ Shareholders (5% or more), directors, officers, auditors of a credit bureau or credit information providers, among others, are not eligible for appointment to the Tribunal.

Investigations of Consumer Complaints cont'd

- ▶ The consumer, credit bureau and the Supervising Authority are entitled to attend the hearing and have representation (e.g. an attorney-at-law)
- ▶ The Tribunal may:
 - Confirm the decision/directions given
 - Amend the directions
 - Revoke the directions.

Other Significant Powers

- ▶ Monitor payments of annual license fees required under the Act
- ▶ Investigate complaints made by any person (other than consumers to which credit information relates) who have been adversely affected, and issue directions
- ▶ Under search warrants issued by Resident Magistrates, enter premises and inspect books/accounts/records/documents to determine whether the disclosure of credit information is being undertaken by person/s otherwise than as authorized under the Act.

Other Significant Powers cont'd

- ▶ Commission a special audit where reasonable cause exist (e.g. to determine whether procedures are adequate for the protection and reliability of credit information)
- ▶ Hold/cause to be held investigations to determine whether:
 - a credit bureau licence should be suspended/restored/revoked
 - breaches of Act/Licence/Regulations have been committed

THE END