

THE MICROCREDIT ACT

The Microcredit (Requirements for Grant of Licence) Regulations, 2021

In exercise of the power conferred upon the Regulatory Authority by section 58 of the Microcredit Act, the following Regulations are hereby made:-

Citation. 1. These Regulations may be cited as the Microcredit (Requirements for Grant of Licence) Regulations, 2021.

Interpretation. 2. In these Regulations –
“applicant” means a person who makes an application pursuant to section 10 of the Act;

“applicant from an overseas jurisdiction” means a company which is –

- (a) incorporated outside of Jamaica and which engages in the provision of microcredit services outside of Jamaica;
- (b) regulated by a foreign regulator; and
- (c) desirous of providing microcredit services through the operations of a local branch of the company in Jamaica;

“board” in relation to the operations of a local branch of a licensee that is incorporated in an overseas jurisdiction, means the board of management or such other governing body established in relation to that local branch, that complies with sections 28 and 29 of the Act;

“non-financial group” means a group that is comprised of companies that do not offer any financial service;

“Politically Exposed Person or “PEP” means an individual specified in regulation 7A(2) and (6) of the Proceeds of Crime (Money Laundering Prevention) Regulations and regulation 6A(2) and (6) of the Terrorism Prevention (Reporting Entities) Regulations;

“ultimate beneficial owner” means –

- (a) in relation to a body corporate, the individual who ultimately owns or controls the body corporate;
- (b) in relation to an applicant for business, the individual on whose behalf the applicant for business conducts the business or one-off transaction concerned;
- (c) in the case of a trust, settlement or other legal arrangement, the individual who ultimately owns or controls the trust, settlement, or other legal arrangement (as the case may be).

Requirements for grant of licence.

3. In considering an application for a licence, pursuant to section 10 of the Act, the Supervisor shall have regard to –
 - (a) the validity and sufficiency of the documents submitted in support of the application;
 - (b) the transparency of the ownership structure or legal arrangements concerning the applicant and the financial or non-financial group in which the applicant is held;
 - (c) the ability of the Supervisor to independently verify the identity of the ultimate beneficial owner of the applicant;
 - (d) the ability of the applicant to carry on the microcredit business in accordance with the Act;

- (e) the financial resources of the applicant and the source of those resources;
 - (f) the source of wealth and the source of funds of the individuals who own 20 percent or more of the applicant;
 - (g) the business history of the applicant and, where applicable, the professional history of the proposed officers, and how the applicant has performed over a specified period of time;
 - (h) whether every substantial shareholder and officer of the applicant is a fit and proper person;
 - (i) the suitability and adequacy of the legal, managerial and operational structure of the applicant, including the nature of any other business operated by the applicant, either directly or indirectly, and whether any such operation is ancillary to the provision of the microcredit service; and
 - (j) whether any of the ultimate beneficial owners or officers of the applicant is a PEP.
4. In the case of an applicant from an overseas jurisdiction, an application under section 10 of the Act shall be subject to –
- (a) the prior approval or non-objection from the foreign regulator in the respective jurisdiction in which the applicant is incorporated;
 - (b) the regulatory requirements in that jurisdiction that relate to –
 - (i) the disclosure of financial information, including audited financial statements, financial returns and credit information;
 - (ii) the accounting and audit standards applicable to the applicant;

- (iii) the functions of the directors of the applicant; and
 - (iv) the licensing, registration, authorization and supervision of the applicant;
- (c) the adequacy of the regulatory standards applied by the foreign regulator in the jurisdiction in relation to the applicant, including the powers and willingness of that regulator to share information and cooperate with the Supervisor;
- (d) the capacity and authority of the management of the branch operations proposed to be established in Jamaica, to address regulatory concerns regarding the operations of the local branch of the applicant;
- (e) the adequacy of the proposed –
- (i) systems of corporate governance and policy arrangements to address the accountability and transparency requirements of the board of the applicant, including the remuneration of officers;
 - (ii) internal controls of the applicant;
 - (iii) risk management systems and policies which, at a minimum, mandate the routine identification of the risks to the applicant, including the risks of its services being used to commit or facilitate a financial crime or to avoid a breach of a statutory obligation;
- (f) such other matters and information as the Supervisor considers appropriate.

Refusal to grant licence.

5. A licence shall not be granted to a company having its head office outside of Jamaica, unless the company, in relation to the

