



THE
JAMAICA GAZETTE
SUPPLEMENT

PROCLAMATIONS, RULES AND REGULATIONS

1154A

Vol. CXLIV

FRIDAY, JULY 23, 2021

No. 105A

No. 139A

Extract from the Minutes of the meeting of the Honourable House of Representatives held on
Wednesday, July 21, 2021:

PUBLIC BUSINESS

The Honourable Nigel Clarke, DPhil, Minister of Finance and the Public Service, moved:

THE MICROCREDIT ACT

**THE MICROCREDIT (LICENCE, FORM OF APPLICATION)
RULES, 2021, RESOLUTION**

WHEREAS section 59 of the Microcredit Act (hereinafter referred to as "the Act") provides that the Regulatory Authority may, with the approval of the Minister, make rules for the operation of microcredit institutions:

AND WHEREAS subsection (3) of section 59 of the Act provides that rules made under subsection (1) of the section, shall be subject to affirmative resolution:

AND WHEREAS the Regulatory Authority, with the approval of the Minister responsible for finance on the 19th day of July, 2021, made the Microcredit (Licence, Form of Application) Rules, 2021:

AND WHEREAS it is desirable that the Microcredit (Licence, Form of Application) Rules, 2021, be affirmed:

NOW, THEREFORE, BE IT RESOLVED by this Honourable House as follows:—

1. This Resolution may be cited as the Microcredit (Licence, Form of Application) Rules, 2021, Resolution.

2. The Microcredit (Licence, Form of Application) Rules, 2021, which were laid on the Table of the House on Tuesday, July 20, 2021, are hereby affirmed.

Mr. Julian Robinson also spoke on the motion.

Seconded by: Mr. Dave Brown

Agreed to.

I certify that the above is a true extract from the minutes.

VALRIE A. CURTIS, CD., BH(M), JP
Clerk to the Houses (Acting).

No. 139B

Extract from the Minutes of the meeting of the Honourable Senate held on Friday, July 23, 2021:

PUBLIC BUSINESS

The Honourable Senator Matthew Samuda, Minister without Portfolio in the Ministry of National Security, having obtained suspension of the Standing Orders, moved:

THE MICROCREDIT ACT

THE MICROCREDIT (LICENCE, FORM OF APPLICATION) RULES, 2021, RESOLUTION

WHEREAS section 59 of the Microcredit Act (hereinafter referred to as "the Act") provides that the Regulatory Authority may, with the approval of the Minister, make rules for the operation of microcredit institutions:

AND WHEREAS subsection (3) of section 59 of the Act provides that rules made under subsection (1) of the section, shall be subject to affirmative resolution:

AND WHEREAS the Regulatory Authority, with the approval of the Minister responsible for finance on the 19th day of July, 2021, made the Microcredit (Licence, Form of Application) Rules, 2021:

AND WHEREAS it is desirable that the Microcredit (Licence, Form of Application) Rules, 2021, be affirmed:

NOW, THEREFORE, BE IT RESOLVED by this Honourable House as follows:—

1. This Resolution may be cited as the Microcredit (Licence, Form of Application) Rules, 2021, Resolution.

2. The Microcredit (Licence, Form of Application) Rules, 2021, which were laid on the Table of the Senate on the 23rd day of July, 2021, are hereby affirmed:

Senator Peter Bunting also spoke on the motion.

Seconded by: Senator Kavan Gayle.

Agreed to.

I certify that the above is a true extract from the minutes.

VALRIE A. CURTIS, CD., BH(M), JP
Clerk to the Houses (Acting).

THE MICROCREDIT ACT

THE MICROCREDIT (LICENCE, FORM OF APPLICATION) RULES, 2021, RESOLUTION

WHEREAS section 59 of the Microcredit Act (hereinafter referred to as “the Act”) provides that the Regulatory Authority may, with the approval of the Minister, make rules for the operation of microcredit institutions:

AND WHEREAS subsection (3) of section 59 of the Act provides that rules made under subsection (1) of the section, shall be subject to affirmative resolution:

AND WHEREAS the Regulatory Authority, with the approval of the Minister responsible for finance on the on the 19th day of July, 2021, made the Microcredit (Licence, Form of Application) Rules, 2021:

AND WHEREAS it is desirable that the Microcredit (Licence, Form of Application) Rules, 2021, be affirmed:

NOW, THEREFORE, BE IT RESOLVED by this Honourable House as follows:—

1. This Resolution may be cited as the Microcredit (Licence, Form of Application) Rules, 2021, Resolution.

2. The Microcredit (Licence, Form of Application) Rules, 2021, is hereby affirmed.

THE MICROCREDIT ACT**THE MICROCREDIT (LICENCE, FORM OF APPLICATION)
RULES, 2021**

In exercise of the power conferred upon the Regulatory Authority by section 59 of the Microcredit Act, the following Rules are hereby made:—

Citation. 1. These Rules may be cited as the Microcredit (Licence, Form of Application) Rules, 2021.

Interpretation. 2. In these Rules—

“applicant” means a person who makes an application pursuant to section 10 of the Act;

“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, individual who ultimately owns or controls that 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;
- (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).

Form of application. Schedule.

3. An application to operate a microcredit institution shall—

- (a) be in the form set out in the Schedule;
- (b) be accompanied by the information requested and documents specified in the Schedule;
- (c) satisfy the requirements specified in section 10 of the Act; and
- (d) contain any additional information required for the assessment of the application.

Incomplete application.

4.—(1) An application to operate a microcredit institution shall not be considered—

- (a) if the application is incomplete;

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- (b) unless the required documents and any additional information that is needed for consideration of the application, is submitted by the applicant;
 - (c) if the application contains or is supported by information that is false or materially misleading.

(2) An application to operate a microcredit institution shall be considered incomplete if—

- (a) the application does not satisfy rule 3(a); or
- (b) the Supervisor determines that the application is otherwise insufficient to allow for a consideration of the application.

(3) Where, in the opinion of the Supervisor, an application is incomplete, the Supervisor may, in writing, require the applicant, by a specified date, to—

- (a) submit the completed application; or
- (b) provide the additional information and documents required for consideration of the application.

(4) Where a request for information is made by the Supervisor and the information requested is not received by the date specified by the Supervisor, the assessment of the application may be discontinued and the Supervisor shall inform the applicant, in writing, of the discontinuation.

SCHEDULE

(Rule 3)

Application for Licence to Operate a Microcredit Institution

1.	Background Information	
1.1	Name of Applicant	
1.2	Trading Name, if different from 1.1 above	
1.3	Registered Office Address	
1.4	Date of Incorporation (dd/mm/yyyy)	
1.5	Country of incorporation and registration number	
1.6	Tax Registration Number (TRN)	
1.7	Is the applicant listed on a stock exchange	
1.8	Telephone Number(s)	
1.9	Fax Number	
1.10	Email Address	
1.11	Website Address	

1.12 Indicate the financial year end of the applicant (dd/mm)

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1.13 Indicate the financial year end of the applicant's immediate parent entity (dd/mm) (where applicable)

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SCHEDULE, *contd.*

In addition to the information provided at 1.1 to 1.13, an applicant from an overseas jurisdiction seeking to establish a branch in Jamaica, should provide the information requested at 1.14 to 1.19 below:

1.14	Head Office Address	
1.15	Country of Incorporation	
1.16	Address of Principal Office in Jamaica	
1.17	Name of officer who is to be the authorized agent in Jamaica	
1.18	Name of alternate to the officer who is to be the authorized agent in Jamaica	
1.19	Regulator in country of incorporation (if applicable): Name: Address:	

1.20 Attach certified copies of the incorporating documents as defined in the Act.

1.21 Audit Firm/Public Accountant who last conducted the applicant's external audit¹

Name	
Address	
Contact name	

¹Section 35(1) and (2) of the Microcredit Act

SCHEDULE, *contd.*

1.22 Attorney-at-law (where applicable)

Name	
Address	
Contact name	

1.23 Banker/(s) (where applicable)

Name	
Address	
Contact name	

2. Ownership and Group Structures

- 2.1 Where applicable, state the name, address and principal business activities of the applicant's holding company. Provide details of the amount and value of the shareholding of the holding company in the applicant.

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- 2.2 Provide a chart of the group structure which clearly outlines the relationships among all the connected persons (as defined under sections 2(1) and 2(4) of the Act) within the group of which the applicant is a part. The chart should highlight the holding company and any other person with holdings of 20% or more of the voting power in the applicant or other person with the ability to exercise effective control over the applicant or over any other entity within the group that conducts activities or businesses that are considered material or critical to the group operations. Also provide the addresses of entities listed in the group.

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SCHEDULE, *contd.*

- 2.3 If applicable, provide a list of branches where microcredit services are offered or will be offered, and their addresses.

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- 2.4 Indicate whether the provision of microcredit services is the main business of the applicant or ancillary thereto.

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- 2.5 If applicable, state the names and addresses of all partnerships, unincorporated associations and other bodies that are connected with the applicant, and provide details of the nature of the applicant's connection with these bodies. Explain the nature of the business and principal activities of these bodies and other connected persons and indicate which is considered as material to the activities of the group.

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- 2.6 State whether the applicant is connected to a financial group under the Banking Services Act.

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- 2.7 Provide the name of the stock exchange(s) on which the holding company at 2.1 and subsidiaries at 2.2 above is/are listed, if applicable.

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- 2.8 Provide details of persons who will, whether alone or jointly, possess or control 10%² or more of the shares or voting power of the applicant to include—

- (a) in the case of a natural person, the name, nationality, occupation, address (home and business), shareholding and voting power in the applicant;

²Section 21(1)(e) of the Act.

SCHEDULE, *contd.*

- (b) in the case of a legal person, the name, registered address, nature of business, shareholding and voting power in the applicant; and
- (c) number, type, class and value of shares held in each case.

- 2.9 If there are no such persons as required at 2.8 above, provide similar details for each of the 10 largest shareholders, grouping together family or connected persons.

- 2.10 In cases where a legal person owns 50% or more of the applicant, the applicant must provide the name and address for all the ultimate natural persons who hold 20% or more of the voting shares of that legal person or the ultimate natural persons who have effective control thereof.

- 2.11 Provide audited financial statements for the past 3 years for the immediate holding company of the applicant. If the holding company of the applicant is a small company and qualifies for the approach reflected at section 35(2) of the Act, provide copies of the financial statements so prepared for the last three years or less, (where applicable).

- 2.12 Indicate whether any of the natural persons referred to in your responses to 1.17, 1.18, 2.8(a), 2.9, 2.10, 3.1 and 3.2 is a Politically Exposed Person (PEP).

SCHEDULE, *contd.*

- 2.13 List all the ultimate beneficial owners of the applicant and provide copies of the identification of such ultimate beneficial owners.

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3. Governance Structure and Arrangements, Risk Management and Internal Controls

- 3.1 Provide the name, address, nationality, occupation and proposed (or existing, as the case may be) responsibilities of each officer³ of the applicant, and where applicable, of its holding company.

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3.2 Provide—

- (a) details of the personal and business history of each person to be appointed (at commencement) or who now operates as a director, secretary, or other officer of the applicant; and
- (b) in relation to each of these persons, a completed “Personal Questionnaire for Connected Persons” (PQ) and related attachments.

Personal Questionnaire for Connected Persons	☐ Attached
Current Passport Size Photographs	☐ Attached

- 3.3 System and Arrangements⁴—provide clear details of the organizational structure and reporting lines proposed to inform the compliance of the applicant with its statutory obligations under the principal Act and Regulations thereunder, the Proceeds of Crime Act, the Terrorism Prevention Act, the United Nations

³Section 2 of the Microcredit Act.

⁴Section 10(5)(a) of the Microcredit Act.

SCHEDULE, *contd.*

Security Council Resolution Implementation Act and Regulations thereunder and any other enactment.

- 3.4 With respect to 3.3 above provide a copy of the manual(s) that may be in place or that will be implemented in this regard.

- 3.5 Provide clear details regarding the proposed internal audit function or mechanism that is in place or which is to be established by the applicant, the resources in place or to be employed and the relevant reporting and accountability structures.

4. Financial Strength

4.1 "Provide—

- (a) copies of audited financial statements (Balance Sheet, Profit & Loss, Auditor's Report and Notes) for the last three years or less (where applicable);

For persons who qualify for the approach reflected at section 35(2) of the Act, provide copies of the financial statements so prepared for the last three years or less (where applicable); and

- (b) "In-house" financials for the current operating period.

5. Financial Resources

- 5.1 Provide details regarding the nature⁵ and source of wealth⁶ of the applicant.

⁵E.g. type of capital and whether same is paid up and class of shares

⁶i.e. the origin of the assets the applicant has and which—

(a) may have contributed to the specific source of the funds used to finance the microcredit operations of the applicant; or

(b) is the intended source of financing for the operations of the applicant.

In stating the origin of the assets, there should be clear particulars on the nature and sufficiency of the applicant's financial resources. (See Microcredit (Requirements for Grant of Licence) Regulations, 2021)

SCHEDULE, *contd.*

6.8 Key policies/procedures including those which address the following areas of operation— (a) Credit /Lending; (b) Risk Management, including— (i) Operational⁷; (ii) Business Continuity (in reference to the treatment of customer information and attendant records); (iii) Legal/ Reputational; (iv) Money Laundering or Financing of Terrorism (ML/FT) and other financial crime risks; (v) Appointment of Officers; (vi) Information Systems and Database Management⁸; (c) Customer Complaints Resolution; (d) Other policies/procedures of significance (if any) list below—	☐ Attached ☐ Attached ☐ Attached ☐ Attached ☐ Attached ☐ Attached ☐ Attached ☐ Attached ☐ Attached
6.9 In support of 2.2, chart of group structure ⁹	☐ Attached
6.10 In support of 3.3, provide a copy of the organizational chart, depicting the internal reporting lines.	☐ Attached
6.11 Compliance Manual/Procedures	☐ Attached

⁷E.g. Credit administration; transparent lending practices.

⁸E.g. Details of the IT System; capacity and measures to maintain data integrity, to manage data access, data sharing and to address deletion of data that pertains to or included "personal information", as defined in the Act. If any aspect of the operations (including disbursements) will be executed electronically, the details of the execution and related safeguards to address attendant risks.

⁹The chart should highlight the holding company with the ability to exercise effective control over the applicant or over any other entity within the group that conducts activities or business that are considered material or critical to the group operations.

SCHEDULE, *contd.*

Notes:

1. It should not be assumed that information is known to the Supervisor and/or the Regulatory Authority merely because it is in the public domain or has previously been disclosed to the Supervisor and/or the Regulatory Authority under the Act or another regulatory body.
2. Obtaining a licence by false representation is an offence (section 15 of the Act).
3. The provision of materially misleading or false information in an application for a licence under the Act will lead to the application not being considered (rule 4(1)) and can adversely impact the declarant's fitness and propriety. Under section 30 of the Act, the licensee has an obligation to ensure each substantial shareholder and officer remains fit and proper. It is an offence for a licensee to fail to comply with that obligation (section 30 of the Act).

I/We hereby apply for a licence under section 10(1) of the Microcredit Act for the abovementioned company to operate a microcredit institution. I/We certify to the best of my/our knowledge and belief that all the information given in this application and contained in the supporting statements and documentation submitted is true and correct.

Signature

Signature

Name and Position

Name and Position

Director/Secretary

Director/Secretary

SCHEDULE, *contd.*

Date

Date

Dated this 19th day of July, 2021.

Approved by:

RICHARD BYLES
Supervisor¹⁰
for the Regulatory Authority.NIGEL CLARKE
Minister of Finance and the Public Service.

¹⁰Acting pursuant to section 4(1)(a) of the Microcredit Act