

THE FINANCIAL SERVICES COMMISSION ACT

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THE FINANCIAL SERVICES COMMISSION ACT

[2nd August, 2001.]

Acts
9 of 2001,
30 of 2004,
39 of 2013
S. 39,
L.N.
251b/2013.

1. This Act may be cited as the Financial Services Commission Act.

Short title.

Preliminary

2. In this Act, unless the context otherwise requires—

Interpretation.

“authorized officer” means a person authorized by the Commission for the purposes of this Act;

“Executive Director” means the Executive Director appointed under section 4;

“Commission” means the Financial Services Commission established under section 3;

“financial services” means services provided or offered in connection with—

* (a) insurance;

(b) the acquisition or disposal of—

(i) securities within the meaning of the Securities Act;

(ii) units under a registered unit trust scheme within the meaning of the Unit Trusts Act;

(c) such other services as the Minister may by order declare to be financial services for the purposes of this Act;

“functions” includes duties and powers;

“licence” means a licence issued pursuant to any relevant Act;

“prescribed financial institution” means an institution or person offering or providing financial services to the public;

* Provision came into operation on 4/3/2005.

“relevant Act” means the Act which governs the financial service provided by a prescribed financial institution.

Establishment

Establishment of the Financial Services Commission.

3.—(1) There shall be established for the purposes of this Act, a body to be called the Financial Services Commission which shall be a body corporate to which section 28 of the Interpretation Act shall apply.

First Schedule.

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

Appointment of Executive Director and other officers and employees.

4.—(1) The Commission shall appoint and employ an Executive Director who shall hold office for a period not exceeding five years and may be re-appointed for periods not exceeding five years at a time.

(2) The Executive Director shall be responsible for the day to day management of the Commission.

(3) The Commission may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, such other officers and employees as it thinks necessary for the proper carrying out of the provisions of this Act:

Provided that, except with the prior approval of the Minister—

(a) no salary in excess of the prescribed rate shall be assigned to any post; and

(b) no appointment shall be made to any post to which a salary in excess of the prescribed rate is assigned,

and for the purposes of this subsection the “prescribed rate” shall be such rate as the Minister may prescribe by order subject to affirmative resolution.

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

(5) It shall be lawful for the Commission, with the approval of the Minister—

- (a) to enter into arrangements respecting schemes whether by way of insurance policies or not; or
- (b) to make regulations,

for pensions, gratuities and other retiring or disability or death benefits relating to members and employees of the Commission and such arrangements or regulations may include provisions for the grant of benefits to the dependents and legal personal representatives of such members or employees.

Delegation of
power by
Executive
Director.

5.—(1) The Executive Director may in writing, with the approval of the Commission, delegate any of his powers or the performance of any duties conferred on him by or under this Act to a person specified in the instrument of delegation.

(2) A delegation under subsection (1) shall not prevent the exercise of the powers or the performance of the duties by the Executive Director.

General Duties and Powers

Functions of
Commission.

6.—(1) For the purpose of protecting customers of financial services, the Commission shall—

- (a) supervise and regulate prescribed financial institutions;
- (b) promote the adoption of procedures designed to control and manage risk, for use by the management, boards of directors and trustees of such institutions;

- (c) promote stability and public confidence in the operations of such institutions;
- (d) promote public understanding of the operation of prescribed financial institutions;
- (e) promote the modernization of financial services with a view to the adoption and maintenance of international standards of competence, efficiency and competitiveness.

(2) For the purpose of the discharge of its duty under subsection (1), the Commission shall—

- (a) take such steps as are necessary to ensure that appropriate standards of conduct and performance are maintained in prescribed financial institutions in accordance with this Act, any rules or regulations made hereunder or any relevant Act;
- (b) at such times as it may determine but at least once in each year—
 - (i) examine, in such manner as it thinks fit, the affairs or business of every prescribed financial institution carrying on business in Jamaica or elsewhere for the purpose of being satisfied that the provisions of this and any relevant Act are being complied with and that the institution is in a sound financial condition; and
 - (ii) within ninety days after the completion of the examination, report to the Minister the results of every such examination and any such report may contain such recommendations as the Commission considers necessary or desirable to correct any malpractices or deficiencies discovered in the examination;
- (c) in accordance with the provisions of any relevant Act—