

FINANCIAL SECTOR ASSESSMENT PROGRAM
DEVELOPMENT MODULE

JAMAICA

CONSUMER PROTECTION AND FINANCIAL LITERACY
TECHNICAL NOTE

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This Technical Note was prepared in the context of a World Bank Financial Sector Assessment Program mission in Jamaica during April-May 2014 led by Alfonso Garcia Mora, and overseen by Finance & Markets Global Practice, World Bank and the Monetary and Capital Markets Department, IMF. The note contains technical analysis and detailed information underpinning the FSAP assessment's findings and recommendations. Further information on the FSAP program can be found at www.worldbank.org/fsap.



THE WORLD BANK GROUP
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INTRODUCTION

This Technical Note is based on a mission conducted from April 24 to May 9, 2014 to Kingston and other parts of Jamaica. The Note was prepared by Susan Rutledge, consultant and retired World Bank Senior Specialist, as part of a Development Financial Sector Assessment Program mission. The mission met with officials from the Ministry of Finance & Planning, Ministry of Industry, Investment & Commerce, Bank of Jamaica, Financial Services Commission, Fair Trading Commission, Consumer Affairs Commission, Jamaica Deposit Insurance Corporation, Bankers Association, National Consumers League and representatives from members of the financial and legal community of Jamaica. The mission also conducted a short mystery shopping exercise with the assistance of a representative from the National Consumers League. Valuable comments on the draft Note were provided by the Bank of Jamaica and the Financial Services Commission.

The Technical Note consists of Findings, Issues and Recommendations and four annexes: Annex 1 Existing Structure for Prudential and Consumer Protection Supervision; Annex 2 Current & Revised Legislation affecting Financial Consumer Protection; Annex 3 Comparison to World Bank Good Practices on Financial Consumer Protection; and Annex 4 National Program of Consumer Protection and Financial Literacy, Implementation Plan Components (for discussion).

The Key Recommendations present targeted measures that could be immediately implemented and would have a positive (and measurable) impact on public confidence in formal financial institutions. The focus of the Technical Note is on deposit-taking institutions although some aspects of others parts of the financial sector have been included. Annex 4 provides an extensive list of recommendations that would bring Jamaica in line with international practice on financial consumer protection. All of the recommendations could be supported by technical assistance programs.

FINDINGS

Building a platform for future economic development, the Government of Jamaica has embarked upon a series of initiatives to strengthen the financial sector, including consumer financial services. The objective is to expand the provision of financial services so that the financial sector can act as an effective springboard for economic growth. To ensure that growth is inclusive and thus sustained, as financial services are expanded, it will be necessary to strengthen consumer protection in financial services and financial literacy. Providing high levels of protection for users of financial services will benefit not only households but also the small and microenterprises that constitute the primary engine of growth in Jamaica.

However, further work is needed: under the current legal and regulatory framework, Jamaica meets international practice in only about one in five cases. As noted in Annex 3 comparing Jamaica's legal and regulatory framework to international practice on financial consumer protection, Jamaica fully or largely applies only about 20 percent of international

practices. Just over half (51 percent) of the practices are partially applied and the remaining 28 percent materially non-applied or not applied at all.¹

The authorities have embarked upon some initiatives to strengthen the legal and regulatory framework for both prudential supervision and consumer protection supervision of financial services. Annex 1 provides a summary of the current structure for prudential and consumer protection supervision. Annex 2 shows which legislation affecting financial consumer protection is undergoing revision or has recently been revised. The most important new law is the Banking Services Act, approved by Parliament in June 2014. The Act will consolidate prudential supervision of deposit-taking institutions under the Bank of Jamaica. In addition, under Bank of Jamaica regulations to be adopted, prudential supervision of credit unions will also be transferred to the Bank of Jamaica.

Prudential regulation of non-bank credit institutions is also improving. Non-bank credit providers, such as payday lenders and microfinance institutions, will be regulated by a new Micro Credit Bill, which is being drafted by the Office of the Parliamentary Counsel under instructions from the Ministry of Finance and Planning. The new legislation will remove usury limits for regulated entities, leaving competition in the marketplace to set interest rates for borrowers. Any consumer lender not registered under the new microcredit legislation will still be regulated by the 1938 Moneylending Act, which set usury limits for alternative lenders but permitted annual exemptions with the approval of the Minister of Finance and Planning.²

The Banking Services Act provides a valuable first step in strengthening consumer protection supervision of deposit-taking institutions through the establishment of an enforceable code of conduct. The conduct code will be applicable to commercial and merchant banks as well as building societies and will establish minimum standards of business conduct that will strengthen consumer protection for users of banking services. Specifically, the code will require that DTIs provide customers: (1) reasonable notice of fees and charges and terms and conditions, (2) access to their account information at a reasonable cost, (3) interest rates expressed

¹ The Technical Note uses the World Bank's Good Practices for Financial Consumer Protection as its benchmark. While the Good Practices are not part of the agreed set of core international financial sector standards, the Good Practices have received extensive comment by regulators worldwide. See World Bank, *Good Practices for Financial Consumer Protection*, June 2012 available at http://siteresources.worldbank.org/EXTFINANCIALSECTOR/Resources/Good_Practices_for_Financial_CP.pdf. Note that the five point scale used in the Technical Note is similar to the approach used for ROSCs, as described in *Guidance Note for Staff on Undertaking Targeted (Risk-Based) Reports on the Observance of Standards and Codes (ROSCs) in Financial Regulation and Supervision*, International Monetary Fund, October 5, 2010. See <http://www.imf.org/external/np/pp/eng/2010/100510c.pdf>. See also summary information on other country practices included in *Global Survey on Consumer Protection and Financial Literacy: Oversight Frameworks and Practices in 114 Economies*, World Bank, 2014 available at <http://responsiblefinance.worldbank.org/~media/GIAWB/FL/Documents/Publications/CPFL-Global-Survey-114econ-Oversight-2014.pdf>

² Exemptions were provided for lenders operating “in the public interest”, which was interpreted as any activity facilitating economic growth. In 2013, about 25 entities were granted exemptions. No information is available on the size of their businesses.

as effective annual rates calculated in a standard manner across the banking sector, (3) simple and clear language in contracts, and (e) effective mechanisms to address complaints. In addition, the central bank will (as part of its examination process) review compliance with the code and incorporate any violations into its risk assessment of the banks and building societies. In addition, under the Banking Services Act, the Bank of Jamaica will receive authority to issue directions for any breaches of the code. A deposit-taking institution which fails to follow the directions will be considered to have committed an offence and be subject to penalties.

Other reforms in the securities sector will improve protection for retail investors. The former Unit Trusts Act has been replaced by an amended securities legislative framework, which includes new Securities (Collective Investment Schemes) Regulations. At the same time, the current retail repo model is being replaced with a trust arrangement where the underlying securities will be transferred from the custody of the dealers to a master trust, under which individual investors' claims to the securities will be identified. The reforms are expected to reduce the risky business models of securities dealers in order to enhance investor protection (including that of retail investors) and facilitate investment in other investment options available in the market.

Recent legislative changes in the anti-fraud framework will help protect both depositors and retail investors. The 2013 Law Reform (Fraudulent Transactions Act) provides extensive provisions to combat lottery scams. In addition, the 2013 amendments to the Securities Act reinforced the authority of the Financial Services Commission to tackle pyramid schemes and other forms of investment fraud.

The resulting supervisory framework for financial consumer protection will still have gaps, thus creating loopholes that can be mined by financial firms. As indicated in Annex 1, the supervision framework is fragmented, with limited consumer protection supervision of many types of financial institutions. The 2001 Financial Services Commission Act clearly specifies investor protection as part of the Commission's core mandate. As a result, insurance, securities and private pension services all have a consumer protection regulator and supervisor with a clear focus on measures to strengthen consumer protection. However, for banks and building societies, the scope of the Bank of Jamaica's work on consumer protection is limited since the 1960 Bank of Jamaica Act does not specifically refer to consumer protection as part of its statutory mandate. Instead, the Bank relies on its mandate to maintain financial stability to cover its consumer protection role but this is not as powerful as having consumer protection as part of the Bank's statutory obligations.

Some types of financial institutions have virtually no consumer protection supervision. For example, "friendly societies" (a form of mutual benefit organization) are supervised by the Department of Co-operatives and Friendly Societies within the Ministry of Industry, Investment and Commerce. While there are hundreds of friendly societies, fewer than 50 are involved in consumer financial services. Of these, only one (TIP Friendly) is substantial. While membership in TIP Friendly is limited to professional teachers, the society has 10,000 members and collects premiums on behalf of insurance brokers. However its market conduct activities do not fall under the supervision of the Financial Services Commission or any other financial supervisor. Similarly

retailers, which provide installment credit for the purchase of appliances and other major consumer goods, are regulated by the 1974 Hire Purchase Act and come under no financial supervisory agency. In addition, credit unions, payday lenders, and microfinance institutions have no clear consumer protection supervisor. Also state lenders such as the National Housing Trust, which provides half of all residential mortgages directly to consumers, falls under the oversight of the Office of the Prime Minister and has no consumer protection supervisor. For such agencies, the only consumer protection supervisors are the Fair Trading Commission (whose authority is limited to issues of misleading advertising and tied selling) and the Consumer Affairs Commission (for which financial services represent only a small portion of the Commission's work and just one percent of complaints received from consumers).

Another issue is that the work of government supervisors on financial consumer protection lacks effective co-ordination. Bank of Jamaica is considering creating a special department within the Financial Institutions Supervision Division. The new department would have responsibility for monitoring (and enforcing) compliance with the code of conduct and addressing the issues raised by consumer complaints. Such an approach would represent a helpful first step in strengthening the capability of Bank of Jamaica to improve consumer protection of commercial banks, merchant banks, and building societies. It would allow Bank of Jamaica staff, who examine financial consumer protection, to focus on those issues and participate in international fora focused on consumer protection supervision of financial institutions. However, the work of Bank of Jamaica on bank consumer protection is currently conducted separately from that of the Financial Services Commission on investor (and policy-holder) protection. In addition the other government agencies, such as the Fair Trading Commission and the Consumer Affairs Commission, operate without support or input from the Bank of Jamaica. Additional changes beyond what is envisioned by the Banking Services Act will therefore be required if the financial consumer protection framework is to be effective.

Consumer complaints provide useful insight about weaknesses in the consumer protection framework. The Financial Services Commission is the most active of the regulators, receiving over half of all complaints regarding financial services (as noted below in Table 1). However useful insights are also available from other databases. For example, the database of the Consumer Affairs Commission shows that the most common complaints about banking services concern: (1) fees for use of automated teller machines, overdrafts, penalties and dormant accounts; (2) interest charges on outstanding balances, credit cards and loan accounts; (3) payments posted to incorrect accounts or in incorrect amounts; (3) ATMs not issuing cash and (4) stolen debit and credit cards and unauthorized deductions. Some of the same consumer protection issues in banking services were encountered during the mission's mystery shopping exercise, described in Box 1.

Calculating their account balances appears to be a particular challenge for Jamaican borrowers. According to the authorities, the single most common complaint is in the calculation of account balances for bank loans. One source of confusion is the profusion of fees charged by banks. The list of a bank's fees and charges is typically accessible from the bank's website or as a posting on the wall. However a printed copy of the full list is not given to every new customer and

is only available upon request. Another source of complaints are prepayment fees that can reach as high as 30 percent of the principal amount, even when the interest rate is variable and reset every 24 months. However, the Jamaican consumer may often be subject to penalty fees that substantially increase the amount of the original debt – but for which the consumer was unaware. A 2012 financial literacy survey implemented by the Financial Services Commission (and supported by the Organization for Economic Co-operation and Development) found that only 68 percent of Jamaican consumers claim to generally make payments on time. This is one of the lowest levels among the 14 countries in the International Network on Financial Education which have conducted comparable surveys.³ Only 40 percent of Jamaicans “always” paid on time.

Jamaican consumers also complain about other types of financial services. Other common consumer complaints submitted to the Financial Services Commission relate to: (1) calculation of insurance coverage (if less than the full replacement value has been insured), (2) reduction in pension payouts when a partial payout has already been commuted to cash, and (3) loss in value for market investments where consumers may not realize that such investments have the potential to both gain and lose value. Borrowers from microfinance lenders complain of high interest rates of one percent per week (or an effective borrowing rate of 69 percent per year) and aggressive debt collection practices. Credit card users also complain of high interest rates, with credit card providers charging very high rates of interest on amounts payable. The complaints point to the need for improved consumer disclosure – and better programs of financial education. In particular, the service provider should be obliged to clearly explain the terms and conditions (including those related to interest rate calculations) at the time the service is initially provided.

³ By comparison, 64 percent of consumers in the British Virgin Islands (and 80 percent of those in the United Kingdom) say that they “always” pay their bills on time. See Atkinson, A. and F. Messy, *Measuring Financial Literacy: Results of the OECD / International Network on Financial Education Pilot Study*, OECD Working Papers on Finance, Insurance and Private Pensions, No. 15, OECD Publishing, 2012 <http://dx.doi.org/10.1787/5k9cfs90fr4-en>

Box 1: Mystery Shopping for Bank Services

The World Bank Mission conducted mystery shopping with the assistance of a representative from the National Consumers League, the primary consumer association based in Kingston. Together the shoppers visited one of the branches of one of the largest commercial banks and requested information regarding opening a new account and applying for a home mortgage.

The shoppers were offered a “30 year fixed mortgage”, which referred to a 30 year mortgage whose term was indeed fixed for 30 years but whose interest rate was fixed for only two years. At the end of 24 months, the rate would be adjusted based on “market conditions”. When pressed for a definition of market conditions, the loan officer explained that market conditions would be based on the general level of interest rates and changes in the foreign exchange markets. Contesting the rate would thus be almost impossible for the average consumer whose understanding of the working of financial markets is generally limited.

Fruitless also were attempts to review the wording of the standard contract (which would have defined “market conditions”). The loan officer explained that the draft contract would be shared with the customer only once the full documentation has been submitted and approved. Had the typical contract terms been shared with the shoppers, they would have discovered that the interest rate is in fact set based on the bank’s internal cost of funds, a calculation that is unavailable to the public – and unverifiable by the average consumer.

Neither was understanding the bank’s fees and charges a simple task. Upon request, the officer printed out the full schedule of fees and charges on a new account. The booklet ran 15 pages and included some surprising fees. For example, the schedule indicated a fee of JD248 (US\$2.25) for obtaining a copy of the account statement. The same fee was applicable just for moving funds from one account to another in the same bank -- even if the customer owns both accounts at the bank.

When they submit written complaints, Jamaican consumers write to five different government agencies. As seen in Table 1, the Bank of Jamaica receives just one of eight of all consumer complaints regarding financial services. Complaints are also received by the Financial Services Commission (which in 2013 received over half of all complaints submitted to government authorities concerning financial services), the Consumer Affairs Commission, the Fair Trading Commission and the Ministry of Industry, Investment & Commerce.

Despite their complaints, Jamaican consumers tend not to shop around for better service. The 2012 financial literacy survey conducted by the Financial Services Commission⁴ found that just eight percent of Jamaican consumers “shopped around” for financial services, comparing the offers of different financial service providers.⁵ One of the issues may be that consumers face a

⁴ The survey used the financial literacy questionnaire prepared by the Organisation for Economic Co-operation and Development and implemented by countries in the International Network on Financial Education.

⁵ By comparison, 16 percent of consumers of financial services in the U.K. compared offers of different financial services providers. See <http://www.oecd->

dearth of choices. Just two banks – National Commercial Bank and Scotiabank Jamaica – together hold three-quarters of all bank deposits (and 57 percent of deposits held by all deposit-taking institutions). Alternatively it may be difficult for consumers to understand and compare available options – and then be prepared to solve problems if they arise.

ISSUES

From the complaints, three key issues are evident. First, Jamaican consumers have difficulty obtaining simple, clear and comparable information about financial services. Second, they have difficulty resolving disputes with financial institutions. Third, financial literacy among consumers is low.

Table 1: Estimated Consumer Complaints about Financial Services in 2013

Bank of Jamaica	40
Financial Services Commission	145
Consumer Affairs Commission	45
Fair Trading Commission	18
Ministry of Industry, Investment & Commerce	20
Total	258

Source: Respective government agencies

First, consumer disclosure is inadequate to meet the needs of consumers of financial services.

One area of confusion is that no standard methodology has been established for calculating effective interest rates, although the 2014 Banking Services Act now authorizes the Bank of Jamaica to develop such methodology. The absence of a standardized methodology has meant that consumers could not easily compute their account balance. As a result, consumers had no way of verifying if they have been charged the correct amount of interest. Nor can Jamaican consumers easily “shop around” for financial services if there is no standard calculation of interest rates. A second area of confusion lies in the fact that the interest rate on a standard mortgage is typically based on the bank’s cost of funds – and this information is not publicly available even to the consumer who seeks it out. At the same time, there are only a few price surveys that would allow consumers to compare offers from different financial service providers. Since 2010, the Bank of Jamaica has published on its website an annual Study of Fees and Charges prepared for a parliamentary commission. The study provides comparison on individual fees but is updated only annually.⁶

ilibrary.org/docserver/download/5k9csfs90fr4.pdf?expires=1401609264&id=id&accname=guest&checksum=CD3C112BF5A0B138D46A11DD39CF0384

⁶ [http://www.boj.org.jm/uploads/news/final_report_on_fees_and_charges_at_31_october_2013_\(3\).pdf](http://www.boj.org.jm/uploads/news/final_report_on_fees_and_charges_at_31_october_2013_(3).pdf)

Second, existing out-of-court dispute resolution mechanisms across the financial sector are ineffective. In any country, the first step is for the consumer to contact the financial institution and request clarification or correction of the error. The difficulty arises when the consumer is not satisfied with the response of the financial institution. For most financial services, the consumer's next step is the financial supervisory agency. While the Financial Services Commission has an active role in receiving complaints and enforcing legislation, the role of the Bank of Jamaica has been more limited. However in both cases, the agencies are looking for systemic issues. For the individual consumer, the only remaining recourse is the court. However the difficulty is that the court system of Jamaica is slow and cumbersome, with routine commercial cases taking six to twelve months or longer for resolution. (According to the World Bank's Doing Business Indicators, the average time for resolution of a commercial case in the Jamaican courts is 540 days, or 18 months).⁷ This is sufficient to deter all but the most determined of financial consumers. The Consumer Affairs Commission has the legal authority to launch a lawsuit on behalf of financial consumers – and receive damages related to its costs in prosecution of the case. However class-action lawsuits for financial consumers are largely unknown in Jamaica (although the 2013 amendments to the Securities Act allow the Financial Services Commission to initiate class-action lawsuits on behalf of defrauded investors). Many countries have adopted out-of-court resolution mechanisms to support those financial consumers who are reluctant to access the court system. However in Jamaica, such out-of-court mechanisms are still in their infancy. Both the Consumer Affairs Commission (under the 2010 amendments to the Consumer Protection Act) and the Financial Services Commission (under the 2013 amendments to the Financial Services Commission Act) have the authority to establish special tribunals to resolve disputes on financial services. However in both cases, the tribunals have only recently been put in place and more work will be required to ensure that they are effective alternative dispute resolution mechanism for consumer financial services.

Third, early initiatives on a National Financial Literacy Program have been helpful but they were insufficient to have a measurable impact on consumer levels of financial literacy. Well-educated financial consumers are best able to protect themselves from unfair treatment by financial institutions. Several key government agencies (including the Financial Services Commission and Jamaica Deposit Insurance Corporation (“JDIC”)) were active participants in the previous Financial Literacy Program, which was launched with the release of the financial literacy survey in 2012. In spite of the current environment of financial austerity for Jamaican government institutions, the regulators have still placed a priority on financial education. The Financial Services Commission has pursued a financial education program related to insurance, securities and private pensions – and devoted an annual budget of about JD 30 million to the effort. The program includes partnerships with the Bank of Jamaica, the JDIC and Credit Bureau as well as partnerships with civil society groups such as Kiwanis to deliver financial literacy programs to high schools. The Financial Services Commission is also active in international fora including

⁷ <http://www.doingbusiness.org/data/exploreeconomies/jamaica/enforcing-contracts/>

International Forum on Investor Education and the international organizations for securities, insurance and pension regulators. The JDIC has continued its financial education campaign of about JD 12 million to ensure that depositors are aware of insurance on their personal deposits. In addition, the Ministry of Education has announced its decision to include financial education as part of the school curriculum for high schools. However the efforts would be far more effective if they were coordinated as part of a government-wide national program led at the highest level of government and broadly supported by industry associations and civil society. A national program on financial literacy would also encourage citizen participation in reform of consumer financial services.

What is needed now in Jamaica is a comprehensive national program of consumer protection and financial literacy as part of a national strategy on financial inclusion. Rapid expansion in financial services – combined with low levels of competition – raises the need for strong protection of users of financial services. Provision of financial services to previously unserved (or underserved) consumers will bring first-time consumers into formal financial services. Where the financial consumer protection framework is weak (and particularly where competition is low), first-time users of financial services are at the mercy of financial institutions. Furthermore the growth-enhancing benefits of expanded financial inclusion may be lost or severely undermined, if financial consumer protection is weak.⁸ In addition, improved consumer protection has the potential to create a virtuous circle. Better consumer disclosure would encourage individuals to shop for the best price and quality of service, thereby encouraging financial institutions to compete for their business. At the same time, financial crises in Jamaica and worldwide have undermined public confidence and trust in formal financial institutions. Strengthening consumer rights in financial services will help rebuild that needed confidence and trust from the public.

RECOMMENDATIONS

High Level Measures

Develop a comprehensive national strategy on consumer protection and financial literacy. The 2011 Financial Literacy Strategy prepared by the Financial Services Commission and presented to the Office of the Prime Minister was a useful first step. What is needed now is a comprehensive and collaborative strategy on consumer protection and financial literacy as part of the national strategy on expanding financial inclusion. The new strategy should aim to bring together all the key stakeholders into one national program.

⁸ Consumer protection is needed because of the inherent imbalance of power, expertise and resources between financial institutions and individuals. In specific terms, financial consumer protection aims to ensure that consumers: (1) receive information to allow them to make informed decisions, (2) are not subject to unfair or deceptive practices and (3) have access to recourse mechanisms to resolve disputes. Complementary financial literacy initiatives give consumers the knowledge and skills to understand the risks and rewards of using financial services—and their legal rights and obligations in using such services.

Establish a task force with high level political support to lead the strategy. The task force should be a collaborative effort that includes not only the Financial Services Commission, Bank of Jamaica and the JDIC, but also all the line ministries that touch on financial issues for households (for example, Ministries of Finance & Planning, Industry, Investment & Commerce, Education, Agriculture, National Security, and Defense). Participation by Consumer Affairs Commission and Fair Trading Commission would be helpful. Also needed is active involvement of the industry and consumer associations as well as leaders from the private sector and civil society.

Create a secretariat to develop and report on implementation of the action plan. It would be useful to appoint a dedicated secretariat to work out the detailed action plan, monitor its implementation and disseminate the results to the public. The secretariat should prepare an annual report on the status of the action plan, including recommendations on measures to further strengthen the National Program. The annual report could be presented to the Office of the Prime Minister or other high-level authorities. Monitoring and evaluation measures should be identified in order to report on success in implementation and suggest further improvements. Such measures could include a national baseline survey of consumer financial literacy levels by age, occupation, geographic area etc. with the results (as well as raw data) made available for public review and analysis.

Short-term Plan

Strengthen – and simplify – standard disclosure on common financial services. One approach would be to develop a Key Facts Statement which highlights the key terms and conditions of the financial service being provided to the consumer. The Key Facts Statement might be developed by the Jamaica Bankers Association with the support of the Bank of Jamaica, other regulators and supervisors and industry and consumer associations. In order to help (and encourage) consumers to shop around for the best price and quality of service from financial institutions, a standard methodology should be established for calculation of effective interest rates. In order to simplify standard disclosure on home mortgages, the authorities should require that variable interest rates for residential mortgages be priced off an objective (and independently verifiable) index, such as the Bank of Jamaica (Interest) Rate. Alternatively lenders could be obliged to publish their base rates used for calculating mortgages.

Publish timely price surveys of commonly used financial services to encourage comparison shopping by consumers. In addition to surveys of fees and charges, such surveys might cover effective borrowing rates through unsecured consumer loans and credit cards. This might include the weekly or monthly publication of current interest rates (using a standard methodology for calculation of effective interest rates. Such rate surveys could be conducted by any of: (a) financial supervisory agencies, (b) consumer associations or possibly (c) an independent research

organization. The rates should be published in a newspaper with broad circulation in Jamaica and listed on a public website on the internet.⁹

Create an independent statutory ombudsman to cover all consumer financial services. An independent ombudsman for financial services would provide a “one stop shop” for individuals to present complaints and inquiries about financial services.¹⁰ The ombudsman could be created by statute or by financial industry associations. A financial ombudsman would not resolve the issue of fragmentation in the consumer protection supervisory structure. However an ombudsman would provide a center-point for complaints about all types of consumer financial services. From this vantage point, a financial ombudsman would be able to see the issue up-close and in-depth – and be able to make recommendations on measures to address the underlying weaknesses in the financial consumer protection framework.¹¹ Following international practice, the ombudsman should have the authority to make decisions on relatively small cases (for example, up to JD 50,000 or USD 500 equivalent), where the decisions are binding on the financial institution but the consumer retains the right to go to court. The ombudsman might also set up a toll-free hotline for financial consumer complaints and inquiries. The ombudsman should also prepare an annual report, including statistics on the number of cases covered, their resolution, and the key issues that were raised during the course of review of the cases. The work of a financial ombudsman should be complemented by a national program of financial education to ensure that consumers understand their legal rights and obligations in using financial services.

Finance the ombudsman with a levy on the financial services sector. The office of the ombudsman will need to be adequately resourced in order to be effective. In line with international experience, such funding could come from industry (and institution-specific) levies, based on the number of complaints that are received for each institution. In this way, financial institutions would have a monetary incentive to resolve the issues prompting high levels of consumer complaints.¹²

⁹ Pricing surveys released by the Financial Regulator of Ireland have proved to be useful ways of helping consumers select the financial service providers that best meet their needs. The financial regulator of Peru found that in September 2002 to March 2003, interest rates on consumer credit card loans fell by 150 percentage points at a time when other market rates remained stable. The Peruvian regulator attributed virtually all the decrease in consumer rates to an increase in competition among financial service providers.

¹⁰ Other structures are also possible, including establishing industry-based voluntary ombudsmen or strengthening the consumer protection tribunals. However independent statutory ombudsmen have proven to be most effective in strengthening dispute resolution systems.

¹¹ Attention should be paid to ensuring that the financial ombudsman collaborates closely with the financial supervisory agencies, such as the Financial Services Commission. Consumer complaints provide an early warning signal for supervisors to investigate cases of fraud or other consumer abuse – and financial supervisors need the detail of the complaints to identify ways of fully examining business practices of supervised financial service providers.

¹² See David Thomas and Francis Frizon, *Resolving disputes between consumers and financial businesses: Fundamentals for a financial ombudsman: A practical guide based on experience in western Europe*, World Bank, 2012 available at

http://siteresources.worldbank.org/EXTFINANCIALSECTOR/Resources/Financial_Obudsmen_Vol1_Fundamentals.pdf

Establish a regular national survey of consumer finances. The survey would provide: (a) information on consumer confidence in the financial sector and (b) additional insights on the ways in which households access financial services.¹³ Once the data has been analyzed and a report published, the raw data should be made available to researchers, including those in the universities. Combining the consumer finance surveys with raw data on labor statistics, academic research institutes and non-government organizations would be able to identify patterns in income levels based on years of formal schooling, number of children, sizes of households and other sociological data. Such research has been helpful in developing national government policies intended to target low-income and highly vulnerable households and communities.¹⁴

Conduct an in-depth baseline survey of financial literacy. The 2012 survey provides a good base but an updated financial literacy survey should be expanded to review popular understanding of basic financial concepts such as savings and inflation. The survey could also review consumer use of financial services. The survey could be combined with other consumer surveys, such as those conducted to research popular awareness of deposit insurance coverage and money-laundering regulations. The survey should be updated every few years to evaluate the effectiveness of the national program on consumer protection and financial literacy (and financial inclusion) and suggest mid-course corrections to improve the effectiveness of the national program.

Medium-term Plan

Develop further in-depth analysis on specific parts of the financial services sector and prepare an additional action plan for implementation of the recommendations. The Technical Note did not fully review issues related to securities, insurance and private pensions. Additional assessment of financial consumer protection in these sectors is needed as is review of specific topics, such as: (1) protection of consumers in the event of fraud when using electronic banking and (2) protection of personal data. Further recommendations are also included as part of Annex 3, Comparison to World Bank Good Practices on Financial Consumer Protection. Annex 4 lists the recommendations and assigns priorities to the measures.

Annex 1. Existing Structure for Prudential and Consumer Protection Supervision

Type of Financial Institution	Enabling Legislation	Prudential Supervisor	Authorizing Legislation for Supervisor	Consumer Protection Supervisor	Authorizing Legislation for Consumer Protection Supervisor	Number of Regulated Entities
Commercial banks	Banking Act	BoJ	BoJ Act	None	Not applicable	6
Merchant banks	Financial Institutions Act	BoJ	BoJ Act	None	Not applicable	2

¹³ For example in the U.S., the Federal Reserve Board works with the University of Michigan to conduct a tri-annual survey of consumer finances. See <http://www.federalreserve.gov/econresdata/scf/scfindex.htm>

¹⁴ See <http://responsiblefinance.worldbank.org/surveys/users-of-financial-services>

Building societies	Building Societies Act	BoJ	BoJ Act	None	Not applicable	3
Credit unions	Co-operative Societies Act	MIIC	Cooperative Societies Act	None	Not applicable	37
Friendly societies	Friendly Societies Act	MIIC (Dept. of Cooperatives & Friendly Societies)	Friendly Societies Act	None	Not applicable	Fewer than 50 ¹⁵
Foreign exchange traders/cambios	BoJ Act	BoJ	BoJ Act	None	Not applicable	2
Remittance companies	BoJ Act	BoJ	BoJ Act	None	Not applicable	8
Money lenders ¹⁶	Money Lending Act	None	Money Lending Act (1938)	None	Not applicable	
National Housing Trust	National Housing Trust Act	Office of Prime Minister	National Housing Trust Act	None	Not applicable	1
Credit bureaus	Credit Reporting Act	BoJ	Credit Reporting Act	None	Not applicable	3
Insurance cos.	Insurance Act	FSC	FSC Act	FSC	FSC Act	17
Insurance agents	Insurance Act	FSC	FSC Act	FSC	FSC Act	14
Insurance brokers	Insurance Act	FSC	FSC Act	FSC	FSC Act	25
Investment dealers	Securities Act	FSC	FSC Act	FSC	FSC Act	49
Investment advisers	Securities Act	FSC	FSC Act	FSC	FSC Act	33
Individual dealers	Securities Act	FSC	FSC Act	FSC	FSC Act	44
Individual advisers	Securities Act	FSC	FSC Act	FSC	FSC Act	2
Unit trust mgt. cos.	CIS Regulations	FSC	FSC Act	FSC	FSC Act	55
Pension funds	PSFRS Act	FSC	FSC Act	FSC	FSC Act	436 ¹⁷
Pension administrators	PSFRS Act	FSC	FSC Act	FSC	FSC Act	28
Pension investment managers.	PSFRS Act	FSC	FSC Act	FSC	FSC Act	27

Acronyms

BoJ Bank of Jamaica

CIS Collective Investment Schemes

FSC Financial Services Commission

MIIC Ministry of Industry, Investment & Commerce,

¹⁵ Refers only to those friendly societies that are engaged in consumer finance and provide active plans.

¹⁶ Although there are no regulated money lenders, there are entities who have received exemptions from the Moneylending Act which allow them to charge rates in excess of those stipulated in the Act.

¹⁷ Included are terminating plans regulated by the FSC.

Department of Cooperatives & Friendly Societies

MoFP Ministry of Finance & Planning

PSFRS Pensions (Superannuation Funds & Retirement Schemes)

As of May 9, 2014

Annex 2. Current & Revised Legislation affecting Financial Consumer Protection

Current Legislation	Revised Legislation
Banking Act	Banking Services Act ¹⁸
Financial Institutions Act	Banking Services Act
Building Societies Act & BOJ Building Societies Regulations	Banking Services Act ¹⁹ Amended Building Societies Act
Co-operative Societies Act	BoJ Credit Unions Regulations (complementing Co-operative Societies Act)
Friendly Societies Act	No changes
Deposit Insurance Act	No changes
Money Lending Act	Micro Credit Bill
National Housing Trust Act	No changes
Credit Reporting Act	No changes
Insurance Act	No changes
Pension (Superannuation and Retirement Schemes) Act	No changes
Securities Act	No changes
Unit Trusts Act	Collective Investment Schemes Regulations ²⁰

As of May 9, 2014

¹⁸ Enacted June 2014.

¹⁹ The Banking Services Act replaced the BOJ Building Societies Regulations. The Building Societies Act will also be substantially amended.

²⁰ The Unit Trusts Act has been repealed.

Annex 3. Comparison to World Bank Good Practices on Financial Consumer Protection

Consumer protection in financial services is an emerging issue for the global financial community concerned about financial inclusion. The Global Alliance for Financial Inclusion has identified financial consumer protection as a key issue for expanding access to finance. Where financial services are extended to previously unserved (or underserved) consumers – and financial consumer protection is weak – consumers will be vulnerable to abusive market practices by financial institutions.

Financial consumer protection is also an important issue for financial stability. The financial crisis of 2007-08 highlighted weaknesses in financial consumer protection in industrialized and middle income countries. In response to the crisis (and the increasing importance of financial inclusion), the global financial community prepared principles, guidelines and good practices. The work was led by the Group of Twenty (G-20) Countries, the Financial Stability Board, the Organisation for Economic Co-operation and Development (OECD), the Basel Committee on Banking Supervisors, and the World Bank Group. The World Bank Good Practices were developed to provide a detailed methodology for assessing a country’s framework compared to global best practice on financial consumer protection. The Good Practices were released in June 2012 after a five year global consultation process.²¹

The Annex compares Jamaica’s financial consumer protection framework and business practices to the World Bank’s Good Practices for Financial Consumer Protection. The assessment found that of the 39 Good Practices, Jamaica scored as applied or largely applied in 9 Practices, partially applied in 19, and materially non-applied or not applied in the remaining 11 Practices. The findings are summarized in Annex 3, which provides a brief description of Jamaica’s legal and regulatory framework and common business practices (as of early May 2014) and presents recommendations on strengthening measures. Annex 4 proposes high and medium priorities for the measures.

Consumer Protection Institutions	
Good Practice #1	<i>The law provides clear consumer protection rules regarding financial products and services. The necessary institutional arrangements are in place to ensure thorough, objective, timely, and fair implementation (and enforcement) of the rules.</i>
Description	Jamaica has a number of different supervisors of financial consumer protection, including not only the Bank of Jamaica and the Financial Services Commission but also the Fair Trading Commission and the Consumer Affairs

²¹ The World Bank’s report, *Good Practices for Financial Consumer Protection*, include citations of the laws, regulations and codes used to develop the Good Practices as well as a summary of the consultation process. See http://siteresources.worldbank.org/EXTFINANCIALSECTOR/Resources/Good_Practices_for_Financial_CP.pdf

	<p>Commission. (See Annex 1 for a listing of the financial consumer protection supervisors for all 21 different types of financial institutions in Jamaica).</p> <p>The Banking Services Act gives the Bank of Jamaica some authority to supervise consumer protection in services provided by commercial banks, merchant banks and building societies. However this authority is limited at best.</p> <p>For securities, insurance and private pension entities supervised by the Financial Services Commission, the related Act puts investor protection at the core of the Commission’s mandate. However for other consumer financial services – provided by money lenders, microfinance institutions and state mortgage lenders – there are no effective institutional arrangements to ensure adequate financial consumer protection. The Fair Competition Act authorizes the Fair Trading Commission to investigate competitive practices. In addition, the Consumer Protection Act authorizes the Consumer Affairs Commission to review consumer rights in products and services, including financial services. However the authority and effectiveness of both Commissions are limited.</p> <p>By law, the Fair Trading Commission is restricted to issues of misleading advertising and tied selling. While the Consumer Affairs Commission has the power to review financial services, only 1% of complaints submitted to the Commission relate to financial services.</p>
Rating	Partially applied
Recommendation	It would be helpful if specific government authorities received the formal mandate to supervise consumer protection in all types of financial services.
Good Practice #2	<p><i>Codes of conduct for sector-specific financial institutions are developed by the sector-specific association (in consultation with the financial supervisory agency and consumer associations, if possible). Monitored by statutory agencies or effective self-regulatory agencies, these codes are formally adhered to by all sector-specific institutions. The codes may be augmented by voluntary codes of conduct devised by individual financial institutions for their own operations. The codes are widely publicized.</i></p>
Description	<p>For the banking sector alone, Jamaica has three different codes of conduct. The Bankers Association drafted a voluntary code of conduct for banks, which has been adopted by all the members of the Association. According to Bank of Jamaica’s Survey of Fees and Charges submitted to Parliament in March 2014, four of Jamaica’s commercial banks (including Scotiabank Jamaica, the second largest) implemented the Bankers Association code while a fifth bank noted that it is implementing procedures to implement the code. A sixth bank noted that it was working with other members of the Association to develop a code compatible with the code of the Consumer Affairs Commission (noted below).</p>

	<p>The largest bank, National Commercial Bank, indicated that it had not yet implemented the code.²²²³</p> <p>In addition, the Consumer Affairs Commission, working with the National Consumers League, prepared a separate voluntary code of conduct. This latter code has not been accepted by the Bankers Association, although some of the code's provisions (such as showing, on the teller screen, the cost of using an automated teller machine) have been implemented by some of the banks.</p> <p>The third code is a mandatory code of conduct, included as part of the Banking Services Act. It is anticipated that the mandatory code will be enforced by the Bank of Jamaica as part of its regular supervision and examination process of banks (as well as building societies). Violation of the code will be subject to a fine of J\$ 2 million although separate regulations may prescribe higher penalties than those established under the Act.</p> <p>For financial institutions supervised by the Financial Services Commission, there are protocols and guidelines but no formal codes of conduct developed by the industry associations.</p> <p>For other types of financial institutions, no codes of conduct are in place.</p>
Rating	Partially applied
Recommendation	Consideration could be given to developing one common code of conduct to cover all types of financial institutions that deal with consumers. Alternatively each of the industry associations might develop their own codes specific to their industries. In this case, care should be taken to ensure that all the conduct codes for consumer financial services in Jamaica are consistent with each other.
Good Practice #3	<i>Prudential supervision and consumer protection supervision may be placed in separate agencies or lodged in a single institution. However regardless of the institutional structure, the allocation of resources between prudential supervision and consumer protection is adequate to enable the effective implementation of consumer protection rules.</i>
Description	<p>The Bank of Jamaica is considering an internal restructuring to handle its expanded mandate under the Banking Services Act. Under that restructuring, it is anticipated that a special consumer protection department would be created as part of the Financial Institutions Supervisory Division.</p> <p>For the Financial Services Commission, investor protection is part of the core mandate of the agency. As a result, consumer protection is found in every activity of the Commission.</p>

²² [http://www.boj.org.jm/uploads/news/final_report_on_fees_and_charges_at_31_october_2013_\(3\).pdf](http://www.boj.org.jm/uploads/news/final_report_on_fees_and_charges_at_31_october_2013_(3).pdf)

^B By the end of January 2015, all commercial banks had signed the JBA's voluntary code. (See Section F, pg. 11 of Report to Parliament)

	However for other financial services, there is largely no consumer protection supervision, as noted above.
Rating	Partially applied
Recommendation	Several options are available to ensure that all financial service providers are supervised from a consumer protection perspective by a financial supervisory agency. One option would be to expand the mandate of the Bank of Jamaica to explicitly assume responsibility for consumer protection in deposit-taking institutions, with all other financial service providers falling under the supervision of the Financial Services Commission. Another approach would be to create a special agency for consumer protection in financial services. There are advantages and disadvantages to each approach. Some agencies prefer to include consumer protection as part of prudential supervision since consumer complaints provide a valuable early warning signal of possible systemic issues. Other agencies note the inevitable conflicts between the mandates of financial stability and consumer protection and prefer to have separate agencies deal with each issue. It may be worthwhile for the authorities to conduct a study of international experience in determine what would be the most efficient and effective approach in Jamaica. ²⁴
Good Practice #4	<i>All legal entities that provide financial services to consumers are licensed (or registered) and supervised with regard to their market conduct (i.e. their business practices in relation to retail customers) by the appropriate financial supervisory authority.</i>
Description	<p>Most legal entities that provide consumer financial services are registered with, or licensed by, a government agency. However as indicated by Annex 1, not all are supervised regarding their consumer protection by a financial supervisory agency.</p> <p>Banks and building societies are licensed by the Minister of Finance & Planning and supervised by the Bank of Jamaica. Credit Unions are registered with the Ministry of Industry, Investment & Commerce and will be supervised by the Bank of Jamaica. However, the Bank of Jamaica’s consumer protection supervision will be limited to inspection of compliance with a mandatory conduct code.</p> <p>Securities, insurance and private pensions funds are licensed and supervised for consumer protection by the Financial Services Commission. In addition, under Section 17C of the 2013 Amendments to the Securities Act, any investment scheme (or investment club) with more than 20 participants must be registered with the Financial Services Commission. This is very helpful. In all economies, unregistered investment vehicles that solicit funds from the public are a common form of pyramid schemes and other financial frauds.</p> <p>However numerous forms of financial service institutions have no consumer protection supervision from a financial supervisory agency. These include</p>

²⁴ See also World Bank *Global Survey on Consumer Protection and Financial Literacy* (2014) referenced above.

	<p>friendly societies, payday and microfinance lenders and state lenders. For these institutions, the only consumer protection supervision is from the Fair Trading Commission and the Consumer Affairs Commission, neither of which is a financial supervisory agency.</p> <p>Friendly societies (which are a form of mutual benefit organization) are registered with the Ministry of Industry, Investment & Commerce but come under no financial consumer protection supervision.</p> <p>Payday and microfinance lenders are registered with the Ministry of Finance & Planning and also have no consumer protection supervision. In the past, even the registration requirement has been easy to avoid since lenders can request an annual exemption, which has generally been granted if their activity was considered to be “in the public interest”, which was interpreted by the Ministry as any activity that “facilitated economic growth”. The Micro Credit Bill, which is being drafted, would eliminate the exemption from registration but would still not apply any consumer protection supervision to payday and microfinance lenders.</p> <p>State lenders, such as the National Housing Trust, are registered with the Office of the Prime Minister but also come under no consumer protection supervision from a financial supervisory agency.</p> <p>Separate from the formal banking system are informal savings schemes that do not involve any legal entities. “Partner” (or “pardner”) schemes are widespread in Jamaica and are generally created by groups of common interest or work affiliations, such as taxi drivers and hair stylists. In such arrangements, a respected member of the group (the “banker”) holds savings on behalf of other group members and disburses the funds in accordance with an agreed distribution schedule. The partner schemes are generally limited to fewer than 50 participants and distributions are made over one to 24 months. The partner schemes may or may not be documented by legal contracts. However no interest (and no investment income) is paid. While there are cases of partners that fail to disburse on time (or at all), abuses appear not to be widespread. For many consumers, the schemes provide a low cost mechanism for short-term savings and payouts.</p>
Rating	Partially applied
Recommendation	Require that all legal entities that provide consumer financial services be registered with one of the financial supervisory agencies.
Good Practice #5	<i>The judicial system ensures that the ultimate resolution of any consumer protection dispute regarding a financial product or service is affordable, timely and delivered in a professional manner.</i>
Description	The Jamaican court system is considered to be slow and cumbersome with commercial cases typically taking six to 12 months to be resolved. According to the World Bank’s <i>Doing Business Indicators</i> , commercial cases in Jamaica take

	<p>an average of 540 calendar days to complete – from the moment the plaintiff decides to file the lawsuit in court until payment ²⁵</p> <p>For consumers, one alternative to the court system lies with tribunals. Under the 2010 revisions to the Consumer Protection Act, consumer protection tribunals were extended to cover services, including financial services. The body has the powers of a tribunal “of the first instance”. It is a quasi-legal body which operates as a small-claims court to levy and collect fines. Consumer protection tribunals have authority to issue orders and make decisions binding on financial institutions and they may provide a useful form of recourse for consumers. However as of May 2014, the Consumer Protection tribunals had not yet started to cover disputes related to services. Furthermore tribunals are rarely effective in resolving consumer disputes over financial services -- they are generally seen by consumers as being biased in favor of the industry.</p>
Rating	Not applied
Recommendation	Another alternative would be to create an independent financial ombudsman. Such a service would have the authority to make decision on small amounts, such as up to Jamaican dollar equivalent of US\$ 500. Such institutions would be binding in the financial institution but allow the consumer to appeal to court, if necessary.
Good Practice #6	<i>The media and consumer associations actively promote financial consumer protection.</i>
Description	Several media outlets and the National Consumers League make substantial efforts to highlight issues related to financial consumer protection. For example, the Financial Services Commission provides a regular “FSC minute” distributed via radio by the Jamaica Information Service. The FSC also hosts seminars, workshops and outside broadcasts which are open to the public free of charge and have been aired on the radio, and electronic media. In addition, the daily Kingston newspaper, <i>The Gleaner</i> , covers financial news among other topics of interest. In addition, the National Consumers League is active in promoting consumer awareness of issues related to financial consumer protection. However the program is fragmented and fails to provide a measurable impact.
Rating	Partially applied
Recommendation	It would be best if both consumer associations and the media were actively engaged in promoting improved financial consumer protection. Programs might include mystery shopping or a newspaper column on how to resolve individual consumer complaints, as seen in numerous daily U.S. newspapers. A

²⁵ This includes both the days when actions take place and the waiting periods between actions. Three stages are recorded: (1) completion of service of process (time to file and serve the case), (2) issuance of judgment (time for the trial and obtaining the judgment) and (3) moment of payment (time for enforcement of the judgment). See <http://www.doingbusiness.org/methodology/enforcing-contracts>

	public relations strategy might include issuing press releases for studies on price comparisons and including internet links to each study. Use of social media, such as Facebook pages and Twitter accounts, may provide a useful method of reaching young consumers. If a national program on financial consumer protection and financial literacy were established, funds could be set aside for programs for both consumer associations and media activities.
Disclosure and Sales Practices	
Good Practice #7	<i>Before a financial institution makes a recommendation to a consumer regarding a specific financial product or service, it gathers sufficient information from the customer to ensure that the product or service is likely to meet the needs and capacity of that consumer.</i>
Description	<p>The Bank of Jamaica Standards of Sound Business Practices on Credit Risk Management (2005) require that banks collect sufficient information to ensure that they have determined the borrower’s capacity to repay, based on historical financial trends and cash flow projections. In addition, regulations under the Securities Act require that institutions licensed by the Financial Services Commission establish suitability and fair dealing standards in treatment of their customers.</p> <p>However in practice, the information collected by a financial institution may be focused more on ensuring that the customer is suitable for the institution than ensuring that the service meets the needs of the customer. In the mystery shopping exercise, the shoppers found that before opening an account, the bank required references from two acceptable sources. When pressed for the reasons for the references, the loan officer explained that the bank wanted to ascertain that new customers would not be “lotto scammers.” The loan officer asked no questions to determine if the type of mortgage being offered would best meet the customer’s projected cash flows.</p> <p>Indeed in a residential mortgage market characterized by low competition and dominated by a state lender with subsidized lending rates, financial institutions may have only a few types of services from which consumers may choose. In such cases, checking for suitability may be just a matter of verifying that the debt service payments are affordable for the customer, as is currently done. In such cases, the key issue is then ensuring that the financial institution complies with the “know your customer” rules.</p>
Rating	Partially applied
Recommendation	As the financial markets in Jamaica become increasingly competitive, it would be helpful if financial institutions were required to verify that the services meet the customer’s needs.
Good Practice #8	<i>For all financial products or services, consumers receive a short one or two page summary statement (or electronic equivalent), presented in a legible font and written in plain language, describing the key terms and conditions,</i>

	<i>including recourse mechanisms, applicable to the financial product or service. Summaries are based on industry-agreed standards for the minimum types of information to be published for each type of financial product or service—and allow easy comparison among financial service providers. Summaries are distributed by financial institutions.</i>
Description	<p>The issue of clarity of contract appears to be important in Jamaica. Article 44 of the Consumer Protection Act requires that all contracts (and advertisements) be: (1) conspicuous, (2) legible, (3) simple and (4) easy to understand. In addition, Article 131 of the Banking Services Act authorizes the Supervisor (i.e. the Bank of Jamaica) to issue codes of conduct requiring that deposit taking institutions keep contract language simple and clear, and ensure that key terms, such as rates, terms, fees and payment dates, are clearly identified for the customer’s attention. Yet this may not be sufficient.</p> <p>The draft conduct code of the Consumer Affairs Commission and National League of Consumers proposed that loan contracts would unenforceable if the language were unclear. However, the Banking Services Act clarifies that even if the contract language is not sufficiently simple and clear, the contract is still legally enforceable.</p> <p>Financial contracts in all jurisdictions are typically complex and difficult to read and special measures are needed to help consumers understand how best to use financial services.</p> <p>Preparation of Key Facts Statements would also facilitate the ability of consumers to comparison shop. The reports currently prepared for Parliamentary review are helpful but they do not provide timely information that consumers can use in negotiating their personal financial services.</p>
Rating	Partially applied
Recommendation	<p>To implement the provisions of the Banking Services legislation, it would be helpful if the Bank of Jamaica or the Bankers Association could develop a standard format for a Key Facts Statement (similar to that used in the U.K.) for residential mortgages, credit card loans, current accounts and other types of commonly used consumer financial services. The Bank of Jamaica and Financial Services Commission might work with the relevant industry associations to prepare similar Key Facts Statements for other consumer financial services. In addition the supervisors and industry associations might work together to develop standard contracts (or at least standard clauses) for commonly used financial services. Reader-friendly fact-sheets and plain English descriptions of consumer financial services would also be helpful.</p> <p>It would also be helpful if an interactive price comparison website could be developed for commonly used financial services, such as credit cards or unsecured personal loans.</p> <p>Similar provisions should also be provided for other consumer financial services, including insurance, securities and private pensions.</p>

Good Practice #9	<i>Before a consumer purchases a financial product or service, the financial institution provides a written copy of the institution’s general terms and conditions, as well as the specific terms and conditions that apply to the product or service.</i>
Description	<p>Article 8 of the Money Lending Act requires that all the contract terms be provided to the borrower, including date of the loan, principal amount, interest per annum.²⁶ However the general terms and conditions for borrowings may be difficult to obtain since in practice, it is difficult for consumers to obtain copies of draft loan contracts prior to the signing date.</p> <p>For securities, investor disclosure of terms and conditions is regulated under Sections 26 and 38 of the Securities Act as well as Securities Regulations on Conduct of Business, Takeover and Mergers and Repurchases. In addition, Securities Regulations related to prudential norms and retail repurchases regulate the market conduct of securities dealers, including issues related to securities contracts.</p>
Rating	Largely applied
Recommendation	Financial institutions should be encouraged to place their standard contract language on their websites and provide printouts for those consumers who request copies of the standard contract. The financial supervisors could issue best practice guidelines on this provision. Alternatively the consumer organizations might conduct studies of the extent to which financial entities provide such contract information to consumers.
Good Practice #10	<i>The law specifically prohibits the use of fraudulent sales practices, such as misleading advertising, in the marketing of financial products and services.</i>
Description	<p>Misleading advertising is specifically prohibited in the legislation of most of the financial services sector. Article 41 of the Banking Act and Article 6 of the Moneylending Act prohibit statements that are misleading, false or deceptive as well as the dishonest concealment of material facts in the sale of financial services. Article 146 of the Insurance Act specifically prohibits misleading advertising as does Article 46 of the Securities Act. Also Governance Regulation 27 for Pensions (Superannuation Funds and Retirement Schemes) prohibits misleading advertising by sponsors of retirement schemes. Additional minimum disclosure requirements are established under regulations for pensions and securities. The Companies Act sets disclosure requirements on prospectuses for stocks and securities of registered companies.</p> <p>In addition, some financial institutions include the requirement for truthful advertising in their internal policy guidelines. One example is the money-lender Grace Kennedy whose published Code of Ethics and Guidelines for</p>

²⁶ In addition, the Bank of Jamaica’s Code of Conduct adopted by commercial banks in January 2015 includes provisions on disclosure of terms and conditions of bank products and services.

	<p>Business Conduct requires that advertising be truthful and not misleading or deceptive.</p> <p>There are also general provisions prohibiting misleading advertising. Article 27 of the Fair Competition Act prohibits any public representation that is false or misleading in a material respect.</p>
Rating	Largely applied
Recommendation	None submitted.
Good Practice #11	<i>Financial products or services with a long-term savings component—or those subject to high-pressure sales practices—have a “cooling-off” period, during which the consumer may cancel the contract without penalty. Nothing prevents a financial institution from recovering any processing fees incurred. However the cooling-off provisions should not apply to securities and derivatives, where pricing on financial markets moves quickly.</i>
Description	<p>Consumer insurance contracts in Jamaica (and often elsewhere) include a “free look” period of 14 days when a new insurance policy owner is able to terminate the contract without penalties such as surrender charges. However there are no cooling off periods for other financial services.</p> <p>The Consumer Affairs Commission proposed a 72-hour cooling-off period for all consumer banking contracts whereby the consumer could cancel a contract without penalty, charge or interest being applied to the account. However the cooling-off provision has been strongly opposed by the Bankers Association.</p> <p>Cooling-off periods are particularly helpful for consumer financial products and services that are subject to door-to-door sales, internet distribution and other high pressure selling tactics. However tied selling practices are typically found in markets with high levels of competition and numerous new entrants.</p>
Rating	Materially non-applied
Recommendation	As the Jamaican financial market expands and new financial entities enter the industry, consideration should be given to mandated cooling-off periods not only for insurance but also for pensions (and other long-term savings schemes) as well for any financial services sold through high-pressure tactics. It may also be helpful to establish a specific cool-offing period applicable when administrators/investment managers increase their fees or propose amendments to the contract documents.
Good Practice #12	<i>Whenever an individual borrower is obliged by a financial institution to purchase a product or service as a pre-condition for receiving another product or service, the borrower is free to choose the provider for the product or service.</i>
Description	Article 33 of Fair Competition Act prohibits tied selling of products. In addition, the Bank of Jamaica promotes and facilitates comparison shopping through

	<p>the publication on its website of comparative fees and charges for deposit-taking institutions.</p> <p>However financial services providers, that are part of financial conglomerates, generally cross-sell related products and services from within the same financial conglomerate. Indeed in middle-income countries, it is common practice for financial conglomerates to price certain financial products and services on a loss-leader basis in order to encourage customers to purchase related high margin services from the conglomerate.</p>
Rating	Largely applied
Recommendation	The marketing practices of financial conglomerates should be monitored to ensure that such practices are not being employed.
Good Practice #13	<i>In their advertising, financial institutions disclose that they are regulated and the advertising materials identify the relevant regulatory or supervisory agency.</i>
Description	Entities regulated by the Financial Services Commission are required to prominently display their certificate of registration or their license. However neither by common practice nor under the law do the other supervised financial institutions clearly identify their supervisory agency. It may therefore be difficult for individual consumers to know which financial supervisory agency is responsible for their service providers. Indeed in the case of the Cash Plus pyramid scheme from the early 2000s, the company argued in court that it was subject to the supervision of neither the Bank of Jamaica nor the Financial Services Commission. ²⁷
Rating	Materially not applied
Recommendation	To assist consumers in navigating the financial supervisory structure, it may be helpful to require that, in their advertising, financial institutions identify their primary supervisory agency. Deposit-taking institutions that offer deposits insured by the JDIC should be required to include the name of the Fund in their advertising concerning deposits.
Good Practice #14	<i>Staff of financial institutions who deal directly with consumers receive adequate training, suitable for the complexity of the products or services they sell. In particular, financial intermediaries are qualified as appropriate for the complexity of the financial product or service they sell.</i>
Description	Initially established in 1977 by the Bank of Jamaica and banking industry, the Jamaica Institute of Financial Services provides training for staff of financial institutions. The Institute is allied with the Manchester Business School in providing masters level programs in business administration. In addition,

²⁷ Carvajal, Ana et al, *Ponzi Schemes in the Caribbean*, International Monetary Fund Working Paper WP/09/95, April 2009

	<p>under the Bank of Jamaica’s Anti-Money Laundering/Counter-Terrorism Policy, front-line staff of banks and building societies receive training on identifying suspicious behavior. Individual banks also have their own training and certification requirements. The licensing requirements for sales representatives and other intermediaries for insurance, securities and pensions require minimum levels of training and experience. See Section 70 of the Insurance Act, Section 10 of the Securities Act, Insurance Regulations 111 – 121, Sections 7 – 9 of the Pensions (Superannuation Funds and Retirement Schemes) Act, and Regulation 5 (2) of the Pensions (Superannuation Funds and Retirement schemes) Regulations. However there are no specific requirements from the Bank of Jamaica to ensure that retail staff of lending institutions are appropriately qualified for the complexity of financial services that they sell.</p>
Rating	Partially applied
Recommendation	As the complexity of financial services in Jamaica expands, the Bank of Jamaica may wish to consider what qualifications would be appropriate for staff of financial institutions selling complex financial services. In cases where intermediaries are individuals, particular attention should be placed on the training and qualifications of the sales staff.
Customer Account Handling and Maintenance	
Good Practice #15	<i>Financial institutions prepare regular statements for each customer account regarding key details of customer financial transactions as well as written (or electronic) confirmations of the terms of each transaction. For investment products, customers receive periodic statements of the value of the assets in their account.</i>
Description	<p>For investment securities, monthly statements are required at the end of each month in which some activity occurs and at the end of each quarter, where there are no purchases or sales.</p> <p>However in banking, it is not always easy to obtain account statements. Under the voluntary conduct code of the Bankers Association, banks are to provide customers with either regular account statements (monthly or quarterly) or a means of accessing their account information in printed or electronic format. Where statements are not provided, customers are given full access to account histories up the legal retention requirement (currently seven years), subject to any applicable charge. Also under the voluntary code, credit card account statements should include: (1) the current interest rate; (2) rates charged on outstanding balances, new borrowings and cash advances; (3) minimum monthly payment and payment due date; and (4) details on transactions occurring during the statement period.</p> <p>However many of the commercial banks charge customers a fee for going in person to the branch and checking the account balance. Some banks, such as National Commercial Bank, allow electronic access to bank statements and transaction confirmations at no charge to customers. However one difficulty is</p>

	that the legislation does not protect the customer in the case of fraud in the case of use of electronic access to accounts. The problems are self-evident. One of the major complaints to the Consumer Affairs Commission relates to stolen debit and credit cards and unauthorized deductions from bank accounts
Rating	Partially applied
Recommendation	All financial institutions should be required to provide a written monthly statement of accounts free of charge to consumers. When using electronic access, the law should require that financial institutions absolve consumers of responsibility for losses (over a minimum amount such as US\$ 500 equivalent) in case of fraud.
Good Practice #16	<i>As early as possible, customers are individually notified in writing (or by electronic means) of changes in interest rates, fees, and charges or other key terms and conditions of their financial products or services.</i>
Description	Section 131 of the Banking Services Act authorizes the Supervisor to issue codes of conduct requiring that deposit-taking institutions provide customers with reasonable notice of fees and charges and terms and conditions. Similar provisions apply to the securities, investment and private pensions sector but no specific provisions apply to other financial services.
Rating	Partially applied
Recommendation	All types of financial institutions should be obliged to notify customers, as early as possible, of changes in terms and conditions of the financial services.
Good Practice #17	<i>Financial institutions maintain up-to-date customer records and provide customers with ready access to their records, either without charge or for a reasonable fee.</i>
Description	Financial institutions maintain up-to-date customer records but, as noted above, often charge high fees for customers to obtain a copy or even just check their balance. Section 131 of the Act authorizes the Supervisor to issue codes of conduct requiring that banks and building societies allow customers' access to their information at a reasonable cost. However no similar provisions apply to other financial services.
Rating	Partially applied
Recommendation	All financial service providers should be required to provide customers with a printed statement of account balances free of charge.
Good Practice #18	<i>Clearing and settlement of retail payments is based on clear statutory and regulatory rules—or is subject to effective self-regulatory arrangements.</i>
Description	Jamaica has a well-developed payment and settlement infrastructure on retail payments, supervised by the Bank of Jamaica. The main components of the

	<p>infrastructure are: (1) the Automated Clearing House (ACH) for retail payments (owned and operated by a consortium of seven commercial banks) which clear and settle J\$ denominated checks as well as credit and debit transfers and (2) the payment card switches, MultiLink (owned by four commercial banks and two building societies) and QNet (owned by the Credit Union League).</p> <p>However penetration of distribution channels for retail payments is limited. The Banking Services Act creates banking agents to handle payment services. In addition, the Bank of Jamaica is reviewing applications from 13 firms to operate electronic retail payment services. Approval has been given for two pilot projects of non-bank payment service providers using mobile technology.</p>
Rating	Applied
Recommendation	<p>The Bank of Jamaica should consider measures to expand consumer choices and increase competition in retail payments systems. As part of its oversight function, the Bank could compile the fees and charges levied by banks and other authorized entities for various payment services and products and publish the fees and charges on the Bank of Jamaica’s website. This would serve the aim of fostering transparency and would enable the consumers to make educated choices and foster competition. As a first step, the charges levied by banks for using automated teller machines could be prominently displayed at the machines.</p> <p>Consumer protection issues will also likely arise with the widespread introduction of banking agents. In providing its final approval to the two mobile wallet pilots, the Bank of Jamaica should ensure that authorized entities adhere to interoperability, with prohibitions on exclusivity arrangements for agents. Other suggestions on policy recommendations are provided in <i>Protecting Branchless Banking Consumers: Policy Objectives and Regulatory Options</i> (CGAP, 2010).²⁸</p>
Good Practice #19	<i>Financial institutions are prohibited from employing abusive collection or debt recovery practices against their customers.</i>
Description	There is no law on debt collection practices, although banks that use debt collection companies generally limit their activities to firms that are owned by the bank – and obliged to follow the bank’s own policies and procedures on customer relations. Few problems have been reported about debt collection by agents of banks. However the microfinance sector has been criticized for its highly aggressive debt collection practices.
Rating	Not applied
Recommendation	It would be helpful to have a specific law on debt collection in order to explicitly prohibit abusive collection practices.

²⁸ <http://www.cgap.org/sites/default/files/CGAP-Focus-Note-Protecting-Branchless-Banking-Consumers-Policy-Objectives-and-Regulatory-Options-Sep-2010.pdf>

Privacy and Data Protection	
Good Practice #20	<i>For credit registries, the law specifies the extent and timeliness of the updating of customer information, gives customers ready and free access to their credit reports from credit registers (at least once a year), and provides procedures for correcting mistakes in credit reports.</i>
Description	Article 12 of the Credit Reporting Act specifies that adverse customer information should be kept for no more than seven years. Article 15 gives customers the right to have an annual free copy of their credit bureau data. Article 16 sets out procedures for customers to correct their data with the credit bureaus – and to complain first to the Bank of Jamaica, and then to the Appeals Tribunal, whose Chairman is appointed by the Minister of Finance & Planning. However the system of credit registries is very new to Jamaica and the system for accessing the reports and correcting errors has not yet been fully tested.
Rating	Largely applied
Recommendation	No recommendation
Good Practice #21	<i>Financial institutions are required to protect the confidentiality and technical security of customer data. The law states specific rules and procedures concerning the release of customer records to any government authority.</i>
Description	<p>Section 133 of the Banking Services Act prohibits officers of banks and building societies from giving, divulging or revealing any information regarding the money or other relevant particulars of the institution’s customers.</p> <p>The voluntary code of the Bankers Association goes further. It states that in accordance with applicable law, each bank will treat customer information as private and confidential (even if the customer is no longer a customer of such bank). Each bank should also take all commercially reasonable steps to safeguard against the disclosure to third parties of personal details of customers (including names, addresses or other details about customer accounts), except as required or permitted by law or the customers’ written authorizations.</p> <p>However one difficulty is that Jamaica currently has no law on protection of personal data that would limit the sharing of personal data by financial institutions, although work has started. The planned Data Protection Bill is expected to safeguard the privacy of individuals in relation to personal data as well as regulate the collection, regulation, processing, keeping, use and disclosure of certain information in physical or electronic form. Under preparation by the Ministry of Science, Technology, Energy & Mining, the legislation will set out the rights of the individual, with respect to their personal data, including the right to confirm whether or not personal information or data is being processed by an organization. It will also allow</p>

	consumers to take action to rectify incomplete, inaccurate or misleading information and block, erase, or destroy unlawful or unnecessary information.
Rating	Partially applied
Recommendation	It would be helpful if a Data Protection Bill were enacted. The Bill should include specific rules and procedures concerning the release of customer records to government authorities.
Good Practice #22	<i>The law provides consumer rights regarding information sharing, including access, rectification, blocking and erasing of errors, and outdated personal information. The law also sets out basic rules of information sharing among participants of the credit reporting system, including credit registers, reporting institutions, and users of credit reports.</i>
Description	<p>Article 11 of the Credit Reporting Act restricts the sharing of customer data and Article 13 requires that credit bureaus notify customers in the event of unauthorized access, use, or disclosure of their data. Article 16 clarifies the procedures for consumers to correct information in the credit bureau.</p> <p>In addition, Article 133 of the Banking Services Act provides additional instructions that no officer of any licensee, agent or any other person having access to information on customers give, divulge or reveal any information regarding the money or other relevant particulars of the account of that customer.</p> <p>Section 8(6) of the Credit Reporting Act requires the consumer’s permission for inclusion of personal information and Section 2 indicates what is not considered personal information. In addition, Section 11(3) requires the consumer’s consent to access the consumer’s information from a credit bureau.</p>
Rating	Largely applied
Recommendation	<p>Several measures could further strengthen consumer protection regarding the operation of credit bureaus.</p> <ol style="list-style-type: none"> 1) Develop a standard consumer consent clause for credit applications from credit information providers; 2) Instruct credit bureaus to publish on their websites a summary of consumers’ rights, including the dispute resolution mechanism; 3) Create a section on the Bank of Jamaica website with links to the consumer complaint sections of the credit bureaus; 4) Allow consumers to access online their own reports (but ensure that adequate authentication mechanisms are in place); 5) Keep records of consumers’ inquiries regarding their own data and publish aggregate data regarding the numbers of inquiries; and

	6) Consider an awareness campaign to help consumers understand the benefits of building a good credit history and the implications of requesting several credit reports.
Good Practice #23	<i>Every financial institution informs each of its customers of its policies for the use and sharing of the customer’s personal information.</i>
Description	Since the credit reporting system in Jamaica is still in early stages of development, no formal rules have yet been established requiring that financial institutions inform their customers about the use and sharing of customer personal information.
Rating	Not applied
Recommendation	Under the draft legislation on protection of private data being prepared, it would be helpful if the law included provisions requiring that financial institutions advise customers of their policies on use and sharing of customer information, even within the same financial group.
Good Practice #24	<i>Credit bureaus are subject to oversight by the appropriate government (or non-government) authority.</i>
Description	Under Article 4 of the 2010 Credit Reporting Act, credit bureaus are licensed by the Minister of Finance & Planning and supervised by the Bank of Jamaica. The two credit bureaus, CreditInfo Jamaica and CRIF, were licensed in 2012. ²⁹ There is no central credit registry.
Rating	Applied
Recommendation	No recommendation
Dispute Resolution Mechanisms	
Good Practice #25	<i>Every financial institution has a designated contact point with clear procedures for handling customer complaints, including complaints submitted verbally. Financial institutions also maintain up-to-date records of all complaints they receive and develop internal dispute resolution policies and practices, including processing time deadlines, complaint response, and customer access.</i>
Description	The voluntary conduct code of the Bankers Association requires timely responses to customer complaints but does not require that contact points be designated or that responses to complaints be provided within a specified period. Section 131 of the Banking Services Act authorizes the Bank of Jamaica to issue codes of conduct requiring that banks and building societies establish

²⁹ A third entity “Credit information Systems” was licensed during 2014 and, during 2015, is expected to commence credit reporting under the Credit Reporting Act.

	<p>effective mechanisms to address customer complaints, maintain records, and provide reports on customer complaints and resolutions.</p> <p>Major banks maintain customer service departments that receive complaints and inquiries from consumers. National Commercial Bank, for example, has 150 staff who receive calls and written inquiries as part of the customer care department. They also maintain records on the resolution of the submitted complaints.</p> <p>For pension products, Pensions (Superannuation Funds and Retirement Schemes) Regulations 15 – 17 establish guidelines on consumer complaints. Market conduct guidelines on handling customer complaints are also in place for motor vehicle insurance claims and activities insurance companies and insurance intermediaries. Securities (Conduct of Business) Regulations 12 – 13 require the preparation of transactional records and a Management Discussion and Analysis Report that focuses on business operations, including dispute resolution.</p> <p>The complaint registers are also reviewed as part of the onsite examinations of regulated entities.</p>
Rating	Largely applied
Recommendation	It would be helpful if the financial supervisors could prepare regulations or best practice guidelines so that all financial service providers provide a designated contact point and comply with an established time-limit for responses to consumer complaints.
Good Practice #26	<i>Consumers have access to an affordable, efficient, respected, professionally qualified and adequately resourced mechanism for dispute resolution, such as an independent financial ombudsman or equivalent institution with effective enforcement capacity. The institution acts impartially and independently from the appointing authority, the industry, the institution with which the complaint has been lodged, the consumer, and the consumer association. Decisions by the financial ombudsman or equivalent institution are binding on the financial institution.</i>
Description	For the securities, insurance and pension sectors, the Financial Services Commission is authorized to resolve consumer complaints through its powers of investigation and enforcement. Under the Financial Services Commission Act (section 8 and Third and Fourth schedules), the Commission has the authority to institute civil proceedings to protect securities investors, insurance policy-holders and pension beneficiaries. The respective legislation also provides consumers the right to recourse through the Commission. See for example, Pensions (Superannuation Funds and Retirement Schemes) Act section 13 (2) (s) and Securities Act section 68 (1B) (c). These give the Financial Services Commission the authority to institute civil proceedings to protect consumers in the securities, insurance and pensions sectors. However outside the securities, insurance and pensions sectors, no other government

	<p>agency has the same level of authority to resolve consumer disputes. Note that none of the consumer tribunals has taken on any financial services cases to date.</p> <p>Thus one of the weaknesses of the financial consumer protection framework in Jamaica is the absence of an effective dispute resolution mechanism that is independent of the regulatory agencies and the industry –and covers all the different types of consumer financial services.</p>
Rating	Not applied
Recommendation	<p>An independent financial ombudsman, established by statute, would represent a major step forward for financial consumers in Jamaica. It would be best if the decisions of the financial ombudsman were binding on the financial institution although the consumer could still take the case to court, if so desired. Worldwide the overwhelming number of customer disputes with financial institutions are over relatively small amounts, under US\$ equivalent of \$500. It may make sense therefore to set the limit for the binding authority of the ombudsman (or ombuds service) at an amount of about J\$50,000. Additional suggestions on preparation for an independent financial ombudsman are provided in Annex 4.³⁰</p>
Good Practice #27	<p><i>Statistics of customer complaints, including those related to breaches of codes of conduct, are periodically compiled and published by the ombudsman or financial supervisory authority. The complaints are compiled by product type to facilitate identification of patterns and opportunities for improvements of service.</i></p>
Description	<p>Article 22 of the Credit Reporting Act requires that Bank of Jamaica annually compile statistics on complaints submit with regard to the credit bureaus. However there are no other requirements for the financial supervisors to publish complaint statistics. Article 131 of the Banking Services Act would require the Bank of Jamaica to compile and publish statistics on customer complaints for banks and building societies. However no similar provisions are applicable for other types of financial institutions. Nevertheless the Financial Services Commission publishes complaints statistics in its annual report.</p>
Rating	Materially not applied
Recommendation	<p>If a financial ombudsman were created, its terms of reference and scope of work should include compilation and publication of complaints and inquiries</p>

³⁰ See also recommendations on financial ombudsmen in David Thomas and Francis Frizon, *Resolving disputes between consumers and financial businesses: Fundamentals for a financial ombudsman: A practical guide based on experience in western Europe*, World Bank, 2012 available at http://siteresources.worldbank.org/EXTFINANCIALSECTOR/Resources/Financial_Obudsmen_Vol1_Fundamentals.pdf

	across the financial services sector. This should include breakdown of complaints by product type as well as recommendations for improvement.
Good Practice #28	<i>Regulatory agencies are legally obliged to publish aggregate statistics and analyses related to their activities regarding consumer protection—and propose regulatory changes or financial education measures to avoid the sources of systemic consumer complaints. Industry associations also play a role in analyzing the complaint statistics and proposing measures to avoid recurrence of systemic consumer complaints.</i>
Description	Article 131 of the Banking Services Act requires that the Bank of Jamaica publish complaint statistics for banks and building societies and the Financial Services Commission and other agencies already compile and publish aggregate complaint data (see Table 1). However there is no requirement for publication of complaint statistics for other types of financial services – or for the agencies to propose changes that would address recurring issues. The industry associations do follow complaints but they also have no formal process to propose measures to avoid recurring issues.
Rating	Partially applied
Recommendation	It would be helpful if all financial supervisory agencies (plus the consumer and competition agencies) were required to publish aggregate statistics on financial consumer complaints. The industry associations should also regularly review the published statistics and offer recommendations on measures to avoid recurrence of repeated issues.
Guarantee and Compensation Schemes	
Good Practice #29	<i>The law provides that the regulator can take appropriate measures to protect consumers in the event of financial distress of a financial institution.</i>
Description	<p>The JDIC was established in 1998 following the failure of a number of financial institutions in 1994-95. Under Article 5 of the Deposit Insurance Act, the JDIC may take a number of measures, including: (1) acting as a receiver, liquidator, or judicial manager or appointing a person to act in this capacity; (2) arranging for the restructuring by merger with or acquisition by another financial institution; (3) making loans or advances with security; (4) borrowing or raising funds; and (5) guaranteeing, indemnifying or becoming liable for the payment of monies. The JDIC does not carry out its own inspections but relies on those of the Bank of Jamaica.</p> <p>Since the time of the financial restructuring of the late 1990s and the Financial Sector Adjustment Company (FINSAC) program, 16 financial institutions have merged or had their licenses withdrawn in response to regulatory actions. However no bank or building society has become insolvent. Thus the system has not yet been fully tested.</p>
Rating	Largely applied

Recommendation	No recommendation
Good Practice #30	<i>Any law on financial insurance or a guarantee fund is clear on the insurer, the classes of depositors who are insured, the extent of insurance coverage, the contributor(s) to the fund, each event that will trigger a payout, and the mechanisms to ensure timely payout to all insured persons.</i>
Description	<p>The law is clear on the structure and mechanisms for the payouts to depositors in banks and building societies. Article 18 of the Deposit Insurance Act authorizes the Fund to pay up to J\$600,000 (or about US\$5,400) for each depositor in the case of insolvency of the bank or building society or if the license has not been renewed by the Minister of Finance & Planning. Also under Article 18, payment must be made to the depositor within three months of the financial institution’s insolvency or withdrawal of license.</p> <p>A December 2006 study of deposit profiles of insured institutions estimated that J\$600,000 would cover over 97.8% of the number of accounts and about 35.7% of value of funds in customer accounts.</p> <p>With regard to credit unions, the Co-operative Credit Union League Limited maintains a stabilization fund (although the details are not easily accessible to the public). The League also has a role in the voluntary regulation of member credit unions. In addition, it is the policy of the Co-operative Credit Union League to provide technical assistance and other support to credit unions in order to ensure that no credit union in Jamaica becomes insolvent. Once credit unions come under the prudential supervision of the Bank of Jamaica, the JDIC will also cover consumer deposits in credit unions.</p>
Rating	Partially applied
Recommendation	It would be helpful if the details of the stabilization fund of the Co-operative Credit Union League could be made available online.
Good Practice #31	<i>Depositors, life insurance policyholders, securities and derivatives account holders, and pension fund members enjoy higher priority than other unsecured creditors in the liquidation process of a relevant financial institution.</i>
Description	<p>Under Article 31 of the Pensions (Superannuation Funds and Retirement Schemes) Act, pension fund members have higher priority than unsecured creditors in the event of liquidation of the pension fund or retirement scheme. Similarly Articles 55 and 59 of the Insurance Act establishes priority for insurance policy-holders (including life insurance). Articles 201-2 of the Securities Act also provide some protection for investors in retail repos and secured securities. However according to the 2008 Survey prepared by the International Association of Deposit Insurers, at the time of liquidation of a bank, depositors in Jamaican banks do not rank in priority above other unsecured creditors. The December 2014 Bankruptcy and Insolvency Act substantially strengthened the insolvency regime in Jamaica (particularly with</p>

	regard to “retail repos”) but the regime would be improved by a special mechanism for the winding-up of financial institutions.
Rating	Materially non-applied
Recommendation	The authorities may wish to consider conducting a review of international experience in insolvency regimes related to resolution of different types of financial institutions.
Financial Literacy & Consumer Empowerment	
Good Practice #32	<i>A broad-based program of financial education and information is developed to increase the financial literacy of the population.</i>
Description	Several authorities, notably the Financial Services Commission and the JDIC, conduct financial education programs with a combined annual budget of over J\$40 million. In addition, the Ministry of Education has also announced its intention to provide financial education in the high school curriculum. (For more information, see commentary in the Technical Note.) However no broad-based national financial literacy program is in place.
Rating	Partially applied
Recommendation	It would be helpful if the authorities launched a broad-based national financial literacy program, with leadership from the office of the Prime Minister or other high-level authorities.
Good Practice #33	<i>A wide range of organizations (including government, state agencies and non-governmental organization) are involved in developing and implementing the financial literacy program. The government appoints a ministry (e.g. the Ministry of Finance), the central bank or a financial regulator to lead and coordinate the development and implementation of the program</i>
Description	As noted above, only some of the concerned government agencies are engaged in programs of financial education and these are conducted by each agency separately. No specific agency has been appointed to lead and coordinate a national program.
Rating	Materially not applied
Recommendation	A broad range of ministries and agencies should be engaged in improving financial literacy in Jamaica. This should include the Ministries of Finance & Planning, Education, Industry, Investment & Commerce, Agriculture, Defense, Science, Technology, Energy & Mining as well as the Bank of Jamaica, Financial Services Commission, Fair Trading Commission, Consumer Affairs Commission, JDIC and Cooperative Credit Union League. Also important would be the industry associations, such as the Bankers Association and the National Consumers League.

Good Practice #34	<i>Initiatives are undertaken to improve financial literacy of consumers of all ages. This includes encouraging the mass media to cover issues related to consumer finance, including consumer protection in financial services.</i>
Description	Some media cover issues of consumer finance. For example, the daily Kingston newspaper, <i>The Gleaner</i> , covers financial news including stories related to consumer finance. One example was the extensive coverage of the proposed government tax on withdrawals of cash from banks. In addition, the media provide the FSC Minute as a form of public service announcement. Also the Financial Services Commission publishes <i>Compass</i> and <i>FSC Score</i> , which are targeted to the industry and the licensees and registrants. However there is little coverage of broad financial consumer protection issues targeted to the general public.
Rating	Partially applied
Recommendation	The authorities might consider creative ways of obtaining free coverage of issues related to financial consumer protection. For example, the Banking Services Act requires that both banks and their supervisory agencies publish their annual complaint statistics. The authorities could ensure that the media organizations receive the reports. Price surveys are also often of great interest to media organizations and their audiences. In addition, in light of the oral traditions of Jamaica, consideration might be given to oral methods of dissemination of information through radio and town hall meetings.
Good Practice #35	<i>Government and state agencies consult consumers, industry associations and financial institutions to develop proposals that meet consumers' needs and expectations. They also undertake consumer testing to try to ensure that proposed initiatives, including those regarding pre-contractual consumer disclosure and dispute resolution, are likely to have their intended outcomes.</i>
Description	The financial supervisory agencies in Jamaica frequently consult and work with the industry associations. However less frequent is their contact with the Consumer Affairs Commission or the consumer associations. In addition, there is virtually no consumer testing of proposed initiatives.
Rating	Partially applied
Recommendation	Consumer testing of different initiatives, particularly the financial ombudsman now under discussion, would be useful.
Good Practice #36	<i>The financial literacy of consumers and the impact of consumer empowerment measures are measured through broad-based household surveys that are repeated from time to time to see if the current policies are having the desired impact on the financial marketplace.</i>
Description	In 2012 the Financial Services Commission conducted a financial literacy survey in Jamaica, using a questionnaire developed by the International Network of Financial Education (which is led by the Organization for

	Economic Co-operation and Development). Annual surveys are also conducted by institutions licensed by the Financial Services Commission with the data provided to the Commission. Other surveys have also been conducted, including surveys in 2006 and 2012 by the JDIC to determine popular understanding of the extent of deposit insurance. In addition, the Financial Investigations Division of the Ministry of Finance & Planning is intending to conduct a survey regarding popular understanding of the rules and regulations related to anti-money laundering and related counter-terrorism financing. While useful, the surveys provided only an initial level of analysis of the levels of financial literacy and types of financial behavior in Jamaica. Furthermore the raw data from the survey was not made publicly available.
Rating	Partially applied
Recommendation	A detailed national financial literacy survey would be helpful in providing a comprehensive baseline assessment. The survey should be broken down by age, gender, occupation, education, and geographic location. Such detail would provide crucial input in designing an effective financial education program for all parts of society, particularly those excluded from formal financial services. Follow-up studies should be conducted every few years in order to evaluate the effectiveness of the ongoing programs and propose recommendations on measures to improve the programs. ³¹
Competition	
Good Practice #37	<i>Financial regulators and competition authorities consult with one another.</i>
Description	The financial regulatory and supervisory authorities coordinate on financial consumer protection issues, but less on competition issues. The Fair Trading Commission informally provides its advice to the Bank of Jamaica, the Financial Services Commission and the Ministry of Finance & Planning on competition issues. However the Fair Trading Commission has limited authority with regard to consumer financial services. Its primary work relates to the issues of misleading advertising and tied selling.
Rating	Not applied
Recommendation	It would be helpful if the Bank of Jamaica, the Financial Services Commission and the Ministry of Finance & Planning could institute a coordination mechanism for working together on competition issues related to consumer finance.

³¹ National financial literacy surveys have been conducted by the Financial Services Authority (now Financial Conduct authority) in the U.K. and Financial Industry Regulatory Authority in the U.S. In addition, the World Bank has conducted a number of national financial literacy surveys. See <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTFINANCIALSECTOR/0,,contentMDK:22766495~pagePK:148956~piPK:216618~theSitePK:282885,00.html>

Good Practice #38	<i>Competition policy in financial services considers the impact of competition issues on consumer welfare, and especially planned or actual limits on choice.</i>
Description	Although there is much concern over the level and number of fees and charges imposed by the commercial banks, there is currently no government competition policy related to financial services.
Rating	Not applied
Recommendation	It would be helpful if the Bank of Jamaica, the Financial Services Commission, the Fair Trading Commission and the Ministry of Finance & Planning could together develop a competition policy related to financial services, especially consumer financial services. That policy could assess the impact of limited competition on consumer welfare and identify ways in which competition for consumer financial services could be expanded.
Good Practice #39	<i>Competition authorities conduct and publish periodic assessments of competition among retail financial institutions and make recommendations on how competition among retail financial institutions can be optimized.</i>
Description	In addition to the 2013 Bank of Jamaica review of fees and charges applied by banks and building societies, the Fair Trading Commission conducted a 2010 study on competition in the banking sector and proposed some recommendations. ³² However the Commission has conducted no assessments of competition for the rest of consumer financial services. Nor has the Commission presented recommendations on measures to strengthen competition in other parts of the consumer financial services sector.
Rating	Partially applied
Recommendation	It would be helpful if the Fair Trading Commission could prepare a study issues of competition in all consumer financial services and present recommendations on measures to strengthen competition. The study should cover the level and quality of competition for all consumer financial services, including payday lenders and microfinance institutions.

³² http://www.jftc.com/Libraries/Industry_Studies/2011_1_10_Final_-_Nature_and_Extent_of_Competition.sflb.ashx

Annex 4. National Program of Consumer Protection and Financial Literacy

Implementation Plan Components

(for discussion)

	Measures	Type of Action	Responsible Agency	Priority
<i>High Level Measures</i>				
1	Set up High Level Task Force to develop a National Program on Consumer Protection & Financial Literacy.	Government Decision		High
2	Adopt the National Program.	Government Decision		High
3	Create a secretariat to develop an Action Plan and report on its implementation.	TA		High
<i>Short-Term Plan</i>				
1	Develop further in-depth analysis on consumer protection for parts of the financial services sector.	TA		Medium
2	Strengthen – and simplify – standard disclosure on common financial services, including key facts statements	TA		Medium
3	Publish timely price surveys of commonly used financial services to encourage comparison shopping by consumers.	TA		Medium
4	Create an independent statutory ombudsman to cover all consumer financial services.	TA		High
5	Create mechanism to finance the ombudsman with a levy on the financial services sector.	TA		High
6	Establish a regular national survey of consumer finances.	TA		Medium
7	Conduct an in-depth baseline survey of financial literacy.	TA		Medium

<i>Medium-Term Plan</i>				
	Measures	Type of Action	Responsible Agency	Timeline
1	Require that all legal entities that provide consumer financial services be registered with a financial supervisory agency or fall under the supervision of a financial supervision agency. Ensure adequate funding for consumer protection supervision.	Revise law		High
2	Develop a coordination mechanism for government agencies regarding competition in consumer finance.	TA		High
3	Request that the Fair Trading Commission study issues of competition in all consumer financial services and present recommendations on measures to strengthen competition.	TA		Medium
4	Developing one common code of conduct to cover all types of financial institutions that deal with consumers. Or develop industry-specific codes.	Develop voluntary codes		Medium
5	Develop plan to involve media and consumer associations, ex. mystery shopping or a newspaper column on resolving financial consumer complaints. Ensure adequate funding.	Develop strategy plan		Medium
6	Ensure that financial institutions verify that the services meet the customer's needs.	Revise conduct code		Medium
7	Develop reader-friendly fact-sheets, standard contract language & plain English descriptions of consumer financial services.	Revise conduct code		Medium
8	Prohibit misleading advertising in private pensions.	Revise law		Medium
9	Establish cooling-off periods for pensions (and other long-term savings schemes) and any financial services sold through high-pressure tactics.	Revise law		Medium
10	Ensure that financial institutions identify their primary supervisory agency in their advertising. Ensure that deposit-taking institutions to include the name of the JDIC in their advertising.	Regulations		Medium
11	Review professional qualifications for retail staff selling complex financial services, especially where intermediaries are individuals.	Regulations		Medium
12	Require that financial institutions provide a written monthly statement of accounts free of charge.	Regulations		Medium
13	Require that financial institutions absolve consumers of responsibility for losses (over a minimum amount such as US\$ 500 equivalent) in case of fraud.	Revise law		Medium
14	Ban exclusivity arrangements for remittance companies and non-bank payment servicers. Ensure interoperability among authorized entities.	Regulations		Medium

16	Draft and adopt a Data Protection Bill.	Revise law		Medium
17	Develop a standard consumer consent clause for credit applications; require credit bureaus to publish consumers' rights, including the dispute resolution mechanism; add links to the consumer complaint sections of the credit bureaus on BoJ website; allow consumers to access online their own credit reports; publish aggregate data regarding the numbers of consumer inquiries; and build a consumer awareness campaign.	Regulations		Medium
18	Develop guidelines on handling of customer complaints.	Guidelines		Medium
19	Prepare recommendations on measures to address issues raised in consumer complaints.	Regulations		Medium
20	Clarify stabilization fund provided by the Co-operative Credit Union League.	Regulations		Medium
21	Review international experience in insolvency regimes for different types of financial institutions.	TA		Medium
22	Conduct consumer testing of different initiatives, particularly the financial ombudsman.	TA		Medium