Mapping of Public – Private Dialogue in Jamaica

Issues and Options for Jamaica

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1. SUMMARY TERMS OF REFERENCE (TOR) FOR THE IDB PUBLIC PRIVATE DIALOGUE MAPPING PROJECT

Objective:

The purpose of the consultancy is to identify and map the several council and groups for fostering public – private sector dialogue in Jamaica that are related to competitiveness and private sector development. Based on this mapping exercise the consultancy will make a proposal for consolidating and improving the existing institutional framework for carrying out such a dialogue. The proposed new forum or modified existing council should be capable of overseeing and pushing forward the ongoing public-private dialogue essential to foster competitiveness in Jamaica. The institutional strengthening component of the Programmatic Loan currently under preparation by the program will support the achievement of these goals for the council.

Activities - Mapping out of different initiatives.

The consultant will identify all the existing forums and related on-going initiatives and agreements regarding public – private discussion forums involved in fostering private sector development, economic growth and improving competitiveness. The consultant will identify the objectives of the different initiatives, the relevant actors and the overlapping mandates and priorities of the different councils. As there is a tendency for such councils or forums to become moribund, the consultant will also specify the level of activity and influence on policy makers of each such group identified.

Proposal for the Competitiveness Council:

The consultant shall make a proposal, which will make the best use of existing and on-going initiatives, for the creation/merging or upgrading of a Public- Private forum with representation of government officials, private sector, Opposition, labour, and civil society. The proposed council will be responsible for validating priorities, "steering" the reform process and ensuring the consistency of all reform initiatives. The consultant shall identify the actions and actors needed to carry out the institutional and governance design of the public- private forum and the drafting the first agreed action plan. The consultant will also identify the financial and technical requirements of a technical secretariat to support the Council's actions as well as to prepare the most relevant governance actions to carry out the council's objective.

Public Private Dialogue

The TOR for the project notes "A basic requirement for an acceleration of private sector development in Jamaica is a process of dialogue between private and public sectors to develop a strategic framework for private sector development in the broadest level is to establish an adequate forum in which this dialogue can take place, the main policy actions identified and a close monitoring of the process can be made. "

The TOR argues that there have been many on-going forums in Jamaica that address issues related to competitiveness, and lists as examples the Partnership for Progress, the Competitiveness Council, the Development Council and the council for Jamaica.

It rightly notes however that since November 2007, the discussion has become more focused on addressing the recommendations emanating from the National Planning Summit between the Government of Jamaica and the private sector (covered in detail in the body of the report).

2. SUMMARY OF PUBLIC PRIVATE DIALOGUE BEFORE NATIONAL SUMMIT

The confusion as to where a public private dialogue aimed at competitiveness should be based, and therefore who the IDB should support, mainly reflects institutional factors in 2006 and even before.

A PREVIOUS INITIATIVES

2030 Vision

The 2030 Vision has a number of thematic working groups supported out of the Planning Institute of Jamaica. Whilst having roughly similar goals to the National Planning Summit, it does not appear to have the same focus on current problems. As an example, excluding trade, the working group Macro-economy and Trade roughly corresponded to the Balancing the Budget/Debt reduction team of the National Planning Summit, albeit without its emphasis on tax reform. Whilst these teams had government (particularly technocratic) and private sector representation, they were much larger in size than those of the national planning Summit, and had relatively few private sector participants, many of whom dropped out of the process particularly in the run up to the election. Some private sector representatives regard it as a talk shop without clear goals.

There have been very few meetings since mid 2006, and the clear intention of the Government seems to be to have the 2030 vision feed into the social dialogue process instead.

Development Council

The Development Council**,** supposedly a body meant to be representative of wider societal interests and directly under the PM, had also become largely another talk shop where new initiatives were occasionally unveiled but with limited feedback and opportunities for consensus building. The council has met irregularly as a large number of its meetings have been cancelled by the new PM at short notice, and does not appear to be the main centre for policy formation of the new administration.

Target Growth Competitiveness Committee

The mandate of the Target Growth Competitiveness Committee (TGCC) includes accelerating private sector growth by facilitating collaboration among the private sector, government and trade unions on competitiveness. The TGCC is one of the 12 support components of the European Union and Government of Jamaica funded Private Sector Development Programme (PSDP).

The Competitiveness Committee's emergence as a competitor for the role of the location of public private dialogue in 2006 appeared to be driven by the confluence of European Union funding for the Private Sector Development Programme (PSDP) and the desire of key decision makers on the direction of Jamaica Trade and Invest from the old administration to increase its policy influence and perhaps find an expanded role for the committee in the area of public private dialogue. In the new administration, this "competition" does not appear to exist. If anything, the role of Jamaica Trade and Invest (out of which the committee is based) has been contracting as much of the investment promotion function has now been located in the Office of the Prime Minister, particularly through his direct personal involvement in this area.

The view that the Competitiveness Committee appears to have been of limited effectiveness is supported by this excerpt from page 23 of the Private Sector Development Programme Mid Term Evaluation (Final Draft) dated 4th November 2006, commissioned by the EU as principal funder.

The report stated that:

- The first study commissioned by the Competitiveness Committee with the title 'Competitiveness Issues in Jamaica' featured some major weaknesses and provided limited added value. As a result it was not possible to present the findings of the study during the 'Competitiveness Forum'. Comments and constructive feedback have been provided by the Competitiveness Committee to the authors of the study.

- The Secretariat of the Competitiveness Committee is currently understaffed (1 person)
- There is an urgent need to develop a repository of competitiveness issues and reports that have been commissioned in this area ('stock taking').
- The National Industrial Policy was developed in 1996 and not updated since.
- One of the major weaknesses of the PSDP is that the individual components are not very well linked (e.g. Competitiveness Committee and Cluster Initiative).

One observer argues that the performance of the Committee has improved in the last 18 months in the areas of membership and attendance with a restructured committee of higher level private sector representatives e.g. Omar Azan (JMA), Richard Chen (PSOJ), Earl Jarrett (PSOJ) and John Rapley (CAPRI).

The committee has also developed an identity, as well as a web site, videos on competitiveness and a jingle that will be launched shortly to provide data on competitiveness and Jamaica's position.

They are in the process of starting the development of an MSME policy for Jamaica (they had previously prepared a preliminary study in this area), are planning work on Industrial policy, developing a competitiveness data base, and have been supporting PSDP Clusters.
Private conversations with key members of the private sector on the boards of the PDSP, Competitiveness Committee and Jamaica Trade and Invest suggest that they are substantially behind their objectives however. For the past year, the Committee has been chaired by Minister Samuda, who also chairs the recently created Investment Promotion expert team of the National Planning Summit.

A draft National Export Strategy has been produced with the help of the Swiss based International Trade Centre, and is near finalization.

Sustainability is an issue at the end of 2009 when the PSDP programme ends.

Partnership for Progress
The Partnership for Progress was really driven by the private sector, and failed to achieve a critical level of Government support to allow its institutionalization. The negotiating team was lead by the Ministry of Finance, and did not seem to have a sufficient level of Prime Ministerial engagement to make it a success (see below).

B THE PARTNERSHIP FOR PROGRESS INITIATIVE

Background to the Partnership - the Economic Crisis of 2003
On December 19th, 2002, international rating agency Standard and Poor's revised the outlook for Jamaica's B+ long-term foreign currency sovereign rating from stable to negative shortly after the release of the supplementary budget estimates in early December.

This had followed the closely contested election of October 2002, shortly after which Finance Minister Dr. Omar Davies made his infamous "run wid it speech" where he told his audience of party supporters that he had had to sacrifice the fiscal targets to win the election.

In her research note justifying the outlook revision, S&P's then sovereign analyst Jane Eddy had noted "Jamaica's projected budget deficit is about 8% of GDP for FY 2002, which greatly exceeds the 4.5%

budgeted deficit." and argued that "This slippage occurred during a parliamentary election year, when the government eased its traditional tight fiscal control.."

Jane Eddy projected that, as a result, the general government's heavy debt burden would climb to an estimated 139% of GDP for Fiscal Year 2002 (it actually reached 150% of GDP), reversing the recent gradual downward trend. She noted that proposed tax measures and expenditure cuts "may prove insufficient to lower the government's significant debt level over the medium term, thus tilting the risks to the rating to the downside."

The same morning, Prudential stockbroker Jason Abrahams, one of the top traders in Jamaican debt internationally and also close to the local market, noted in a client e-mail "the very real risk in a situation like this is a self fulfilling debt spiral. In a relatively highly taxed country (by emerging market standards) where infrastructural deficiencies and crime combine to limit economic growth the Government has few viable solutions. With debt expected to reach a 140% of GDP this year Jamaica has one of the highest debt to GDP ratio's in the measured universe". He also noted that "The media in Jamaica has recently enjoyed comparing Jamaica to Argentina and I am frequently asked by clients whether or not Jamaica is going to follow Argentina down the slippery slope to default".

Jamaica's problems were not however common to the emerging debt market universe as a whole, as JP Morgan's emerging market bond index (EMBI) returned 13% in 2002, outperforming all U.S. bond asset classes that year.

On the first day of the New Year in 2003, a noticeable acceleration in capital flight in Jamaica began. The high net worth domestic clients of a number of leading money market players asked for their money to be moved outside of Jamaica immediately, with no interest in any product with Jamaica sovereign risk.

On January 14th, 2003 Finance Minister Omar Davies made a presentation at the Bear Stearns Central American and Caribbean Credit Conference, the leading investment conference of its kind on the Caribbean at the time open only to select institutional investors. In a research note on the conference, Bear's Dr. Carl Ross noted that "last week, the Bank of Jamaica and the Ministry of Finance instituted a special reserve requirement on banks that appears to have been aimed directly at currency speculators betting against the Jamaican dollar". Whilst noting that the dollar rally to $50.50 from $52.05 "feels temporary" and that "this is a very blunt policy instrument", Dr. Ross advised that "we do not expect the Jamaican dollar to collapse", no doubt reflecting the views of the policymakers he had recently spoken to.

Just after this conference, in the first PSOJ economic policy meeting of that year in mid January, a senior official no longer at the Ministry of Finance was advised of the prospect of a currency crisis, but seemed to believe it would be business as usual.
Interest rates were subsequently raised sharply by more than double over the period, with the Bank of Jamaica apparently believing its traditional high interest rate medicine would still work to protect the dollar.

At the same PSOJ meeting, the issue of what was ultimately proposed in the budget as a 4% cess to be charged on all imports inclusive of capital goods and raw materials to meet the large fiscal gap was raised in the form of a "Discussion Document" as an Advanced Income Tax on Operations in what appeared to be an unsigned draft version of what became supporting budget document Ministry Paper 19.

The “CESS” was vigorously opposed by the Private Sector (see paper Tax Proposals Budget 2003/2004 27th April 2003 prepared by Roy and Keith Collister), and in the 10 days after a frosty post budget open meeting between the Jamaica Chamber of Commerce and the Minister of Finance (who left with his key technocrats to Washington immediately after the JCC meeting) the Jamaican dollar collapsed from 50 to over 70 to 1.

The “Tax proposals” paper eventually formed the basis for the PSOJ led negotiation with the Government in early May, where in fraught negotiations agreement on the ‘CESS’ was procured by the intervention of the Prime Minister during the period just after the collapse of the dollar.

At the same time, the stress on the domestic financial sector was increasing sharply from falling Eurobond prices, margin calls and even a massive negative carry on the money market players domestic bond portfolio’s.

The PSOJ's economic seminar of May 16, 2003, (impeccably timed as it occurred just after Jamaica's foreign exchange crisis) gave a public platform to the Irish team responsible for Ireland's 'Programme of National Recovery' in October 1987. The members of the private sector - and the Irish delegation - who attended this seminar, were all struck by the similarities between Jamaica's economic problems in 2003 and Ireland's fiscal crisis in 1987.

The JCC/Conference Board's closed-door session of May 17, 2003 (see APPENDIX 6) acted as an immediate follow up “technocratic” seminar as requested by key sponsor, Digicel owner Denis O'Brien. The Irish team included Matt Connolly (Director, MECA, Ireland), P.J.Mara (Press Secretary to PM, Ireland), Padraig O'Huiginn (Secretary General to the PM Ireland), Kieran Mulvey (CEO Labour Relations Commission, Ireland), Bill Attley (Director, European Union's Economic Social Committee). This private session, moderated by leading developing country economic consultancy On the Frontier - involved representatives of Government, unions and the private sector in discussing the practical issues involved in creating a social partnership.

Participants in the P for P Process

It is important to note, however, that the Partnership for Progress (PFP) was intended from inception to be a collaboration between the wider private sector and the major unions, and was able to build on the improving relations between the two sectors, particularly the efforts of the private sector/union Acorn group. The Jamaica Confederation of Trade Unions (JCTU) also responded favourably to this private sector initiative, and their paper 'Towards a new vision for Jamaica's Socio-Political Survival and Economic Growth' showed that they were already thinking along similar lines.

The Role of the Private Sector in the Partnership for Progress Initiative
New President Michael Ammar of the JCC had specifically set up an Economic Modelling Committee in late 2002 headed by Keith Collister to take a "fresh look" at Jamaica's economic model, having been convinced of the virtues of private-public sector collaboration through his efforts to revive downtown Kingston. Several articles by Keith Collister, "From Celtic Tiger to Carib Tiger" and "From Celtic Tiger to Carib Tiger Revisited", based on the book "The Making of the Celtic Tiger by Ray McSharry, were published in the Gleaner in the months of February and March shortly before the budget. They were sent to Denis O'Brien through the intervention of former JCC President Tony Chang (then and now the only Jamaican director of Digicel).

On April 1st 2003, O'Brien agreed to send an Irish team of former " Celtic Tiger" technocrats to Jamaica for the PSOJ annual economic seminar, with the proviso that a working meeting be arranged with the key government technocrats (not the politicians), union and business leaders. It was agreed with Digicel that the latter non -public "working session" should be arranged through the Chamber of Commerce.

The 'Partnership for Progress' initiative therefore began as the outcome of a collaboration between the economic policy committees of the Private Sector Organisation of Jamaica (PSOJ) under the new PSOJ President Mrs. Beverly Lopez and her newly appointed Economic Policy Committee Chairman Colin Steele and the Jamaica Chamber of Commerce (JCC) as a result of their mutual concerns over the economic situation at the time, particularly the threat of a financial crisis.

In early September, the JCC accepted Denis O'Brien's invitation on behalf of the wider private sector to visit Ireland. In October 2003, a Jamaican team, comprising the private sector, key Government technocrats, Opposition, trade union and civil society representatives, visited Ireland to study their social partnership experience, meeting all the key Irish policy makers involved in their turnaround - including the Irish Prime Minister. The document **"From Celtic Tiger to Carib Tiger – Lessons from Ireland"** prepared for the PSOJ national summit at the specific request of Prime Minister Golding, basically represents a report on that trip.

In November of 2003, representatives of a number of key stakeholders in Jamaican society including the major trade unions, the major private sector organisations, academia, agriculture and key non-governmental organisations such as Jamaicans for Justice, loosely called the 'Partnership for Progress', began meeting with Government representatives with the objective of creating a social partnership.

In January 2004, the PFP working committee made its first recommendations in the form of a draft memorandum of understanding, to the Government. These, and subsequent drafts over the past year and a half have included among other things:

- Fiscal stringency, particularly a call for the Government to achieve its fiscal targets for 2004/5, and subsequently for 2005/6. The grouping has uniformly supported the balanced budget target from inception as a critical part of the economic turnaround.
- Creation of a monetary policy committee (MPC).
- Privatisation.
- Tax reform.
- The Debt Swap initiative
- Education reform.
- Crime initiatives, including recommending the implementation of New York's crime management system COMPSTAT.

Out of the Crisis

The signing of the Government's MOU by the major trade unions in February 2004 was a critical element of the Government's fiscal turnaround. This wage restraint agreement was not formally part of the Partnership for Progress initiative, having been negotiated by the unions directly with the Government in return for a no-lay-off policy. Nevertheless, it was heavily informed by the Partnership initiative, particularly by those representatives from the union movement who had gone on the Irish trip, and particularly the crucial efforts of Mr. Dwight Nelson, who appeared also to be motivated by a spirit of shared sacrifice at a critical point in the finances of the country.

During this same critical period of November 2003 to January 2004, the banking sector (excluding BNS which it could be argued had already made a critical contribution in the form of US$100 million loan to the Government from its parent company on the well known principal of "if a man owes you a million, you have a problem") was in the process of finalising a proposed $45 billion debt swap agreement to replace high-cost debt with a mixture of low-to-zero coupon debt so as to reduce the Government's interest cost and thus its fiscal deficit.

This message of strong local financial sector support for the Government was communicated to the international market mainly through former U.S. investment bank Bear Stearns at its annual Central American and Caribbean Credit Conference. Over the same period, Bear Stearns made a very aggressive change in the outlook for our bond prices from underperform to outperform which appeared to be almost entirely based on the partnership for progress (P for P) initiative, specifically the support of the domestic private and financial sector. Jamaica's bond prices almost immediately started to harden and interest rate cuts followed the next day.

International capital market access was regained in February with the issue of a Euro denominated Eurobond, ironically during a partnership for progress meeting with the then Opposition leader Edward Seaga, whom the grouping was trying to persuade to join the process.

The Government was eventually able to refuse the 17 per cent interest rate (internal rate of return) that had been offered by the local banks as part of the debt swap initiative in return for the retirement of significantly higher interest (coupon) debt. The Government thought, correctly as it turns out, that local interest rates would fall to even lower levels. It is important to remember that not long before, rates had been more than double this level. In the period between February and May of 2004, there was a huge increase in international bond prices on the back of local investor confidence, and a virtual doubling of the Jamaican stock market in only four short months as a result of the sharp reduction in domestic interest rates and the return of investor confidence.

The other critical element was the Government's commitment to a balanced budget in the 2004/5 Fiscal Budget and the subsequent 2005/6 Budget, a target also supported by the private sector and other partners as part of the initiative.

What was the Partnership for Progress?

At its essence, the 'Partnership for Progress' initiative was an attempt to create a process to achieve a shared vision of a better Jamaica, with its first step being the signing of a social partnership agreement whose key goals are clearly stated in the name of the agreement, "A Programme for Growth with Equity". The first paragraph of the agreement describes the aim as "a social dialogue and partnership agreement designed to build trust and seek consensus on issues of national importance, with the objective of promoting a climate which will foster sustained economic growth, equity and social justice for the benefit of the widest cross-section of the Jamaican people". Whilst the Irish trip inspired the effort, the Partnership for Progress initiative was in any case only very loosely modelled on the Irish initiative. In fact, the draft partnership for progress agreement appeared to bear almost no relation to the Irish agreement despite what appeared to be clear similarities in the Jamaica and Irish situations.

Objectives of the Partnership for Progress

The group identified the lack of trust - and consequently a process to create consensus in the society - as a key impediment in creating the agreement necessary to achieve a sharply increased level of economic growth - and consequently job creation - and to deal effectively with critical issues such as crime.

The group's primary objective was to build a sufficiently broad-based coalition to create the necessary consensus in the society to design and implement tangible measures to move the economy forward and to achieve an improvement in governance overall. The context for the proposed agreement was the general disappointment with the economic performance of Jamaica since independence, and the widespread desire for Jamaica to return to the first rank of developing countries in terms of growth and other key aspects of development.

The proposed signing of the agreement with the Government on August 18th, 2005 (cancelled literally the day before by the last minute pull out of the union movement) would have been only the first step in a planned debate with Jamaican society on the way forward for the economy and the general governance of the country.

U.S. AID had in fact agreed to fund a research and public communications programme on the signing of the agreement, which of course never happened as there was no agreement.

The current " Partnership for Transformation " dialogue is in very many ways a direct successor of the previous public private dialogue embodied in the "Partnership for Progress" initiative, and is being treated as such by both the Prime Minister and the leadership of the private sector.

It is therefore worth examining the previous effort in detail, particularly why it failed.

Why didn't the P for P succeed?

1) *Lack of true integration with government policy*
   Whilst the original partnership for progress agreements of early 2004 essentially adopted the government's medium term financial strategy of balancing the budget over the two fiscal years March 2004 to March 2006, no other significant measures to integrate government policy objectives with those of the partnership took place. Indeed, this was a specific critique by the then leader of the Opposition Bruce Golding that the "Partnership for Progress" appeared to have merely adopted the key numbers behind the Government's medium term financial strategy.

2) *Lack of Government leadership*
   The initiative was from inception private sector led, when in fact it should always have been Government led, something key members of the former Government claimed to discover for the first time on their own subsequent trip to Ireland in 2006. Of course, the main reason for the private sector taking an initial leadership role was their frustration with what they saw as the lack of appropriate Government action, particularly during the near crisis of 2003. However, without full Government buy in, which appeared to recede as swiftly as the sense of crisis for many although perhaps not all Cabinet members, the initiative was clearly doomed.

3) *The Irish lesson was not internalized*
   In brief, there were large gaps in both the private sector and Government's understanding of what the Irish social partnership actually meant.

4) *No research capability*

A related critical issue was that no research was undertaken, not even to properly study and understand the Irish "Celtic Tiger" experience by the private sector or the Government, despite the rhetoric that this was the template they were using to achieve a social partnership agreement. Proof of this fact is that virtually no lessons from the Irish trip of October 2003 or Ireland's Programme for National Recovery document actually reached the Jamaican Partnership for Progress document.

5) *No Business Vision*

The private sector did not effectively articulate a business vision in its document, perhaps unsurprisingly as the agreement itself was actually drafted by two academics from the University of the West Indies. In the latter stages of the Partnership for Progress process in 2006, the private sector reviewed the IDB's Private Sector Assessment paper highly favourably. There was strong agreement with the IDB paper, and an emerging consensus that it could form the basis of the required business vision, but the lessons of the assessment were never actually incorporated into the Partnership for Progress document, although a new heading entitled "Business Environment" was created.

6) *The political cycle was a very serious problem*

The main reason that the 2006 attempt to restart the P for P process was stymied (and very little new work on social partnership occurred) was Jamaica's electoral cycle. The internal PNP "Presidential Race" of approximately six months began a couple of months after the failure to sign the Partnership for Progress in August 2005 when former Prime Minister Patterson announced his intention to step down as PM. This was immediately followed by an extended period under new Prime Minister Portia Simpson Miller when Jamaica was effectively on election watch which lasted right up to the election in September 2007. The renewed internal contest within the PNP post election also gave the Government some additional political breathing space reducing the need for social partnership in the year since the election, although to be fair the idea had been raised a few months before in the earlier part of the year. It is noticeable however that the new Government letter of October 1st to the private sector leadership to restart the partnership process was written less than two weeks after the victory of Portia Simpson Miller in late September.

7) *Tax Policy not properly addressed*

Beyond the expression of some basic principles, the key issue of tax policy, particularly how it should be used to attract investment, was not even addressed in the original agreement in early 2004 because of the perceived need to wait for the outcome of the Matalon report. When the final draft of the Matalon report was ultimately produced in October 2004, the initiative had already lost its initial momentum. This was particularly unfortunate as the tax issue – specifically the horizontally inequitable treatment of PAYE taxpayers verses non PAYE - must be a key part of any social contract with the Unions.

8) *Lack of Resources*

The major problem with the original initiative was that no extra funding or human resources were allocated to the research effort, which was entirely voluntary. Outside of the commitment of the joint economic team derived from the economic policy committees of the PSOJ and the JCC, which worked together to drive the process under the leadership of their respective Presidents, the private sector research capability was purely ad hoc. Even though the joint private sector economic team received enough cooperation in early 2004 (although not thereafter) from the government to perform a very rough revenue modeling exercise for tax revenues and create a list for divestment, they were still very much outsiders in the budgetary process without access to information even then, and much more so in the years thereafter.

The only detailed economic research undertaken during the critical pre- budget period of November 2003 to end March 2004 was by the banking sector as part of the debt swap initiative, and the preparation of a debt dynamic model by a team led by Dr. Damien King (now Vice President of CAPRI). However, the debt swap never occurred and the debt dynamic model neither became part of the Ministry of Finance's technical capability (they still don't have one) nor was any provision made to have it updated by the private sector.

9) *The Private Sector was not unified*

It is important to note that there is a competitive aspect to the PSOJ and JCC, as the formation of the PSOJ in the 1970's deprived the centuries old JCC of its private sector leadership role. Despite working on the initiative in the first quarter of 2003, at a very early stage, the JCC took the decision to take a back seat in the initiative (effectively abdicating the leadership role) as it knew that without the backing of the large companies (represented by the PSOJ) the government would not take the initiative seriously. Despite this competitive aspect, the two organisations were able to work closely together on the initiative even after their relationship broke down in 2005 after the JCC voted to pull out of the PSOJ. However, despite a fairly successful effort to keep this break up out of the media at the time, the timing of the pull out shortly before the proposed signing of the P for P initiative in August 18th, 2005 cannot have helped the credibility of the private sector's call for unity and partnership.

10) *The leadership of the Union Movement failed at the end*

This had not in fact been Jamaica's first attempt to create a social partnership in Jamaica, with the last attempt occurring over a decade ago in 1996. The union leadership had demonstrated initial enthusiasm, even bravery, in accepting a two year wage freeze on February 2004 in return for a no layoff policy under the Memorandum of understanding. However, the MOU was definitely not a tripartite social partnership agreement as it was negotiated only between the Unions and the Government. Nevertheless, beyond the issue of job security, the agreement appeared to be at least partially informed by the spirit of the shared sacrifice demanded by a partnership approach.

The leadership role of Dwight Nelson as the then head of the union umbrella group the Jamaica Confederation of Trade Unions and the Bustamante Industrial Trade Unions (allied to the then Opposition JLP) was particularly notable. Nelson resisted massive pressure from his own JLP party to put the interest of the country (facing potential bankruptcy) and the unions (facing massive layoffs) first in agreeing to the MOU. The first MOU was agreed in February 2004, and was for a two year wage freeze. Both overseas and local analysts were extremely surprised that a country with Jamaica's rate of inflation and history of confrontational industrial relations was able to agree such a deal. The markets also saw the wage freeze as a critical element in allowing the construction of a credible budget in 2004.

However, under pressure from their membership as inflation soared far above the single digit level allowed for under the two year wage freeze of MOU1, the union leadership felt obliged to pull out of the signing of the first partnership for progress agreement in August 2005 to appease their membership. It should be noted that they could justify this decision on the basis that a condition of the MOU was that inflation should be in single digits, which it substantially exceeded. Arguably, the other conditions were not in place for a successful partnership anyway.

11) *MOU became just another wage agreement*

Consequently, the MOU process became just the normal wage freeze and subsequent catch up process that we have seen many times before in Jamaica, with the only real lasting benefit being more coordinated wage bargaining (as opposed to a huge number of different units) in reducing the cost of separate bargaining in terms of valuable Ministerial time. The evidence for this sombre assessment is the very large increase in the wage bill of well over 40% agreed in MOU 2 of March 2006, including unbudgeted items, which eventually amounted to more than double the originally promised increase of 20%.

3. NATIONAL PLANNING SUMMIT

On November 2nd to 4th, 2007 the PSOJ partnered with the Government of Jamaica to organise a national planning summit entitled "Jamaica Tomorrow".

In his opening address to the summit, designed to emphasize the need for action following a closely contested election, Prime Minister Golding noted that "Jamaica must not only be open for business but ready and anxious for investment."

All of Jamaica's private sector organizations were represented, as well as the majority of the new government ministers and key civil servants.

It should be noted however that, contrary to the statement in the terms of reference for this report, no union leaders were present at the original NPS other than the BITU's Kavan Gayle, who when interviewed advised that he paid his own way and did not come in an official capacity as a representative of the JCTU.

The fact that the BITU is aligned with the ruling JLP is noteworthy particularly in the context of the minutes of the first meeting of the Partnership for Transformation, where opposition representative Peter Bunting complained that the Opposition had no representatives in the National Planning Summit process.

The NPS had seven key planning themes meant to represent Jamaica's key challenges:

- Job creation/Investment promotion
- Balancing the Budget/Debt reduction
- Tax reform
- Land Titling reform
- Crime Violence and Justice
- Education & Training
- Governance/Reducing Bureaucracy

Eight background policy papers were prepared for the summit (one for each key theme) as well as an additional paper prepared on the Irish Model entitled "From Celtic Tiger to Carib Tiger – Lessons from Ireland" as the specific request of Prime Minister Golding. The theme reducing bureaucracy, largely based on the JCC's "legs and regs project", was renamed during the summit to include wider governance issues.

The process was actually highly transparent, as all of these background papers are on the PSOJ website available for the general public to read. The reform agenda outlined in the papers was deliberately similar to the mantra of Minister of Finance Audley Shaw at that time – namely debt reduction, tax reform, bureaucracy reduction and investment promotion, with the exception of energy which was not included as a national summit topic.

The Summit participants agreed to the creation of a "Chief Execution Officer" position and an advisory board of no more than nine senior officials representing the public and private sectors.

National Planning Summit (NPS) Monitoring Board

Members

- Minister Karl Samuda (Chairman)
- Minister Don Wehby
- Ambassador Douglas Saunders -Cabinet Secretary, Office of the Cabinet

- Dr. Wesley Hughes, Director General - PIOJ
- Mr. Robert Gregory - President, JTI
- Mr. William McConnell -Hon. Secretary, PSOJ
- Mr. Harry Harper -JHA Associates
- Chris Zacca – President, PSOJ
- Sandra Glasgow – CEO PSOJ
- Mark Myers – Former President JCC
- Sancia Templer – CEO, OPM/NPS

According to terms of reference produced for the monitoring committee, the National Planning Summit (NPS) was meant to be "the conduit for partnership between the private sector and public sector to build consensus on the priority areas needed to drive economic growth and sustainable development of Jamaica.

The NPS was executed in a logical planning framework and in the context of a national development plan, Vision 2030. Within the overall 2030 Vision of "Jamaica, the place of choice to live, work, raise families and do business."

There is no mention of either the Union movement or the Opposition being represented in the terms of reference, and there are no representatives from these groups currently on the NPS committees.

Following the NPS, a Programme Management Office was established in January 2008 with a mandate to implement and monitor projects/strategic initiatives identified at the NPS 2007, and a chief implementation officer was appointed.

A monitoring committee was formed to ascertain progress in the topic areas covered at the summit, but the process appeared to fall substantially behind its original planned schedule.

One year on, the remarks of Edward Chin Mook, head of the Small Business Association, probably captures the views of many business people. "Since the Summit, not much has been done in developing a co-ordinated strategy of the state and how each government department and agency is to work in harmony to mitigate the global fall-out. Each minister is still operating under their own plan, and there is still no big picture strategy to advance the country".

Responding to a private sector proposal as to a way of speeding up the process in early September, the Programme Management Office for the NPS decided to establish six Expert Teams in September (subsequently expanded to seven) to focus on specific planning themes and their respective priority initiatives (see below).

Expansion of the Programme Management Office

The NPS Secretariat

The NPS Secretariat is responsible for coordinating the implementation of the strategic initiatives identified under the NPS planning themes. At a macro-level the Secretariat is aimed at providing monitoring and evaluation support to the programmes identified under the National Development Plan and rationalising the implementation of NPS initiatives in the Public Sector and across Ministries. At the micro level, the Secretariat facilitates the work of the Expert Teams identified under the NPS.

Currently the NPS Secretariat has a dedicated staff complement of four (4) individuals. This number comprises a Project Manager who manages the entire process and two (2) project coordinators whose core responsibility is the facilitation and support of the work of the Expert Teams. The coordinators' specific duties include the organization of meetings (both for the Expert Teams and the Monitoring Board), preparation of minutes, and facilitating the dissemination of information to both the Monitoring Board and the Expert Teams, among others. There is also one (1) admin support staff whose key role is to support the work of the project manager and the two project coordinators.

The Secretariat staff is currently facilitating the work of seven Expert teams and three Special Project Teams that comprise individuals from the public and private sectors and the work of the Monitoring Board charged with overseeing the entire NPS implementation process.

Expert Teams

1. Tax Reform/Balancing the Budget/Debt Reduction – Minister Wehby
2. ICT/Job Creation – Mark Myers (former head JCC)
3. Investment Promotion – Minster Samuda
4. Education and Training- Minister Holness
5. Governance/Reducing Bureaucracy – Minister Nelson
6. Land Titling/Development Approvals – Minster Vaz
7. Crime and Violence – Minister McMillan

The main changes from the original National Summit has been to consolidate tax reform with balancing the budget/debt reduction, to split investment promotion from job creation (increasing the emphasis on ICT in job creation), and to move development approvals to land titling from within reducing bureaucracy.

The planned presentations of the committees for the National Planning Summit General Assembly Meeting on December 10th to the Prime Minister was postponed to January 7th, 2009.

Based on the agenda of the National Planning Summit General Assembly Meeting, the special project teams appear to be the planned ICT Park at Naggo Head/Caymanas Economic Free Zone - Minister Samuda, Development Approvals (One Stop Shop) – Minster Vaz, and International Financial Centre – Minister Wehby.

The Planning & Development Division, OPM

The Programme Management Office (PMO) is a Unit of the Planning and Development Division (PDD) at OPM. The major objectives of the PDD are:

- To oversee and guide the development and management of the national planning framework;
- Develop, implement, communicate, and monitor the country's development initiatives and activities; and
- Ensure that development is planned, organized, and implemented in an orderly and dynamic manner.

There are 5 Units in the PDD. These are

- Business Development
- Development Policy Planning and Strategy
- Programme Management Office (PMO/NPS)
- Infrastructure Planning and Implementation
- Lands

The work of the NPS Secretariat/PMO is therefore only one of many goals of the PDD. The other Units in the Division work to provide broad-based policy advice to inform policy development and provide regular policy papers aimed at the establishment of the necessary domestic policy environment as articulated in the National Development Plan.

According to the PMO, the proposed incorporation of the Partnership for Transformation (PTF) into the work of the NPS Secretariat and the continued expansion of the Number of Expert Teams will significantly expand its mandate and work.

- *Incorporation of the PFT into the NPS Secretariat*

  The PTF has established a Consultative Group and a joint Secretariat comprising the Ministry of Finance and the PMO is operational. Under the current structure of the Secretariat to the Consultative Group the PMO provides the general policy management while the MoF facilitates the meeting of the Group. The incorporation of the PFT into the work of the PMO Secretariat is predicated on the belief that the Secretariat, which already forms the nucleus of one of the largest private-public initiatives in Jamaica's history, is best placed to support the work of the PFT, which can be seen as an important extension of the existing public-private partnership provided for under the NPS.

- *Expansion in the Number of Expert Teams*
  The PMO was expressly charged with facilitating the establishment of several Expert Teams to provide policy recommendations on a small subset of issues identified at the NPS, but it was always the intention that over time the number of Expert Teams would be expanded. Seven Expert Teams have been established to date. In some instances, the mandate of existing Expert Teams are so wide that it has become necessary to establish Sub-teams to facilitate the work of the Team. There is therefore significant scope for the expansion in the number of Expert Teams working on the priority policy issues identified in the context of the NPS.

There is already a recommendation that two additional Expert Teams be established to deal with Government Procurement and Energy Diversification, particularly solar.

4. CAPRI SEMINAR

On Wednesday, November 19th, 2008, local independent think-tank the Caribbean Policy Research Institute (CAPRI), in conjunction with the London based Caribbean Council, hosted a seminar entitled "Social Partnership in Jamaica - Elements of Success". This was the public highlight of a nearly week long series of activities, where Mr. Haran also met privately with key representatives of Government, Opposition, Unions, Private Sector, Academia and civil society.

The seminar included speeches from Opposition Spokesperson on foreign affairs and trade Anthony Hylton, Minister Dwight Nelson, Minister without Portfolio, Ministry of Finance & Public Service, Chris Zacca, President of the Private Sector Organisation of Jamaica and Vincent Morrison, President of the National Workers Union, who was representing the Jamaica Confederation of Trade Unions.

The key presentation of the seminar, entitled "Ireland's Transformation - An Insight" was made by Irishman Paul Haran.

Haran, who had retired as the secretary general of Ireland's Department of Enterprise, Trade and Employment in 2004, had held one-on-one meetings with representative stakeholders in Jamaican society including government, opposition, unions and private sector at which Haran both shared the Irish experience, and answered questions from the stakeholders he was meeting.

He also asked the stakeholders specific questions concerning Jamaica's experience, asking what stakeholders would both seek from, and bring to, an eventual social partnership if Jamaica decided to go in that direction.

Speaking directly to his Jamaican audience at the seminar, some of whom he had already met on a one - on - one basis, Haran noted the critical importance of Jamaicans collectively identifying their problems and deciding collectively to fix them, such "teamwork" being only way that "we can change our future." Haran argued that his meetings in Jamaica suggested that, like the Irish before them, Jamaicans needed to get external "reassurance" that they can be the best globally.

Haran noted that for hundreds of years, the Irish had accepted and internalised other countries narrative of themselves as lazy, undisciplined and culturally resistant to change. The beginning of the Irish abandoning this negative view of themselves was Ireland's growing cultural success in music and dance in the late 1980's, which gave them the self confidence to "take responsibility" for their past economic failure after generations of blaming the English and colonialism despite having achieved independence as long ago as 1921. Ireland's huge economic success over the past 20 years since 1987 has led to the final disappearance of these stereotypes. Haran compared this with the opportunity provided Jamaica by their recent Olympic successes.

According to Haran, in the many decades preceding 1987, the Irish had made "terrific mistakes" and eventually acted only because the "platform was burning", and they had no other choice. In their case, it was obvious that the size of the Government was far too big and expensive for the size of the economy at the time, which had lead to rising deficits, and wage increases completely eroded by inflation and taxation. The Irish Government eventually came to the conclusion that their previous policies were not working "we were very slow learners", and after joining the European Union (after many years of trying), Ireland began to reassess their identity. They had previously defined themselves in a very negative way i.e. "not English", reflecting their history of colonialism and struggle. Whilst their accession to the European Union was a formally a step towards pooling its sovereignty, it actually began the process of allowing Ireland to take control of its future. Before Ireland had blamed Britain for its poverty, going as far back of citing the experience of the great potato famine of the 1840's, but now Ireland finally realized that it was in charge of its own future.

The seminar itself explicitly sought to build on the previous P for P initiative by included representatives from all the major players - namely Government, Opposition, Unions, private sector, and academia.

Meeting with the JCC - An example of Haran's One on One Meeting with key stakeholders
In a private meeting with the JCC immediately after the seminar, Haran told the leadership of the JCC that the goal of the Jamaican government and society should not be to form a social partnership - "that should not be anybody's goal" - but the emphasis should solely be on solving problems.

For example, the decision to have one Ministry, for which he was the chief civil servant, covering the issues of both capital and labour, was made to remove the dynamic of us verses them at the government level.

At the social partnership level, instead of management and unions regarding conflict as inevitable in an internal zero sum game, both groups needed to look outward to compete on the world stage, the only way small poor countries can survive. The unions would always want to know what the private sector would give up (according to Haran sadly this would always be very little) and if it became merely the unions and private sector bargaining about a wage agreement, social partnership would accomplish nothing.

Avoiding such a negative outcome required the intervention of the government to ensure that "it was not two people in a destructive bargain" over say wages, but an agreement aimed at fixing key problems in the society. In Ireland, the name of each successive three year agreement, starting with their first agreement in 1987 entitled the "Programme for National Recovery", represented the core problems facing the society. The actual wage piece of the agreement was an addendum, and was determined after the partners had internalised the problems through a shared analysis. This analysis was supported by a government led National Economic and Social Council (NESC), which had a full-time staff devoted to research and advising the government on implementation.

It was however the process of shared understanding required to fix short term problems within a fixed time frame (e.g. next three years) that was important, not signing an agreement for agreements sake or an unrealistic vision of twenty five years time. People have to come together to create a set of doable actions, as nobody wants to attend meetings that are just an ongoing talk shop. Trust was built by doing, and success grew over time from a series of small wins, which gave the partners the confidence to continue on the long road ahead. Haran noted the process is not intellectually complicated, and if one can create a shared consensus, it is of great benefit to leaders.

The key lesson is that for a social partnership approach to succeed, it requires strong leadership from the highest level of government, and cannot operate on the basis of voluntary implementation bodies. In Ireland's case, the most important factor in their success was Prime Ministerial leadership, and it is worth noting that the Irish Prime Minister who initiated their turnaround in 1987 was a "deeply flawed" individual, with much of the economic decline of the previous decade of the 1970's having occurred under his watch. His "virtue came purely out of necessity", as despite not being naturally virtuous, it became politically beneficial to be virtuous when "Joe Citizen" began demanding a better way forward. Such a process, according to Haran, cannot be lead by the private sector, or even the Minister of Finance (who in any country will always be saying why something can't be done) but by the Prime Minister who can use both carrots and sticks, and the power and authority of his office, to get things done. Implementation is the key, with an attitude of "yes we can" rather than the often typical response of "it can't be done".

"A New Turning Point" – Wednesday Dinner with the Prime Minister and Key Ministers

Mr. Haran had already met with the Prime Minister at the beginning of the week, but the post seminar dinner on Wednesday evening appears to have been a key turning point in "sealing the deal" to restart the social partnership initiative. On the Government side, the meeting included Deputy Prime Minister Dr. Kenneth Baugh, Minister of Finance and the Public Service Audley Shaw, and Minister of Trade and Industry Karl Samuda. Other than the Prime Minister, the latter three Ministers are the political heavyweights of the Jamaica Labour Party, and not coincidentally, were also the same team that had negotiated with the PSOJ in Opposition as to whether they should participate in the Partnership for Progress process (including the current Prime Minister).

In addition to members of CAPRI, the Caribbean Council, and key technocrats, the dinner also included local and foreign sponsors of Haran's trip, including pillars of the Jamaican establishment Oliver Clarke and Earl Jarret (Managing Director of the Gleaner Newspaper and Jamaica National Building Society respectively), as well as representatives from Virgin and De La Rue (U.K private sector with interests in Jamaica).

The participation of Mr. Clarke is particularly notable, as his newspaper loosely represents the voice of what might be called the traditional "old money" private sector, as opposed to the newer "entrepreneurial" private sector already directly represented in the Partnership for Transformation process.

Post Seminar Activity

On Sunday, 22nd November, in a well-structured address to the nation responding to greatly intensified media concerns about the danger of Jamaica experiencing an economic crisis, Finance Minister Audley Shaw announced that "We are committed to the steady, resolute and inclusive leadership that the circumstances demand". The key word was "inclusive", which appeared to be code for the intention to restart the social partnership talks. It is of course no coincidence that there was a palpable perception of crisis in the air when this decision was made.

By Thursday, November 27th of the following week, the Observer headline trumpeted 'Social contract talks on again', quoting Minister Dwight Nelson that they were set to begin on December 11.

Post Seminar CAPRI Draft Report

The post-seminar draft report entitled 'A New Social Partnership for Jamaica - Uniting Jamaica to Rebuild our Nation' was released to a few select individuals on September 25th/26th, appearing to coincide with the decision to restart the social partnership report. The final report has not yet been released publicly, but it is clear that CAPRI's recommendations appear to have been followed very closely by the Government in their design of the Partnership for Transformation.

Commenting on their seminar, Capri argued:

"This exercise was instructive and useful. The most important thing that can be said was that there was a broad, shared commitment to the principle of social partnership. The devil, however, will be in the details. While the strategic vision that would animate a social partnership is widely shared -namely, that all stakeholders should make short-term sacrifices in order to yield medium and long-term collective gains - the tactics involved in its implementation would tax the ingenuity of all involved. Indeed, it seems likely that one of the things which undermined previous initiatives at social partnership in Jamaica was that the details were left unresolved; this was because the initiatives were driven largely by voluntary action, and lacked the sort of research support which would have enabled all these vexing issues to be broached. Most of those consulted were struck by the fact that the Irish model was built upon a National Economic and Social Council (NESC), which had a full-time staff devoted top advising the government on proper implementation."

CAPRI noted that a number of essential features must be in place for a social partnership to succeed.

Addressing first the issue of leadership, CAPRI advises that "for a social partnership to succeed, it will require strong leadership from the highest level of government. The initiative must also be housed in the Office of the Prime Minister (OPM)".

They were also of the view that "A social partnership cannot operate on the basis of voluntary implementation bodies. The Government's support for the initiative needs to be manifest in the creation of a permanent body tasked with monitoring and advising the prime minister as to the course of the initiative. This body - possibly a partnership secretariat - must be adequately resourced with research and support staff (alternately, it may elect to contract research support to external bodies, but it must have the capacity to contract and process outputs effectively)."

CAPRI noted that there has been a multiplication of bodies and voluntary committees such as the PIOJ-led Vision 2030 and the PSOJ's National Planning Summit all geared towards the key goal of a social partnership, namely raising the rate of growth and development in Jamaica.

In their view, "A social partnership will succeed if it integrates these as much as possible and avoids duplication or redoing what has already been done. Rather than creating yet another new body and initiative, a social partnership should build itself upon existing initiatives and bodies, therefore giving itself a stronger base from which to start."

Another key goal of a social partnership in the Jamaican context has to be a reduction in the fiscal deficit and debt-to-GDP ratio. The economic situation is going to get much tougher next year, both in Jamaica and the US, and local tax revenues will be under pressure as a consequence.

Referring to the issue of the deficit and debt-to-GDP ratio, CAPRI notes that "Doing this will almost certainly necessitate a reduction in the public sector. For their part, public sector unions believe their members are not always adequately compensated; nor can they rationally be expected to sign onto any initiative which will be inimical to their membership's interests - which is to say, job cuts".

They note that one possible solution to this dilemma is to implement a version of the Irish one-in-three hiring freeze. In addition to freezing wages, the Irish allowed only one public sector position to be filled for every three which became vacant; they also enabled public sector employees to take job leaves with guarantees of returning to state employment if they so wished. Attrition therefore slimmed down the public sector.

CAPRI believes that any sacrifices made as part of the social partnership effort should not be without end, noting that in previous efforts, the economy did not emerge substantially stronger.

"A social partnership geared towards managing a crisis alone is bound to leave its participants frustrated, since the best they can expect from it is to end up where they were before. To succeed and become sustainable over the long term, a social partnership must therefore be combined to a growth strategy, which will promise long-term gain in return for short-term pain. Therefore, an integrated approach to a social partnership, whereby the finance ministry commits itself to using the opportunities created by a partnership to put the economy onto a higher plane of growth must be a sine qua non of an eventual social partnership."

CAPRI notes the importance of taxation in any social contract. "Wage freezes can be set against tax cuts in order to enable workers to claw back at least some of their short-term losses. Indeed, a partnership initiative would be more likely to gain broad support from the business community were it coupled with a comprehensive programme of tax reform (as part of the growth strategy)."

CAPRI also notes the legacy of cynicism that has emerged from previous efforts at social partnership in Jamaica, with respondents repeatedly commenting that "Jamaicans love chat", and that they regarded all talk of social partnership skeptically, since it would amount to more talk but little action.

They argue, however, that the Irish experience with social partnership teaches us that the growth strategy in a partnership initiative should not be a grand scheme, with a long time horizon. Instead, "It should be more immediate, with an initial partnership agreement lasting around three years; and in that time period, there should be clear, realistic and measurable targets. If the agreement is successful, these targets can then be renewed."

Most importantly, they noted that the "importance of partnership appears to be not the destination, but the journey itself". They quote Irishman Paul Haran (the keynote speaker at their partnership seminar) as stating that the chief achievement of the Irish model "should be seen as bringing people together to solve common problems".

5. THE CURRENT STATE OF PUBLIC – PRIVATE SECTOR DIALOGUE IN JAMAICA

A. PARTNERSHIP FOR TRANSFORMATION

The effort to create a social partnership in Jamaica, the so called "Partnership for Progress" has been revived as the "Partnership for Transformation".

On December 11th, 2008, the first meeting of a newly formed "Social Partnership Consultative Committee" was held at the Ministry of Finance to discuss the draft document entitled "Partnership for Transformation", described as a social contract to run for the period April 1st 2009 to March 31st, 2012.

The press release of December 12th issued by the Ministry of Finance says "the committee is aimed at creating a forum for dialogue on issues geared towards improving the social and economic environment in Jamaica between the Government and key social partners. The committee consists of representatives from the public sector, private sector, trade unions, political parties and civil society. They are charged with the responsibility of developing a strategic framework for the conduct of relations and the negotiations between the Government and its social partners. The deliberations will lead to a "Partnership for Transformation Agreement."

The actors in the proposed agreement are the Government of Jamaica, on the one hand, and a collective partnership (whom the agreement describes as the "parties" comprising the private sector groups represented by the Private Sector Organisation of Jamaica (PSOJ), with specific representation of the Jamaica Chamber of Commerce and the Jamaica Employers Federation (JEF), the Opposition People's National Party (PNP), the trade unions represented by the JCTU, as well as civil society groups and Non-Governmental Organizations (NGOs).

Most importantly, the current initiative has an explicit Prime Ministerial Commitment. The Ministry of Finance press release notes :

"In early April at the signing of the Third Memorandum of Understanding (MOU 3), the Prime Minister had expressed the importance of re-establishing and re-engaging the social partnership especially in such challenging times. He also said that for the collaboration to be inclusive and "be meaningful" it should have bi – partisan support as well as input from civil society".

It adds "More recently, the first National Planning Summit (NPS) of 2007 sought to align the Partnership for Progress with its mandate by identifying expert teams to address specific initiatives in the PFP. "

B. THE DRAFT AGREEMENT

The draft "Partnership for Transformation Agreement" explicitly states that it seeks to build on previous attempts at forging social partnerships in Jamaica from 1996 to 2005.

Page 3, section E of the draft agreement notes that "The current attempt [at] a Social Contract builds on the work done to achieve a Partnership for Progress (Programme for Growth with Equity) for the period 2005-2006 as well as the MOU process within the public sector."

Paragraph I makes a call to action to deal with "the debt and death" crisis notes the continuity with previous attempts. "The Parties understand that this social partnership does not need to reinvent the wheel. The necessary factors and the desired outcomes remain the same as identified in previous attempts. What has changed is the intensity and depth of the crisis confronting the country. This current economic crisis has overlay the "debt and death" crisis – high ratio of public debt to GDP (and the accompanying interest on debt) and high ratio of murders per 1000 population. "

Pages four and five gives the background to renewed initiative.

"The Parties recognize that Jamaica is in a social and economic crisis and that this requires urgent action.

The U.S. sub-prime mortgage crisis which has been hovering for over a year finally came to a head in September 2008 with the crash of Lehman Brothers, in particular. The housing crisis precipitated a financial crisis and a real sector crisis (employment). We now see a reduction in the rate of growth of remittances over the same period in 2007 and a reduction in tourist arrivals for the July to September quarter (6%) relative to the same quarter of 2007. The trade deficit has widened because of reduced demand for our exports. Our exporters are also pressured to pay up front or within a shorter time span. The BOJ responded by providing liquidity support through a $300 million facility. Using the NIR to support the financial system and defend the J$ cannot continue indefinitely.

Jamaica's debt burden has long been a crisis as the high public debt has resulted in an unsustainable debt to GDP ratio of 111.4 (at the end of calendar year 2007 using the revised STATIN GDP base year of 2003 as opposed to the previous base year of 1996) which crowds out public investment and stymies growth.

There is also the level crime and violence. In 2007, 1,427 people were murdered in Jamaica. This translates to a murder rate of 59 per 100 000 population, one of the highest in the world. The economic cost of this rate of crime is immense; about ---% of GDP per year. It undermines productivity and global competitiveness and makes the country poorer as it is a major contributor to the flight of the trained professionals."

Explicit intention to link to key Government Policy Objectives

Cabinet has recently approved the draft Vision 2030 National Development Plan and the Draft Medium Term Socio-Economic Policy Framework (MTF) for 2009 – 2012. The issues outlined in the medium term framework e.g. macro –economic stability, whilst similar to those outlined in the Partnership for Transformation document, have clearly not been specifically drafted to be in congruence with the restarted "partnership" initiative.

However, there appears to be a clear intention to achieve that congruence in policy objective in the new initiative :

"In going forward, the Parties recognize that the current Social Partnership must be integrally linked to the government's Medium Term Socio-economic Framework (MTF) so that planning for growth and development at the societal level is fully integrated.

This Social Partnership is linked to Priority Outcomes 1 and 2 of the MTF 2009-2012. Priority Outcome 1 of the proposed MTF is greater security and safety. This outcome seeks to address the death component of the double–d crisis. The aim is to restore a sense of safety and cohesion to Jamaican society by significantly reducing the levels of crime and violence.

Priority Outcome 2 of the MTF 2009-2012 is a stable macro - economy. Within this outcome, there will be emphasis or further prioritization re the fiscal deficit and debt reduction; maintaining price stability; and the stability of the financial system with emphasis placed on investment in infrastructure to ensure long term growth."

Draft Agreement Partnership for Transformation (headings only)

1. Establishing a National Transformation Council
2. Ensuring long - term fiscal responsibility
3. Enhancing corporate social responsibility
4. Strengthening monetary policy and decision making
5. Increasing National Efficiency and productivity
6. Improving the efficiency and fairness of the tax system
7. Increasing efficiency in the administration, organization and transformation of the education system
8. Measures to reduce the level of crime
9. Upholding Freedom of Association, Collective Bargaining, Labour Laws and Codes
10. Developing a national apprenticeship programme and strengthening labour – force training
11. Improving National Integrity and Corruption
12. Business Environment
13. Employment Creation
14. Energy conservation and diversification

The agreement also mentions as headings Monitoring and Continued Cooperation and Going forward – Continuity.

The second meeting of the committee was held just before Christmas on December 22nd.

6. THE MAPPING

Government Representatives

- Senator Dwight Nelson (Convenor)
  Dwight Nelson is Minister without Portfolio in the Ministry of Finance and Public Service (MOFPS) – He had the principal responsibility for finalizing the difficult wage negotiations of MOU3. Dwight Nelson is the former head of both the JCTU and the BITU.

- Senator Don Wehby, Minister without Portfolio
  Senator Don Wehby, Minister without Portfolio in the Ministry of Finance and Public Service (MOFPS)

- Sancia Templer
  Sancia Templer – National Planning Summit /Project Management Office based in the Office of the Prime Minister

Government Technical Advisors

- Dr. Wesley Hughes – Planning Institute of Jamaica (PIOJ)
- Mr. Errol Miller – Ministry of Labour and Social Security
- Ms. Verlene Watts – Ministry of Finance (MOF)
- Mrs. Sherona King - MOF
- Mr. Dennis Townsend - MOF

Private Sector Representatives

- Chris Zacca – PSOJ President
  Chris Zacca is CEO of Appliance Traders, and Deputy Chairman of the Observer newspaper. Mr. Zacca became PSOJ President in its first contested election in late 2006, in a faint echo of the political climate. He works for Butch Stewart, whose Sandals Group is the largest all inclusive chain in Jamaica. Appliance Traders was Mr. Stewart's first company, and his Observer newspaper is regarded as a key supporter of the current Government. It is worth noting that Butch Stewart was a quiet "behind the scenes" supporter of the previous initiative in 2003, encouraging key elements of the JCC leadership in early 2003 to start the P for P initiative.

- Milton Samuda – JCC President
  Milton Samuda is a principal in the law firm of Samuda and Johnson, and recently became head of the JCC. The JCC has consistently supported the P for P initiative between 2002 – 2008, over the life of three previous Presidents : Michael Ammar, Noel DaCosta, and Mark Myers.

- Wayne Chen – JEF President.
  Wayne Chen is the current head of the Jamaica Employers Federation (JEF), and the principal behind Superplus Food Stores, one of Jamaica's leading supermarket chains. Mr. Chen chairs local TV station CVM, one of the two major local TV stations. His brother Richard Chen chairs the PSOJ Economic Policy Committee, and his half brother Michael Lee Chin is the majority owner of National Commercial Bank, Jamaica's largest indigenous bank, and was also a quiet supporter of the Partnership for Progress initiative in 2003.

Labour Union Representatives

- Mr. Wayne Jones – Acting President, Jamaica Confederation of Trade Unions (JCTU)
- Mr. Lloyd Goodleigh – Executive Director, JCTU

Political Party Representatives

- The Honourable James Robertson, JLP Deputy Leader
- Mr. Peter Bunting, PNP General Secretary

Special Invitees

- Mr. Colin Steele - Past Chair Economic Policy Committee
- Mrs. Beverly Lopez - Past President, PSOJ
- Mr. Ward Mills - President ACORN (Private Sector/Union Grouping)
- Professor Neville Ying - Mona Business School, University of West Indies (Academia)
- Ms. Audrey Hinchcliffe - Past President Jamaica Employers Federation
- Kavan Gayle – President, Bustamante Industrial Trade Union
- Lambert Brown – President, University and Allied Workers Union (UAWU)
- Professor Trevor Munroe - Past President, UAWU

THE SOCIAL PARTNERS

A. The Union Movement (JCTU)

At the kick off of their Pre- Congress Regional Consultations on September 13th, 2008 (see Appendix 5 for speech this consultant made to the union leadership on the economic situation), one of the papers presented by the JCTU secretariat outlined the four pillars of their decent work agenda, namely:

- employment (as the route out of poverty),
- worker rights (core labour standards),
- social protection (including security of income, health, working conditions, retirement and pension),
- social dialogue (they referenced JCTU position paper re the last Social Partnership programme in 1996/1997)

JCTU Position Paper on Social Partnership

Social Partnership Discussions: Issues of Concern to the Jamaica Confederation of Trade Union – JCTU Secretariat January 1997

In their document of February 1996, entitled " A Preliminary response towards developing a Social Partnership" the unions advised that they shared "the concerns expressed by the Government…about the importance of positioning Jamaica to compete more effectively in the changing global economy, generating income and employment, and providing higher real standards of living for Jamaicans".

They argued that "any meaningful social partnership must be based on trust and confidence among the social partners .." and that such trust and confidence cannot be built up over a few weeks and cannot be rushed.

Of interest is that they also warned against the setting of "artificial and unrealistic deadlines".

Notably, the Union movement still appear to regard this 1997 paper as a true reflection of their position on social partnership.

Taxation – A Case of Fiscal Injustice by Lloyd Goodleigh

The JCTU position paper - A Case of Fiscal Injustice – clearly outlines their view that there is considerable horizontal inequity between PAYE (their union members) and the self employed in Jamaica, and their belief that *"one way… to transform the society is to put in place an Efficient/Equitable Tax System and seek to secure National consensus on a Social Covenant between the government of Jamaica and its citizens."* . It should be noted that Mr. Goodleigh represented the Union movement on the Matalon tax reform Committee.

B. The Private Sector
Mr. Zacca and Mr. Chen directly represent Jamaica's two most powerful domestic entrepreneurs (both with media access), who both have a very large portion of their total net worth invested in Jamaican assets (and therefore a very strong incentive to support any initiative that reduces country risk). Both also supported the 2003 initiative.

The Private Sector Organisation of Jamaica (PSOJ) finally responded to Minister Dwight Nelson's letter dated October 1st, 2008 by naming three representatives (all heads of private sector organizations) to restart the partnership process. A previous invitation from the Prime Minister to the PSOJ to restart the process approximately six months before had failed partly due to private sector disagreement as to whether the old private sector leadership of the original P for P process (particularly the past PSOJ President and past Chairman of the Economic Policy Committee) should represent the private sector, or whether it should be a new team representing current private sector leadership.

It would also be true to say that there was some level of skepticism about the usefulness of the social partnership process by the private sector for the first six months after the election.

This probably reflected the view that:
1) the previous partnership process was not particularly well managed
2) the National Planning Summit initiative was the way forward
3) the perception that the private sector already had excellent government access under the new administration, and did not need to share this access with the Union movement or worry about what was then a highly discredited (and fragmented) Opposition (from a private sector perspective at least).

However, the worsening of the economic climate, combined with Haran's visit, made further delay unacceptable. It would be fair to say that Haran's clear explanation of the Irish model convinced all private sector doubters. Evidence of this is that a new PSOJ led team of three representing the current leadership was appointed only a couple of working days after Haran's visit ended. The former private sector leadership during the Partnership for Progress process were also invited as special invitees by the Government, defusing that issue.

Why the private sector again believes there is a need for Partnership?
In a private sector meeting on how to move the social partnership process forward shortly after the December 11th meeting, one of Jamaica's longest serving and most prominent businessman made the strongest case possible for a social partnership. With only a little exaggeration, he assessed the current state of Jamaica's tripartite relations as follows:

(1) The Government, particularly its technocrats, distrust the private sector (certainly true of the previous administration)
(2) The private sector hates the unions (includes an element of hyperbole)
(3) The union members tolerate the "big man", meaning the private sector, while they wait to see him fall.

The latter remark also appears to be a fairly accurate reflection of the views of the private sector in the wider society. A 1997 Stone Poll for the Observer newspaper confirms the low opinion of the general population about the private sector, which is unlikely to have changed.

Outside of organized groupings, the distrust may even be worse, reflecting clear evidence of a society under severe stress across a number of different areas e.g. crime.

The timing of the new initiative is again opportune as virtually all of the negative macroeconomic indicators driving the previous Partnership for Progress effort in 2003 are now present in Jamaica in December 2008 (see Background to Recommendation "Jamaica's Economic Crisis" in next section below).

7. CONCLUSION: WHAT ARE THE KEY DIFFERENCES WITH THE PREVIOUS P FOR P INITIATIVE?

(1) Government Leadership

The previous Partnership for Progress initiative was private sector driven. The "Convenor" Beverly Lopez was the then head of the PSOJ, all the meetings took place at the PSOJ, and the base document was drafted on the instructions of the private sector, albeit by members of academia. The negotiating team was led by the Ministry of Finance.

In clear contrast, the current initiative is public sector driven, in terms of its convenor, location, drafting of the agreement, and secretariat.

Specifically, the "convenor" is Senator Dwight Nelson, Minister without Portfolio in the Ministry of Finance and the Public Service, the first two meetings took place at the Ministry of Finance and the revised base document was drafted by Dr. Wesley Hughes of the Planning Institute of Jamaica (PIOJ), the PIOJ now being part of the portfolio of the Prime Minister rather than the Ministry of Finance.

Secretariat (see recommendation in section 6)

The most important change is that the small secretariat that has been created in the Office of the Prime Minister to support the National Planning Summit is also now supporting the Partnership for Transformation (PFT). The key topics of the National Planning Summit were in any case very similar to the core items for discussion in the Partnership for Transformation, whilst the NPS expert teams have been mandated to address specific initiatives in the PFT.

These four changes sharply increase the chances of successful implementation.

CAVEAT

The Prime Minister is not currently leading the negotiations. This may simply be a realistic assessment of the stage of the negotiations, which have only just started.

(2) Synergy with 2030 vision

The government appears to be just beginning the process of moving resources to identifying all the problems that they can fix within the next three years of any planned partnership agreement rather than the 20-plus years of the 2030 vision.

(3) Build on a shared consensus

The new initiative is wisely seeking to build on the shared consensus between the Government and private sector on the problems (at least in the topics covered) that need to be tackled coming out of the national summit in November 2007.

The critical advantage is that the Government and private sector appear to have a very similar view of what needs to be done, as shown by the very high degree of consensus on priority issues coming out of the National Planning Summit.

(4) Problem Solving Approach

The problem-solving approach suggested by Haran should be the focus of any new social partnership effort. Jamaica's current problems may in some instances be more severe than in past decades, but for the most part they are not new. This understanding that "partnership" is not about "signing a document", and any associated prestige or public relations benefits, but about problem solving, may not have been fully internalised by either the former private sector leadership or the former government.

The current government and private sector leadership appear to have that focus, being uninterested in any agreement that is not extremely tough and aimed at solving problems.

As leader of the Opposition, both in early 2005 and late 2006, Prime Minister Bruce Golding critiqued the P for P Document as lacking " specific, verifiable and measurable targets and language". He noted that most of the sections had the weak statement that "Government undertakes to examine the proposals and if they are feasible….". Golding noted a strong need for monitoring, and was concerned as to whether the then proposed new body " the National Transformation Council" would be able to act as a serious monitoring mechanism, which he thought was needed to do reviews of verifiable targets "periodically and as necessary". For Golding, monitoring success depended on will and necessity, so that to have meaning, he believed the Partnership for Progress "must become the new IMF in terms of rigour."

Whilst the new Partnership for Transformation Document is extremely similar to the final Partnership for Progress document of late 2006, all the "weak" language has been taken out. This suggests a much higher degree of commitment on the part of the current government.

The PSOJ and JCC also appear to both want a tough agreement, whereas before the JCC was unable to carry the PSOJ in demanding a sufficiently tough agreement.

CAVEAT – A detailed, specific agenda of problems to be solved does not yet seem to have been prepared, probably due to the very recent nature of the negotiations.

(5) The Issue of Trust

The essential Irish lesson was that trust was created by shared understanding and problem-solving, and was not a precondition to partnership as was previously thought.

8. PROJECT RECOMMENDATIONS

Background to the Recommendation "Jamaica's economic crisis"
As in 2003, the rating agencies have put Jamaica on watch, Jamaica is cut off from the international capital market, external bond prices have collapsed (with overseas analysts again questioning our ability to service debt), and margin calls are putting pressure on the viability of the securities dealers (and hence the local money market funding the government).

Foreign exchange reserves are declining, there is significant pressure on the Jamaican dollar, and we are starting to see signs of currency substitution (where investors convert Jamaican dollars to U.S.) and the first signs of the more worrying next step of capital flight (where local investors transfer their U.S. dollars abroad for safety/capital protection reasons). Whilst the best guess is that capital flight is both very recent and limited up to this point, the trend is negative.

The most telling recent similarity is that the Bank of Jamaica has sharply raised domestic interest rates, but as in 2003 the unusually sharp rise in interest rates has not managed to stabilise the dollar (although some believe it may have averted a dollar collapse). This is partly because the size of the increase and its abruptness would have looked panicky to investors, concerns over fundamental flows, the associated view that the NIR will fall further, and the general fall in confidence in a society already under immense economic and social pressure.

In 2003, further rises in interest rates did not help, as it was seen as not sustainable and doing damage to the real economy. It is likely that with the latest rise in interest rates, Jamaica has again passed that threshold. The new level of interest rates will increase the stress on business and consumers, accelerate the likely decline in the growth of tax revenues against budget going forward, and may not increase "willing" investor demand for Jamaican dollars as some investors decide the risk of devaluation and default outweighs the prospect of higher returns in Jamaican dollars.

The one exception to this tale of gloom is that the central government deficit is currently much better as a percentage of GDP than it was at the end of 2002. Unlike then, it is currently projected as within its 4.5% of GDP budget target, but that too is likely to deteriorate swiftly as tax revenues increasingly underperform.

How should the IDB support the social dialogue initiative?

- **Project Objective**

  The objective of the proposed project should be to create a societal consensus that bridges Jamaica's strong political divides on the necessary measures to break Jamaica out of the many vicious economic and social circles from which it has suffered over the past several decades. This project will be different from past efforts in that its principal goal will be to achieve concrete mechanisms by which a unified civil society representing the major interest groups can achieve the highest level of transparency, accountability and monitoring of measures to obtain this objective.

  The government, major private sector organizations, major unions and other major civil society organizations will spearhead the effort.

  The purpose in seeking IDB involvement will be to help Jamaican's help themselves to move Jamaica forward both economically and socially, and graduate to the rank of a developed country.

- **Situation And Overview**

  For decades, Jamaica's growth has trailed its peers, its neighbours and, indeed, the world. Today the country finds itself with unmanageable interest rates, a suffocating debt burden, and a declining standard of living. The international financial crisis and recent currency slide have created a heightened concern over Jamaica's already difficult economic situation. Our very high debt service ratio's shows a country under continued extreme fiscal pressure, and the only way out of our current debt situation is to substantially increase our sustainable growth rate, as Jamaica cannot inflate its way out as the majority of its debt is either in U.S. dollars or highly market sensitive local floating rate debt.

  The project proposal seeks to identify the actions and actors needed to carry out the institutional and governance design of the public- private forum and the drafting the first agreed action plan. The project will also identify the financial and technical requirements of a technical secretariat to support the Council's actions as well as to prepare the most relevant governance actions to carry out the council's objective.

  Methodology

  The basic principle for this project recommendation is that multilaterals such as the IDB should support initiatives with very strong domestic ownership as the best way of ensuring their success. The Partnership for Transformation initiative has clear ownership by the Government, and appears to already have in place most of the ingredients for success. It aims to create a National Transformation Council to be chaired by the Prime Minister whose membership will be comprised of the leaders of the organizations and Ministries that are signatories to the Agreement. It will be served by an agreed "Joint Technical Committee" that will monitor the implementation of the technical areas.

Recommendation 1 – Expand the resources of the Programme Management Office in the Office of the Prime Minister.

The IDB should immediately refocus its efforts to support the Government's "Partnership for Transformation" to the maximum degree available, mainly though the NPS Secretariat based at the Programme Management Office in the Office of the Prime Minister.

In the month of December, the Government has outlined the terms of reference of the "The Consultative Committee" (see Appendix 2) and "Agreed Procedures"(Appendix 3) which could form the basis for the parameters of IDB support.

The Committee's planned role is to agree the priorities and objectives relating to the Partnership for Transformation Agreement. The Consultative Committee will be informed by Vision 2030 Jamaica and the National Planning Summit initiatives; and will influence the finalization of the accompanying Medium Term Strategy Framework.

The small secretariat that has been created in the Office of the Prime Minister for the National Planning Summit is active, but the resources allocated to this secretariat have been insufficient to even itemise all the issues coming out of the original summit's topic areas, never mind cover the planned expansion of topic areas or provide the necessary support and research capacity for the Partnership for Transformation.

In view of the proposed expansion of the mandate of the PMO in relation to both an expansion of the number of Expert Teams and the incorporation of the Partnership for Transformation, it is imperative that the resources allocated to the Unit be expanded commensurately. The expansion in resources is needed at two levels.

These are:
- Increase the Number of Support Staff
- Expand the Research Capability of the Unit

Increase the Number of Secretariat Staff
Both the expansion in the number of Expert Teams and the incorporation of the PFT necessitate an expansion in the personnel assigned to the NPS Secretariat. According to the PMO, the non-Secretariat staff of the PDD are already fully utilized in other aspects of the Division's mandate of coordinating policy making and facilitating the coordination and strategic alignment of the Departments reporting into the OPM, including, inter alia, the Urban Development Corporation (UDC), National Housing Trust (NHT), Jamaica Social Investment Fund (JSIF) and Planning Institute of Jamaica (PIOJ). According to the PMO, there is therefore little room to shift those staff from their current duties.

CAPRI argues that in order to build the implementation unit rapidly, an existing unit within the Office of the Prime Minister could be turned over to the task. As it happens, the OPM is currently creating new posts for planning and strategy. One of these, slated to begin operating on 1 January 2009, is the Director of Development, Planning and Strategy (DPS). Assisted by an officer, and a (shared) secretary, the director will therefore have an embryonic staff, and will thus satisfy the requirements of being housed in the OPM and reporting directly to the Chief Technical Director of the OPM – who in turn reports directly to the Prime Minister. The Director of DPS is to have responsibility for implementation of Vision 2030, making the post a sensible one for a social partnership initiative. This would avoid duplication, as the conclusion of a social partnership agreement will greatly contribute to and overlap with Vision 2030, the recently-written national development plan of Jamaica.

The PMO believes that consideration would have to be given to whether the DPS unit is turned over to the PFT or provides technical support to PFT. The PMO already has an office with a Director of Project Implementation with a staff of 3 to provide coordination, logistical and monitoring support, currently to the NPS but this could be expanded to PTF. This unit is now part of the joint secretariat (with MOF MOU Unit) for PFT, but an amalgamated unit would perhaps work best in the long run. In the short term, the unit also has OPM Planning and Development work to accomplish. It should be noted that the the DPS unit must also coordinate work for and facilitate the technical planning agencies (DBJ, PIOJ, Statin, JCIF).

An expansion in the number of staff in the Secretariat is therefore a key component of both the initiative to expand the number of Expert teams and the proposal to add the coordination and facilitation of the work of the PFT to the Secretariat's mandate.

Recommendation Number 2 - Expand Research Capabilities
One existing resource limitation of the NPS Secretariat relates to the lack of research support that it can provide to the Expert teams. Many of the teams need research support in formulating their policy frameworks, but the existing structure of the Secretariat has no designated staff member providing research support to the Expert Teams (see below **Expert Team Research Agenda**).This has proved to be a key limitation of the Secretariat's role and any expansion in the number of Expert teams would exacerbate this existing limitation of the Secretariat.

A. *The Irish Model – Policy must be coordinated through Secretariat based in the OPM.*
   The Irish Model of social partnership is a good one to adapt (with modifications) as this model has yielded success and Jamaica's Partnership for Transformation is to some extent modeled on that initiative. The social partnership in Ireland was **coordinated** by a small secretariat of about 3-4 persons. As noted earlier, this number is essentially the staff complement in the NPS Secretariat prior to the incorporation of the PTF. The Irish social partnership Secretariat was also housed in the Prime Minister's Office, which is consistent with this proposal.

B. *The importance of unbiased research*
   An even more important lesson to be gained from the Irish model is the role of research. The Irish government explicitly encouraged research-based policymaking wherein detailed research was provided in relation to the key policy initiatives that were being pursued under the mandate of the Partnership.

It is therefore imperative that Jamaica's NPS process also be informed by unbiased research (it is even more important that it be perceived to be unbiased).

The success of the PTF therefore depends critically on the expansion in the research capacity of the NPS Secretariat. The NPS Secretariat should provide research support for the Social Partnership Consultative Committee (hereafter the 'Consultative Committee') but there is no need (indeed it could be positively detrimental from the standpoint of the perception of the bias of the Government of the day affecting the long term sustainability of the partnership) for the NPS to have all the pure research capacity based in house.

One option would be to contract an independent research institute to provide “pure” research support. Currently, CAPRI appears to be the only serious “think tank” at the level required, having the required combination of an “unbiased” brand, media acceptance, and critically private sector support and acceptance. There are however a number of individuals with expertise in individual areas e.g. Dr. Anthony Harriott/Dr. Herbert Gayle in the area of crime.

It must be noted that narrow academic type research alone will be insufficient to make the PTF work.

Recommendation Number 3 – Support Non – Academic research (the Private Sector)
A vast array of skills and expertise will be necessary to create even the kind of transformational change embodied in the current PTF document, never mind its expansion. There will be a need to marry the theoretical and the practical, the need for leadership and change management, and many other skills such as export promotion and marketing.

One key area is the need to strengthen the research capability of the business sector. Where possible, this should again be done through existing committees, identifying champions (people or organisations) committed to change. Every effort should be made to avoid simply employing foreign consultants (no local ownership of reports produced), or reinventing the wheel, as has happened so many times before, in favour of creating true domestic capacity.

Recommendation Number 4 - Strengthen Union Movement and Civil Society research capability

Some research support for strengthening the Union movement and Civil society generally is also highly appropriate, particularly in the context of a wider social partnership. On January 31st, 2009, the Union movement held its Fourth General Congress under the theme of decent work. Speakers included Minister Dwight Nelson, Minister of Labour Pearnel Charles and Former Prime Minister Portia Simpson Miller as well as a briefing on the international and local economy by financial analyst Keith Collister. The unions passed a number of measures including those referencing the Irish model and social dialogue, and the leadership showed a clear understanding of the economic crisis faced by its members.

More generally, a serious attempt needs to be made to engage the wider population (particularly the very difficult to reach inner city communities) as one of the difficulties of the Partnership for Progress is that it was very top down.

National Transformation Programme (NTP)
The government appears to understand this, as it has started a National Transformation Programme (which appears to be aligned to the wider social partnership initiative), headed by noted local Pastor Al Miller, targeting inner city communities to encourage them to buy into the vision of a 'Fresh Start' for Jamaica. The NTP is described as a value-based programme supported by a social partnership of the church, state, business, and civil society – presumably the “Partnership for Transformation”.

Two Truly Transformative, but difficult issues appropriate for the PTF agenda
- Taxation of Gas – This is an agenda item at the NPS expert committee level.
- Reversing the process of Garrisonisation of inner city communities

Expert Team Research Agenda

The NPS “expert teams” appear to be where the rubber meets the road in terms of the “dialogue” leading to policy formation. Moreover, there is already a strong and increasing correlation between the areas covered by the NPS expert teams and the draft PTF agreement.

It should be noted however that currently, at least for the private sector participation, the efforts of the “expert teams” are purely voluntary. **There is a very real limit to the amount of voluntary free work that the “experts’ can provide.** The PMO advises that the Tax Reform/Balancing the Budget/ Debt Reduction team is the most advanced of all the expert teams, followed some distance behind by the education team. However, even the former team is substantially behind where it needs to be to impact the budget. The ideal scenario is that the PTF would be signed around or shortly after the budget, but this would require an enormous increase in their resources and work load, in the view of this consultant.

NPS Expert Teams	PTF Topics including number
Tax Reform/Balancing the Budget/Debt Reduction	Ensuring long - term fiscal responsibility (2) and Improving the efficiency and fairness of the tax system (6)
ICT/Job Creation	Employment Creation (13)
Education and Training	Increasing efficiency in the administration, organization and transformation of the education system (7) and Developing a national apprenticeship programme and strengthening labour – force training (10)
Governance/Reducing Bureaucracy	Improving National Integrity and Corruption (11) and Business Environment (12)
Crime and Violence	Measures to reduce the level of crime (8)

The next National Planning Summit teams being planned are energy conservation, corresponding directly to Energy conservation and diversification (14) in the PTF and Government procurement. Government procurement has some issues in common with issues (11) and (12) of the PTF as previously covered, as does the development section of the NPS category Land Titling/Development Approvals.

The last NPS topic Investment Promotion, which was pulled out of the larger category, is not currently on the PTF agenda, and appears to instead be under the ambit of Jamaica Trade and Invest, where the existing “Competitiveness Committee” is located. There may be need to revitalize this area (see comments on Competitiveness Council at beginning of this paper). It could be argued that a successful PTF, and its communication abroad, could be one of the strongest ways to promote investment.

The remaining PTF areas are : Enhancing corporate social responsibility (3), Strengthening monetary policy and decision making (4), Increasing National Efficiency and Productivity (5), and Upholding Freedom of Association, Collective Bargaining, Labour Laws and Codes (9).

The first two reflect the important issue of what can the private sector give in a social partnership which was one of the stumbling block in the previous initiative (Haran says very little) and the issue of an Independent Central bank (a JLP Manifesto Commitment).

The latter two issues affect the Union movement. A Productivity Centre was set up in 2003, but it has no resources and appears to have accomplished little, whilst the issues surrounding collective bargaining are standard for union movements everywhere.

Recommendation Number 5 - Involve Union and Civil Society in NPS

The current structure of the NPS is "bipartite " e.g. public/private sector only. It does not include unions etc either on either its Monitoring Board or Expert Teams. The structure therefore in its current form does not match IDB requirements.

The PFT Committee is in the very preliminary stages of negotiating an agreement and has not yet even decided on its priorities, with only its third meeting planned for February 4th, 2009 (postponed from 29th, January 2009.) The very preliminary nature of the PFT suggests that it would be advisable to continue the NPS initiatives under the current structure, at least until close to budget. As the negotiations progress, a decision can be made on the how to align or incorporate the two initiatives. The PMO plans to keep the PFT team up to date on the progress and plans of NPS to inform their activities, and is also looking at these two initiatives in the context of Vision 2030. Ultimately, these initiatives will need to be consolidated where possible.

9. WORKSHOP WITH STAKEHOLDERS

The core of this report is how to make a very serious new attempt at public private dialogue work in Jamaica work, namely the proposed "Partnership for Transformation". This report was verbally commissioned by the IDB on November 6th.

On November 19th, 2008, local independent think-tank the Caribbean Policy Research Institute (CAPRI), in conjunction with the London based Caribbean Council, hosted a seminar entitled "Social Partnership in Jamaica - Elements of Success".

The key lessons for Jamaica from Ireland are outlined in part 3 of this report under the heading of "The CAPRI seminar and its implications."

This seminar included representatives of all the stakeholders involved in the new attempt at creating a public private dialogue. The consultant originally conceptualized the renewed research effort into the "Partnership for Progress" as a research topic for CAPRI, helped prepare the pre-seminar background paper, and was heavily involved in the seminar organization (particularly the list of invitees), as well as helping prepare the agenda for the private sector leadership. The dinner with the Prime Minister and key presenter Paul Haran the evening of November 19th appears to have led directly to the restarting of the social dialogue under the name "Partnership for Transformation". The consultant believes this workshop therefore satisfies the IDB consultancy requirement for a workshop with stakeholders on "social dialogue" to be part of the consultancy.

Also see speech made by the consultant to the leadership of the Union movement on September 13th that has been included as Appendix 5. This appearance essentially tested the Union's appetite for a renewed attempt at social dialogue.

Finally, the minutes of the original key workshop of the "Partnership for Progress" in May 2003, which the consultant helped to organize with other stakeholders (particularly the Jamaica Chamber of Commerce) has been included as Appendix 6. This can be regarded as the real start of the "Partnership for Progress" and its successor "Partnership for Transformation" initiative, as it also involved all the key stakeholders of that time.

APPENDICES

APPENDIX 1: **PARTNERSHIP FOR TRANSFORMATION SELECTED MINUTES FROM FIRST MEETING ON DECEMBER 11TH, 2008**

APPENDIX 2: **SOCIAL PARTNERSHIP CONSULTATIVE COMMITTEE (TERMS OF REFERENCE)**

APPENDIX 3: **SOCIAL PARTNERSHIP CONSULTATIVE COMMITTEE AGREED PROCEDURES**

APPENDIX 4: **ADAPTED TERMS OF REFERENCE FOR THE NPS EXPERT TEAMS, USING AS AN EXAMPLE THE TAX REFORM/BALANCING THE BUDGET/DEBT REDUCTION TEAM.**

APPENDIX 5: **THE STATE OF THE ECONOMY – HOW DO WE MOVE FORWARD? BY KEITH COLLISTER**

APPENDIX 6: **MINUTES OF PUBLIC/PRIVATE MEETING WITH IRELAND'S SOCIAL PARTNERS HELD AT THE PEGASUS ON THURSDAY, MAY 17, 2003**

APPENDIX 1: PARTNERSHIP FOR TRANSFORMATION SELECTED MINUTES FROM FIRST MEETING ON DECEMBER 11TH, 2008

Mr. Chris Zacca, speaking on behalf of the PSOJ, said that Jamaica had made significant achievements since Independence; however, economic stability was not attained. He expressed the view that the initiative was very timely in light of the current economic crisis the country faces. He also indicated that there is a need to work towards not just achieving a partnership but more importantly some real and tangible results.

Minister Wehby endorsed Mr. Zacca's sentiments and suggested that, like the rest of the world, Jamaica was in a crisis. How to navigate our way out of the crisis should be our major objective. To achieve this there must be team work towards a common goal, the objectives of which must be focused and SMART. He said there was need for the Committee to identify three or four specific objectives and work towards achieving them. The Minister concluded by emphasizing the fact that this was a special moment to move Jamaica forward.

Mrs. Sancia Templer from the OPM endorsed the previous speakers, and spoke to a spirit of commitment under the National Planning Summit (NPS) programme, which she has experienced over the past two to three months. In outlining her position on the way forward she pointed out that it was important that the team reviews the Social Contract document and identify in the initial stages of our deliberations not only those on which they agree, but also issues of contention and work out strategies to address them.

Dr. Trevor Monroe reiterated the need to build trust among the stakeholders, pointing out that one of the most important means of building trust is to make our word our bond. He mentioned the fact that in a recent study conducted on global economies, Jamaica ranked among the lowest in the world on the issue of trust. He said in order for us to achieve our objectives we need to build confidence in each other.

Prof. Neville Ying highlighted the need for harmonization of efforts and the establishment of a timeframe for needed action. He emphasized the immediate need to address pending job losses, and required action between now and the end of the fiscal year, and further between 2009 and 2010.

Mr. Wayne Jones of the JCTU commented that the labour movement welcomes the return of the partners to the discussion table. He reaffirmed the Unions' commitment to the process of social dialogue and said he looked forward to the finalization of the effort. He also noted that the social pact should become a compass for the partners (including their members) behaviour.

Minister James Robertson stated that the Government fully embraces the social partnership effort and will be a major player in the process. He said he looks forward to working with the team in seeing it through.

Mr. Peter Bunting, speaking on behalf of the Opposition PNP, concurred with previous speakers that before there can be agreement it is important to develop trust. He said that the PNP has come to the table with some skepticism, based on the fact that they were not invited to the National Planning Summit. He assured the meeting, however, that they are willing to suspend this skepticism and make sincere attempts to develop that trust. He anticipates that hope will triumph over experience, and that the process will be a triumph over skepticism and continues in an authentic way.

Proposed Procedures and Framework

A draft document outlining the general procedures to be adopted by the Committee was circulated and read.

Minister Nelson advised the meeting that a Secretariat would be established, with support personnel located at the Ministry of Finance & the Public Service (MoFPS) and the Office of the Prime Minister (OPM). The respective personnel are Mrs. Sancia Templer and Mrs. Michele Frederick Johnson of the OPM, and Ms. Verlene Watt, Mrs. Sherona King and Miss Marcia Whyte of the MoFPS.

Overview of Working Documents

Dr. Wesley Hughes of the PIOJ made general comments regarding the draft document "Partnership for Transformation" (PFT). He explained that this document was built on previous partnerships and urged that because of the national urgency being faced there is need for us to agree on specifics. The suggestion was made that the team may need to select a few things to move forward with rather than to try and include all issues. He continued that the document was framed in the context of the current crisis, and that the country must be stronger when the crisis has passed. To accomplish this, he said we need to manage the macro economy and ensure that competitiveness and productivity are at the heart of the process. Some of the major problems facing the economy, he suggested, are crime, a non-performing education system, low productivity and weak infrastructure. He also suggested that if the public sector does not invest in infrastructure the private sector cannot perform productively.

The Way Forward

There was consensus that in order to succeed the partnership must be based on commitment and trust.

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Table of the Different Initiatives

No.	Decision/Action Item	Owner
	The next meeting of the Committee will be held on Monday, December 22, 2009 at 10:00 a.m. at the MoFPS.	Secretariat
	Each partner will analyze the draft documents (PTF agreement and TOR) and submit comments to Mrs. Sancia Templer of the Secretariat (OPM) for circulation prior to the meeting.	Committee members
	Each partner to reconcile the areas/issues identified in the PFT agreement with their own priorities; develop and present a position paper to the team; and the team will agree on the final list of priorities.	Partners (private sector/academia/labour/ government/political parties)
	The Three-year Medium Term Plan and the Vision 2030 Jamaica National Development Plan documents to be circulated.	Secretariat
	The Memorandum of Understanding to be circulated.	Secretariat
	Appropriate media relations and communication procedures are to be determined and agreed on. In the interim, if the Committee agreed the need for information to be communicated, the Committee Chairman will be the official spokesperson for the Partnership.	Committee
	On the issue of inclusion of other interest groups, it was agreed that the Committee continues with its present representation, with the option of inviting wider participation as the process prolongs.	Committee
	Partners recognized the importance of identifying an appropriate method of tapping the views of members of civil society and bringing them formally into the process in order to achieve their buy-in. It was agreed that the partners to consider the best way for this to be done. Possible methods put forward were: Move a resolution in Parliament for all persons to come together	Committee Committee

	for this process; Once comprehensive draft has been developed, publish in the media and invite comments within a specific timeframe. Determine how comments can be incorporated;	
	It was agreed that ultimately the National Planning Summit (NPS), Vision 2030 and other related programmes would feed into the Partnership for Transformation process.	Committee/OPM/PIOJ

APPENDIX 2 - SOCIAL PARTNERSHIP CONSULTATIVE COMMITTEE (TERMS OF REFERENCE)

Rationale

The Social Partnership Consultative Committee (hereafter the 'Consultative Committee') aims to bring together the public, private, trade unions, political parties and civil society to work together to agree a Partnership for Transformation Agreement. The Consultative Committee will thus create a forum for dialogue between government and the social partners (hereafter the Partnership), aimed at improving the social and economic environment in Jamaica. The establishment of the Consultative Committee builds on previous attempts at forging social partnerships in Jamaica, in particular, the Partnership for Progress (Programme for Growth with Equity) and National Planning Summit (NPS) initiatives.

The deliberations of the Consultative Committee will also be informed by and serve to enhance current programmes at the national level, which seek to promote Jamaica's total development. These programmes include the Medium Term Strategy Framework, the Vision 2030 Jamaica - National Development Plan, and the National Planning Summit (NPS). Committee Members will therefore be required to possess in-depth knowledge of the relevant programme documents to effectively discharge their duties during the Consultative process.

Role

The Consultative Committee will be responsible for the development of a strategic framework for the conduct of relations and the negotiation of agreements between the government and social partners. The Consultative Committee will provide a forum for formal joint negotiation and consultation between the Partnership in relation to agreed matters relating to national transformation and development.

The Committee's role is to agree the priorities and objectives relating to the Partnership for Transformation Agreement. The Consultative Committee will be informed by Vision 2030 Jamaica and the National Planning Summit initiatives; and will influence the finalization of the accompanying Medium Term Strategy Framework.

The Consultative Committee will seek to promote understanding and co-operation between Government and the social partners within the Partnership. In addition, the Committee will also serve as the formal channel of communication between government and social partners on matters of common interest related to the Partnership for Transformation.

Composition

(a) Membership

The Committee shall be comprised of members from the public and private sector, trade unions, the two main political parties, civil society and specially invited participants and shall be supported by technical experts and a secretariat.

The membership shall not exceed 16 persons including the Convenor. Each member shall serve for a term of [one (1) year]. The list of organizations and individuals which will comprise the Consultative Committee is attached in Appendix A.

(b) Attendance of advisers

Where a member feels it necessary for he/she to be accompanied by a person or persons acting in an advisory capacity the member shall first seek approval of the Committee through the Secretariat. Advisers so approved may participate in discussions over particular issues as appropriate. Such Advisors may be required to sign a confidentiality agreement. Prior notification of the attendance of any advisers should be made through the Secretariat.

(c) Special committees and sub-committees

The Committee may establish such special committees and/or sub-committees as it decides. Composition of such sub-committees will be determined by the Committee. Such sub-committees may be set up to address or undertake research on particular issues of principle and to co-opt specific advisers for their specialist knowledge. These sub-committees must report their findings and recommendations to the Consultative Committee.

APPENDIX 3 - SOCIAL PARTNERSHIP CONSULTATIVE COMMITTEE AGREED PROCEDURES

GENERAL PROCEDURES
Composition & Conduct – Each Partner will develop and present a position paper in relation to the Partnership to the Committee.

MEDIA RELATIONS
During the negotiations all statements to the media will be made through the Public Relations Consultant/Sub-Committee and will be agreed on by all partners before release.

RECORDS
Minutes/notes will be taken during all meetings by the Secretariat.

POSITION PAPERS
Where Position Papers are being presented, each Partner will be allotted 45 minutes for presentation.

SECTORIAL INTERESTS
It is proposed that these meetings accommodate Position Papers and Memoranda from various sectors in the society. These papers will be circulated to the partners beforehand. The groups agreed on by the partners will be asked to appear before them. In those cases, the groups will be allotted twenty (20) to thirty (30) minutes for their presentations.

SUPPORT FACILITIES
There will be a Secretariat established at [MOFPS/OPM] which will house Staff allocated by the [Partners] if so desired. The Secretariat which is housed at the [MOFPS/OPM] will also provide general and technical information to the Partners upon request.

NEGOTIATING PROCESS
In respect of the negotiations themselves there are two (2) critical components to the process to achieving a Social Partnership.

1) Negotiations and agreement
2) Implementations and Monitoring

We suggest the following stages for the negotiation:

Preliminary phase:
The taking of Position Papers.

Phase 1:
Identification of the areas of general consensus and the identification of areas for resolutions coming out of the presentation of Position Papers.

Phase 2:
Negotiations with a view to resolving issues and differences and bringing together divergent opinions.

Phase 3: Conclusion of the negotiation and a determination of the points of final agreement/disagreement.

Phase 4: The signing of a final document and a joint statement

Phase 5: Discussion of and agreement on the process of implementation and monitoring.

APPENDIX 4 - ADAPTED TERMS OF REFERENCE FOR THE NPS EXPERT TEAMS, USING AS AN EXAMPLE THE TAX REFORM/BALANCING THE BUDGET/DEBT REDUCTION TEAM.

Membership

Each Expert Team shall not exceed six (6) persons including the chair.

The first, most important, and by far the most advanced committee established was the "Tax Reform, Balancing the Budget and Debt Reduction" team (collapsing two of the summit topics into one). This is chaired by the Honourable Don Wehby, Minister without Portfolio in the Ministry of Finance and Public Service (MOFPS), and supported by the Project Management Office (PMO) based out of the Office of the Prime Minister.

Minister Don Wehby	MOFPS
Keith Collister	Private Sector Representative, SANDALS
Damien King	Private Sector Representative, CAPRI
Brian Denning	Private Sector Representative, PWC
Colin Steele	Economic Adviser to Minister Wehby
Sancia Templer	NPS/PMO - OPM

Two sub committee's have been formed, for tax reform and balancing the budget/ debt reduction, chaired by Brian Denning and Dr. Damien King, respectively.

Public Sector Participants

The committee will have access to key public sector officials.

Purpose
This Expert Team shall drive the implementation and monitoring of priority initiatives/activities1 under the various themes. The Team shall be supported by a Reporting Secretary from the NPS Programme Management Office.

Accountability
The Chair of the Expert Team has ultimate responsibility for the successful implementation of the initiatives and achievement of the objectives.

Team members are expected to attend all meetings of the Expert Team. If a member is absent for three consecutive meetings, the Chairman may revoke the appointment of that member and nominate their replacement.

Scope of Work
The Expert Team shall:

- Review and validate the theme Goals, Objectives and the Initiatives identified to achieve Tax Reform, Balancing the Budget and Debt Reduction, as outlined in the National Planning Summit Report

- Assess gaps between existing situation and desired objectives and develop possible initiatives to achieve the desired objectives

- Confirm the list of priority initiatives
- Prepare concept documents for each initiative to include:
- Goal statement for each initiative
- Performance indicators and targets
- Benefits to be derived from the implementation of initiatives
- Report on the status of the priority initiatives/projects
- (List of priority initiatives/projects to be inserted)
- Identify critical success factors for the implementation of the above-mentioned priority activities that do not have a project plan
- Develop detailed project implementation plans for initiatives without such plans
- Develop budgets for the initiatives
- Identify potential or existing road blocks to the successful implementation of projects and develop appropriate recommendations
- Determine implementation risk attributes for each of the above mentioned projects
- Align these initiatives to the Vision 2030 framework.

Deliverables

- Concept document for each priority initiative
- Project Plan (inc. GANTT Chart)
- Implementation Budget
- Status Reports

The outlined deliverables will form the basis of the strategy for the implementation and monitoring of these activities, which will further inform the development of monthly status reports to the NPS Monitoring Board. In the first instance however, these deliverables will be consolidated into a single report, which will form the basis for a comprehensive update to participants in the National Planning Summit 2008, scheduled for November in Kingston. It should therefore be completed and submitted to the PMO two weeks before the finalized date of the Summit.

Jurisdiction

The Expert Team is responsible for monitoring and expediting the process of implementation for the Tax Reform, Balancing the Budget and Debt Reduction priority initiatives/activities.

Insofar as it relates to the respective Ministry or statutory body that is responsible for implementing each activity, the role of the Expert Team will be provide guidance and support to the responsible organization(s) and to coordinate the interaction between the organization(s) and the Programme Management Office.

The Expert Team will receive project updates from the Project Managers assigned to each of the priority initiatives/activities and will be consulted for input on matters that need to be resolved, e.g. financial resources etc.

Reporting
Monthly status reports in respect of the various priority projects shall be prepared by the PMO/Expert Team and submitted through the PMO to the NPS Monitoring Board by the 4th Wednesday of each month.

The PMO will report to the NPS Monitoring Board on the status of each priority initiative/activity on a monthly basis. In addition, the Chair or an appointed representative of the Expert Team may be asked to attend meetings of the Monitoring Board at discrete stages of the implementation of specific initiatives.
Any issues being encountered as it regards the clearing road blocks should be highlighted in the monthly status report submitted to the Monitoring Board.
Notations of the deliberations of the Expert Team should be made by the Reporting Secretary, circulated via email to subcommittee members and documented and stored at the PMO Office.

Meeting Arrangements and Frequency
The subcommittee should meet at least once every month and as often as required to work on achieving deliverables on time, particularly those for the Summit, scheduled for November 2008. The schedule for meetings should be decided based on a 2/3 majority by members of the Subcommittee.

A quorum will not be less than 50% of all members as listed in 3 and must include the Chair or an appointed Vice Chair

The PMO will provide secretariat and technical support for the Subcommittee.

Governance
Decisions made within the Expert Team requires a consensus of 2/3 majority vote with the Chair having a deciding vote in the event of a tie.

APPENDIX 5 - THE STATE OF THE ECONOMY – HOW DO WE MOVE FORWARD? BY KEITH COLLISTER

I spoke to Jamaica Confederation of Trade Unions (JCTU) on the state of the economy, and its likely outlook going forward on September 13th. The following is a rough approximation of a speech I made to the JCTU leadership without notes, published four days later as an Observer article just after the collapse of Lehman Brothers.

The state of the Jamaican economy

The economic shock from the long expected demise of the [Ponzi] "schemes" now appears to be in full swing. According to several key businessmen, economic activity, which slowed immediately after the budget debate when one of the major schemes collapsed, has almost fallen off a cliff over the past couple of months, coinciding with the final demise of the other major scheme. With a few exceptions, typically being companies with a superior business model, informal surveys suggest many businesses are reporting either flat (a fall in real terms after inflation) or falling sales, often somewhere in the range of 10 to 50% down.

The final demise of the "schemes" also appears to represent the straw that broke the camels back for many Jamaican consumers, coming as it does on top of the economic shock of unprecedented food and energy prices, in an economy that was already structurally weak by world standards. Inflation will top out at more than 30%, as revised Central Bank projections did not include the impact of Gustav. Falling sales will reduce GCT tax revenue growth, whilst the tax amnesty will be less effective as to survive small businesses will need to retain funds for working capital that they would have otherwise used to pay off their tax liabilities. The need to deal with the demands to rebuild infrastructure damaged by Gustav will also put the Government's finances under additional fiscal pressure.

The bad news does not end there. The second quarter rebound in the growth rate of our largest trading partner the United States to 3.3% (which in any case is likely to ultimately be revised downwards), is mainly a result of the impact of the tax rebate and the growth of exports from a weak dollar. It is likely to be followed by several quarters of further economic weakness as the U.S. economy goes into recession, along the majority of the rest of the major G7 industrialised countries. The international financial crisis will continue, with international investment bank Lehman Brothers likely to be the next domino to fall.

Economic Reform

In their brief for the meeting, the JCTU noted that Jamaica had attempted or flirted with all the recommended policies centred around economic stability and inflation management, but had still failed to generate the rate of growth and social stability required in a globalised world – the ultimate purpose of a country owned macro-economic policy.

A partial answer to the reasons for this lack of growth can provided using some points from my recent interview with Professor Michael Luger, Dean of Manchester Business School, who was here last Friday on a short trip.

His starting point is to recognise that Jamaica is in a tremendously different macroeconomic situation from today's typical G7 country, such as the U.S. or U.K. which have roughly similar economic circumstances, banking systems and are at a similar level of institutional development. Jamaica's high debt and fiscal deficit, and our huge crime problem, make our situation much more challenging whatever we do.

For Professor Luger, economic development is a contest of capacity verses ambition. To meet their ambitious development targets, the Asian tigers had to forgo consumption, and invested billions of dollars in increasing their science and technology capacity. Whilst Professor Lugar readily admitted Jamaica doesn't have the resources for such a strategy, he drew attention to Ireland's strategy, which he summarised as taking bold steps to open up the economy, changing the tax code and eventually parlaying foreign ownership (they had to rely initially on foreign capital) into local ownership. In all of this he notes, EU aid was useful but not decisive.

What was critical instead, according to Professor Lugar, was "the ambition to look slightly beyond your grasp, beyond your apparent current resources, figuring out a way forward". In his view, it appears that Jamaica continually uses its difficult economic circumstances to "get itself off the hook" for its decades long poor economic performance. He believes at some point Jamaica must take decisive action.

This desire for action is clearly shared by the JCTU, as demonstrated by its concern over the lack of what it calls "decent work" in Jamaica, a clear result of Jamaica's lack of economic growth. The key reason Jamaica lacks "decent work" is Jamaica's decades long lack of new industry creation. Jamaica still has basically the same industries it started developing over fifty years ago under national hero Norman Washington Manley, namely bauxite and tourism.

Professor Lugar notes the importance of what he calls the ladder of economic development. In the example of a call centre, if you started at the bottom of the tenth rung, over time you would move up to the middle, or even higher level, as long as you stayed in the game.

The textile industry created in the 1980's has basically disappeared almost without trace, a classic example of the consequences of not staying in the game. This is particularly tragic, not because Jamaica should forever want what were often seen as sweatshop jobs, but because for hundreds of years, ever since the British industrial revolution, the textile industry has been the stepping stone to the creation of a genuine manufacturing industry and real economic development.

In a recent meeting, a representative of one of the major multilaterals noted that Jamaica didn't really have a fashion industry, as it only had one manufacturer of clothes for the fashion industry. Even if there is more than one manufacturer, the near disappearance of the textile industry means that, for whatever reason, Jamaica was completely unsuccessful in following a key strategy of the Irish Development Agency (IDA). In Ireland, on announcement of the closure of plant, which they would try to get wind of well beforehand, the IDA would often be able to find a replacement investor for the one that was leaving. Beyond that, during the later years of the Celtic Tiger, the closure of a plant was often used as an opportunity to spawn multiple smaller indigenous businesses, using the skills and industrial space the departing foreign investor left behind.

Our complete failure to diversify our economy and the reason for our lack of growth and consequently "decent jobs" is clear when you look at the list of our top ten goods exports in 2006, taken from our national export strategy. Alumina and aluminum ores (bauxite) rank 1st and 3rd respectively, at U.S. $1,347 million and U.S. $96 million respectively, an industry where it might be said, they chose us. Old staple sugar still occupied 4th place at U.S. $96 million, but the fast shrinking banana industry at U.S. $16 million may have needed to include plantains to stay in the list, albeit at the bottom at number 10. The remnants of our textile industry (called T-shirts, singlets and other vests) produced only U.S. $23 million. Spirits and liquors, reaching position number five with exports of U.S. $66 million, like beer at number six with $U.S.39 million), can be regarded as a genuine export success story. For both export sectors, the main producer is no longer Jamaican owned however.

Coffee and yams, at 7th and 9th, brought in U.S. $32 million and $20 million respectively, but have been declining in volume at an annual rate of minus seven percent and minus nine percent over the 2002 to 2006 period, and are therefore clearly not growing. Only in ethanol, at number two with U.S. $175 million, does Jamaica have a significant (defined as over U.S. $15 million) merchandise export success, however that industry is entirely based on a protective tariff that we have had for over two decades.

The list shows clearly how unsuccessful Jamaica has been in growing its merchandise exports over many decades. In deciding a position on the Economic Partnership Agreement (EPA), it will be more helpful for both the trade union movement and the business sector to understand the concrete business reasons for this failure to grow our exports despite preferential access, than to spend much time on academic theories. The truth is only a very small number of Jamaican owned companies, mainly in the service sector, are ready to compete on the world stage. Business process outsourcing businesses, such as that of E-services Patrick Casserly, have strong growth potential. This industry was however stifled by high telecommunications costs when it first emerged in the late 1980's, and is only now reaching anything close to its full potential with the breaking of the telecommunications monopoly. Only in tourism has Jamaica seen local entrepreneurs achieve major foreign exchange earning success, albeit as a so called "reverse export".

The key priority of the government must be to reverse the decades long growth in informality, revive the manufacturing industry, and do everything it can to encourage entrepreneurs to go into export industries. Its major weapon is tax reform, which urgently requires the carrot of lower tax rates as well as the stick of better tax collection. Decades of no growth have denuded Jamaica's social capital, creating an everyman for himself, dog eat dog type of society. The union movement, through its organisation of the workforce, is a key stakeholder in Jamaican society, and its membership, in common with other PAYE taxpayers, pay more than their fair share in keeping the country afloat. The union movement therefore has both the incentive and the capacity to be the key player in reaching the social consensus required to move Jamaica forward – so called social partnership.

APPENDIX 6 - MINUTES OF PUBLIC/PRIVATE MEETING WITH IRELAND'S SOCIAL PARTNERS HELD AT THE PEGASUS ON THURSDAY, MAY 17, 2003

PARTICIPANTS

Ireland:
    Public Sector:
    Private Sector:

CALL TO ORDER/WELCOME

Trevor Fearon called the Meeting to order at 10.00 a.m. with a welcome to all and introduction of the facilitator. David Rabkin, the facilitator, explained the purpose of the meeting and the format of the discussion.

PURPOSE OF MEETING

It was explained that the specific purpose of the meeting was as follows:

a) To learn from the experience of Ireland's economic transformation in the mid-1980s and 90s

b) To ask questions of some of the key Irish actors with a view toward their applicability in Jamaica.

c) To explore the possibility of building a social partnership to move Jamaica's economy forward.

OVERVIEW BY IRISH VISITORS

Before the general discussion, each of the guests gave a several minute overview of their experiences and the applicable lessons.

Matt Connolly: Gave three keys to success:

- A clear focus, including sector-specific vision
- An understanding of comparative versus competitive advantage thinking and its local application
- Being proactive in attempts to attract Foreign Direct Investment (FDI)

He also warned against "analysis paralysis"

Bill Attley: Explained that Ireland's membership in the European Community, in 1973, was an important catalyst in the nation beginning to look outward. He explained that the study of global competition was critical. In particular, this outward orientation encouraged unions to view their competitors as industries in other parts of the world, as opposed to local management.

He also stressed the value of a strong process and the need to begin with a half dozen "shakers and movers".

Padraig O'hUiginn: Began by explaining that Ireland's Program for National Recovery was not the first attempt at building a social partnership. Previous attempts over many years had failed. He gave three pieces of advice:

- Don't let one failure dissuade you
- Don't be dogmatic about anything
- Remember that the unions and employers are all empowered by this responsibility they are taking up, rather than diminished because of their cooperation

Kieran Mulvey: Explained the central role of an independent agency for dispute resolution (www.lrc.ie). This group is funded by the government, but is autonomous in its decision-making.

He also mentioned that the social partners came together just after a general election, in which the minority party came into power.

QUESTION AND ANSWER SESSION

Following introductory remarks, the participants asked a number of questions of the visitors. Following is a partial accounting of key conversation points:

In the Irish example, consumption taxes were on "luxury goods" while food was zero-rated.

There were tax amnesty programs, as well as a system for gradual increases in wages timed with decreases in taxes. Lower tax rates made the risk of staying outside the formal system less tolerable for former tax-evaders.

Nonetheless, taxation was the biggest practical challenge.

Citizens were not concerned about low corporate tax rates; in fact, they welcomed it when they began to realize that it was a major attracting factor for companies to locate locally.

Venture Capital was a part of the recovery, although a very small piece on a relative basis. The Irish Development Authority (IDA – who facilitated many of the initiatives) did seed an early fund. Today there are approximately 15 private funds in Ireland.

The European Union provided annual financial assistance, which amounted to 4% of GDP (US$2 billion). This is now being phased out, but was important in the recovery. The extent of the importance of this assistance was debated.

At the beginning of the Program, government expenditure was 58% of GDP; it is now 38%

During the first years, even health and education were cut, including closing hospitals and increasing student/teacher ratios.

Across the board pay cuts were implemented. These were made somewhat more tolerable by tax decreases.

At the beginning of the Program, Ireland had a very young population: 50% were under 25 and 33% were in school. One innovation was to add an extra year of high school that consisted of a series of 4-week internships at local companies.

Reports were not generally drivers of action, but the 1986 report of the National Economic & Social Council may have been a turning point "The Way Forward".

The Irish guests urged Jamaica to begin without the politicians (public sector is OK, but don't start with elected officials).

Speed is of the essence.

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Acronyms and abbreviations

AML	Anti-Money Laundering
ARPU	Average Revenue Per User
BOJ	Bank of Jamaica
CDMA	Code Division Multiple Access (mobile communications standard)
CFATF	Caribbean Financial Action Task Force
CFT	Combating the Financing of Terrorism
DOB	Date of Birth
EDC	Electronic Data Capture
IMEI	International Mobile Equipment Identity
FATF	Financial Action Task Force
GOJ	Government of Jamaica
GSM	Global System for Mobile communications (mobile communications standard)
ID	Identification Document
IDB	Inter-American Development Bank
JETS	Network of ATM and POS machines in Jamaica
KYC	Know Your Customer
MLP	Money Laundering Prevention
MNO	Mobile Network Operator
MTN	Mobile operator in South Africa and other African / Middle Eastern countries
PDA	Personal Digital Assistant
PIN	Personal Identification Number
PIOJ	Planning Institute of Jamaica
POCA	Proceeds of Crime Act
SIM	Subscriber Identity Module (mobile phone chip card)
SMART	Mobile operator in the Philippines
SMS	Short Messaging Service

Executive Summary

This document presents recommendations for development and implementation of enabling regulatory and legal frameworks for m-banking in Jamaica. It reaffirms the centrality of regulation and the unique features of the Jamaican context while acknowledging the common benefits of m-banking.

By closely aligning with existing market context and current regulatory framework, this document contributes to a realistic identification of the gaps and possible actions to bridge them. This document represents an important cornerstone for the enablement of m-banking in Jamaica. Using lessons learned from Jamaica's banking / mobile telecom experiences, and leveraging global best practices, this opportunity study will guide Bank of Jamaica and other key stakeholders.

M-banking

M-banking is increasingly used in a broad sense to refer to a range of applications, technologies, business models involving some form of financial transaction using a mobile device, whether there is an underlying bank account or not.

This document clarifies these concepts and suggests the use of m-banking in its broader meaning of mobile financial services (m-banking, m-payment, mobile money transfers).

Current state of play in Jamaica

Although m-banking in its broad definition is still not available in Jamaica, a number of players are getting actively involved in some form of mobile financial services. These first movers primarily come from the financial sector and use SMS notifications or reminders to communicate with their customers. These initiatives remain but a very limited attempt to leverage the full potential offered by mobile technologies.

Regulatory gaps and restrictions have not yet enabled *transformational* mobile banking offerings to emerge. By *transformational* mobile banking, we mean financial services that specifically target (and appeal to) the currently unbanked population by making use of two effective vehicles: the mobile channel for distribution and transactional purposes, combined with third-party agents for customer facing activities. As a result, m-banking is currently confined to the traditional *additive* approach in Jamaica, which is primarily focused on existing clients.

Several areas of concern pertaining to the existing regulatory framework are discussed in detail in this report: electronic money definition and restrictions; Know-Your-Customer requirements; Anti-Money-Laundering thresholds; use of third party agents; customer protection aspects and validity of mobile-triggered electronic transactions. All these areas shall be revisited and key gaps shall be bridged if transformational mobile banking is to become a reality in Jamaica.

In parallel, the legislative framework needs to undergo profound adjustments to address the new challenges posed by mobile-enabled electronic transactions. Key areas of interest are the definition and understanding of cybercrime; the legal admissibility of SMS notifications as proper evidence; and customer protection and information privacy aspects. In the current state, the ability to prosecute cybercrimes under civil and criminal law remains uncertain and should be addressed in a comprehensive manner to enable service providers and customers to establish comfortable relationships.

Furthermore, some institutional arrangements are suggested to further empower Bank of Jamaica as the institution primarily responsible for m-banking. Indeed, m-banking needs a champion and clear line of accountability to be a success.
Last, the industry interests appear to be quite heterogeneous, with banking, telecom, and other players operating in a broad range of settings and facing specific challenges. Success will also require taking participative actions to ensure the engagement and buy-in of the industry.

Possible m-banking approaches for Jamaica
Various m-banking models based on international experience are evaluated in detail, in light of the particularities of Jamaica. Among the possible models, the following have been short-listed as the most relevant for Jamaica in the short term:

- The **Joint Venture model** is a ''balanced'' model promoting a joint involvement of commercial banks and mobile operators in a mutually beneficial relationship. The greatest benefit of that approach is that it builds on the existing financial system and leverages the respective strengths of the bank and the mobile operator, making a future transition from a mobile wallet to a bank account more seamless to the end customer. It has been implemented in jurisdictions having a regulatory environment similar to the one prevailing in Jamaica, with varying levels of success. Indeed, best practice shows that true success in joint venture approaches requires: (i) strong focus on unbanked segments of the population supported by enabling KYC/AML requirements; (ii) business arrangements that enable strong drive from the operator; (iii) ability to leverage the operator's dealer network; and (iv) adequate technology.
- The **operator driven model** (which still involves a Bank) is a variation of the Joint Venture model and transfers much more responsibility to the mobile operator. In that model, the Bank is merely the interface with the Central Bank and the licensee, but the service is truly operated by the mobile operator. This model fully leverages the superior agility of mobile operators. Banks would initially have a more limited role to play, but that could change over time as the need for further integration would be driven by market forces and fuelled by demand. Best practice shows that true success in the operator driven model requires: (i) strong focus on the unbanked segments supported by enabling KYC/AML requirements; (ii) business arrangement that enables the bank to get a fair share of the revenue while minimizing its operational burden; (iii) ability to leverage the operator's dealer network; (iv) strong internal controls and processes at the operator side; and (iv) adequate technology.
- The **operator led model** (which is a pure operator game) remains a desirable target but would require a total regulatory shift towards allowing

mobile operators to play in the financial services space, which is likely to face virulent resistance from existing financial institutions. For that reason, we recommend a gradual rather than radical approach.

Recommendations and Action Plan

Main recommendations include (see Roadmap and budget for more information regarding ownership, timelines and budget):

- **Immediately** lay the ground work for transformational mobile banking (Q4 2009):
  - Ministry of Finance and BOJ to initiate consultation with market players (financial institutions and mobile operators) for pilot initiatives in a monitored environment and learn lessons
  - POIJ to help setting-up a working group to address customer protection
  - Ministry of Finance to firm up institutional mechanisms
  - BOJ to plan and allocate the required resources to execute the roadmap
- Carry out the recommended reforms and address the priority regulatory issues in the **short-term** (Q1/Q2 2010):
  - BOJ to issue a Note to allow banks to store electronic value on SIM cards
  - BOJ to review AML/KYC principles for m-banking
  - Ministry of Industry and Commerce to review e-transactions act for the specific case of mobile transactions
  - BOJ to enact a new regulation to ensure ability of the banks to use telecom dealers as third party agents
  - BOJ to enable the mobile operator to host the back-end platform and perform account management functions (required for the operator-driven model only)
- Address the legal aspects in the **mid-term** (Q3 2010):
  - Ministry of Justice to reconcile the Evidence Act with the E-Transactions Act
  - Ministry of Justice to prepare a Cyber Crime Act draft

  - Ministry of Mining and Telecommunications to investigate the need for an Information Technology Privacy Act
  - Ministry of Justice to review other laws / regulations covering related issues

- Open the m-banking space to non-financial institutions in the **long-term** (Q4 2010):
  - BOJ to explore the option of allowing non financial institutions to issue e-money accounts
  - Strengthen interoperability between existing systems

Introduction

Background

One of the latest innovations in mobile telecommunications is the recent use of the mobile channel for the low-cost delivery of financial services to the low-income households and small/micro enterprises. In developing economies, where access to financial services remains limited, particularly in rural areas, mobile devices have entered the homes and daily lives of millions. This has created an unprecedented opportunity to leverage the mobile network as a way to reach the currently excluded from the formal financial system.

International experiences have shown that the benefits derived from mobile banking can be many-fold:

i. Reduced cost of transaction, making financial services more accessible to the poorer segments living in remote areas. For instance, a costing exercise conducted in the Philippines has shown that the cost to the bank of a financial transaction carried at a bank branch was approximately $2.50 while the cost of the same transaction, if it were undertaken from a mobile phone, would be only $0.50. Of course, some of the difference in cost would be borne by the customer. Furthermore, there are additional ''hidden'' costs in traditional branch banking that impact the real opportunity cost to the customer, and these include: travel expenses to reach the branch, time spent queuing at the branch etc. Mobile banking typically resolves these issues and, as a result, provides the service at much lower opportunity cost.

ii. Support of income generating activities: access to working capital in the form of remittances or micro-loans enable people living in rural areas to build assets for themselves. Studies conducted in Kenya have shown the positive impact of M-Pesa on village communities, which have started investing in better housing and common welfare goods such as water pumps etc. Although it is premature to draw firm conclusions from that example, enabling money to flow from the rich to the poor can be reasonably expected to have some positive economic impact.

iii. Security of cash: In environments where security is an issue and handling large amounts of cash is a challenge, a mobile phone based electronic stored value account (mobile wallet) could well become safest way to carry money around. As an example, during the post-election riots in Kenya, thousands of Kenyans emptied their socks to deposit money into their M-Pesa accounts, considered a safer place than their homes to store their cash. Similarly, Microfinance organizations in Afghanistan are leveraging the mobile channel to disburse loans and collect loan repayments, for the increased convenience and security.

There are other benefits, directly linked to the spectrum of services that can be enabled via the mobile channel. Early experiments have only begun to unfold the possibilities of mobile enabled financial services, answering the basic person-to-person needs in their first iteration.
Experiences in Latin America and the Caribbean are very limited, and Jamaica could well become a pilot for the Region. Indeed, Jamaica combines a unique set of characteristics that makes it an ideal test bed for mobile banking services: it has a significantly high mobile penetration (market figures are showing a staggering 100%), a sophisticated banking network with substantial developments in the field of micro-finance (credit unions, building societies and even some banks), a high crime rate, and a large informal sector. In particular, remittances are high (up to 20% of the annual GDP) and international remittances represent a lucrative opportunity.
Besides these ingredients, there are other enablers that can also be highlighted: Jamaica has a fairly young population, with a median age at 24 and a very high literacy rate neighboring 88%. These will facilitate adoption of new technologies and mobile banking services. On the demand side, a very large labor force (1.3 million) most of which are paid weekly by checks as well as the amount of people having migrated from rural areas into urban centers are only an indication of the value that could be brought by electronic transfer mechanisms. On the supply side, most industry players (financial institutions like mobile operators) have explored the m-banking opportunity, some already having matured plans. All seem to be waiting for a more enabling regulatory environment.
It is in this context that IDB is partnering with Government of Jamaica (GoJ) to set an enabling environment for the delivery of m-banking services with the objective of increasing access to financial and banking services for the poor.

Based upon these premises, IDB has initiated a study aiming at:

- Identifying main legal, regulatory and institutional bottlenecks that may impede the development of mobile banking
- Assessing the level of preparedness of the industry for mobile banking
- Learning from international experiences and best practices
- Identifying and formalizing an action plan towards the implementation of m-banking
- Disseminating the findings to GoJ and the industry at large

Document Purpose

This document presents the results of the above discussed assignment. It is designed to closely link legal and regulatory recommendations with the Jamaican context and industry dynamics. This assignment and accompanying action plan are products of a field mission that collected lessons learned and best practices from the past three years.
It will guide GoJ's m-banking efforts by:

- Reviewing existing and planned m-banking initiatives in Jamaica;
- Identifying and highlighting legal, regulatory and institutional concerns;
- Identifying feasible models in the current state of play; and
- Identifying next steps towards enabling m-banking.

The proposed approach at all times will seek to be guided by international standards and best practices, tailored to Jamaica's specific requirements and constraints.

Document Structure

The document consists of four main sections:
What is m-banking? – redefines m-banking in its broader sense and sets a baseline for common understanding.
Current state of play in Jamaica – describes the main players involved in m-banking, along with key highlights on the legal, regulatory and institutional frameworks governing m-banking.
Possible m-banking approaches for Jamaica – describes the heart of m-banking options for Jamaica, and the related partnerships models.
Synthesis and Action Plan – summarizes the findings and describes the major steps for the development of m-banking in Jamaica.

What is m-banking?

In its original meaning, m-banking refers to financial transactions undertaken using a mobile device to access a bank account. This is the case in traditional mobile banking where mobile is used as an incremental channel in addition to phone, internet or bank branches.
However, m-banking is increasingly used in a broader sense to refer to a number of applications, technologies, business models involving some form of financial transaction using a mobile device, whether there is an underlying bank account or not.
Also, the following aims at clarifying these concepts with some definitions. For the sake of this report, m-banking is always used in its broader meaning unless specified otherwise.

M-Banking

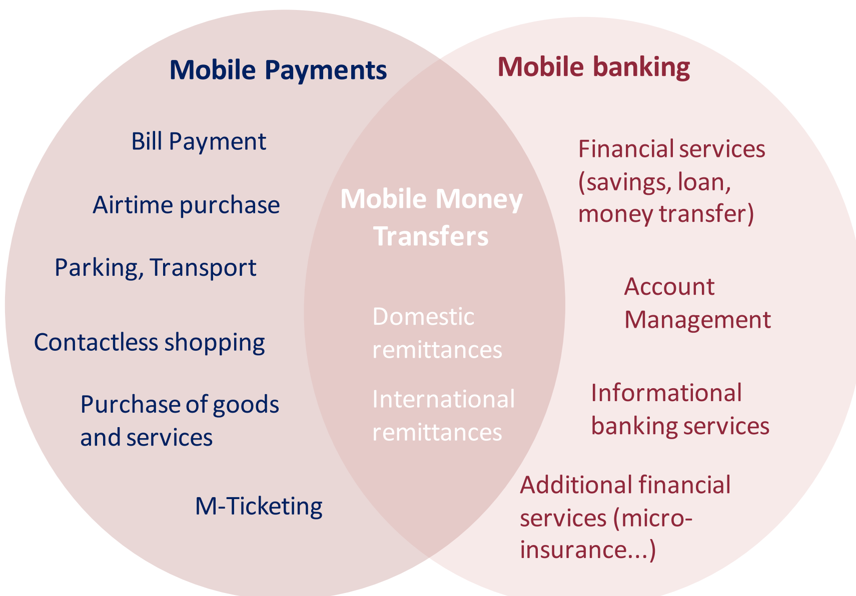
Refers to financial transactions that are undertaken from a mobile device, against a bank account that is accessible from that device.

M-Payment

Refers to point of sale payments that are made through a mobile device, be it a phone, a smartphone or a PDA

Mobile-Money Transfers

Refers to the ability to move store of value from one account to another account using a mobile device



M-Wallets

Similar to prepaid cards, mobile wallets are an electronic store of value (and also a payment instrument) linked to the mobile number of their holder. They do not require the holder to have a bank account.

Current state of play in Jamaica

Institutional framework

Jamaica's long-term success in m-banking will require clear institutional and legal mechanisms. These are an absolute necessity to manage the complex mix of technologies, regulations, legal provisions, and industries involved in m-banking.

Approaches to m-banking vary globally. Different countries use different institutional arrangements for m-banking. However, at least three best practices are clear. Success in m-banking requires:

- Effective inter-agency coordination within a clear institutional framework;
- Centralized, accountable m-banking authority; and
- A regulatory anchoring within the existing financial sector

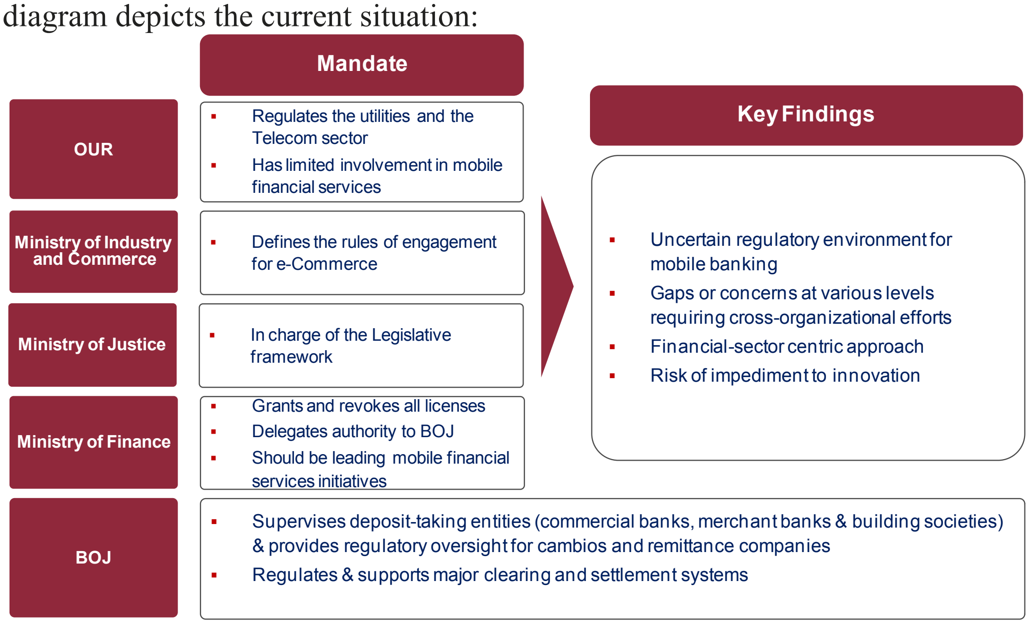
In reality, this typically involves a combination of inter-agency working groups to coordinate/reconcile policymaking and address critical customer protection issues; the appointment of a central institution accountable for m-banking performance; and the development of an enabling legal and regulatory environment.

The organizational challenges facing m-banking institutions in Jamaica are considerable. Many of these challenges—like inadequate regulation and unclear governance model—impact all m-banking stakeholders.

Without strong inter-agency coordination and clear ownership structure, the risks of inconsistency, interoperability gaps and industry dissatisfaction are substantial. M-banking is always cross-governmental at least at legal, regulatory & policymaking levels.

Current Status

Jamaica's institutional arrangements for m-banking are a work in progress. The following diagram depicts the current situation:



Under the *Parliament Act 1995*, the Office of Utilities Regulation (OUR) regulates various utilities in Jamaica and in particular, the telecommunications sector. At the moment, OUR is a very active institution and has –understandably- a limited involvement in m-banking.
There are a number of government institutions whose mandates relate to m-banking. The Ministry of Industry, Investment and Commerce has responsibilities over electronic commerce and e-transactions that directly impact m-banking. Ministry of Justice is a key stakeholder for law revision and legal reform given its role in overseeing the legislative framework. Ministry of finance is the de facto competent authority for all licensed financial institutions.
To date, Bank of Jamaica (BoJ) represents the most central m-banking institution in Jamaica. As detailed in this document, its role is pivotal to the advancement of m-banking in as much as it already oversees and supervises most licensed financial institutions and since it is generally perceived as a ''politically neutral'' organization.

Direction

To develop the necessary institutional framework, GOJ should focus on the following priority efforts:

- Empowering BOJ as the primary m-banking project owner.
- Ensuring strong sponsorship from Ministry of Finance.
- Establishing, as needed, inter-agency working groups to coordinate key cross-governmental m-banking policies and efforts. It is proposed that BOJ be responsible for organizing such cross-governmental working groups.
- Establishing a regular reporting mechanism to Jamaica's political leadership (Prime Minister).

BOJ: Empowering BOJ over m-banking is an important step in strengthening the institutional framework for m-banking in Jamaica. M-banking requires a high-level body to define compliance requirements and monitor compliance with m-banking policies and standards. In this regard, BOJ's central role and leadership need to be reaffirmed and broadly communicated to all stakeholders (government agencies as well as industry players). This could be achieved via a simple information note or via more formal vehicles such as Circulars. Changes in the *Parliament Act 1995* or the *Bank of Jamaica Act* are not deemed necessary, as the respective roles of both OUR and BOJ are already clearly defined and compatible with the proposed institutional arrangement. Besides, it is also important that the body governing m-banking be seen as ''politically neutral'' by the industry. For these reasons, BOJ is best positioned to serve these functions.
Ministry of Finance: Strong sponsorship from Ministry of Finance will be a valuable addition to the institutional framework. This will facilitate lobbying at the Cabinet level, which in turn will ensure that m-banking initiatives are given the right attention and priority level.
Working Groups: It is expected (and essential) that functional, inter-agency working groups will be established as required at different levels of government to coordinate work on national policies and regulations. This is particularly true for matters pertaining to electronic transactions, information security or customer protection. For certain key initiatives, such as information security, the need for coordination at government level has already been identified. Other

working groups will form as needs arise. Strong leadership will be required from BOJ to ensure that these working groups function properly and deliver on their objectives. Support from (and regular reporting to) the highest level of political leadership should benefit BOJ in this area. It is also anticipated that BOJ will need to build additional internal expertise to be in a better position to steer these working groups. It is advisable for BOJ to undertake a needs assessment exercise in the early stages to identify the areas of expertise (legal, security, m-banking, technology, others) that need to be strengthened and the amount of expertise that is required.
Other Stakeholders: It is important that Jamaica's institutional framework for m-banking operates in a way that gives priority to the early and regular participation of stakeholders, especially relevant industry players, both from and outside the financial sector.

Division of Responsibilities

It is essential that the m-banking responsibilities be clearly identified to ensure effective coordination, avoid duplication of efforts and minimize confusion. Based upon the priorities for development of the institutional framework identified above, key m-banking responsibilities may be described as follows:
BOJ:

- Develop the required regulatory framework for m-banking
- Monitor compliance with that regulatory framework
- Act as central coordinator for m-banking initiatives
- Organize, sponsor and coordinate Working Groups related to m-banking, as needed
- Assist in raising awareness, acceptance and commitment from key stakeholders for m-banking
- Provide regular updates to Ministry of Finance and Prime Minister / Cabinet

Ministries:

- Participate in Working Groups established to coordinate m-banking related efforts

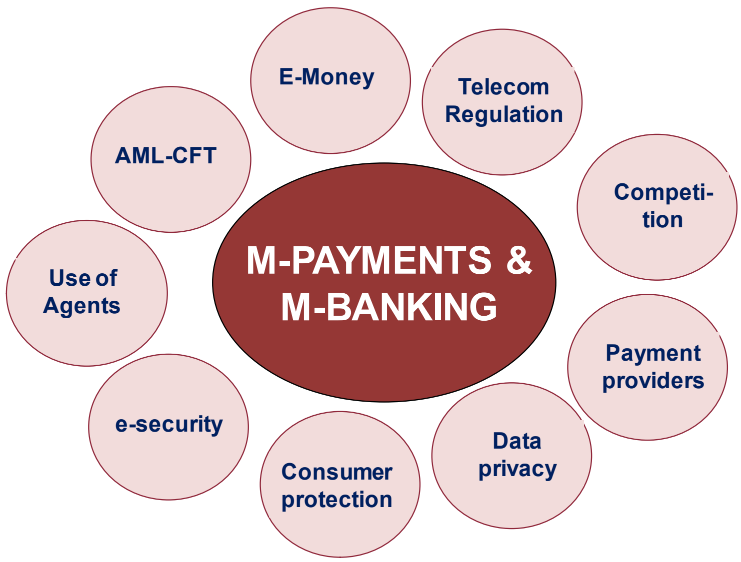
Prime Minister / Cabinet:

- Provide support to BOJ and ensure regular follow-up

Regulatory framework

Context

A regulatory framework sets the basic rules and authority needed to implement mobile banking. Development of an effective regulatory framework for m-banking requires close coordination and communication among entities in the drafting and enforcement of laws and regulations. For instance, close interaction will be required between the Divisions in charge of Payment Systems and Outsourcing (use of third party agents).
The key areas of interest for a mobile banking -or more generally branchless banking- regulation are depicted in the chart below:



In the following, the discussion will focus on e-money, AML/CFT, the use of agents, electronic transfers and customer protection related aspects as these are the key building blocks impacting the current state of m-banking in Jamaica.

Current Status

Jamaica's regulatory framework for m-banking needs to undergo significant evolution in order to provide a comfortable, certain environment for industry players to actively engage in mobile banking.
To date, the key highlights in regards of the m-banking regulatory framework include:

- E-Money is defined but is strictly restricted to deposit taking institutions
- AML/CFT is largely addressed but AML requirements in the context of mobile banking need to be specified. KYC requirements constitute a real obstacle and would gain by being relaxed with a risk-based and proportionate approach (KYC requirements should be adjusted based on: the type of customer, the associated risk-level, the nature, volumes and values of permissible transactions in the context of the service).

- Laws and regulations related to the use of third party agents do not allow deposit taking institutions to ''sublet'' banking to non-bank agents.
- Ministry of Industry, Investment and Commerce has issued regulations that partially address e-transactions. However, these do not address the mobile channel specifically.
- Customer protection: although some elements are already in place within the telecom and financial sector licensing regimes, specific arrangements will be required in the context of mobile banking.

E-Money regulation

A new National Payment Systems Act is about to be brought to Parliament for ratification. It will give BOJ the authority to designate new payment systems. However, it does not address the case of e-Money in specific and defines card-based payment instruments in a restrictive manner (only in relation to existing businesses: credit cards are treated as credit business and debit cards as savings). In the current state, the National Payment Systems Acts does not provide for the required framework for an open definition and use of e-Money.
An e-Money order (2006) exists as a companion to the Banking Act, under the authority of BOJ. It defines electronic money as a card based product where monetary value is stored on a card and is represented by a claim on the person issuing the card (against present or future receipt of funds). While interpretations as to the nature of the card (plastic or SIM) may vary, the order restricts the use of such product to deposit-taking institutions only. This directly excludes non banks from offering such type of service.
Prepaid cards are however permitted within closed loop environments (with closed user groups) except for remittances, which is also in line with another restriction in terms of use of foreign currency on stored value cards.
All in all, the current framework restricts the use of mobile wallets to deposit-taking institutions, and would allow them to use SIM cards as stored value cards in the broad understanding of a ''card''.

AML/CFT

AML and CFT are the most extensively addressed areas within the existing framework. Indeed, a number of local legislation and standards, as well as international guidelines and standards govern these particularly sensitive areas, which have received increasing amount of attention in recent years.
Local legislation and standards include:

- AML / CFT policy (1999, reviewed 2008)
- The Proceeds of Crimes Act (POCA, 2007)
- POCA (Money Laundering Prevention) Regulations, 2007

- The Terrorism Prevention Act, 2005
- The BOJ AML/CFT Guidance Notes, 2004/(R2005), (R2007)

International guidelines and standards include:

- Best practice standards issued by Basel Committee on Banking Supervision
- UN international convention for the suppression of financing of terrorism
- The FATF 40 + 9 Recommendations [2]
- 19 Recommendations of CFATF[3]

The most commonly referred to documents are POCA and the BOJ AML/CFT Guidance Notes, which contain most AML requirements that would apply to financial institutions.
The following will discuss in more detail the AML/CFT implications of mobile banking; the legal grounding of POCA and the Guidance Notes; and the main implications these two pieces of legislation have in terms of threshold reporting and KYC in Jamaica.

AML/CFT implications of mobile banking:

Mobile banking has a number of implications in terms of AML and CFT, mainly due to the nature of the customers that are targeted, the mobile medium that enables financial transactions, and the distribution network that is used as an alternative to bank branches.
First, m-banking (in its broad definition) typically targets low-income populations that largely differ from the traditional bank customers: they do not meet the traditional bank-level identification requirements; they have different needs in terms of financial services and have a different transactional behavior; and their reliance on cash and the informal economy is much stronger. Including these segments in a more formal sector requires tailored, innovative and more relaxed approaches to customer identification aspects, often compensated by more restrictive transaction controls in order to minimize money laundering risks. Best practice shows that regulators in countries where m-banking has been successful have adopted a proportionate approach (regulation aligned with the risk level): they have relaxed KYC requirements for m-banking (often based on a tiered approach, the lower the limits set on balance and transaction values, the lower the identification requirements), combined with stricter controls on transactions (limits set in terms of transaction volumes and values per customer per day, per week, per month). In addition, transaction limits were redefined to be more consistent with the transactional needs/behavior of the low-income segments and the financial services that were aimed.
Second, transactions are undertaken using a mobile device. Since a mobile device can be shared within a family or a person can own multiple lines, this poses the challenge of reliable identification of money laundering attempts. This issue is generally addressed via a double approach: enforcement of a stricter control mechanism at customer registration for m-banking to ensure that a single customer does not have multiple mobile wallet accounts, combined with

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[2] The Financial Action Task Force (FATF) is an inter-governmental body developing and promoting national and international policies to combat money laundering and terrorist financing (refer to Financial Action Task Force (FATF) for details on FATF and its 40+9 Recommendations)
[3] The Caribbean Financial Action Task Force (CFATF) is an organization of thirty states of the Caribbean Basin, which have agreed to implement common countermeasures to address the problem of criminal money laundering (refer to Caribbean Financial Action Task Force for details on CFATF and its 19 Recommendations)

additional controls at the transaction level to flag suspicious patterns. Suspicious patterns need to be defined in tune with the determined limits.
Last, the distribution network plays a critical role in implementing KYC procedures and enforcing KYC requirements. For that reason, the recruitment of reliable agents by the service provider is a crucial responsibility and regular audits may be conducted over the agents by the service provider. Some regulators have opted for a licensing mechanism for the agents, with clear requirements to be met by and possibility of license revocation.

Legal status of POCA and BOJ AML/CFT Guidance Notes:

POCA (and specifically the MLP Regulations) represents an all crimes approach to dealing with money laundering and the proceeds of crime. All aspects are covered from the definition of offences (POCA, section 92) to the requirements in terms of suspicious transaction reporting (POCA, section 94).
The traditional areas of enforcement under POCA include:

- Threshold reporting
- Suspicious transactions reporting
- Account monitoring orders
- AML guidance and AML implementation

But POCA also brings new areas of enforcement:

- Forfeiture & Pecuniary Penalty Orders
- Restraint Orders (s. 33)
- Seizure of realizable property that is subject to Restraint Order (s. 36)
- Recovery orders pursuant to the civil forfeiture regime
- Disclosure orders

Complementing the POCA, the BOJ Guidance notes have a very strong legal status. Indeed, a court can consider these notes in determining whether an offence was committed under POCA. In particular, compliance to the Guidance Notes is compulsory by virtue of Regulation 2 of POCA MLP Regulations and required under the Terrorism Prevention Act.
All in all, both documents have the required legal grounding to give them the desirable level of authority.

Transaction threshold reporting:

The key AML operational and regulatory regulations (threshold reporting, record-keeping, internal controls, communication, training of employees…) are concentrated in POCA MLP, which synchronizes financial legislation and criminal legislation by giving BOJ the authority to access suspicious transaction report information. They are also extensively addressed in the BOJ AML/CFT Guidance Notes.
Among the most important items is the threshold reporting requirements for cash transactions, which is defined specifically for each type of financial institution and which also provides for

exceptions: the requirements are waived for established customers (older than 12 months) and the full KYC verification is not required for amounts below $250.
These exceptions, particularly the threshold of $250, would need to be revisited in the context of m-banking services, in line with the defined KYC requirements.

KYC:

KYC requirements are set both in POCA and in the guidance notes. They can be subdivided into the following requirements:

- Customer identification
- Customer verification
- Transaction verification

As per current requirements, a deposit-taking institution would have to require for all customers:

- Full name
- Permanent address and postal address
- Nationality
- TAX payer registration number
- Date and place of birth
- 2 referees
- Source of funds, and source of wealth
- Contact numbers
- Photograph (if required by the institution)
- Acceptable forms of identification:
    - Driver's license
    - Valid passport
    - Voter's identification card
    - Employer ID card
    - TRN

Customer identity verification by means of third-party data is also required, and so is the legitimacy of the transactions (AML/CFT Guidance Notes).
There are however some exceptions:

- Alternative forms of identification are accepted for transactions below $250
- Transaction verification is not required for de minimis transactions (i.e. transactions below $250). However, a required set of data is specified for that case.
- Full KYC is recommended for high risks customers

These requirements exclude de facto the currently unbanked due to their inability to meet the requirements. Considering that 30% of the population lives without a fixed address, their ability to fulfill the 2nd requirement on the KYC list (permanent address) hinders their ability to join the formal economy. Other requirements on the list seem unrealistic for typical low-income unbanked people to meet.

Besides, KYC requirements for new technologies where discussed (such as in the case of non face-to-face customers, new technologies or wire and electronic fund transfers) seem even more stringent in their wording.
Current KYC requirements would need to be relaxed and adjusted to the context of the unbanked, using a risk-based approach and the notion of proportionality (adjust requirements and controls proportionally to the risk level).
The table below provides two practical examples derived from Kenya and Afghanistan:

Service Provider	KYC requirements	Account balance limits	Transaction limits
Safaricom (Kenya)	• Customer registers with a valid ID with picture • Tiered approach under study: different KYC requirements for different annual limits	• Maximum account balance: 50,000 Kshs (USD 653)	• Transaction amounts between 100Kshs (USD 1.30) & 35,000Kshs (USD 457) • Maximum authorized daily transaction value: 70, 000Kshs (USD 915)
Roshan (Afghanistan)	• Customer registers with a valid ID with picture • Tiered approach under study (see table below)	• Maximum account balance: (USD 4,000)	• Transaction amounts between USD 1 and USD 2,000 • Maximum daily transfer: USD 2,000

The following table illustrates the tiered KYC mechanism proposed by one MNO (mobile operator) in Asia:

	Annual Limit	Identification	Verification	Storage
Tier 1	1,000 EUR	1 form of ID required Hard copy application form captures address, occupation, employer, approx DOB, purpose of using account	Agent is relied upon for KYC process, no verification by local operator with the exception of sample checking/monitorin g	ID type and reference number and DOB entered on agent till. Application forms collected and stored by MNO.
Tier 2	10,000/15,000 EUR	1 form of ID required. 1 photo of applicant, verified by agent Hard copy application	Agent is relied upon for KYC process, no verification by local	ID type and reference number and DOB entered on agent till. Application forms and

		form captures address, occupation, employer, approx DOB, purpose of using account	operator with the exception of sample checking/monitoring	photo collected and stored by MNO.
Tier 3	30,000 EUR	1 form of ID required. 1 photo of applicant, verified by agent Hard copy application form captures address, occupation, employer, approx DOB, purpose of using account	Agent takes a copy of ID document which is sent to MNO for scanning/storage. Application form is checked to ensure all data is captured prior to set up.	ID type and reference number and DOB entered on agent till. A copy of the identification document and completed application form and photo is scanned and stored by MNO.

Use of agents

The use of agents traditionally falls under the outsourcing piece of regulation. It is an essential component of regulation if m-banking is to extend beyond existing financial infrastructure (bank branches, ATMs, EDCs…).

- Currently, banks (or deposit-taking institutions) cannot use third-parties as agents, which restricts customer access to services due to a limited number of existing branches. Banking is treated as a franchise and cannot be sublet.
- The use of agents is permitted in certain specific cases: remittance companies, payment processors acting as agents, building societies acting as agents.
- Non-banks (i.e. mobile operators for the matter of our discussion) cannot use third-party agents for financial services
- The AML Guidance Notes introduce the notion of ''introduced business'' but require the introducer to apply the same level of KYC as a Bank, in addition to a physical interview of the customer.

In the current context, the use of third party agents is not permitted. Allowing financial services providers to use third-party agents for basic functions such as customer acquisition, customer KYC, and cash in/out should be considered to enable greater penetration of banking services beyond the traditional banking infrastructure.

e-Transactions

The Electronic Transactions Act (2006) facilitates electronic transactions by establishing the validity of e-transactions and electronic signatures, as well as the admissibility and evidence weight of information of electronic form.
However, it does not adequately address the specific concerns pertaining to the use of the mobile channel as a transactional channel. Some of the identified issues / concerns include the following:

- The Electronic Transactions Act requires prior customer consent for e-exchanges. In the context of mobile banking, this could be addressed in the customer service contracts.
- Electronic signatures must uniquely identify a person to be legally valid. This issue is exacerbated in the context of mobile banking: does the association of a mobile number and a PIN code uniquely identify a person? Does the user interface need to provide that signature using unique identifiers such as the mobile IMEI (equipment number)?
- Use of SMS trace as evidence: under specific circumstances, an electronic document can be taken as original if the integrity of the information is assured. How can a user prove that the integrity of an SMS confirming that a transaction occurred is preserved?

More generally, the Electronic Transactions Act seems to have been developed for broad e-commerce applications that would rely on electronic media such as internet. It does not cater to the specific needs of mobile-based financial transactions.

Current Electronic Transactions Act should be revisited to ensure that its provisions and articles are consistent with (and supportive of) the use of mobiles as transactional devices.

Customer protection

Customer protection poses a number of challenges in the context of mobile banking. These are primarily due to:

- The distance between the bank branch and the point of service for cash in/out (in the advent of possible frauds, issues in redress mechanisms, errors etc.)
- The use of third party agents raises specific concerns:

- Quality of service: training of the agents, cash availability at the outlets to ensure liquidity of e-money etc. What happens in case of denial of service by an agent?
- Error management: who is responsible and what are the recovery processes? What happens if money is sent to a wrong number?
- Fraud and abuse: what security levels are required? What happens if a PIN code is intercepted?

These are real life issues that have been faced in other markets. Some of the answers provided by best practices include the following:

- Prudential regulation:
  - Sub-contracting agents: agents are licensed and under supervision
  - Requirements in terms of price transparency: price clarity, terms and conditions to be clear and understandable
  - Set limitations on certain types of products or practices
  - Implement and enforce standard practices such as contracts
- Customer identification:
  - National ID system that can be accessed by all the financial service providers
- Certification approaches:
  - Certify vendors, service providers
  - Quality index
  - Information publication
- Information Technology Privacy Act?

In relation to mobile banking in Jamaica, customer protection is an area that is covered diffusely across banking regulations and telecom regulations. Some specific guidelines / regulations would be required to address this area in a comprehensive manner.

A multi-party working group should be established to address customer protection issues with a specific focus on mobile banking services. This working group should include regulatory bodies from the financial sector and telecom sector, industry players as well as other stakeholders.

Direction

e-Money: a specific licensing regime for the issuance of e-money could be drafted to allow non-financial institutions to move into that space. In the short-term, licensed deposit-taking institutions can issue e-money and should be clearly allowed to use SIM cards as stored value cards so as to leverage the mobile channel.

AML/CFT: existing AML/CFT requirements should be adjusted to the use of the mobile channel and to the context of the unbanked. This includes the definition of proper limits (maximum balances, maximum number of transactions over a period of time, maximum value of each transaction etc.) and the review of existing transactions threshold reporting requirements. It would also include a complete review and relaxation of existing KYC requirements to be more inclusive and conducive for unbanked to join the formal sector. This would require a risk-based approach based on proportionality. Relaxation of the KYC can be counter-balanced by more stringent internal controls and limits.

Use of agents: use of third-party agents should be allowed, at least for deposit-taking institutions, as this is the only means to expand access to finance beyond the traditional banking network. For banks, this could be an opportunity to leverage the distribution networks of mobile operators, which seem to be currently the most effective way of reaching out to the unbanked.

Electronic Transactions: the existing Electronic Transactions Act has laid the foundations for electronic commerce. It would need to be revisited with a view to enable, legitimize and support mobile based transactions. This would require the involvement of security experts and technology experts beyond legal advice.

Customer protection: In the context of mobile banking, customer protection aspects take a new dimension that spans beyond the financial sector or telecom sector related issues. Addressing this aspect comprehensively will be crucial to the uptake and the success of mobile banking in Jamaica. A working group is recommended to focus on that specific aspect.

For further information, the reader is invited to refer to the accompanying PowerPoint presentations entitled Financial Services through Mobile Devices.

Legal framework

A legal framework sets the basic rules and authority needed to implement m-banking. It is important, however, that laws are not only pieces of paper; they must be understood by all stakeholders, implemented and enforced.
Development of an effective legal framework for m-banking also requires close coordination and communication among entities, especially with Ministry of Justice and Chief Parliamentary Council, in the drafting and enforcement of laws and regulations. The legal drafting process must involve all relevant stakeholders—including relevant ministries and BOJ—in order to produce regulations that are well understood and widely implemented.

Current Status

Jamaica's legal framework for m-banking requires further evolution, though important progress has been made. As discussed previously, a number of foundational documents already have a string legal status, and legal grounding for electronic evidence has been established to a certain degree.
To date, the key highlights in development of the m-banking legal framework include:

- Laws and regulations related to electronic transactions exist (Electronic Transactions Act, 2006), though an evaluation is needed to determine what gaps exist in relation to the use of the mobile channel.
- BOJ has issued regulations that partially address e-transfers and e-banking.
- Important reference documents (POCA, AML/CFT Guidance notes) already have a strong legal status.
- BOJ some form of legal authority (for instance, authority to access suspicious transactions records).

However, some gaps remain in several areas related to prosecution under criminal / civil law and customer protection:

- Definition of electronic crime: current definitions of crime are in the realm of general offence. Cybercrime and electronic crimes are not clearly defined, which hinders prosecution. For example, tampering with a SMS, interfering with an electronic transaction or deceiving a machine is not currently recognized as criminal offence. There is a need for a clear definition of cybercrimes that would be ideally addressed by a Cyber Crime Act providing specific sets of definitions (the Australian Cybercrime Act 2001 is a good example).
- Electronic evidence: another key issue is the question of the admissibility of electronic evidence and the potential gaps between the

Electronic Transactions Act and the Evidence Act. There is a need for reconciliation between these two elements of legislation so as to enable proper legal actions / prosecution.

- Data privacy: the use of new technologies such as the mobile channel and related AML/KYC requirements also raise the question of data privacy in the broader sense. This could be nicely addressed by an Information Technology Privacy Act, or elsewhere in the existing framework.

Direction

Electronic Transactions: The legal framework governing e-commerce remains inadequate with respect to mobile-based transactions. For example, laws on legal validity of SMS notifications remain to be addressed. Reviewing the existing Electronic Transactions Act to close the gaps and reconciling it with the Evidence Act is needed.
Information Technology Privacy: m-banking should be supported by a set of regulations addressing information security, including the classification of information, as well as basic policies on privacy, data management (protection, storage…). Current arrangements do not seem to cover all these aspects. Laws related to cyber crimes do not yet exist.

Division of Responsibilities

Development of a legal framework for m-banking will naturally involve multiple actors at various stages from drafting to enactment and enforcement.
BOJ:

- Assist in the drafting of laws and regulations related to m-banking, as needed, including provision of expertise on legal and m-banking matters.
- Help entities identify priorities regarding which laws and regulations most urgently require drafting or revision in order to effectively implement m-banking in Jamaica.
- Coordinate enforcement of laws and regulations by appropriate entities (Ministry of Justice, Ministry of Finance and others).

Ministries:

- Coordination with BOJ on a timely basis about drafting and revision of laws and regulations related to m-Banking.

Telecom Industry

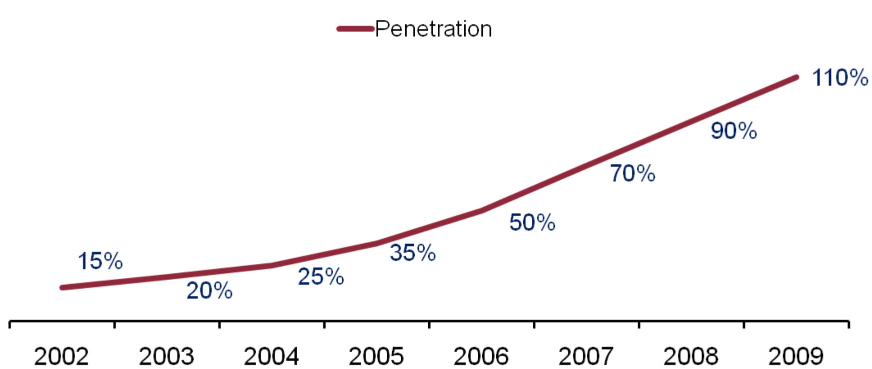
With some limited exceptions, mobile operators have been the main force behind the success of mobile financial services in many emerging markets. This was the case in first-mover countries such as Kenya, Philippines and South Africa, and is also the trend in many other environments as world-stage operators such as Vodafone, Orange, MTN, Etisalat, Zain and others continue to roll-out mobile financial services in their respective countries.
The main reasons behind this lie in the following:

- **High volume / low value nature** of money transfers is well suited to the traditional business model of the operators, used to extracting value from the lowest segments.
- **Technology mastering:** mobile operators bring a strong technology expertise, from the front-end user interface to the back end processing systems.
- **Partnerships and alliances** are instrumental in building a nation-wide distribution network and, with their airtime resellers, mobile operators often boast one of the largest retailer networks in their country.
- **Brand trust** is a must as customers look for convenience, affordability, trustworthiness and security. Mobile operators have often built strong brand equity around these attributes.
- **Mass-market marketing capabilities** are essential to efficient customer education. Operators have developed a strong ability in that regards.

Overall, operators also have the resources, market experience and drive that are required to put together a rich ecosystem of partners. Besides, large groups that are operating across multiple countries can leverage their experiences in other jurisdictions.
Also, the following explores the current state of the telecom industry in Jamaica, with a view to understand the role it could play in relation to m-banking.

Current state of Mobile industry

Mobile telecom is, unsurprisingly, a vibrant industry in Jamaica. Penetration of mobile phones has known a significant growth over the last years to reach a high 90% at the end of 2008, and is expected to grow further to a 110% level by end of 2009.



For many years Jamaica has been regarded as the most important and most profitable market in the Caribbean, which is why major players have established their regional headquarters in Kingston.

Despite the small number of players (2 GSM operators & 1 CDMA operator) currently operating in Jamaica, the market has become increasingly competitive resulting in higher churn rates and slightly lower ARPU in 2009 compared to previous years. As a result, the market position and profitability of existing players is likely to be gradually eroded unless alternative competitive differentiation is sought.

This particular market situation is conducive for mobile operators to engage in mobile banking. Indeed, mobile banking is commonly perceived by mobile operators as an effective tool for churn reduction and value extraction (through increased acquisition, but also increased revenue per user).

The market is extremely concentrated in terms of number of players and market share:

- DIGICEL: ~55% market share by end 2009
- LIME: ~35% market share by end 2009
- CLARO: ~10% market share by end 2009

The largest 2 operators together concentrate 90% market share with more than 2 millions mobile users, which would naturally make them the most suitable partners for banks in terms of critical mass and market coverage.

However, it is also to be highlighted here that size and coverage are not the only criteria for selecting the best mobile partner in a mobile banking venture. Other elements have to be taken into consideration, among which are: the nature of the relationship that can be established between banks and the partner mobile operator; the social orientation of the partner mobile operator; the vision and drive that it demonstrates towards offering mobile financial services; the commercial terms and business model and importantly the regional footprint of the mobile operator. The mobile banking game is likely to be a regional game including the Caribbean and Latin America.

The latter consideration could make a comparatively small player such as Claro an interesting partner for banks given Claro's strong footprint in Central and Latin America.

Challenges faced by Mobile operators

As discussed previously, all mobile operators are expected to face increasing pressure to acquire customers and/or protect their market share. As competition develops, the focus is likely to shift towards more aggressive acquisition in lower-income segments, supported by value propositions that are relevant to these segments, and increased ''stickiness'' of existing customers.

Already, LIME is forecasted to lose further market share by 2010, which confronts the operator with 2 options: competing on price, which will drive market value down, or finding alternative ways (such as mobile banking) to protect their existing base and grow further in lower-income brackets.

Mobile operators and mobile banking

Although the market context in Jamaica is conducive for mobile operator's to engage in mobile banking, the regulatory framework is not. To date, no mobile operator has taken the lead in that space with their own mobile banking initiatives despite the successful propagation of electronic vouchers and person-to-person credit transfer. Indeed, regulatory uncertainty, combined with the inability to use their dealer networks (totaling near to 20K point of sales), has deterred mobile operators from breaking the status quo and innovating.

Nevertheless, mobile operators are keeping a close eye on the developments in that sphere and have made great strides in terms of maturing their mobile banking strategies, both in Jamaica and regionally. Claro, Digicel, Lime, all have a clear vision of how they intend to position themselves in that promising space. Indeed, their appetite for new services, their search for churn reduction initiatives, their technology maturity along with their strong brand and their ability to move fast are all comparative advantages that they would look at leveraging should regulation permit.

In particular, the international remittance opportunity seems to be a sizeable one. Not yet allowed to play in that space, mobile operators have restricted themselves to international credit transfers (top-ups) but would surely hope to become key players in that market (international remittances amount to nearly 20% of GDP).

Beyond regulatory limitations, other constraints faced by mobile operators:

- Limited KYC is applied at their dealer outlets. Redefining all the processes and procedures could be a heavy task. However, it is likely to be required by default by the Ministry of National Security
- Cash in / cash out capabilities of the dealers needs to be assessed, not to mention the security issues attached to these transactions
- Lastly, mobile operators do not want to be seen as banks as they do not want to be regulated as banks. The business of running a bank requires a very specialized set of skills and the financial requirements are not consistent with their business models. They see themselves as payment services providers, offering payment accounts that are not meant to be stored value accounts but rather, payment and transactional accounts.

In the current state of affairs, mobile operators cannot be involved in transformational mobile banking. They can merely play the role of a channel provider for banks, which is likely to promote the development of financial services that primarily target existing bank customers rather than the unbanked. Serving the unbanked will require greater enablement and participation of mobile operators in the financial services space, which will result in models characterized by more balanced responsibilities between mobile operators and financial institutions and will ultimately enable win-win commercial agreements.

Banking sector

The banking sector generally plays a role in the development of traditional m-banking services aiming at offering additional channels to existing customers, and Jamaica is no exception. Out of the 7 fully licensed commercial banks, almost all have been involved in some m-banking initiatives, few being close to full implementation.

Also, the following explores the current state of the banking sector in Jamaica, with a view to understand the role it could play in relation to m-banking.

Current state and challenges of Jamaica's Banking sector

Jamaica's banking sector is largely dominated by commercial banks, which represent 76% of total assets. It is also highly concentrated: the 2 top institutions (NCB and Scotia Bank) represent 75% of the total assets.

Banks have been traditionally focusing on high-value customers and corporate accounts, which has been detrimental to the inclusion of lower income segments. In addition, high entry barriers, stringent KYC requirements, defiance due to past scandals (cash plus), comparative attractiveness of partner schemes and to a certain degree tax evasion considerations seem to have driven large segments away from the formal sector.

As a result, commercial banks are currently providing access to financial services to approximately 1 million Jamaicans (less than 35% penetration), and do seem to face limitations in their reach. That limitation does not seem to be explainable only by coverage, since a branch can be accessed within a half hour drive from any part of the island.

The lack of access is partially due to the following factors (not comprehensive):

- Addressable market: large segments of the population either do not meet eligibility requirements or have a relationship with the bank only on pay day (typically Fridays) to cash their pay checks, making them by definition un-bankable or under-banked.
- Limited reach: although current number of branches per capita is relatively high, these branches are primarily concentrated in urban areas, thus limiting access in remote places.
- Competition is downscaling: Credit Unions and Building Societies are aggressively downscaling to micro-loans (typically below $5,000) and microfinance products. As a result, Credit Unions have already managed to attract 1 million members despite interest rates of nearly 40%.
- Trust: Jamaica, like any other developing economy, is a cash-based society. Developing trust to reach out to people in rural areas is a key aspect of any financial institution's strategy and is a real challenge.

These aspects are limiting factors for banks in terms of business expansion. Also, they seem to have put a renewed emphasis on channel optimization through alternative channel strategies, providing greater comfort, convenience along with an enhanced sense of control to their customers. Some have already ventured in the prepaid card business (ex: key cards) while others have tested the attractiveness of phone banking (telescotia). Mobile seems to be the next big

development on the list. However, current regulatory uncertainty and the inability to leverage third-party agents beyond their traditional infrastructure are perceived as limiting factors.
Among the many challenges faced by banks, serving less profitable customers (such as large masses of paycheck cashing workers or transaction customers only) at bank branches is seen as an issue. Also, it has become a business imperative on certain large retail banks to explore more efficient channels such as the mobile channel.
Despite these challenges, it can be said that banks in Jamaica are very mature operations in terms of their processes and IT systems, and that readiness for mobile banking would only require minimal upgrades to existing systems. Besides, financial literacy seems high in Jamaica, with very high ATM usage and more electronic transactions than at bank branches.

The specific case of international remittances

One individual type of financial transaction that usually attracts a fair amount of attention is international remittances. Indeed, remittances traditionally flow towards developing markets, and banks are well positioned to capture a fair share of it, for instance by partnering with Money Transfer Operators like Western Union or MoneyGram. On the other hand, mobile operators are increasingly poaching on this business, developing bilateral agreements for some, securing standard deals with Western Union and the likes for others.
In the particular case of Jamaica, incoming international remittances represent a $2.5bn opportunity (20% of GDP), the most important corridors being USA, Canada and UK.
Remittances, and even more so international remittances, are an area of interest for all actors present in the market. It is likely to become one of the most profitable m-banking services provided in Jamaica should regulatory barriers and technical difficulties be overcome.

Banks and mobile banking

As discussed previously, many banks are investigating traditional mobile-banking (based on existing accounts). A few banks also seem to be exploring alternative models at this stage of development of the market, although the environment has not been enabling enough for any practical initiative to emerge.

Other financial institutions

Credit Unions and Building Societies are also actively exploring the potential of new technologies, including the mobile channel. As a matter of fact, Credit Unions are already sending SMS reminders to their customers when loan repayment is due.
In time, more financial institutions can be expected to develop an interest in mobile banking in the broader sense. Although the strategic direction that will be chosen (mobile wallets, handheld-based branchless banking, alternative models) is unclear at this point in time due to current regulatory limitations.

Possible m-banking approaches for Jamaica

The previous section has provided an overview of the main challenges faced in relation to the legal, regulatory and institutional m-banking frameworks in Jamaica, as well as the main players. The current section discusses possible m-banking approaches for Jamaica.

M-Banking has the potential to significantly impact the performance of financial institutions in addition to supporting their mandate. Beyond financial institutions, it can also impact the business of facilitators or payment processors such as Paymasters, as well as the business of mobile operators that are involved. By orienting m-banking around the convenient, accessible, cost-effective, secure delivery of services to customers, m-banking will transform how financial services are delivered in Jamaica.

Consistent with global trends and best practices, m-banking services can be designed around the specific needs of customer segments in the parishes where financial services are needed. At the same time, m-banking approaches shall seek arrangements that most efficiently allocate risk and responsibilities between financial institutions and other partners, in particular mobile operators. The definition of the best approach should take into consideration:

- International best practices
- Objectives sought by Jamaica
- Realities and specificities of Jamaica's environment

Review of existing international experiences

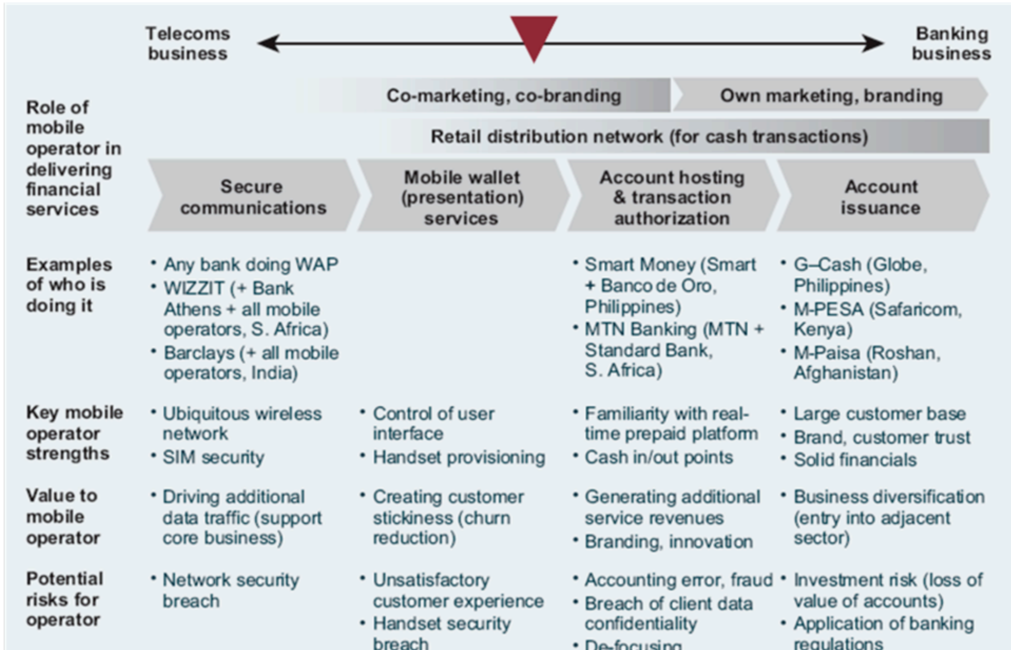
As discussed in the previous section, banks like non-banks have not yet made any steps towards implementing transformational m-banking in Jamaica. As such, Jamaica can start with a blank slate and determine the direction in which it wants the market to develop. The fundamental questions that are at the heart of the decisions to be made are pertaining to the respective role of the mobile operators and the deposit taking institutions.

As discussed previously, in the current context, only banks are allowed to issue electronic money but cannot leverage third-party agents to expand their coverage and their reach. Besides, KYC requirements remain incompatible with the objective to bring large masses of low-income segments into the formal sector. Mobile operators, in turn, are not allowed to issue electronic money nor use their agents for financial functions. These obstacles have been hindering the distribution of financial services to the currently excluded from the formal sector.

Other players that are non commercial bank and non telecoms, such as facilitators, payment processors, credit unions, building societies, MFIs, and ATM networks are also very interested in participating to a mobile money ecosystem.

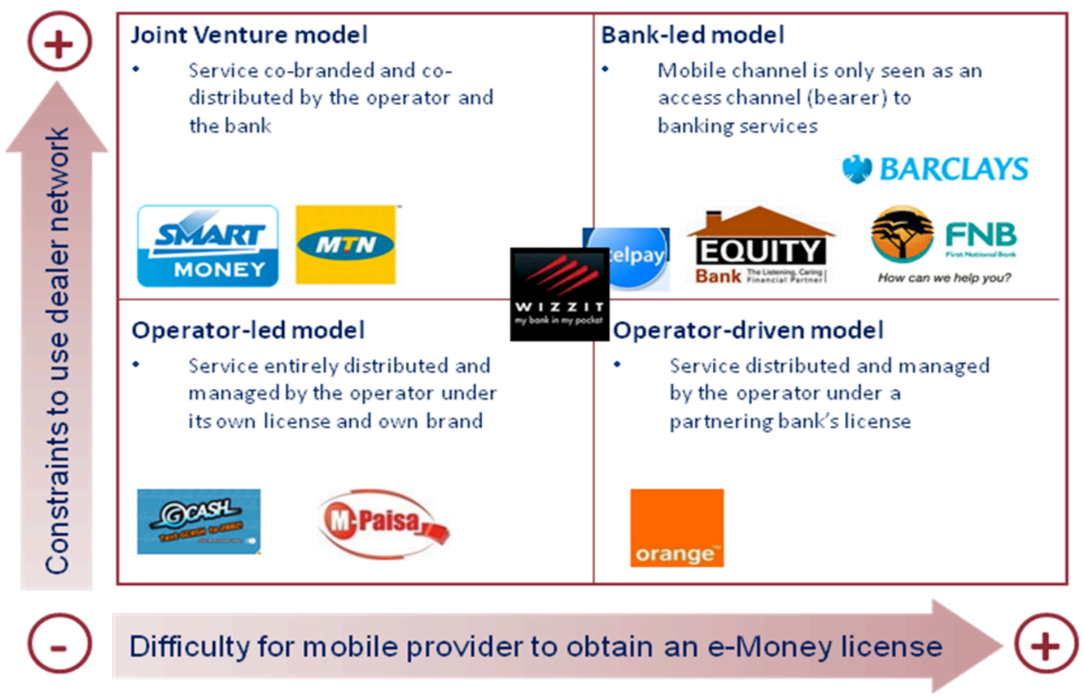
Within this context, BOJ can influence the market in different directions based upon the desired model. This will ultimately depend on the role that mobile operators are going to be allowed to play in this market, from a mere secure channel provider to an account issuer and a financial services provider.

The following diagram depicts the various roles that mobile operators can play in the value chain based upon the functions that they fulfill and their key strengths.



Source: CGAP

Determining where the cursor will be placed will also influence the different models emerging in the market.
The following chart describes the main models that have been implemented around the world.



International experiences show us that the prevailing models are the following:

Operator-led model:

In that scenario, the mobile operator is allowed to take deposits in trust for the customers and temporarily store that money in electronic form on a stored value card (which is the SIM card). He mobile operator performs both account issuance and account management functions.

The services that are provided are typically payment and transactional services (peer-to-peer transfers, merchant payments, loan repayment, salary deposit, airtime purchase etc.). Money is not meant to be stored on the card over a long period of time but, rather, used for transactions and payments. Besides, mobile operators cannot offer core financial services such as savings and lending, and would need to partner with a licensed financial institution for that.

Another characteristic is that the dealer network of the mobile operator is used for basic customer facing activities such as customer registration (including KYC), cash in and cash out.

Mobile operators would either need a written approval from the central bank (as is the case of Safaricom's M-Pesa in Kenya or Globe's G-CASH in the Philippines) or operate under a specific licensing regime (money service provider license as in the case of M-Paisa in Afghanistan). In all cases, the central bank has monitoring and supervisory oversight over the service and can audit operations at all times. Besides, all KYC procedures and AML thresholds and reporting requirements are agreed with the Central Bank.

Lastly, provision of the service relies on an underlying bank account that strictly mirrors the total amount of electronic money in the system. Daily (sometimes several times a day) reconciliations are carried to ensure that there is strict adequacy between the cash in the bank account and the total amount of electronic money.

This model has proven to be extremely successful in environments where banking penetration was very limited, and the appeal of mobile telephony and the brand equity of mobile operators were very strong. Typically in Kenya, where Safaricom had a critical mass of users with nearly 70% market share when they launched, Safaricom has been able to register 7 million customers to their M-Pesa service while the total number of banked people is closer to 5 million. In that regards, the M-Pesa model has been considered truly transformational in the Kenyan context.

Operator-driven model:

In that model, the operator relies on a partner bank for regulatory aspects. Account issuance (e-money creation) sits with the bank and account management rests with the operator. All other aspects are similar to the operator led model. This is the model that has been adopted by Orange across their operations in 18 countries. It allows a financial institution to be involved and, as such, take a cut of the revenue.

Bank-centric model:

In this model, banks restrict themselves to traditional additive mobile banking approach, offering existing customers more convenience, more immediacy and a greater sense of control. This type of m-banking is not transformational.

In this scenario, mobile operators are only providing the mobile channel to access banking services, and perceive traffic revenue only.

Joint Venture model:

In this model, a bank and a mobile operator decide to join forces. On the mobile operator side, this association is generally driven by regulatory restrictions, but also by a clear desire to fully integrate within the existing financial system and offer a richer set of financial services. As such, the service is often co-branded or neutral-branded, jointly distributed, and all operator agents and bank branches/ATMs can be used to service the customer. Besides, a payment card (generally prepaid) can be issued by the bank and attached to the electronic stored value account (mobile wallet) to offer even greater convenience to the user. The customer is usually a client of the Joint Venture (i.e. the new commercial entity established jointly by the mobile operator and the bank) and does not need to have a bank account with the partner bank. However, whenever the customer is already a customer of the bank and has an existing bank account, that bank account can also be used as a funding source for the mobile wallet.

This model has been successfully implemented by SMART in the Philippines (totaling now 6 million users), in a country that was already very plastic driven (loyalty cards, gift cards, private memberships, bank cards…). It has been less successfully implemented by MTN in South Africa and ZAIN in other African markets, where the use of plastic cards was less prevalent.

The greatest benefit of this approach is that it builds on the existing financial system and leverages existing investments. It also offers a greater role for the banks to play, since part of the transactions will be carried out by the bank on the banking infrastructure. It also makes the transition from a mobile wallet to a bank account more seamless to the end customer.

However, important decisions impacting the business are generally made jointly and banks have the reputation to be slower movers than telecoms. This is a sensitive issue for telecom operators, who are agile organizations used to moving fast. Also, in their business arrangements with banks, mobile operators would generally seek to retain key infrastructure components such as the back-end platform managing the accounts to minimize their dependency on the banks for technical operations and upgrades.

Third-party model:

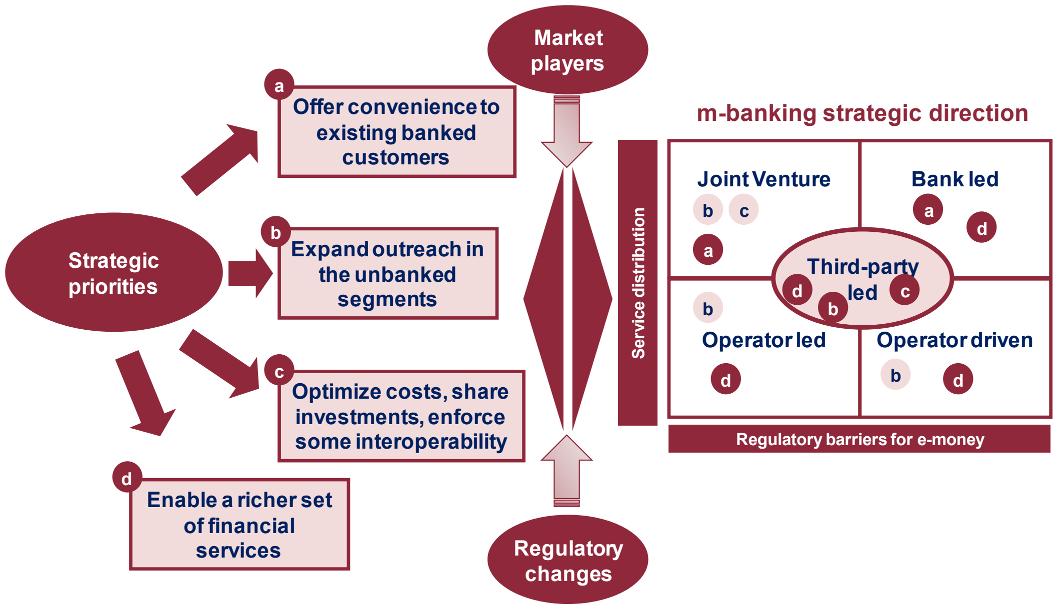
In some countries such as Indonesia or South Africa, third parties have emerged that operate under a banking license and build an entire ecosystem around their platform and network of distributors. Perhaps the two most representative examples are Wizzit in South Africa and Celpay in South Africa and Democratic Republic of Congo (DRC).

The main benefit of that approach is that it remains operator-agnostic and bank-agnostic. All participants in the ecosystem are interconnected to the same central platform which makes the system, by design, interoperable. However, the main drawback is that it dilutes first mover advantage for the telecoms and therefore negatively impacts their investment incentive. As such, the third parties do not have sufficient muscle power to carry an initiative of that magnitude by themselves. In addition, this model leads to a possibly less favorable business model due to one more intermediary in the delivery chain. To date, these models have had very limited traction in the market.

Options for Jamaica

Evaluation of options

The decision on the best option for Jamaica should be based on the priorities that will be set by the government, as illustrated by the chart provided below:



While all priorities seem to be desirable targets, the primary drivers should remain item b, complemented by c in addressing the unbanked. The chart also illustrates the comparative relevance of the different models based on the drivers they best fulfill.

Based upon this categorization, the most relevant options for Jamaica seem to be the joint venture model and the third-party led model. However, the third-party model is likely to have limited support from mobile operators and hence limited traction in the market, which makes the operator led and operator driven models worth considering in regards to the primary objective, which is to bring the unbanked to the formal sector.

As far as the existing bank-led initiatives are concerned, their potential for reaching out to the unbanked remains uncertain and primarily depends on the willingness of the banks to cater to these segments as well as their appeal to them.

The specific circumstances and realities of the Jamaican context

The relevant options have been identified here above. The following aims at discussing their comparative relevance against the current market context in Jamaica. Indeed, mobile banking is not the sole purview of government authorities. Success will require private sector buy-in and support from all industry players. In particular, support from the financial sector and the telecom players is crucial.

In that regards, the Joint Venture model should remain an interesting model to encourage in the near future. It would enable a joint involvement of and a balanced relationship between the banks and the operators, while also leveraging their respective strengths: the experience in running a compliant banking business with a large distribution network and the ability to leverage end-to-end technologies. This would also allowing further integration between the telecom world and the banking world. Furthermore, customers of the service would be allowed to open a bank account along with their mobile wallet, if they wish so and meet the eligibility criteria set by the Bank. This would enable them to easily move value from their mobile wallet into their bank accounts to perceive interests on short-term AAA Paper or Government Securities, but inversely would enable them to fund their mobile wallets from their bank accounts.

A degraded version of the Joint Venture, which is the operator driven model (which still involves a Bank) could also be considered in the short-term to leverage the superior agility of the mobile

operators. The account management platforms would then rest with the operators, providing them with more flexibility and maneuverability. Banks would have a more limited role to play, but that could rapidly change over time as the need for further integration is driven by market forces and fueled by demand (in particular considering the high interest rates in Jamaica).
The operator driven model, despite its qualities, is likely to face paramount resistance from commercial banks. Indeed, the banks would see the incursion of mobile operators in their traditional market as unfair competition and would likely react vehemently to such an event. However, this scenario should not be completely discarded and retains its relevance for the long run.
As far as the third-party led model is concerned, it seems premature to consider such model in the current market. Indeed, m-banking initiatives will be carried by market players in search of product differentiation and competitive edge in the early stages of development. Pushing a third party model would dilute market advantage for critical players and as a result, may jeopardize their full involvement in the initiative, leaving it to the third party to ultimately support the project. In the absence of a particularly strong and determined third party, this may not be the preferred option.

Recommendations

Based on the previous discussion and in the interest of a smooth and effective transition towards an increasing use of the mobile channel for the distribution of financial services to the unbanked, it seems advisable that BOJ pursue a phased approach to secure short term quick wins while enabling long-term strategies to be pursued.

Short term quick win

In the short term, BOJ should engage in recommended reforms to at least enable the joint venture model and, by the same token, the operator-driven model to allow for the possibility for the mobile operator to be the technology provider and perform account management functions. Indeed, these options would enable a variety of models to flourish and would ensure ‘’equal’’ participation of both the Bank and the mobile operator. The ultimate decision on which model is the best should be driven by market forces, based on commercial realities.
This recommended trajectory would require, as discussed previously, the following actions (at a minimum):

- Confirmation of the fact that banks can issue e-money accounts on SIM cards
- Ability for the banks to use telecom dealers as third party agents
- Revised set of KYC / AML requirements for that service
- Adjustments to the Electronic Transactions Act (please refer to 0)
- Authorization for the mobile operator to host the back-end platform and perform account management functions (required for the operator-driven model only)

The following table describes a proposed split of responsibilities between the mobile operator and the bank in a JV / Operator driven type of model.

	OPERATOR	BANK
Regulatory	► Contractual obligations to the Bank	► Bank is the licensee ► Ensures regulatory compliance
Technology & Processes	► Provides wireless channel ► Hosts mobile wallet technology ► Supports process re-engineering for ecosystem members	► Provides interfaces to its MIS ► Re-engineers impacted processes ► Trains agents / staff (KYC, processes…)
Infrastructure	► Manages the e-money accounts ► Authorizes and fulfills transactions ► Handles settlement	► Bank issues e-money accounts ► Fulfills certain transactions (in case of JV)
Products & Services	► Focuses on the unbanked ► Develops some of the financial products (bill payment, remittance…) ► Develops the ecosystem	► Focuses on high value clients ► Sets mobile banking priorities ► Develops mobile banking products
Marketing & Education	► Joint marketing ► Joint or neutral branding	► Joint marketing ► Joint or neutral branding
Distribution channel	► Mobile and m-wallet service registration ► Cash-in/out in the dealer network	► m-wallet service registration ► banking service registration ► Cash-in/out in the banking infrastructure

These roles are tentative proposals and the reality in the field is expected to be shaped by concerned industry players and reflected in their business arrangements.

Long term strategies

In the longer run, BOJ may consider allowing operator-led models to emerge, based upon the performance and success of existing initiatives. BOJ may also support the involvement of third parties such as JETS for the sake of interoperability between existing systems.

The benefits of a pilot

While BOJ undertakes the required reforms and so as not to slow innovation in the market, BOJ may consider allowing temporary pilots to start under their control. Market pilots are good ways of assessing the challenges posed by innovative approaches in real life situation. To avoid systemic disturbance, a cautious approach could be taken towards framing these pilots, with lighter KYC combined with constraining yet enabling limits and tight control exercised by BOJ. These pilots would nonetheless have the value of proof of concept, would enable BOJ to validate industry interest and would guide BOJ in further regulatory amendments.

Within this context, one sensitive item to be carefully managed by BOJ is the question of fairness. Indeed, commercial advantage will be granted to pilot licensees. To avoid any unfairness and resulting resentment from industry players, it is recommended that BOJ invites all players interested in piloting to declare themselves and defend their models prior to the granting of licenses. Selection criteria should also be made explicit by BOJ to ensure transparency of the process. It is expected that this process will constitute a natural filter from which only 2 or 3 models will emerge, which could then be granted a pilot license.

Synthesis and Action Plan

Summary of the findings

As discussed previously, current legal and regulatory frameworks are not conducive for mobile banking to develop in a transformational way and bring the currently unbanked into the formal sector. Regulatory restrictions have not yet allowed for a clear industry-driven approach to emerge and plans in the making cannot be expected to take practical shape until highlighted regulatory issues are addressed. Priority regulatory amendments have been identified and discussed. In parallel, identified legal gaps do not properly protect the customers, nor do they protect the service provider. As such, they constitute an impediment to the development of m-banking services.

Without strong action from BOJ and other government counterparts, the m-banking landscape in Jamaica is likely to stagnate.

Furthermore, success in m-banking involves coordination between multiple government agencies and requires central ownership and accountability. It would be advisable to assign such responsibility to an entity that enjoys a strong reputation and is seen as politically neutral by industry players. For these reasons, clear institutional arrangements should be made to empower BOJ as the ultimate arbiter of m-banking enablement and ensure full support of other government bodies.

Last, the banking industry like the telecom industry has shown significant interest in mobile banking in its broader sense. Other market players have also expressed interest and concerns about the ability of Jamaica to move from its current financial institution-centric modus operandi towards a more open and more inclusive m-banking approach. From the various interviews conducted, it also appears that business priorities and preferred models differ from one player to another.

Within this context, prescribing a unified approach for the Jamaican market seems challenging. Rather, an approach aiming at allowing pilots to emerge while implementing gradual changes to the current regulatory framework that would enable all parties to leverage the opportunities of m-banking is more advisable. This is described in the following section.

Direction

The recommended approach consists in initiating consultations with the industry players in view of pilots while making quick amendments to the existing m-banking framework to realize short term quick wins and gradually enable longer term changes.

Indeed, the pace at which the industry is ready to move is faster than the pace of regulatory change and allowing pilots to start will spur positive innovation in the market while enabling BOJ to learn lessons from them. The context and conditions of these pilots would need to be carefully defined so as to ensure that emerging models will later fit within the regulatory framework that will be developed in parallel. That will require BOJ to have made some decision regarding the preferred model for Jamaica.

In parallel, quick adjustments should be brought to the regulatory and legal frameworks to achieve quick wins by enabling the joint venture and possibly operator driven models.

At this stage, it seems premature to determine whether a pure mobile operator (operator-led) model should be allowed in the long term. The pertinence of such model in the Jamaican context is debatable and should be further discussed at government level.

The recommended priority actions are summarized in the following:

☛ *Priority Actions – Institutional Framework*

Immediate:

- *Empower BOJ as the primary arbiter of m-banking enablement in Jamaica.*
- *Ensure strong sponsorship from Ministry of Finance.*
- *Establish a regular reporting mechanism to Jamaica's political leadership.*

Short/Mid-term:

- *Establish, as needed, inter-agency working groups to coordinate key cross-governmental m-banking policies and efforts.*

☛ *Priority Actions – Regulatory Framework*

Immediate:

- *Confirm the ability of licensed deposit-taking institutions to issue electronic money and use SIM cards as stored value cards*
- *Establish a working group to address customer protection issues*

Short-term:

- *Adjust existing KYC requirements to the context and realities of the unbanked*
- *Provide clear and specific AML requirements for mobile banking*
- *Enable the use of third-party agents for the provision of m-banking services*
- *Revisit and amend Electronic Transactions Act for the specific case of mobile transactions*

Mid/Long-term:

- *Develop a specific licensing regime for non-financial institutions to offer m-banking services*

☛ *Priority Actions – Legal Framework*

Short-term:

- *Review the existing Electronic Transactions Act to ensure proper legal grounding for m-banking transactions. Reconciliation needed with the Evidence Act.*

Mid/Long-term:

- *Address information privacy issues more comprehensively in the context of m-banking including information security, storage, classification*
- *Develop a Cyber Crime Act to provide a clear definition for cyber and electronic offence*

☛ *Priority Actions – General*

Short-term:

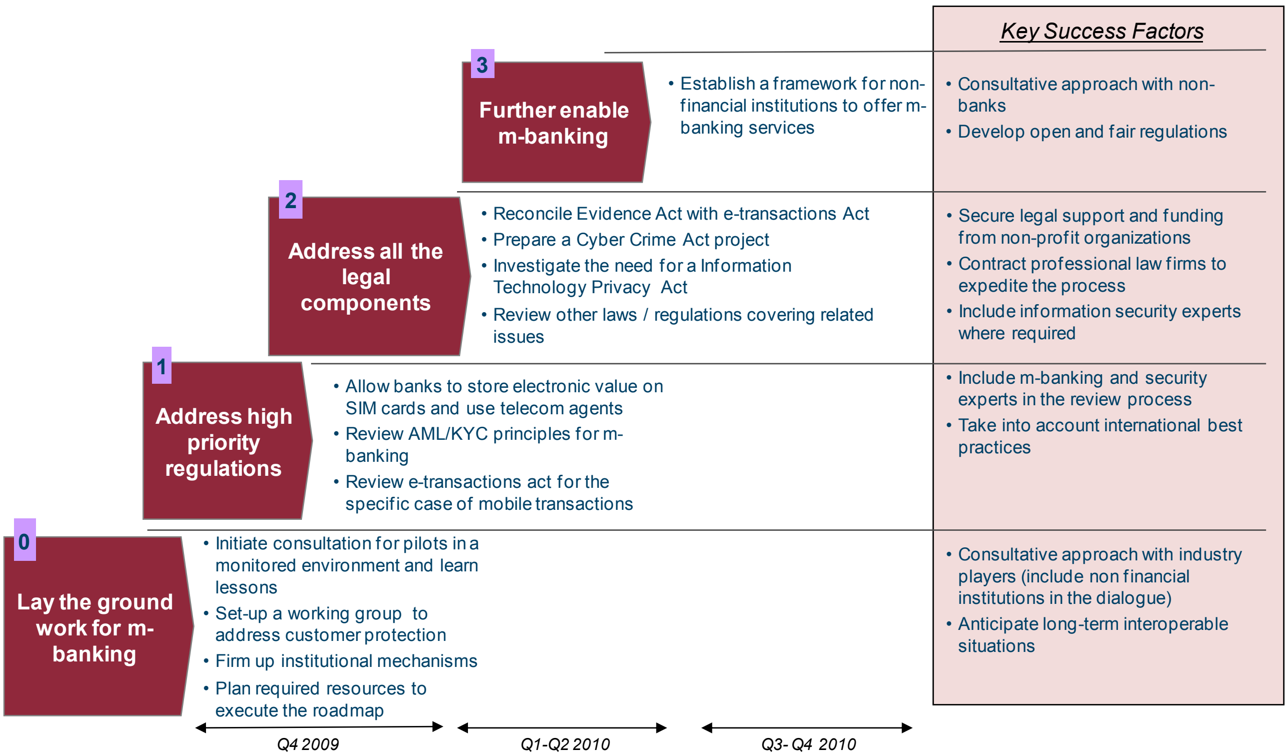
- *Initiate a consultation with industry players to create the environment for market pilots*
- *Make a strategic decision on the models that would be preferred*
- *Identify the external resources that will be required to support the action plan and secure both the funding and the resources*

Roadmap and budget

This section proposes to detail the recommended roadmap and discuss related budget requirements.

Proposed roadmap

In line with the above, the proposed roadmap is depicted in the following diagram:



This roadmap may seem aggressive at a first glance. However, it is important to set ambitious targets so as to maintain and build on the existing momentum in the market. Indeed, m-banking is a fast moving industry and the pace of change needs to keep up with industry speed.

Estimated budget requirements

Delivering on this roadmap will require determination and focus, as well as material and human resources. The following table aims at guiding BOJ and GOJ in general in their assessment of the required effort and budgets.

Roadmap phase	Key tasks	Owner	Participants	Budget requirements
Laying the ground work for m-banking	Initiate consultation for pilots	Ministry of Finance	Financial and non-financial institutions, including mobile operators, BOJ	Ministry of Finance and BOJ internal resources
	Set up customer protection working groups	PIOJ	Various Ministries and groups as required	PIOJ internal resources

	Firm-up institutional mechanisms	Ministry of Finance	Cabinet / PM	Ministry of Finance resources
	Resource planning	BOJ	PIOJ	BOJ internal resources with the support of PIOJ
Address high priority regulations	Review AML/KYC principles	BOJ	Industry players	Focused BOJ resources (estimate: 20 man. days)
	Review E-Transactions Act for mobile banking	Ministry of Commerce and Industry	Industry players, CPC	External support for the review of e-transactions act (~15KUSD for 10 days of security and m-banking experts)
	Enact a new regulation to enable the use of agents	BOJ	CPC, Ministry of Finance, FSC	BOJ internal resources (estimate: 40 man.days)
Address all the legal components	Cyber Crime Act drafting	Ministry of Justice	CPC, Ministries of Telecommunications / Commerce and Industry	Depends on the resources available at MOJ and CPC. Legal expertise will be required to fast track reviews and drafting (~75KUSD for 50 days of support). Security and m-banking expertise will also be required in this phase (~15KUSD for 15 days)
	Electronic Transactions Act and Evidence Act alignment	Ministry of Justice	Ministry of Commerce and Industry	
	Information Technology Privacy Act drafting	Ministry of Telecommunications	CPC	
Further enable m-banking	Develop a framework for non-banks to engage in m-banking	BOJ	CPC, Ministry of Finance, Ministry of Telecommunications OUR	BOJ internal teams

APPENDIX: List of interviewed organizations

A number of field interviews were conducted in the context of this exercise. The following provides the list of participating organizations:

Bank of Jamaica
Church Credit Unions
Citibank
Claro
Cooperative Credit Union League
Digicel
First Caribbean Bank
Jamaica National Building Society
JETS
LIME

NCB
Office of the Prime Minister
Pay Masters
PIOJ
RBTT
Scotia Bank

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Acronyms and abbreviations

AML	Anti-Money Laundering
ARPU	Average Revenue Per User
BOJ	Bank of Jamaica
CDMA	Code Division Multiple Access (mobile communications standard)
CFATF	Caribbean Financial Action Task Force
CFT	Combating the Financing of Terrorism
DOB	Date of Birth
EDC	Electronic Data Capture
IMEI	International Mobile Equipment Identity
FATF	Financial Action Task Force
GOJ	Government of Jamaica
GSM	Global System for Mobile communications (mobile communications standard)
ID	Identification Document
IDB	Inter-American Development Bank
JETS	Network of ATM and POS machines in Jamaica
KYC	Know Your Customer
MLP	Money Laundering Prevention
MNO	Mobile Network Operator
MTN	Mobile operator in South Africa and other African / Middle Eastern countries
PDA	Personal Digital Assistant
PIN	Personal Identification Number
PIOJ	Planning Institute of Jamaica
POCA	Proceeds of Crime Act
SIM	Subscriber Identity Module (mobile phone chip card)
SMART	Mobile operator in the Philippines
SMS	Short Messaging Service

Executive Summary

This document presents recommendations for development and implementation of enabling regulatory and legal frameworks for m-banking in Jamaica. It reaffirms the centrality of regulation and the unique features of the Jamaican context while acknowledging the common benefits of m-banking.
By closely aligning with existing market context and current regulatory framework, this document contributes to a realistic identification of the gaps and possible actions to bridge them.
This document represents an important cornerstone for the enablement of m-banking in Jamaica. Using lessons learned from Jamaica's banking / mobile telecom experiences, and leveraging global best practices, this opportunity study will guide Bank of Jamaica and other key stakeholders.

M-banking
M-banking is increasingly used in a broad sense to refer to a range of applications, technologies, business models involving some form of financial transaction using a mobile device, whether there is an underlying bank account or not.
This document clarifies these concepts and suggests the use of m-banking in its broader meaning of mobile financial services (m-banking, m-payment, mobile money transfers).

Current state of play in Jamaica
Although m-banking in its broad definition is still not available in Jamaica, a number of players are getting actively involved in some form of mobile financial services. These first movers primarily come from the financial sector and use SMS notifications or reminders to communicate with their customers. These initiatives remain but a very limited attempt to leverage the full potential offered by mobile technologies.
Regulatory gaps and restrictions have not yet enabled *transformational* mobile banking offerings to emerge. By *transformational* mobile banking, we mean financial services that specifically target (and appeal to) the currently unbanked population by making use of two effective vehicles: the mobile channel for distribution and transactional purposes, combined with third-party agents for customer facing activities. As a result, m-banking is currently confined to the traditional *additive* approach in Jamaica, which is primarily focused on existing clients.
Several areas of concern pertaining to the existing regulatory framework are discussed in detail in this report: electronic money definition and restrictions; Know-Your-Customer requirements; Anti-Money-Laundering thresholds; use of third party agents; customer protection aspects and validity of mobile-triggered electronic transactions. All these areas shall be revisited and key gaps shall be bridged if transformational mobile banking is to become a reality in Jamaica.
In parallel, the legislative framework needs to undergo profound adjustments to address the new challenges posed by mobile-enabled electronic transactions. Key areas of interest are the definition and understanding of cybercrime; the legal admissibility of SMS notifications as proper evidence; and customer protection and information privacy aspects. In the current state, the ability to prosecute cybercrimes under civil and criminal law remains uncertain and should be addressed in a comprehensive manner to enable service providers and customers to establish comfortable relationships.
Furthermore, some institutional arrangements are suggested to further empower Bank of Jamaica as the institution primarily responsible for m-banking. Indeed, m-banking needs a champion and clear line of accountability to be a success.
Last, the industry interests appear to be quite heterogeneous, with banking, telecom, and other players operating in a broad range of settings and facing specific challenges. Success will also require taking participative actions to ensure the engagement and buy-in of the industry.

Possible m-banking approaches for Jamaica
Various m-banking models based on international experience are evaluated in detail, in light of the particularities of Jamaica. Among the possible models, the following have been short-listed as the most relevant for Jamaica in the short term:

- The **Joint Venture model** is a ''balanced'' model promoting a joint involvement of commercial banks and mobile operators in a mutually beneficial relationship. The greatest benefit of that approach is that it builds on the existing financial system

and leverages the respective strengths of the bank and the mobile operator, making a future transition from a mobile wallet to a bank account more seamless to the end customer. It has been implemented in jurisdictions having a regulatory environment similar to the one prevailing in Jamaica, with varying levels of success. Indeed, best practice shows that true success in joint venture approaches requires: (i) strong focus on unbanked segments of the population supported by enabling KYC/AML requirements; (ii) business arrangements that enable strong drive from the operator; (iii) ability to leverage the operator's dealer network; and (iv) adequate technology.

- The **operator driven model** (which still involves a Bank) is a variation of the Joint Venture model and transfers much more responsibility to the mobile operator. In that model, the Bank is merely the interface with the Central Bank and the licensee, but the service is truly operated by the mobile operator. This model fully leverages the superior agility of mobile operators. Banks would initially have a more limited role to play, but that could change over time as the need for further integration would be driven by market forces and fuelled by demand. Best practice shows that true success in the operator driven model requires: (i) strong focus on the unbanked segments supported by enabling KYC/AML requirements; (ii) business arrangement that enables the bank to get a fair share of the revenue while minimizing its operational burden; (iii) ability to leverage the operator's dealer network; (iv) strong internal controls and processes at the operator side; and (iv) adequate technology.
- The **operator led model** (which is a pure operator game) remains a desirable target but would require a total regulatory shift towards allowing mobile operators to play in the financial services space, which is likely to face virulent resistance from existing financial institutions. For that reason, we recommend a gradual rather than radical approach.

Recommendations and Action Plan

Main recommendations include (see Roadmap and budget for more information regarding ownership, timelines and budget):

- **Immediately** lay the ground work for transformational mobile banking (Q4 2009):
  - Ministry of Finance and BOJ to initiate consultation with market players (financial institutions and mobile operators) for pilot initiatives in a monitored environment and learn lessons
  - POIJ to help setting-up a working group to address customer protection
  - Ministry of Finance to firm up institutional mechanisms
  - BOJ to plan and allocate the required resources to execute the roadmap

- Carry out the recommended reforms and address the priority regulatory issues in the **short-term** (Q1/Q2 2010):
  - BOJ to issue a Note to allow banks to store electronic value on SIM cards
  - BOJ to review AML/KYC principles for m-banking

    - Ministry of Industry and Commerce to review e-transactions act for the specific case of mobile transactions
    - BOJ to enact a new regulation to ensure ability of the banks to use telecom dealers as third party agents
    - BOJ to enable the mobile operator to host the back-end platform and perform account management functions (required for the operator-driven model only)

- Address the legal aspects in the **mid-term** (Q3 2010):
    - Ministry of Justice to reconcile the Evidence Act with the E-Transactions Act
    - Ministry of Justice to prepare a Cyber Crime Act draft
    - Ministry of Mining and Telecommunications to investigate the need for an Information Technology Privacy Act
    - Ministry of Justice to review other laws / regulations covering related issues

- Open the m-banking space to non-financial institutions in the **long-term** (Q4 2010):
    - BOJ to explore the option of allowing non financial institutions to issue e-money accounts
    - Strengthen interoperability between existing systems

1. Introduction

Background

One of the latest innovations in mobile telecommunications is the recent use of the mobile channel for the low-cost delivery of financial services to the low-income households and small/micro enterprises. In developing economies, where access to financial services remains limited, particularly in rural areas, mobile devices have entered the homes and daily lives of millions. This has created an unprecedented opportunity to leverage the mobile network as a way to reach the currently excluded from the formal financial system.

International experiences have shown that the benefits derived from mobile banking can be many-fold:

- Reduced cost of transaction, making financial services more accessible to the poorer segments living in remote areas. For instance, a costing exercise conducted in the Philippines has shown that the cost to the bank of a financial transaction carried at a bank branch was approximately $2.50 while the cost of the same transaction, if it were undertaken from a mobile phone, would be only $0.50. Of course, some of the difference in cost would be borne by the customer. Furthermore, there are additional ‘’hidden’’ costs in traditional branch banking that impact the real opportunity cost to the customer, and these include: travel expenses to reach the branch, time spent queuing at the branch etc. Mobile banking typically resolves these issues and, as a result, provides the service at much lower opportunity cost.

- Support of income generating activities: access to working capital in the form of remittances or micro-loans enable people living in rural areas to build assets for themselves. Studies conducted in Kenya have shown the positive impact of M-Pesa on village communities, which have started investing in better housing and common welfare goods such as water pumps etc. Although it is premature to draw firm conclusions from that example, enabling money to flow from the rich to the poor can be reasonably expected to have some positive economic impact.

- Security of cash: In environments where security is an issue and handling large amounts of cash is a challenge, a mobile phone based electronic stored value account (mobile wallet) could well become safest way to carry money around. As an example, during the post-election riots in Kenya, thousands of Kenyans emptied their socks to deposit money into their M-Pesa accounts, considered a safer place than their homes to store their cash. Similarly, Microfinance organizations in Afghanistan are leveraging the mobile channel to disburse loans and collect loan repayments, for the increased convenience and security.

There are other benefits, directly linked to the spectrum of services that can be enabled via the mobile channel. Early experiments have only begun to unfold the possibilities of mobile enabled financial services, answering the basic person-to-person needs in their first iteration.

Experiences in Latin America and the Caribbean are very limited, and Jamaica could well become a pilot for the Region. Indeed, Jamaica combines a unique set of characteristics that makes it an ideal test bed for mobile banking services: it has a significantly high mobile penetration (market figures are showing a staggering 100%), a sophisticated banking network with substantial developments in the field of micro-finance (credit unions, building societies and even some banks), a high crime rate, and a large informal sector. In particular, remittances are high (up to 20% of the annual GDP) and international remittances represent a lucrative opportunity.

Besides these ingredients, there are other enablers that can also be highlighted: Jamaica has a fairly young population, with a median age at 24 and a very high literacy rate neighboring 88%. These will facilitate adoption of new technologies and mobile banking services. On the demand side, a very large labor force (1.3 million) most of which are paid weekly by checks as well as the amount of people having migrated from rural areas into urban centers are only an indication of the value that could be brought by electronic transfer mechanisms. On the supply side, most industry players (financial institutions like mobile operators) have explored the m-banking opportunity, some already having matured plans. All seem to be waiting for a more enabling regulatory environment.

It is in this context that IDB is partnering with Government of Jamaica (GoJ) to set an enabling environment for the delivery of m-banking services with the objective of increasing access to financial and banking services for the poor.

Based upon these premises, IDB has initiated a study aiming at:

- Identifying main legal, regulatory and institutional bottlenecks that may impede the development of mobile banking
- Assessing the level of preparedness of the industry for mobile banking
- Learning from international experiences and best practices
- Identifying and formalizing an action plan towards the implementation of m-banking
- Disseminating the findings to GoJ and the industry at large

Document Purpose

This document presents the results of the above discussed assignment. It is designed to closely link legal and regulatory recommendations with the Jamaican context and industry dynamics.

This assignment and accompanying action plan are products of a field mission that collected lessons learned and best practices from the past three years.

It will guide GoJ's m-banking efforts by:

- Reviewing existing and planned m-banking initiatives in Jamaica;
- Identifying and highlighting legal, regulatory and institutional concerns;
- Identifying feasible models in the current state of play; and
- Identifying next steps towards enabling m-banking.

The proposed approach at all times will seek to be guided by international standards and best practices, tailored to Jamaica's specific requirements and constraints.

Document Structure

The document consists of four main sections:

What is m-banking? – redefines m-banking in its broader sense and sets a baseline for common understanding.

Current state of play in Jamaica – describes the main players involved in m-banking, along with key highlights on the legal, regulatory and institutional frameworks governing m-banking.

Possible m-banking approaches for Jamaica – describes the heart of m-banking options for Jamaica, and the related partnerships models.

Synthesis and Action Plan – summarizes the findings and describes the major steps for the development of m-banking in Jamaica.

What is m-banking?

In its original meaning, m-banking refers to financial transactions undertaken using a mobile device to access a bank account. This is the case in traditional mobile banking where mobile is used as an incremental channel in addition to phone, internet or bank branches.

However, m-banking is increasingly used in a broader sense to refer to a number of applications, technologies, business models involving some form of financial transaction using a mobile device, whether there is an underlying bank account or not.

Also, the following aims at clarifying these concepts with some definitions. For the sake of this report, m-banking is always used in its broader meaning unless specified otherwise.

M-Banking

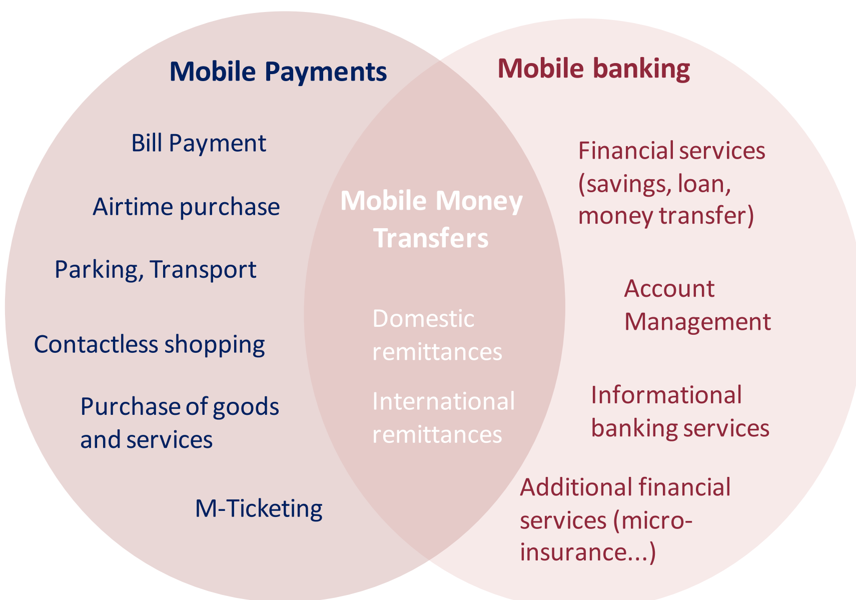
Refers to financial transactions that are undertaken from a mobile device, against a bank account that is accessible from that device.

M-Payment

Refers to point of sale payments that are made through a mobile device, be it a phone, a smartphone or a PDA

Mobile-Money Transfers

Refers to the ability to move store of value from one account to another account using a mobile device



M-Wallets

Similar to prepaid cards, mobile wallets are an electronic store of value (and also a payment instrument) linked to the mobile number of their holder. They do not require the holder to have a bank account.

Current state of play in Jamaica

Institutional framework

Jamaica's long-term success in m-banking will require clear institutional and legal mechanisms. These are an absolute necessity to manage the complex mix of technologies, regulations, legal provisions, and industries involved in m-banking.

Approaches to m-banking vary globally. Different countries use different institutional arrangements for m-banking. However, at least three best practices are clear. Success in m-banking requires:

- Effective inter-agency coordination within a clear institutional framework;
- Centralized, accountable m-banking authority; and
- A regulatory anchoring within the existing financial sector

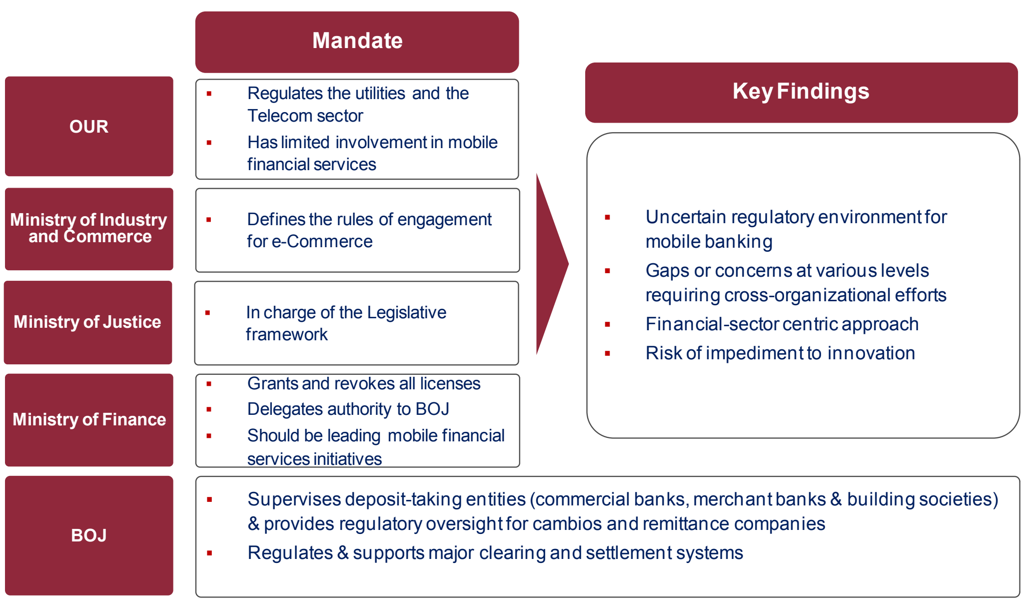
In reality, this typically involves a combination of inter-agency working groups to coordinate/reconcile policymaking and address critical customer protection issues; the appointment of a central institution accountable for m-banking performance; and the development of an enabling legal and regulatory environment.

The organizational challenges facing m-banking institutions in Jamaica are considerable. Many of these challenges—like inadequate regulation and unclear governance model—impact all m-banking stakeholders.

Without strong inter-agency coordination and clear ownership structure, the risks of inconsistency, interoperability gaps and industry dissatisfaction are substantial. M-banking is always cross-governmental at least at legal, regulatory & policymaking levels.

Current Status

Jamaica's institutional arrangements for m-banking are a work in progress. The following diagram depicts the current situation:



Under the *Parliament Act 1995*, the Office of Utilities Regulation (OUR) regulates various utilities in Jamaica and in particular, the telecommunications sector. At the moment, OUR is a very active institution and has –understandably- a limited involvement in m-banking.

There are a number of government institutions whose mandates relate to m-banking. The Ministry of Industry, Investment and Commerce has responsibilities over electronic commerce and e-transactions that directly impact m-banking. Ministry of Justice is a key stakeholder for law revision and legal reform given its role in overseeing the legislative framework. Ministry of finance is the de facto competent authority for all licensed financial institutions.

To date, Bank of Jamaica (BoJ) represents the most central m-banking institution in Jamaica. As detailed in this document, its role is pivotal to the advancement of m-banking in as much as it already oversees and supervises most licensed financial institutions and since it is generally perceived as a ''politically neutral'' organization.

Direction

To develop the necessary institutional framework, GOJ should focus on the following priority efforts:

- Empowering BOJ as the primary m-banking project owner.
- Ensuring strong sponsorship from Ministry of Finance.
- Establishing, as needed, inter-agency working groups to coordinate key cross-governmental m-banking policies and efforts. It is proposed that BOJ be responsible for organizing such cross-governmental working groups.
- Establishing a regular reporting mechanism to Jamaica's political leadership (Prime Minister).

BOJ: Empowering BOJ over m-banking is an important step in strengthening the institutional framework for m-banking in Jamaica. M-banking requires a high-level body to define compliance requirements and monitor compliance with m-banking policies and standards. In this regard, BOJ's central role and leadership need to be reaffirmed and broadly communicated to all stakeholders (government agencies as well as industry players). This could be achieved via a simple information note or via more formal vehicles such as Circulars. Changes in the *Parliament Act 1995* or the *Bank of Jamaica Act* are not deemed necessary, as the respective roles of both OUR and BOJ are already clearly defined and compatible with the proposed institutional arrangement. Besides, it is also important that the body governing m-banking be seen as ''politically neutral'' by the industry. For these reasons, BOJ is best positioned to serve these functions.

Ministry of Finance: Strong sponsorship from Ministry of Finance will be a valuable addition to the institutional framework. This will facilitate lobbying at the Cabinet level, which in turn will ensure that m-banking initiatives are given the right attention and priority level.

Working Groups: It is expected (and essential) that functional, inter-agency working groups will be established as required at different levels of government to coordinate work on national policies and regulations. This is particularly true for matters pertaining to electronic transactions, information security or customer protection. For certain key initiatives, such as information security, the need for coordination at government level has already been identified. Other working groups will form as needs arise. Strong leadership will be required from BOJ to ensure that these working groups function properly and deliver on their objectives. Support from (and regular reporting to) the highest level of political leadership should benefit BOJ in this area. It is also anticipated that BOJ will need to build additional internal expertise to be in a better position to steer these working groups. It is advisable for BOJ to undertake a needs assessment exercise in the early stages to identify the areas of expertise (legal, security, m-banking, technology, others) that need to be strengthened and the amount of expertise that is required.

Other Stakeholders: It is important that Jamaica's institutional framework for m-banking operates in a way that gives priority to the early and regular participation of stakeholders, especially relevant industry players, both from and outside the financial sector.

Division of Responsibilities

It is essential that the m-banking responsibilities be clearly identified to ensure effective coordination, avoid duplication of efforts and minimize confusion. Based upon the priorities for development of the institutional framework identified above, key m-banking responsibilities may be described as follows:

BOJ:

- Develop the required regulatory framework for m-banking
- Monitor compliance with that regulatory framework
- Act as central coordinator for m-banking initiatives
- Organize, sponsor and coordinate Working Groups related to m-banking, as needed
- Assist in raising awareness, acceptance and commitment from key stakeholders for m-banking
- Provide regular updates to Ministry of Finance and Prime Minister / Cabinet

Ministries:

- Participate in Working Groups established to coordinate m-banking related efforts

Prime Minister / Cabinet:

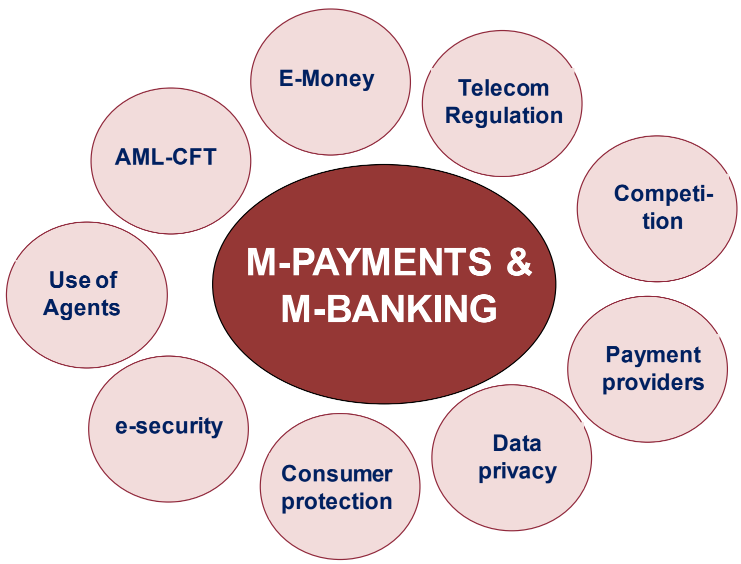
- Provide support to BOJ and ensure regular follow-up

Regulatory framework

Context

A regulatory framework sets the basic rules and authority needed to implement mobile banking. Development of an effective regulatory framework for m-banking requires close coordination and communication among entities in the drafting and enforcement of laws and regulations. For instance, close interaction will be required between the Divisions in charge of Payment Systems and Outsourcing (use of third party agents).

The key areas of interest for a mobile banking -or more generally branchless banking- regulation are depicted in the chart below:



In the following, the discussion will focus on e-money, AML/CFT, the use of agents, electronic transfers and customer protection related aspects as these are the key building blocks impacting the current state of m-banking in Jamaica.

Current Status

Jamaica's regulatory framework for m-banking needs to undergo significant evolution in order to provide a comfortable, certain environment for industry players to actively engage in mobile banking.

To date, the key highlights in regards of the m-banking regulatory framework include:

- E-Money is defined but is strictly restricted to deposit taking institutions
- AML/CFT is largely addressed but AML requirements in the context of mobile banking need to be specified. KYC requirements constitute a real obstacle and would gain by being relaxed with a risk-based and proportionate approach (KYC requirements should be adjusted based on: the type of customer, the associated risk-level, the nature, volumes and values of permissible transactions in the context of the service).

- Laws and regulations related to the use of third party agents do not allow deposit taking institutions to ‘’sublet’’ banking to non-bank agents.
- Ministry of Industry, Investment and Commerce has issued regulations that partially address e-transactions. However, these do not address the mobile channel specifically.
- Customer protection: although some elements are already in place within the telecom and financial sector licensing regimes, specific arrangements will be required in the context of mobile banking.

E-Money regulation

A new National Payment Systems Act is about to be brought to Parliament for ratification. It will give BOJ the authority to designate new payment systems. However, it does not address the case of e-Money in specific and defines card-based payment instruments in a restrictive manner (only in relation to existing businesses: credit cards are treated as credit business and debit cards as savings). In the current state, the National Payment Systems Acts does not provide for the required framework for an open definition and use of e-Money.

An e-Money order (2006) exists as a companion to the Banking Act, under the authority of BOJ. It defines electronic money as a card based product where monetary value is stored on a card and is represented by a claim on the person issuing the card (against present or future receipt of funds). While interpretations as to the nature of the card (plastic or SIM) may vary, the order restricts the use of such product to deposit-taking institutions only. This directly excludes non banks from offering such type of service.

Prepaid cards are however permitted within closed loop environments (with closed user groups) except for remittances, which is also in line with another restriction in terms of use of foreign currency on stored value cards.

All in all, the current framework restricts the use of mobile wallets to deposit-taking institutions, and would allow them to use SIM cards as stored value cards in the broad understanding of a ‘’card’’.

AML/CFT

AML and CFT are the most extensively addressed areas within the existing framework. Indeed, a number of local legislation and standards, as well as international guidelines and standards govern these particularly sensitive areas, which have received increasing amount of attention in recent years.

Local legislation and standards include:

- AML / CFT policy (1999, reviewed 2008)
- The Proceeds of Crimes Act (POCA, 2007)
- POCA (Money Laundering Prevention) Regulations, 2007
- The Terrorism Prevention Act, 2005
- The BOJ AML/CFT Guidance Notes, 2004/(R2005), (R2007)

International guidelines and standards include:

- Best practice standards issued by Basel Committee on Banking Supervision
- UN international convention for the suppression of financing of terrorism
- The FATF 40 + 9 Recommendations [4]
- 19 Recommendations of CFATF[5]

The most commonly referred to documents are POCA and the BOJ AML/CFT Guidance Notes, which contain most AML requirements that would apply to financial institutions.

The following will discuss in more detail the AML/CFT implications of mobile banking; the legal grounding of POCA and the Guidance Notes; and the main implications these two pieces of legislation have in terms of threshold reporting and KYC in Jamaica.

AML/CFT implications of mobile banking:

Mobile banking has a number of implications in terms of AML and CFT, mainly due to the nature of the customers that are targeted, the mobile medium that enables financial transactions, and the distribution network that is used as an alternative to bank branches.

First, m-banking (in its broad definition) typically targets low-income populations that largely differ from the traditional bank customers: they do not meet the traditional bank-level identification requirements; they have different needs in terms of financial services and have a different transactional behavior; and their reliance on cash and the informal economy is much stronger. Including these segments in a more formal sector requires tailored, innovative and more relaxed approaches to customer identification aspects, often compensated by more restrictive transaction controls in order to minimize money laundering risks. Best practice shows that regulators in countries where m-banking has been successful have adopted a proportionate approach (regulation aligned with the risk level): they have relaxed KYC requirements for m-banking (often based on a tiered approach, the lower the limits set on balance and transaction values, the lower the identification requirements), combined with stricter controls on transactions (limits set in terms of transaction volumes and values per customer per day, per week, per month). In addition, transaction limits were redefined to be more consistent with the transactional needs/behavior of the low-income segments and the financial services that were aimed.

Second, transactions are undertaken using a mobile device. Since a mobile device can be shared within a family or a person can own multiple lines, this poses the challenge of reliable identification of money laundering attempts. This issue is generally addressed via a double approach: enforcement of a stricter control mechanism at customer registration for m-banking to ensure that a single customer does not have multiple mobile wallet accounts, combined with additional controls at the transaction level to flag suspicious patterns. Suspicious patterns need to be defined in tune with the determined limits.

Last, the distribution network plays a critical role in implementing KYC procedures and enforcing KYC requirements. For that reason, the recruitment of reliable agents by the service provider is a crucial responsibility and regular audits may be conducted over the agents by the service provider. Some regulators have opted for a licensing mechanism for the agents, with clear requirements to be met by and possibility of license revocation.

[4] The Financial Action Task Force (FATF) is an inter-governmental body developing and promoting national and international policies to combat money laundering and terrorist financing (refer to Financial Action Task Force (FATF) for details on FATF and its 40+9 Recommendations)
[5] The Caribbean Financial Action Task Force (CFATF) is an organization of thirty states of the Caribbean Basin, which have agreed to implement common countermeasures to address the problem of criminal money laundering (refer to Caribbean Financial Action Task Force for details on CFATF and its 19 Recommendations)

Legal status of POCA and BOJ AML/CFT Guidance Notes:

POCA (and specifically the MLP Regulations) represents an all crimes approach to dealing with money laundering and the proceeds of crime. All aspects are covered from the definition of offences (POCA, section 92) to the requirements in terms of suspicious transaction reporting (POCA, section 94).

The traditional areas of enforcement under POCA include:

- Threshold reporting
- Suspicious transactions reporting
- Account monitoring orders
- AML guidance and AML implementation

But POCA also brings new areas of enforcement:

- Forfeiture & Pecuniary Penalty Orders
- Restraint Orders (s. 33)
- Seizure of realizable property that is subject to Restraint Order (s. 36)
- Recovery orders pursuant to the civil forfeiture regime
- Disclosure orders

Complementing the POCA, the BOJ Guidance notes have a very strong legal status. Indeed, a court can consider these notes in determining whether an offence was committed under POCA. In particular, compliance to the Guidance Notes is compulsory by virtue of Regulation 2 of POCA MLP Regulations and required under the Terrorism Prevention Act.

All in all, both documents have the required legal grounding to give them the desirable level of authority.

Transaction threshold reporting:

The key AML operational and regulatory regulations (threshold reporting, record-keeping, internal controls, communication, training of employees…) are concentrated in POCA MLP, which synchronizes financial legislation and criminal legislation by giving BOJ the authority to access suspicious transaction report information. They are also extensively addressed in the BOJ AML/CFT Guidance Notes.

Among the most important items is the threshold reporting requirements for cash transactions, which is defined specifically for each type of financial institution and which also provides for exceptions: the requirements are waived for established customers (older than 12 months) and the full KYC verification is not required for amounts below $250.

These exceptions, particularly the threshold of $250, would need to be revisited in the context of m-banking services, in line with the defined KYC requirements.

KYC:

KYC requirements are set both in POCA and in the guidance notes. They can be subdivided into the following requirements:

- Customer identification
- Customer verification
- Transaction verification

As per current requirements, a deposit-taking institution would have to require for all customers:

- Full name
- Permanent address and postal address
- Nationality
- TAX payer registration number
- Date and place of birth
- 2 referees
- Source of funds, and source of wealth
- Contact numbers
- Photograph (if required by the institution)
- Acceptable forms of identification:
  - Driver's license
  - Valid passport
  - Voter's identification card
  - Employer ID card
  - TRN

Customer identity verification by means of third-party data is also required, and so is the legitimacy of the transactions (AML/CFT Guidance Notes).

There are however some exceptions:

- Alternative forms of identification are accepted for transactions below $250
- Transaction verification is not required for de minimis transactions (i.e. transactions below $250). However, a required set of data is specified for that case.
- Full KYC is recommended for high risks customers

These requirements exclude de facto the currently unbanked due to their inability to meet the requirements. Considering that 30% of the population lives without a fixed address, their ability to fulfill the 2nd requirement on the KYC list (permanent address) hinders their ability to join the formal economy. Other requirements on the list seem unrealistic for typical low-income unbanked people to meet.

Besides, KYC requirements for new technologies where discussed (such as in the case of non face-to-face customers, new technologies or wire and electronic fund transfers) seem even more stringent in their wording.

Current KYC requirements would need to be relaxed and adjusted to the context of the unbanked, using a risk-based approach and the notion of proportionality (adjust requirements and controls proportionally to the risk level).

The table below provides two practical examples derived from Kenya and Afghanistan:

Service Provider	KYC requirements	Account balance limits	Transaction limits
Safaricom (Kenya)	• Customer registers with a valid ID with picture • Tiered approach under study: different KYC requirements for different annual limits	• Maximum account balance: 50,000 Kshs (USD 653)	• Transaction amounts between 100Kshs (USD 1.30) & 35,000Kshs (USD 457) • Maximum authorized daily transaction value: 70, 000Kshs (USD 915)
Roshan (Afghanistan)	• Customer registers with a valid ID with picture • Tiered approach under study (see table below)	• Maximum account balance: (USD 4,000)	• Transaction amounts between USD 1 and USD 2,000 • Maximum daily transfer: USD 2,000

The following table illustrates the tiered KYC mechanism proposed by one MNO (mobile operator) in Asia:

	Annual Limit	Identification	Verification	Storage
Tier 1	1,000 EUR	1 form of ID required Hard copy application form captures address, occupation, employer, approx DOB, purpose of using account	Agent is relied upon for KYC process, no verification by local operator with the exception of sample checking/monitoring	ID type and reference number and DOB entered on agent till. Application forms collected and stored by MNO.
Tier 2	10,000/15,000 EUR	1 form of ID required. 1 photo of applicant, verified by agent Hard copy application form captures address, occupation, employer, approx DOB, purpose of using account	Agent is relied upon for KYC process, no verification by local operator with the exception of sample checking/monitoring	ID type and reference number and DOB entered on agent till. Application forms and photo collected and stored by MNO.
Tier 3	30,000 EUR	1 form of ID required. 1 photo of applicant, verified by agent Hard copy application form captures address, occupation, employer, approx DOB, purpose of using account	Agent takes a copy of ID document which is sent to MNO for scanning/storage. Application form is checked to ensure all data is captured prior to set up.	ID type and reference number and DOB entered on agent till. A copy of the identification document and completed application form and photo is scanned and stored by MNO.

Use of agents

The use of agents traditionally falls under the outsourcing piece of regulation. It is an essential component of regulation if m-banking is to extend beyond existing financial infrastructure (bank branches, ATMs, EDCs…).

- Currently, banks (or deposit-taking institutions) cannot use third-parties as agents, which restricts customer access to services due to a limited number of existing branches. Banking is treated as a franchise and cannot be sublet.
- The use of agents is permitted in certain specific cases: remittance companies, payment processors acting as agents, building societies acting as agents.
- Non-banks (i.e. mobile operators for the matter of our discussion) cannot use third-party agents for financial services

- The AML Guidance Notes introduce the notion of ''introduced business'' but require the introducer to apply the same level of KYC as a Bank, in addition to a physical interview of the customer.

In the current context, the use of third party agents is not permitted. Allowing financial services providers to use third-party agents for basic functions such as customer acquisition, customer KYC, and cash in/out should be considered to enable greater penetration of banking services beyond the traditional banking infrastructure.

e-Transactions

The Electronic Transactions Act (2006) facilitates electronic transactions by establishing the validity of e-transactions and electronic signatures, as well as the admissibility and evidence weight of information of electronic form.

However, it does not adequately address the specific concerns pertaining to the use of the mobile channel as a transactional channel. Some of the identified issues / concerns include the following:

- The Electronic Transactions Act requires prior customer consent for e-exchanges. In the context of mobile banking, this could be addressed in the customer service contracts.
- Electronic signatures must uniquely identify a person to be legally valid. This issue is exacerbated in the context of mobile banking: does the association of a mobile number and a PIN code uniquely identify a person? Does the user interface need to provide that signature using unique identifiers such as the mobile IMEI (equipment number)?
- Use of SMS trace as evidence: under specific circumstances, an electronic document can be taken as original if the integrity of the information is assured. How can a user prove that the integrity of an SMS confirming that a transaction occurred is preserved?

More generally, the Electronic Transactions Act seems to have been developed for broad e-commerce applications that would rely on electronic media such as internet. It does not cater to the specific needs of mobile-based financial transactions.

Current Electronic Transactions Act should be revisited to ensure that its provisions and articles are consistent with (and supportive of) the use of mobiles as transactional devices.

Customer protection

Customer protection poses a number of challenges in the context of mobile banking. These are primarily due to:

- The distance between the bank branch and the point of service for cash in/out (in the advent of possible frauds, issues in redress mechanisms, errors etc.)
- The use of third party agents raises specific concerns:

- Quality of service: training of the agents, cash availability at the outlets to ensure liquidity of e-money etc. What happens in case of denial of service by an agent?
- Error management: who is responsible and what are the recovery processes? What happens if money is sent to a wrong number?
- Fraud and abuse: what security levels are required? What happens if a PIN code is intercepted?

These are real life issues that have been faced in other markets. Some of the answers provided by best practices include the following:

- Prudential regulation:
  - Sub-contracting agents: agents are licensed and under supervision
  - Requirements in terms of price transparency: price clarity, terms and conditions to be clear and understandable
  - Set limitations on certain types of products or practices
  - Implement and enforce standard practices such as contracts
- Customer identification:
  - National ID system that can be accessed by all the financial service providers
- Certification approaches:
  - Certify vendors, service providers
  - Quality index
  - Information publication
- Information Technology Privacy Act?

In relation to mobile banking in Jamaica, customer protection is an area that is covered diffusely across banking regulations and telecom regulations. Some specific guidelines / regulations would be required to address this area in a comprehensive manner.

A multi-party working group should be established to address customer protection issues with a specific focus on mobile banking services. This working group should include regulatory bodies from the financial sector and telecom sector, industry players as well as other stakeholders.

Direction

e-Money: a specific licensing regime for the issuance of e-money could be drafted to allow non-financial institutions to move into that space. In the short-term, licensed deposit-taking institutions can issue e-money and should be clearly allowed to use SIM cards as stored value cards so as to leverage the mobile channel.

AML/CFT: existing AML/CFT requirements should be adjusted to the use of the mobile channel and to the context of the unbanked. This includes the definition of proper limits (maximum balances, maximum number of transactions over a period of time, maximum value of each transaction etc.) and the review of existing transactions threshold reporting requirements. It would also include a complete review and relaxation of existing KYC requirements to be more inclusive and conducive for unbanked to join the formal sector. This would require a risk-based approach based on proportionality. Relaxation of the KYC can be counter-balanced by more stringent internal controls and limits.

Use of agents: use of third-party agents should be allowed, at least for deposit-taking institutions, as this is the only means to expand access to finance beyond the traditional banking network. For banks, this could be an opportunity to leverage the distribution networks of mobile operators, which seem to be currently the most effective way of reaching out to the unbanked.

Electronic Transactions: the existing Electronic Transactions Act has laid the foundations for electronic commerce. It would need to be revisited with a view to enable, legitimize and support mobile based transactions. This would require the involvement of security experts and technology experts beyond legal advice.

Customer protection: In the context of mobile banking, customer protection aspects take a new dimension that spans beyond the financial sector or telecom sector related issues. Addressing this aspect comprehensively will be crucial to the uptake and the success of mobile banking in Jamaica. A working group is recommended to focus on that specific aspect.

For further information, the reader is invited to refer to the accompanying PowerPoint presentations entitled Financial Services through Mobile Devices.

Legal framework

A legal framework sets the basic rules and authority needed to implement m-banking. It is important, however, that laws are not only pieces of paper; they must be understood by all stakeholders, implemented and enforced.

Development of an effective legal framework for m-banking also requires close coordination and communication among entities, especially with Ministry of Justice and Chief Parliamentary Council, in the drafting and enforcement of laws and regulations. The legal drafting process must involve all relevant stakeholders—including relevant ministries and BOJ—in order to produce regulations that are well understood and widely implemented.

Current Status

Jamaica's legal framework for m-banking requires further evolution, though important progress has been made. As discussed previously, a number of foundational documents already have a string legal status, and legal grounding for electronic evidence has been established to a certain degree.

To date, the key highlights in development of the m-banking legal framework include:

- Laws and regulations related to electronic transactions exist (Electronic Transactions Act, 2006), though an evaluation is needed to determine what gaps exist in relation to the use of the mobile channel.
- BOJ has issued regulations that partially address e-transfers and e-banking.
- Important reference documents (POCA, AML/CFT Guidance notes) already have a strong legal status.
- BOJ some form of legal authority (for instance, authority to access suspicious transactions records).

However, some gaps remain in several areas related to prosecution under criminal / civil law and customer protection:

- Definition of electronic crime: current definitions of crime are in the realm of general offence. Cybercrime and electronic crimes are not clearly defined, which hinders prosecution. For example, tampering with a SMS, interfering with an electronic transaction or deceiving a machine is not currently recognized as criminal offence. There is a need for a clear definition of cybercrimes that would be ideally addressed by a Cyber Crime Act providing specific sets of definitions (the Australian Cybercrime Act 2001 is a good example).
- Electronic evidence: another key issue is the question of the admissibility of electronic evidence and the potential gaps between the Electronic Transactions Act and the Evidence Act. There is a need for reconciliation between these two elements of legislation so as to enable proper legal actions / prosecution.
- Data privacy: the use of new technologies such as the mobile channel and related AML/KYC requirements also raise the question of data privacy in the

broader sense. This could be nicely addressed by an Information Technology Privacy Act, or elsewhere in the existing framework.

Direction

Electronic Transactions: The legal framework governing e-commerce remains inadequate with respect to mobile-based transactions. For example, laws on legal validity of SMS notifications remain to be addressed. Reviewing the existing Electronic Transactions Act to close the gaps and reconciling it with the Evidence Act is needed.

Information Technology Privacy: m-banking should be supported by a set of regulations addressing information security, including the classification of information, as well as basic policies on privacy, data management (protection, storage…). Current arrangements do not seem to cover all these aspects. Laws related to cyber crimes do not yet exist.

Division of Responsibilities

Development of a legal framework for m-banking will naturally involve multiple actors at various stages from drafting to enactment and enforcement.

BOJ:

- Assist in the drafting of laws and regulations related to m-banking, as needed, including provision of expertise on legal and m-banking matters.
- Help entities identify priorities regarding which laws and regulations most urgently require drafting or revision in order to effectively implement m-banking in Jamaica.
- Coordinate enforcement of laws and regulations by appropriate entities (Ministry of Justice, Ministry of Finance and others).

Ministries:

- Coordination with BOJ on a timely basis about drafting and revision of laws and regulations related to m-Banking.

Telecom Industry

With some limited exceptions, mobile operators have been the main force behind the success of mobile financial services in many emerging markets. This was the case in first-mover countries such as Kenya, Philippines and South Africa, and is also the trend in many other environments as world-stage operators such as Vodafone, Orange, MTN, Etisalat, Zain and others continue to roll-out mobile financial services in their respective countries.

The main reasons behind this lie in the following:

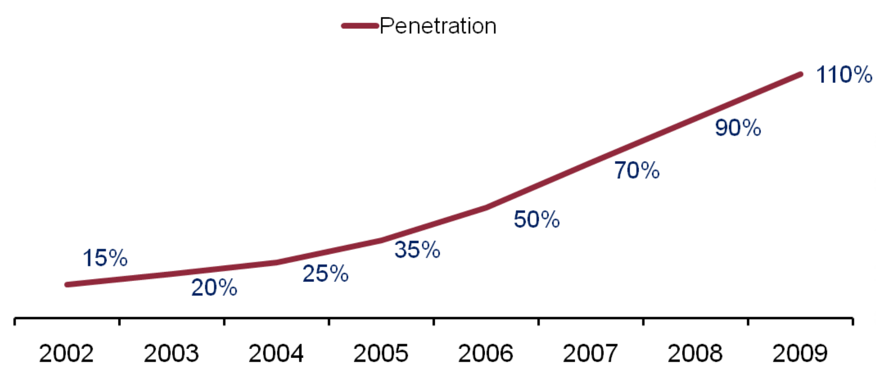
- **High volume / low value nature** of money transfers is well suited to the traditional business model of the operators, used to extracting value from the lowest segments.
- **Technology mastering:** mobile operators bring a strong technology expertise, from the front-end user interface to the back end processing systems.
- **Partnerships and alliances** are instrumental in building a nation-wide distribution network and, with their airtime resellers, mobile operators often boast one of the largest retailer networks in their country.
- **Brand trust** is a must as customers look for convenience, affordability, trustworthiness and security. Mobile operators have often built strong brand equity around these attributes.
- **Mass-market marketing capabilities** are essential to efficient customer education. Operators have developed a strong ability in that regards.

Overall, operators also have the resources, market experience and drive that are required to put together a rich ecosystem of partners. Besides, large groups that are operating across multiple countries can leverage their experiences in other jurisdictions.

Also, the following explores the current state of the telecom industry in Jamaica, with a view to understand the role it could play in relation to m-banking.

Current state of Mobile industry

Mobile telecom is, unsurprisingly, a vibrant industry in Jamaica. Penetration of mobile phones has known a significant growth over the last years to reach a high 90% at the end of 2008, and is expected to grow further to a 110% level by end of 2009.



For many years Jamaica has been regarded as the most important and most profitable market in the Caribbean, which is why major players have established their regional headquarters in Kingston.

Despite the small number of players (2 GSM operators & 1 CDMA operator) currently operating in Jamaica, the market has become increasingly competitive resulting in higher churn rates and slightly lower ARPU in 2009 compared to previous years. As a result, the market position and profitability of existing players is likely to be gradually eroded unless alternative competitive differentiation is sought.

This particular market situation is conducive for mobile operators to engage in mobile banking. Indeed, mobile banking is commonly perceived by mobile operators as an effective tool for churn reduction and value extraction (through increased acquisition, but also increased revenue per user).

The market is extremely concentrated in terms of number of players and market share:

- DIGICEL: ~55% market share by end 2009
- LIME: ~35% market share by end 2009
- CLARO: ~10% market share by end 2009

The largest 2 operators together concentrate 90% market share with more than 2 millions mobile users, which would naturally make them the most suitable partners for banks in terms of critical mass and market coverage.

However, it is also to be highlighted here that size and coverage are not the only criteria for selecting the best mobile partner in a mobile banking venture. Other elements have to be taken into consideration, among which are: the nature of the relationship that can be established between banks and the partner mobile operator; the social orientation of the partner mobile operator; the vision and drive that it demonstrates towards offering mobile financial services; the commercial terms and business model and importantly the regional footprint of the mobile operator. The mobile banking game is likely to be a regional game including the Caribbean and Latin America.

The latter consideration could make a comparatively small player such as Claro an interesting partner for banks given Claro's strong footprint in Central and Latin America.

Challenges faced by Mobile operators

As discussed previously, all mobile operators are expected to face increasing pressure to acquire customers and/or protect their market share. As competition develops, the focus is likely to shift towards more aggressive acquisition in lower-income segments, supported by value propositions that are relevant to these segments, and increased ''stickiness'' of existing customers.

Already, LIME is forecasted to lose further market share by 2010, which confronts the operator with 2 options: competing on price, which will drive market value down, or finding alternative ways (such as mobile banking) to protect their existing base and grow further in lower-income brackets.

Mobile operators and mobile banking

Although the market context in Jamaica is conducive for mobile operator's to engage in mobile banking, the regulatory framework is not. To date, no mobile operator has taken the lead in that space with their own mobile banking initiatives despite the successful propagation of electronic vouchers and person-to-person credit transfer. Indeed, regulatory uncertainty, combined with the inability to use their dealer networks (totaling near to 20K point of sales), has deterred mobile operators from breaking the status quo and innovating.

Nevertheless, mobile operators are keeping a close eye on the developments in that sphere and have made great strides in terms of maturing their mobile banking strategies, both in Jamaica and regionally. Claro, Digicel, Lime, all have a clear vision of how they intend to position themselves in that promising space. Indeed, their appetite for new services, their search for churn reduction initiatives, their technology maturity along with their strong brand and their ability to move fast are all comparative advantages that they would look at leveraging should regulation permit.

In particular, the international remittance opportunity seems to be a sizeable one. Not yet allowed to play in that space, mobile operators have restricted themselves to international credit transfers (top-ups) but would surely hope to become key players in that market (international remittances amount to nearly 20% of GDP).

Beyond regulatory limitations, other constraints faced by mobile operators:

- Limited KYC is applied at their dealer outlets. Redefining all the processes and procedures could be a heavy task. However, it is likely to be required by default by the Ministry of National Security
- Cash in / cash out capabilities of the dealers needs to be assessed, not to mention the security issues attached to these transactions
- Lastly, mobile operators do not want to be seen as banks as they do not want to be regulated as banks. The business of running a bank requires a very specialized set of skills and the financial requirements are not consistent with their business models. They see themselves as payment services providers, offering payment accounts that are not meant to be stored value accounts but rather, payment and transactional accounts.

In the current state of affairs, mobile operators cannot be involved in transformational mobile banking. They can merely play the role of a channel provider for banks, which is likely to promote the development of financial services that primarily target existing bank customers rather than the unbanked. Serving the unbanked will require greater enablement and participation of mobile operators in the financial services space, which will result in models characterized by more balanced responsibilities between mobile operators and financial institutions and will ultimately enable win-win commercial agreements.

Banking sector

The banking sector generally plays a role in the development of traditional m-banking services aiming at offering additional channels to existing customers, and Jamaica is no exception. Out of the 7 fully licensed commercial banks, almost all have been involved in some m-banking initiatives, few being close to full implementation.

Also, the following explores the current state of the banking sector in Jamaica, with a view to understand the role it could play in relation to m-banking.

Current state and challenges of Jamaica's Banking sector

Jamaica's banking sector is largely dominated by commercial banks, which represent 76% of total assets. It is also highly concentrated: the 2 top institutions (NCB and Scotia Bank) represent 75% of the total assets.

Banks have been traditionally focusing on high-value customers and corporate accounts, which has been detrimental to the inclusion of lower income segments. In addition, high entry barriers, stringent KYC requirements, defiance due to past scandals (cash plus), comparative attractiveness of partner schemes and to a certain degree tax evasion considerations seem to have driven large segments away from the formal sector.

As a result, commercial banks are currently providing access to financial services to approximately 1 million Jamaicans (less than 35% penetration), and do seem to face limitations in their reach. That limitation does not seem to be explainable only by coverage, since a branch can be accessed within a half hour drive from any part of the island.

The lack of access is partially due to the following factors (not comprehensive):

- Addressable market: large segments of the population either do not meet eligibility requirements or have a relationship with the bank only on pay day (typically Fridays) to cash their pay checks, making them by definition un-bankable or under-banked.
- Limited reach: although current number of branches per capita is relatively high, these branches are primarily concentrated in urban areas, thus limiting access in remote places.
- Competition is downscaling: Credit Unions and Building Societies are aggressively downscaling to micro-loans (typically below $5,000) and microfinance products. As a result, Credit Unions have already managed to attract 1 million members despite interest rates of nearly 40%.
- Trust: Jamaica, like any other developing economy, is a cash-based society. Developing trust to reach out to people in rural areas is a key aspect of any financial institution's strategy and is a real challenge.

These aspects are limiting factors for banks in terms of business expansion. Also, they seem to have put a renewed emphasis on channel optimization through alternative channel strategies, providing greater comfort, convenience along with an enhanced sense of control to their customers. Some have already ventured in the prepaid card business (ex: key cards) while others have tested the attractiveness of phone banking (telescotia). Mobile seems to be the next big development on the list. However, current regulatory uncertainty and the inability to leverage third-party agents beyond their traditional infrastructure are perceived as limiting factors.

Among the many challenges faced by banks, serving less profitable customers (such as large masses of paycheck cashing workers or transaction customers only) at bank branches is seen as an issue. Also, it has become a business imperative on certain large retail banks to explore more efficient channels such as the mobile channel.

Despite these challenges, it can be said that banks in Jamaica are very mature operations in terms of their processes and IT systems, and that readiness for mobile banking would only require minimal upgrades to existing systems. Besides, financial literacy seems high in Jamaica, with very high ATM usage and more electronic transactions than at bank branches.

The specific case of international remittances

One individual type of financial transaction that usually attracts a fair amount of attention is international remittances. Indeed, remittances traditionally flow towards developing markets, and banks are well positioned to capture a fair share of it, for instance by partnering with Money Transfer Operators like Western Union or MoneyGram. On the other hand, mobile operators are increasingly poaching on this business, developing bilateral agreements for some, securing standard deals with Western Union and the likes for others.

In the particular case of Jamaica, incoming international remittances represent a $2.5bn opportunity (20% of GDP), the most important corridors being USA, Canada and UK. Remittances, and even more so international remittances, are an area of interest for all actors present in the market. It is likely to become one of the most profitable m-banking services provided in Jamaica should regulatory barriers and technical difficulties be overcome.

Banks and mobile banking

As discussed previously, many banks are investigating traditional mobile-banking (based on existing accounts). A few banks also seem to be exploring alternative models at this stage of development of the market, although the environment has not been enabling enough for any practical initiative to emerge.

Other financial institutions

Credit Unions and Building Societies are also actively exploring the potential of new technologies, including the mobile channel. As a matter of fact, Credit Unions are already sending SMS reminders to their customers when loan repayment is due.

In time, more financial institutions can be expected to develop an interest in mobile banking in the broader sense. Although the strategic direction that will be chosen (mobile wallets, handheld-based branchless banking, alternative models) is unclear at this point in time due to current regulatory limitations.

Possible m-banking approaches for Jamaica

The previous section has provided an overview of the main challenges faced in relation to the legal, regulatory and institutional m-banking frameworks in Jamaica, as well as the main players. The current section discusses possible m-banking approaches for Jamaica.

M-Banking has the potential to significantly impact the performance of financial institutions in addition to supporting their mandate. Beyond financial institutions, it can also impact the business of facilitators or payment processors such as Paymasters, as well as the business of mobile operators that are involved. By orienting m-banking around the convenient, accessible, cost-effective, secure delivery of services to customers, m-banking will transform how financial services are delivered in Jamaica.

Consistent with global trends and best practices, m-banking services can be designed around the specific needs of customer segments in the parishes where financial services are needed. At the same time, m-banking approaches shall seek arrangements that most efficiently allocate risk and responsibilities between financial institutions and other partners, in particular mobile operators.

The definition of the best approach should take into consideration:

- International best practices
- Objectives sought by Jamaica
- Realities and specificities of Jamaica's environment

Review of existing international experiences

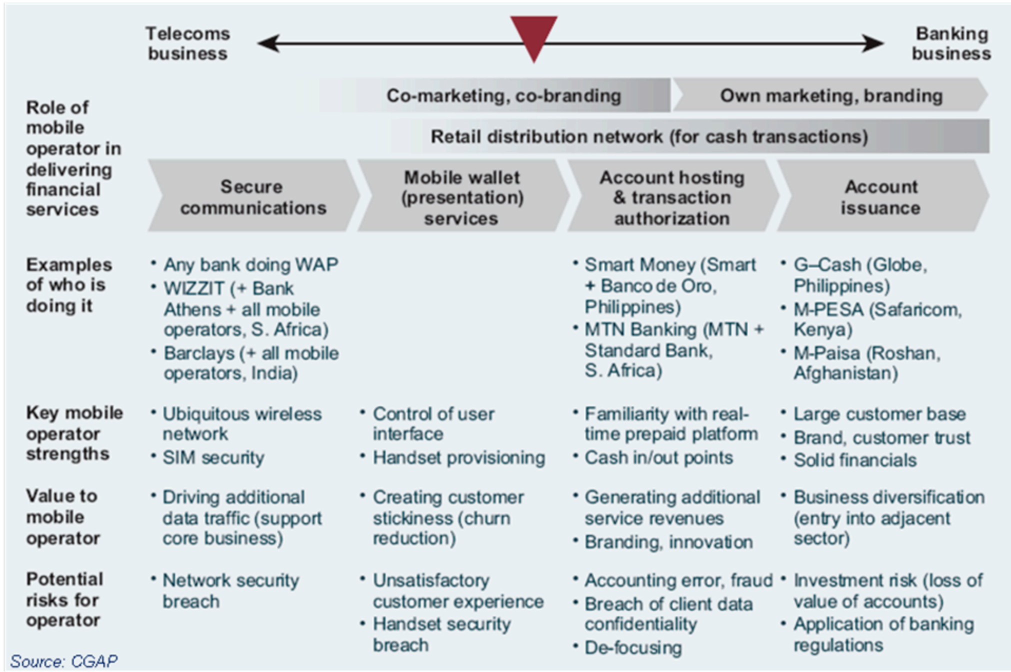
As discussed in the previous section, banks like non-banks have not yet made any steps towards implementing transformational m-banking in Jamaica. As such, Jamaica can start with a blank slate and determine the direction in which it wants the market to develop. The fundamental questions that are at the heart of the decisions to be made are pertaining to the respective role of the mobile operators and the deposit taking institutions.

As discussed previously, in the current context, only banks are allowed to issue electronic money but cannot leverage third-party agents to expand their coverage and their reach. Besides, KYC requirements remain incompatible with the objective to bring large masses of low-income segments into the formal sector. Mobile operators, in turn, are not allowed to issue electronic money nor use their agents for financial functions. These obstacles have been hindering the distribution of financial services to the currently excluded from the formal sector.

Other players that are non commercial bank and non telecoms, such as facilitators, payment processors, credit unions, building societies, MFIs, and ATM networks are also very interested in participating to a mobile money ecosystem.

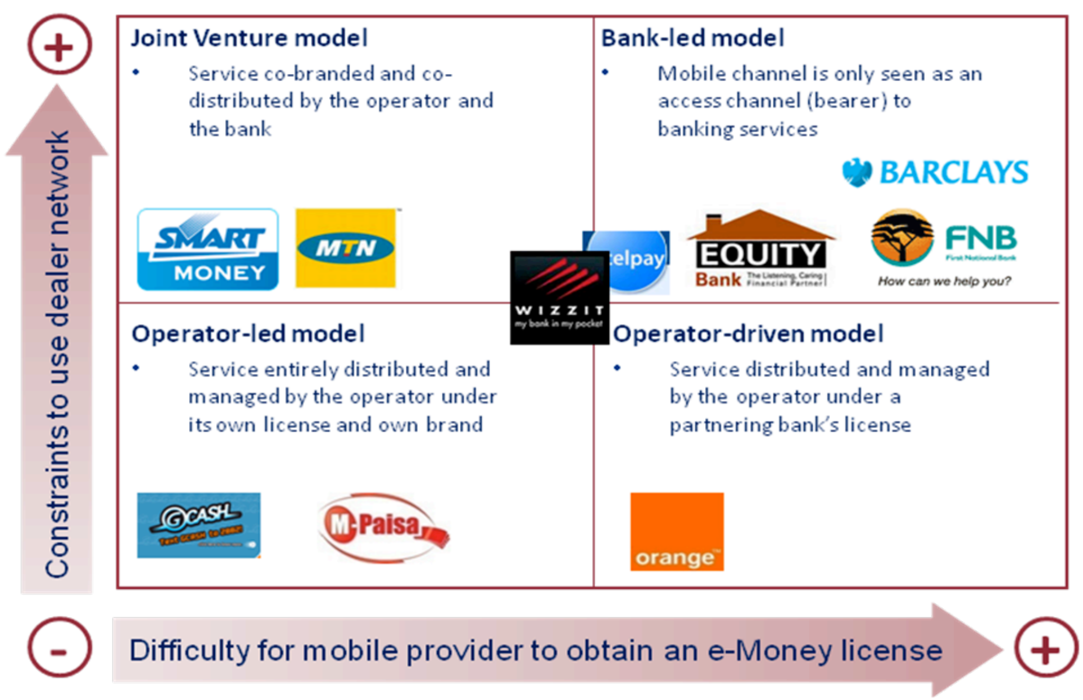
Within this context, BOJ can influence the market in different directions based upon the desired model. This will ultimately depend on the role that mobile operators are going to be allowed to play in this market, from a mere secure channel provider to an account issuer and a financial services provider.

The following diagram depicts the various roles that mobile operators can play in the value chain based upon the functions that they fulfill and their key strengths.



Determining where the cursor will be placed will also influence the different models emerging in the market.

The following chart describes the main models that have been implemented around the world.



International experiences show us that the prevailing models are the following:

Operator-led model:

In that scenario, the mobile operator is allowed to take deposits in trust for the customers and temporarily store that money in electronic form on a stored value card (which is the SIM card). He mobile operator performs both account issuance and account management functions.

The services that are provided are typically payment and transactional services (peer-to-peer transfers, merchant payments, loan repayment, salary deposit, airtime purchase etc.). Money is not meant to be stored on the card over a long period of time but, rather, used for transactions and payments. Besides, mobile operators cannot offer core financial services such as savings and lending, and would need to partner with a licensed financial institution for that.

Another characteristic is that the dealer network of the mobile operator is used for basic customer facing activities such as customer registration (including KYC), cash in and cash out.

Mobile operators would either need a written approval from the central bank (as is the case of Safaricom's M-Pesa in Kenya or Globe's G-CASH in the Philippines) or operate under a specific licensing regime (money service provider license as in the case of M-Paisa in Afghanistan). In all cases, the central bank has monitoring and supervisory oversight over the service and can audit operations at all times. Besides, all KYC procedures and AML thresholds and reporting requirements are agreed with the Central Bank.

Lastly, provision of the service relies on an underlying bank account that strictly mirrors the total amount of electronic money in the system. Daily (sometimes several times a day) reconciliations are carried to ensure that there is strict adequacy between the cash in the bank account and the total amount of electronic money.

This model has proven to be extremely successful in environments where banking penetration was very limited, and the appeal of mobile telephony and the brand equity of mobile operators were very strong. Typically in Kenya, where Safaricom had a critical mass of users with nearly 70% market share when they launched, Safaricom has been able to register 7 million customers to their M-Pesa service while the total number of banked people is closer to 5 million. In that regards, the M-Pesa model has been considered truly transformational in the Kenyan context.

Operator-driven model:

In that model, the operator relies on a partner bank for regulatory aspects. Account issuance (e-money creation) sits with the bank and account management rests with the operator. All other aspects are similar to the operator led model. This is the model that has been adopted by Orange across their operations in 18 countries. It allows a financial institution to be involved and, as such, take a cut of the revenue.

Bank-centric model:

In this model, banks restrict themselves to traditional additive mobile banking approach, offering existing customers more convenience, more immediacy and a greater sense of control. This type of m-banking is not transformational.

In this scenario, mobile operators are only providing the mobile channel to access banking services, and perceive traffic revenue only.

Joint Venture model:

In this model, a bank and a mobile operator decide to join forces. On the mobile operator side, this association is generally driven by regulatory restrictions, but also by a clear desire to fully integrate within the existing financial system and offer a richer set of financial services. As such, the service is often co-branded or neutral-branded, jointly distributed, and all operator agents and bank branches/ATMs can be used to service the customer. Besides, a payment card (generally prepaid) can be issued by the bank and attached to the electronic stored value account (mobile wallet) to offer even greater convenience to the user. The customer is usually a client of the Joint Venture (i.e. the new commercial entity established jointly by the mobile operator and the bank) and does not need to have a bank account with the partner bank. However, whenever the customer is already a customer of the bank and has an existing bank account, that bank account can also be used as a funding source for the mobile wallet.

This model has been successfully implemented by SMART in the Philippines (totaling now 6 million users), in a country that was already very plastic driven (loyalty cards, gift cards, private memberships, bank cards…). It has been less successfully implemented by MTN in South Africa and ZAIN in other African markets, where the use of plastic cards was less prevalent.

The greatest benefit of this approach is that it builds on the existing financial system and leverages existing investments. It also offers a greater role for the banks to play, since part of the transactions will be carried out by the bank on the banking infrastructure. It also makes the transition from a mobile wallet to a bank account more seamless to the end customer.

However, important decisions impacting the business are generally made jointly and banks have the reputation to be slower movers than telecoms. This is a sensitive issue for telecom operators, who are agile organizations used to moving fast. Also, in their business arrangements with banks, mobile operators would generally seek to retain key infrastructure components such as the back-end platform managing the accounts to minimize their dependency on the banks for technical operations and upgrades.

Third-party model:

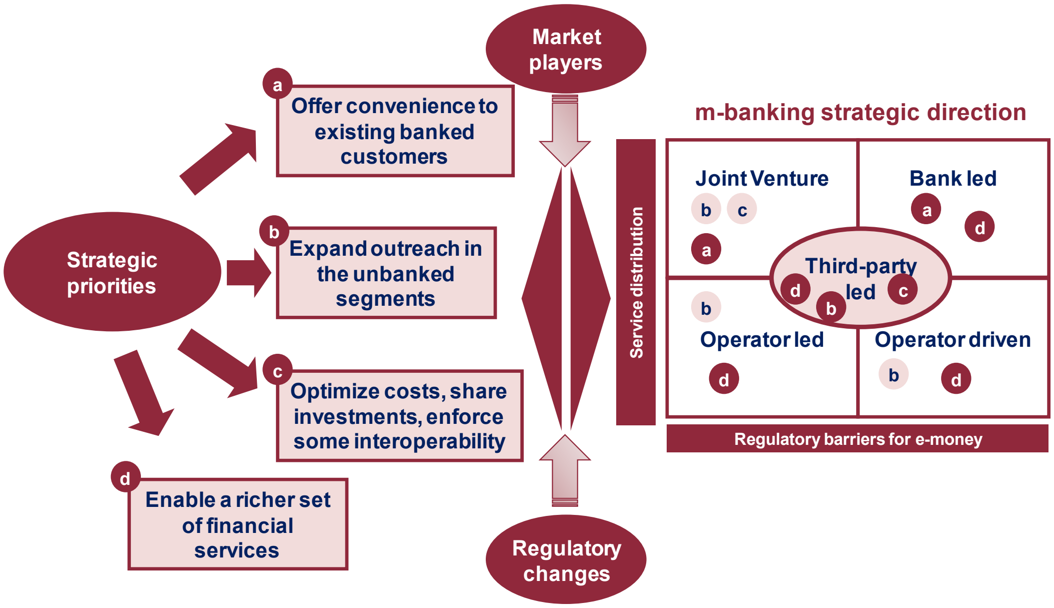
In some countries such as Indonesia or South Africa, third parties have emerged that operate under a banking license and build an entire ecosystem around their platform and network of distributors. Perhaps the two most representative examples are Wizzit in South Africa and Celpay in South Africa and Democratic Republic of Congo (DRC).

The main benefit of that approach is that it remains operator-agnostic and bank-agnostic. All participants in the ecosystem are interconnected to the same central platform which makes the system, by design, interoperable. However, the main drawback is that it dilutes first mover advantage for the telecoms and therefore negatively impacts their investment incentive. As such, the third parties do not have sufficient muscle power to carry an initiative of that magnitude by themselves. In addition, this model leads to a possibly less favorable business model due to one more intermediary in the delivery chain. To date, these models have had very limited traction in the market.

Options for Jamaica

Evaluation of options

The decision on the best option for Jamaica should be based on the priorities that will be set by the government, as illustrated by the chart provided below:



While all priorities seem to be desirable targets, the primary drivers should remain item b, complemented by c in addressing the unbanked. The chart also illustrates the comparative relevance of the different models based on the drivers they best fulfill.

Based upon this categorization, the most relevant options for Jamaica seem to be the joint venture model and the third-party led model. However, the third-party model is likely to have limited support from mobile operators and hence limited traction in the market, which makes the operator led and operator driven models worth considering in regards to the primary objective, which is to bring the unbanked to the formal sector.

As far as the existing bank-led initiatives are concerned, their potential for reaching out to the unbanked remains uncertain and primarily depends on the willingness of the banks to cater to these segments as well as their appeal to them.

The specific circumstances and realities of the Jamaican context

The relevant options have been identified here above. The following aims at discussing their comparative relevance against the current market context in Jamaica. Indeed, mobile banking is not the sole purview of government authorities. Success will require private sector buy-in and support from all industry players. In particular, support from the financial sector and the telecom players is crucial.

In that regards, the Joint Venture model should remain an interesting model to encourage in the near future. It would enable a joint involvement of and a balanced relationship between the banks and the operators, while also leveraging their respective strengths: the experience in running a compliant banking business with a large distribution network and the ability to leverage end-to-end technologies. This would also allowing further integration between the telecom world and the banking world. Furthermore, customers of the service would be allowed to open a bank account along with their mobile wallet, if they wish so and meet the eligibility criteria set by the Bank. This would enable them to easily move value from their mobile wallet into their bank accounts to perceive interests on short-term AAA Paper or Government Securities, but inversely would enable them to fund their mobile wallets from their bank accounts.

A degraded version of the Joint Venture, which is the operator driven model (which still involves a Bank) could also be considered in the short-term to leverage the superior agility of the mobile operators. The account management platforms would then rest with the operators, providing them with more flexibility and maneuverability. Banks would have a more limited role to play, but that could rapidly change over time as the need for further integration is driven by market forces and fueled by demand (in particular considering the high interest rates in Jamaica).

The operator driven model, despite its qualities, is likely to face paramount resistance from commercial banks. Indeed, the banks would see the incursion of mobile operators in their traditional market as unfair competition and would likely react vehemently to such an event. However, this scenario should not be completely discarded and retains its relevance for the long run.

As far as the third-party led model is concerned, it seems premature to consider such model in the current market. Indeed, m-banking initiatives will be carried by market players in search of product differentiation and competitive edge in the early stages of development. Pushing a third party model would dilute market advantage for critical players and as a result, may jeopardize their full involvement in the initiative, leaving it to the third party to ultimately support the project. In the absence of a particularly strong and determined third party, this may not be the preferred option.

Recommendations

Based on the previous discussion and in the interest of a smooth and effective transition towards an increasing use of the mobile channel for the distribution of financial services to the unbanked, it seems advisable that BOJ pursue a phased approach to secure short term quick wins while enabling long-term strategies to be pursued.

Short term quick win

In the short term, BOJ should engage in recommended reforms to at least enable the joint venture model and, by the same token, the operator-driven model to allow for the possibility for the mobile operator to be the technology provider and perform account management functions. Indeed, these options would enable a variety of models to flourish and would ensure ''equal'' participation of both the Bank and the mobile operator. The ultimate decision on which model is the best should be driven by market forces, based on commercial realities.

This recommended trajectory would require, as discussed previously, the following actions (at a minimum):

- Confirmation of the fact that banks can issue e-money accounts on SIM cards
- Ability for the banks to use telecom dealers as third party agents
- Revised set of KYC / AML requirements for that service
- Adjustments to the Electronic Transactions Act (please refer to 0)
- Authorization for the mobile operator to host the back-end platform and perform account management functions (required for the operator-driven model only)

The following table describes a proposed split of responsibilities between the mobile operator and the bank in a JV / Operator driven type of model.

	OPERATOR	BANK
Regulatory	► Contractual obligations to the Bank	► Bank is the licensee ► Ensures regulatory compliance
Technology & Processes	► Provides wireless channel ► Hosts mobile wallet technology ► Supports process re-engineering for ecosystem members	► Provides interfaces to its MIS ► Re-engineers impacted processes ► Trains agents / staff (KYC, processes…)
Infrastructure	► Manages the e-money accounts ► Authorizes and fulfills transactions ► Handles settlement	► Bank issues e-money accounts ► Fulfills certain transactions (in case of JV)
Products & Services	► Focuses on the unbanked ► Develops some of the financial products (bill payment, remittance…) ► Develops the ecosystem	► Focuses on high value clients ► Sets mobile banking priorities ► Develops mobile banking products
Marketing & Education	► Joint marketing ► Joint or neutral branding	► Joint marketing ► Joint or neutral branding
Distribution channel	► Mobile and m-wallet service registration ► Cash-in/out in the dealer network	► m-wallet service registration ► banking service registration ► Cash-in/out in the banking infrastructure

These roles are tentative proposals and the reality in the field is expected to be shaped by concerned industry players and reflected in their business arrangements.

Long term strategies

In the longer run, BOJ may consider allowing operator-led models to emerge, based upon the performance and success of existing initiatives. BOJ may also support the involvement of third parties such as JETS for the sake of interoperability between existing systems.

The benefits of a pilot

While BOJ undertakes the required reforms and so as not to slow innovation in the market, BOJ may consider allowing temporary pilots to start under their control. Market pilots are good ways of assessing the challenges posed by innovative approaches in real life situation. To avoid systemic disturbance, a cautious approach could be taken towards framing these pilots, with lighter KYC combined with constraining yet enabling limits and tight control exercised by BOJ.

These pilots would nonetheless have the value of proof of concept, would enable BOJ to validate industry interest and would guide BOJ in further regulatory amendments.

Within this context, one sensitive item to be carefully managed by BOJ is the question of fairness. Indeed, commercial advantage will be granted to pilot licensees. To avoid any unfairness and resulting resentment from industry players, it is recommended that BOJ invites all players interested in piloting to declare themselves and defend their models prior to the granting of licenses. Selection criteria should also be made explicit by BOJ to ensure transparency of the process. It is expected that this process will constitute a natural filter from which only 2 or 3 models will emerge, which could then be granted a pilot license.

Synthesis and Action Plan

Summary of the findings

As discussed previously, current legal and regulatory frameworks are not conducive for mobile banking to develop in a transformational way and bring the currently unbanked into the formal sector. Regulatory restrictions have not yet allowed for a clear industry-driven approach to emerge and plans in the making cannot be expected to take practical shape until highlighted regulatory issues are addressed. Priority regulatory amendments have been identified and discussed. In parallel, identified legal gaps do not properly protect the customers, nor do they protect the service provider. As such, they constitute an impediment to the development of m-banking services.

Without strong action from BOJ and other government counterparts, the m-banking landscape in Jamaica is likely to stagnate.

Furthermore, success in m-banking involves coordination between multiple government agencies and requires central ownership and accountability. It would be advisable to assign such responsibility to an entity that enjoys a strong reputation and is seen as politically neutral by industry players. For these reasons, clear institutional arrangements should be made to empower BOJ as the ultimate arbiter of m-banking enablement and ensure full support of other government bodies.

Last, the banking industry like the telecom industry has shown significant interest in mobile banking in its broader sense. Other market players have also expressed interest and concerns about the ability of Jamaica to move from its current financial institution-centric modus operandi towards a more open and more inclusive m-banking approach. From the various interviews conducted, it also appears that business priorities and preferred models differ from one player to another.

Within this context, prescribing a unified approach for the Jamaican market seems challenging. Rather, an approach aiming at allowing pilots to emerge while implementing gradual changes to the current regulatory framework that would enable all parties to leverage the opportunities of m-banking is more advisable. This is described in the following section.

Direction

The recommended approach consists in initiating consultations with the industry players in view of pilots while making quick amendments to the existing m-banking framework to realize short term quick wins and gradually enable longer term changes.

Indeed, the pace at which the industry is ready to move is faster than the pace of regulatory change and allowing pilots to start will spur positive innovation in the market while enabling BOJ to learn lessons from them. The context and conditions of these pilots would need to be carefully defined so as to ensure that emerging models will later fit within the regulatory framework that will be developed in parallel. That will require BOJ to have made some decision regarding the preferred model for Jamaica.

In parallel, quick adjustments should be brought to the regulatory and legal frameworks to achieve quick wins by enabling the joint venture and possibly operator driven models.

At this stage, it seems premature to determine whether a pure mobile operator (operator-led) model should be allowed in the long term. The pertinence of such model in the Jamaican context is debatable and should be further discussed at government level.

The recommended priority actions are summarized in the following:

✒ Priority Actions – Institutional Framework

Immediate:

• Empower BOJ as the primary arbiter of m-banking enablement in Jamaica.

• Ensure strong sponsorship from Ministry of Finance.

• Establish a regular reporting mechanism to Jamaica's political leadership.

Short/Mid-term:

• Establish, as needed, inter-agency working groups to coordinate key cross-governmental m-banking policies and efforts.

✒ Priority Actions – Regulatory Framework

Immediate:

• Confirm the ability of licensed deposit-taking institutions to issue electronic money and use SIM cards as stored value cards

• Establish a working group to address customer protection issues

Short-term:

• Adjust existing KYC requirements to the context and realities of the unbanked

• Provide clear and specific AML requirements for mobile banking

• Enable the use of third-party agents for the provision of m-banking services

• Revisit and amend Electronic Transactions Act for the specific case of mobile transactions

Mid/Long-term:

• Develop a specific licensing regime for non-financial institutions to offer m-banking services

✒ Priority Actions – Legal Framework

Short-term:

• Review the existing Electronic Transactions Act to ensure proper legal grounding for m-banking transactions. Reconciliation needed with the Evidence Act.

Mid/Long-term:

• Address information privacy issues more comprehensively in the context of m-banking including information security, storage, classification

- Develop a Cyber Crime Act to provide a clear definition for cyber and electronic offence

☛ *Priority Actions – General*

Short-term:

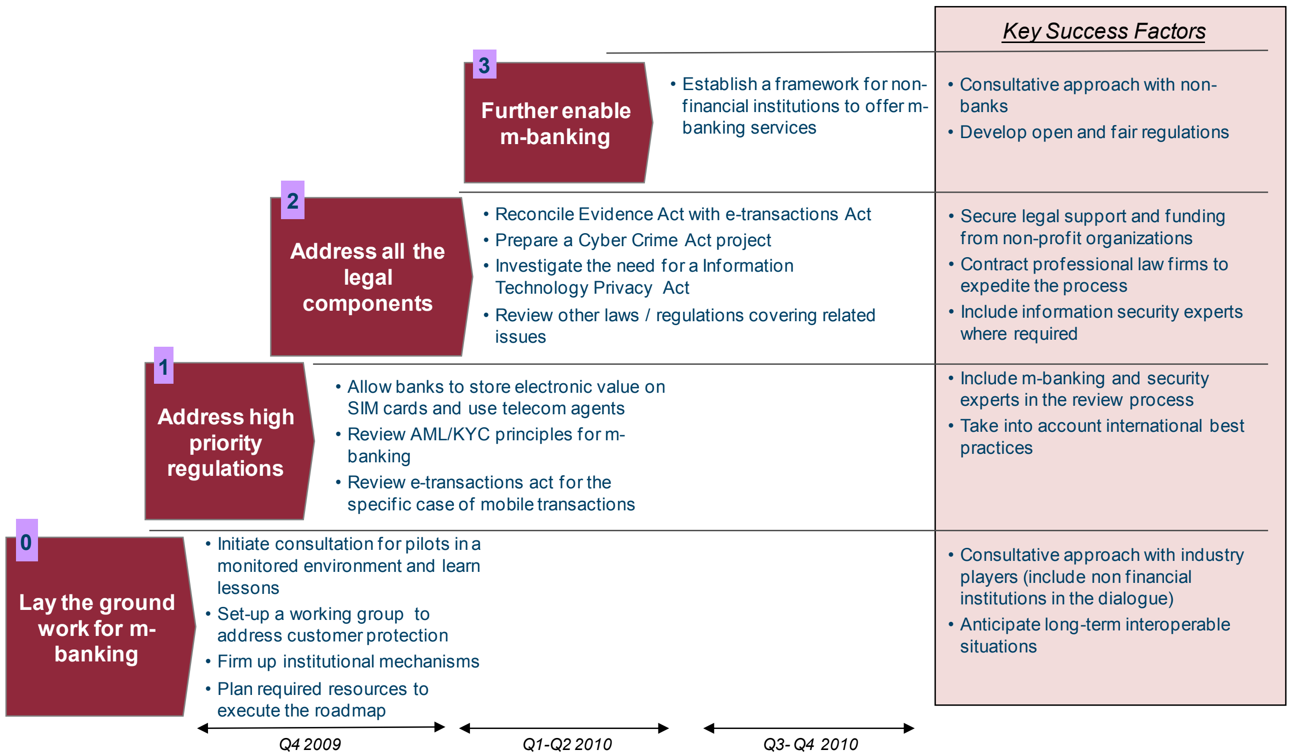
- Initiate a consultation with industry players to create the environment for market pilots
- Make a strategic decision on the models that would be preferred
- Identify the external resources that will be required to support the action plan and secure both the funding and the resources

Roadmap and budget

This section proposes to detail the recommended roadmap and discuss related budget requirements.

Proposed roadmap

In line with the above, the proposed roadmap is depicted in the following diagram:



This roadmap may seem aggressive at a first glance. However, it is important to set ambitious targets so as to maintain and build on the existing momentum in the market. Indeed, m-banking is a fast moving industry and the pace of change needs to keep up with industry speed.

Estimated budget requirements

Delivering on this roadmap will require determination and focus, as well as material and human resources. The following table aims at guiding BOJ and GOJ in general in their assessment of the required effort and budgets.

Roadmap phase	Key tasks	Owner	Participants	Budget requirements
Laying the ground work for m-banking	Initiate consultation for pilots	Ministry of Finance	Financial and non-financial institutions, including mobile operators, BOJ	Ministry of Finance and BOJ internal resources
	Set up customer protection working groups	PIOJ	Various Ministries and groups as required	PIOJ internal resources
	Firm-up institutional mechanisms	Ministry of Finance	Cabinet / PM	Ministry of Finance resources
	Resource planning	BOJ	PIOJ	BOJ internal resources with the support of PIOJ
Address high priority regulations	Review AML/KYC principles	BOJ	Industry players	Focused BOJ resources (estimate: 20 man. days)
	Review E-Transactions Act for mobile banking	Ministry of Commerce and Industry	Industry players, CPC	External support for the review of e-transactions act (~15KUSD for 10 days of security and m-banking experts)
	Enact a new regulation to enable the use of agents	BOJ	CPC, Ministry of Finance, FSC	BOJ internal resources (estimate: 40 man.days)
Address all the legal components	Cyber Crime Act drafting	Ministry of Justice	CPC, Ministries of Telecommunications / Commerce and Industry	Depends on the resources available at MOJ and CPC. Legal expertise will be required to fast track reviews and drafting (~75KUSD for 50 days of support). Security and m-banking expertise will also be required in this phase (~15KUSD for 15 days)
	Electronic Transactions Act and Evidence Act alignment	Ministry of Justice	Ministry of Commerce and Industry	
	Information Technology Privacy Act drafting	Ministry of Telecommunications	CPC	
Further enable m-banking	Develop a framework for non-banks to engage in m-banking	BOJ	CPC, Ministry of Finance, Ministry of Telecommunications OUR	BOJ internal teams

APPENDIX: List of interviewed organizations

A number of field interviews were conducted in the context of this exercise. The following provides the list of participating organizations:

Bank of Jamaica

Church Credit Unions

Citibank

Claro

Cooperative Credit Union League

Digicel

First Caribbean Bank

Jamaica National Building Society

JETS

LIME

NCB

Office of the Prime Minister

Pay Masters

PIOJ

RBTT

Scotia Bank