

The background of the slide is a golden-yellow color with a dense, repeating pattern of various international currency symbols (such as the dollar sign, euro, yen, and pound) rendered in a 3D, embossed style. The symbols are scattered across the entire page, creating a textured, financial-themed backdrop.

Legislative Reform in Jamaica

Proposed changes to the Insurance
and Pension statutes

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Disclaimer

- The views expressed in this presentation are those of the Author and do not necessarily represent the views of the Financial Services Commission, its Board of Commissioners, its officers or staff.
- This presentation articulates the policy positions for proposed amendments to the Insurance Act, and the Pensions (Superannuation Funds and Retirement Schemes) Act. These policy objectives were arrived at based on consultations between the FSC and the Stakeholders. As these are matters of policy, the final decision on whether to accept these proposals resides with Parliament. The policy positions expressed in this presentation are still being refined and considered by various agencies within the Government of Jamaica.

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Proposed amendments to the Insurance Act – Key Policy Considerations

- Protection of the interest of policy holders
- Corporate Governance of the Insurance Companies
- Refining the mechanisms for due process by the FSC

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Proposed amendments to the Insurance Act and Regulations – Key policy considerations

- Harmonizing the procedures for dealing with unclaimed benefits with other financial legislation
- Ensuring transparency in the application of the average clause to insurance contracts

Proposed amendments to the Insurance Act - Protection of Policy Holders

- Section 59 – To be amended to better protect interests of local policy holders on insolvency of an insurance company
- Section 59 – Refers to insolvency legislation
- Section 110 – Notice period to a policy holder of an ordinary long term insurance policy would be increased
- Section 115 – Refining procedure for unclaimed moneys under a policy (publication, determination of claim, reversion to Accountant-General)



Proposed amendments to Insurance Act – Corporate Governance

- Section 23 – Registered insurance companies extending unsecured credit facilities
- Section 26 – Publication of annual audited financial statements
- Section 29 – Record retention of records with respect to all operations of an insurance company
- Proposed Section on requiring risk management procedures for insurance companies



Proposed amendments to the Insurance Act - Corporate Governance

- Section 2 (2) (b) – Activities which constitute “carrying on insurance business”
- Section 2 (2) (b) – Language will be amended to clarify application to any person engaging in activities related to insurance contracts

Proposed amendments to the Insurance Act – Due Process, Opportunity to be Heard

- Intended beneficiaries of the amendments:
- Section 11 – Applicants seeking to be registered as insurance companies
- Section 15 – Registered insurance companies - proposed cancellation of registration
- Section 63 – Applicants seeking to be registered as associations of underwriters
- Section 66 – Registered association of underwriters – proposed cancellation of registration



Proposed Amendments to the Insurance Act – Due Process, Opportunity to be Heard

- Section 73 – Applicants seeking to be registered as insurance intermediaries
- Section 75 – Proposed suspension of insurance intermediary
- Section 76 – Proposed cancellation of insurance intermediary's registration



Due Process, Opportunity to be heard

- The Insurance Act has an existing mechanism for due process in relevant sections
- Need to refine process to be harmonized with other financial sector legislation
- Major changes are that applicants will be notified of proposed FSC's decision or action;

Due Process, Opportunity to be heard

- Affected parties are –
 - Allowed to make written or oral representations on intended action
 - Given a right to a formal hearing before decision
 - After FSC's decision, given the right to appeal to the Appeal Tribunal under section 140

Average Clause – Effect and Notice to Policy Holders

- Section 120 – Prescribing content of the notice of pro rata average clause
- Regulation 126 - Improved disclosure of pro rata average clause to policy holders
- Placement of notice on insurance contract, in newspapers, on insurer's website
- Creation of an offence for non-compliance; fixed penalty under FSC Act
- Twenty-Third Schedule in Regulations – Content of notice of average clause; explanation of its effect



Proposed Amendments to the Pensions (Superannuation Funds and Retirement Schemes) Act

- Key Policy Considerations:
 - Financial Inclusion
 - Protection of participants in superannuation funds and retirement schemes
 - Simplification of amendment process – section 35 of the Act
 - Encouraging market makers to create innovative pension products
 - Making retirement schemes more attractive

Proposed amendments to the Pensions Act – Financial Inclusion

- Section 2 - Amending the definition of approved retirement scheme to permit multiple membership in pension plans; including simultaneous membership in both a fund and a scheme
- Section 2 – proposed dependant disability pension (pension to a disabled dependant)
- Section 14 (approved retirement schemes) – expanded categories of eligible persons for membership
- New provisions to accommodate multi-employer pension plans



Proposed amendments to the Pensions Act – Protection of participants

- In approved retirement schemes, members to be informed of risk associated with investment strategy
- Specifying maximum vesting period of 5 years of membership in fund
- Immediate vesting in the case of approved retirement schemes
- Deemed vesting on attainment of normal retirement age



Proposed amendments to the Pensions Act – Protection of participants

- Deadline for payment of benefits – 30 days after Administrator receives all relevant information
- Giving trustees' discretion to augment benefits
- Where benefits exceed maximum pension limits in Income Tax Act, allowing for excess to be used for augmentation or refunded to member (subject to tax)



Proposed amendments to the Pensions Act – Protection of participants

- Prohibition of conditional vesting for terminated members (withdrawal of contributions)
- Approved retirement schemes – The order of priority for payment of debts on winding up as stated in section 31 would not apply
- Notice of proposed surplus distribution/application in ongoing fund



Proposed amendments to the Pensions Act – Protection of participants

- Section 40 – allow for publication of names of approved retirement schemes and approved superannuation funds
- Giving members the right to transfer their benefits (Portability)
- Non-assignability of pension benefits – any assignment shall be void



Proposed amendments to the Pensions Act – Protection of participants

- Locking in of members' compulsory contributions paid in after the Amendment Act.
- Facilitating lump sum payment to a terminally ill person
- Registration of sales representatives of approved retirement schemes

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Proposed amendments to the Pensions Legislation – Protection of participants

- Requirement for trustees' training
- Greater regulation of promotional material for pension products or pension services – Governance Regulation 27
- Registration of sales representatives of approved retirement schemes



Proposed reform - Simplified amendment process – approved retirement schemes

- For approved retirement schemes (ARS), member approval not required for proposed amendments
- Member protection mechanism – In an ARS, members receive notice of amendment 30 days prior to submission to FSC
- All amendments would still have to be approved by FSC



Proposed reform - Simplified amendment process – approved retirement schemes

- Once FSC approves amendments, members again receive notice of approval
- Members have 60 days from notice of the FSC's approval to transfer accounts to another provider, without any charge or penalty

Proposed reform – simplification of amendment process – approved superannuation funds

- No member approval required for non-prescribed amendments
- Non-prescribed amendments – Prior notice to members of proposed amendments
- Prescribed amendments – submitted to participants' meeting for approval, within 14 days of the trustees' meeting

Proposed reform – simplification of amendment process – approved superannuation funds

- Simplification of time-lines
- Deletion of section 35 (4) – removal of requirement to submit to FSC amendments at least 90 days prior to effective date of amendments
- Following the FSC's approval – Trustees to notify participants

Proposed amendments – Encouraging Market Innovation – Pension Payout Products

- Permitting the FSC's Approval of Pension Payout Products
- General characteristics of Pension Payout Products described
- Licensed Investment Manager to offer product
- Product must provide a minimum annualized pension
- Allows for a payment of a death benefit
- Member can use balance to purchase annuities



Proposed Amendments to Pensions Legislation – To make retirement schemes more attractive

- Removal of requirement for “member-nominated trustees”
- Independent trustees
- Permitting financial hardship withdrawals from accumulated pension savings
- Trustees may accept transferred amounts from unapproved plans
- Regulation of advertisements



CAA Comments on Proposed Pension Reform

Major areas still being considered

- Revisiting proposed amendment of definition of “member”
- Contribution Holiday – whether the FSC’s approval is required
- Surplus distribution in an ongoing fund – whether the FSC’s approval is required



CAA Comments on Proposed Pension Reform – Matters still being considered

- Restricting notice of material change to members who are affected
- Transfers at no-cost from a retirement scheme following an amendment
- Refining the “triggers” for partial winding up – restrict it to withdrawal of a participating employer

CAA Comments which have been accepted – In principle

- Inclusion of a definition of “independent trustee”
- Reconsideration of retention period for unclaimed benefits – the FSC to revisit in light of proposed amendments to Insurance Act
- Payment into Court – proposal is being revisited.

CAA Comments which have been accepted – in principle

- For member protection, in principle the FSC accepts CAA's recommendation that method of disseminating information should be done in annual disclosures (possible options include benefit statements)
- Use of gross income for dependant's pension – to be explored with Tax Authorities
- Risk Management Policies – Guidelines specifying the details of such policies will be drafted and circulated for comments

CAA Comments which have been accepted – in principle

- Calculation of benefit paid to a terminated member – language has been clarified to refer to “locked in amounts”, i.e. member’s contributions and any employer’s contributions (if applicable)
- Refining credited interest for defined contribution plans
- Guidelines will be issued on the use of the FSC’s approval in advertisements

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CAA Comments on Transfer and Commuted Values; Funding & Solvency Regulations

- The FSC will revert to CAA with its detailed responses to these comments



Thank You!

For further information, please
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