



**4<sup>th</sup> ANTI – MONEY LAUNDERING/COUNTER – FINANCING OF TERRORISM CONFERENCE  
COMPLIANCE: ENSURING RELEVANCE IN THE INTERNATIONAL FINANCIAL COMMUNITY**

**OCTOBER 12, 2015  
JAMAICA PEGASUS HOTEL**

***“WHO BEARS THE COST OF CORRUPTION AND CORRUPT PRACTISES?”***

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May I begin by expressing appreciation for your invitation to deliver the keynote address at this very important anti money laundering /counter financing of terrorism conference. It is, as you know, your 4th Annual Conference and I was privileged to have spoken at the 1<sup>st</sup> conference in October 2012. At that time those of you who were there, and who have long memories, may recall that I referred you to some not very complementary indicators relating to Jamaica’s global competitiveness, a global competitiveness impacted then negatively by our high levels of corruption, with attendant costs to all of us, particularly in regard to job creation.. And therefore I felt it useful three years down the road to see whether we had improved or gone backwards on key aspects relating to problems of doing business in Jamaica. I am happy to say that whereas in 2012 we ranked 127<sup>th</sup> out of 144 countries in relation to the ***“burden of government regulation”***, on the 2015/2016 Global Competitiveness Report, published less than two weeks ago, we have moved up, not dramatically, but worthy of note, to 106 out of 140 countries. More particularly related to your banking sector, on ***“the ease of access to loans”***, we have again improved not as much as we would like, but from 127 to 118 of 140 countries. Overall we have moved from 97 to 86 in global competitiveness but corruption continues to remain, according to this most authoritative report, amongst the top 5 of 16 ***“most problematic factors for doing business in Jamaica”***; hence all of us, but particularly our young people seeking decent work, bear the burden of the attendant deficit in job-creating investment, had we had less corruption.

Corruption therefore remains a critical challenge for us to more successfully overcome, especially when our neighbors, for example Costa Rica rank number 52, don't have corruption in the top 5 and on critical indicators, like ***"irregular payment and bribes"***, rank number 51 while we are way down at 82, a deterioration over where we were in 2014/2015. I also note that three years ago we were contemplating, and I dealt with it in my presentation then, a Code of Conduct for banks and deposit taking institutions. We had started on this road along with Trinidad and Tobago and Barbados in 2009, as part of a Consumer International Project funded by the Inter-American Development Bank. Trinidad and Tobago, and I believe Barbados now, has had their code in force; we yet have to conclude our deliberations on this matter and to have an enforceable code. This is not an insignificant issue. The Consultation Paper on our proposed code, I am happy to say, is now posted, since March 2015, on the Bank of Jamaica website. When applied, It would significantly enhance transparency and, for example, oblige deposit taking institutions, under pain of sanctions, to give fulsome notice, under Code Number 2, ***"to provide a customer with reasonable notice in writing of any change to the terms and conditions, fees and charges and interest rates applicable to any of the DTI's products or services that has been acquired or accessed by the customer."*** I believe the notice period is ***"not less than 45 calendar days in advance of any such change(s) being implemented"*** I am sure each of you as upholders of the principle of transparency and also, like myself, as customers of your institutions would welcome such an obligation. I would suggest that the Bank of Jamaica indicate to the public when this consultation shall conclude and, thereby, when this code shall come into effect.

No doubt deliberately, and I make no complaint, you have not asked me to speak on such matters. Rather you have suggested that I speak on the subject ***"WHO BEARS THE COST OF CORRUPTION AND CORRUPT PRACTICES?"*** Forgive me if I start with a definition of corruption, taking some of you back to your GT 11A (or 102) days in my class at Mona and for those of you who did not have those days, to Political Science 101. ***Corruption may be defined as the abuse of power or authority, whether that power or authority is held by a public official, civil society officer- in FIFA for example – or by a private sector banker; the abuse of such power or***

**authority for illicit gain, whether personal, for one's family, for one's political party, or for one's business or bank for that matter.** We need not spare any time to state the obvious, namely, the perception and practice of corruption is wide spread in the modern world. In Jamaica our new National Security Policy, Ministry Paper Number 63, laid in Parliament by the Prime Minister in April 2014 identifies corruption of public and elected officials, and money laundering as well, as a Number 1 threat, as a clear and present danger to Jamaica's national security and economic prosperity. On the global stage the president of the World Bank in Dec 2013 identified corruption as "**public enemy number one**". Regrettably, as we shall see, major international banks play a significant role in facilitating corruption.

But before going there let us take a look at who bears the costs of corruption here in Jamaica. It was day before yesterday, Saturday October 10<sup>th</sup> that I saw on TVJ's major news cast my school mate of many decades ago, the Minister of Education, indicating that he would be requesting some of PM Cameron's 360 million pounds to expand school places, the shortage of which he justifiably lamented. In that regard allow me to take you back 47 years. Jamaica has just received in 1968 the largest loan thitherto given to any developing country. It is to build schools and expand school spaces for our children. When the project was completed, the cost was twice what was budgeted and Jamaica could have built twice the number of school spaces with the loan funds. Why and how did this happen? Two words **POLITICAL CORRUPTION**. Contracts to build the schools were allocated not on the basis of technical qualifications by qualified professionals but on the basis of contractors being recommended by MPs. 47 years later it is not hard to see who is bearing the cost. It is our youngsters too often crowded into classrooms because of inadequate school spaces, their parents and teachers, and ultimately contributing to half Jamaica's secondary school cohort graduating each year having passed no subjects at CXC. We are all still bearing the costs of this massive corruption 47 years ago. (Visit NIAs website or YouTube channel—**the Cost of Corruption, Jamaica's barrier to prosperity**.) I would therefore urge, and I am sure you will agree, that any funding from the British (or from any other international partner, for that matter) to build additional school spaces, and I fully support this, should be allocated to contractors strictly on the basis of merit, on the basis of qualification and

in accordance with Jamaica's procurement rules, not on the basis of political favoritism with all the costs associated with that. And since we are on the subject of political favoritism may I mention that JA ranks 102 of 140 countries, a drop from 94 last year, according to the Global Competitiveness Report on "**favoritism of government decisions**".

Let's take another example of who bears the cost of corrupt practices – **ROADS**. In budget year 2013 and 2014 the National Works Agency was allocated 10 billion JA dollars from tax payers' money and from external official development assistance. You and I know and experience ( and Jamaicans on the television almost nightly complain about) the terrible condition of so many of our roads, some having been recently repaired or rehabilitated and then soon thereafter falling once again into disrepair. Let us not speculate on the reasons why. Let us quote from Ministry Paper Number 63 the National Security Policy for Jamaica, here I quote from page 20

***"the direction of public works contracts into the hands of political affiliates has also been particular damaging, as this has often resulted in unnecessarily expensive or poor quality infrastructure. For example, a contract to build a road might provide an opportunity to reward political affiliates, and shoddy construction would ensure that the road surface would crumble, which would then allow the issuing of another contract to resurface the road. This is one of the reasons", the national security policy continues, "Why Jamaica has, simultaneously, one of the most dense road networks in the world, and one of the worst road networks in the world in terms of the percentage of road in good condition."***

So there you have it. Who bears the costs of such political corruption? The farmers who can't get their produce to market; private motor vehicle owners and public ones like the taxis; citizens severely inconvenienced trying to get in and out of these communities and, let us not forget, the vulnerability to criminals, as the police can hardly get in and out of these districts with dirt tracks disguised as roads.

So who bears the costs? I can hardly put it better than Dr. Jim Young Kim, the World Bank's President put it in 2013 looking at this issue ***“every dollar that a corrupt official or a corrupt business person puts in their pocket is a dollar stolen from a pregnant woman who needs health care; or from a girl or a boy who deserves an education; or from communities that need water, roads, and schools. Every dollar is critical if we are to reach our goals to end extreme poverty by 2030 and to boost shared prosperity.”***

We in Jamaica are nowhere near that goal; our economy has stagnated at less than one percent per capita growth for over 40 yrs. Reason? According to our new National Security Policy ***“organized crime, violence and corruption”*** has had such an impact that ***“the economy is now at best one third the size it should have been, it may only be one tenth of the size it could have been. This means that violence, crime and corruption are the main cause of poverty in Jamaica with all the attendant problems such as deficient infrastructure, education, housing, health and nutritional status.”***

It is cold comfort that this is not just a Jamaican problem but a global scourge. A World Bank study estimated, looking at a sample of 200 cases of large scale corruption that governments lost some 56.4 billion dollars over a 30 year period up to 2010 as a result of corruption. And don't believe that this arose only from political corruption amongst public officials and politicians. You and I know by now that one hand can't clap. Regrettably, on the other hand in too many cases were banks.

Please take a look when you do have some time at an important, thoroughly documented study done by the reputable international civil society organization, **Global Witness**. The study is entitled **BANKS AND DIRTY MONEY: HOW THE FINANCIAL SYSTEM ENABLES STATE LOOTING AT A DEVASTATING HUMAN COST**. This study authored by Stuart McWilliam who I recent met at Transparency International's 16<sup>th</sup> annual international anti -corruption conference in Kuala

Lumpur, Malaysia unearths data to establish ***“that 140 different banks around the world were involved in handling stolen money including over a third of the world’s current 50 biggest banks”***. The report documents a number of case studies of corruption involving banks. I shall cite only a few of the most recent within the last three years.

- 2012- HSBC admits to widespread anti money laundering violations including taking over 800 million from notorious Mexican and Colombian drug cartels. HSBC is fined 1.9 billion dollars.
- 2013- Three banks in Switzerland including a Swiss branch of HSBC are fined for handling money from associates of the corrupt former Tunisian leader Ben Ali.
- May 2014 Credit Suisse fined 2.6 billion dollars after pleading guilty to helping US citizens evade billions of dollars in tax over several decades.
- June 2014 BNP Paribas fined 8.9 billion dollars for willfully and knowingly breaking US sanctions laws. According to US regulators the bank ***“ with the knowledge of multiple senior executives – engaged in a long standing scheme that illegal funneled money to countries involved in terrorism and genocide”***.
- 2015 United Nations Office on Drug and Crime estimated the amount of money laundered globally each year is 2 – 5 percent of global GDP or 800 billion – 2 trillion in current US dollars.

I recall your conference theme- **COMPLAINE: ENSURING RELEVANCE IN THE INTERNATIONAL FINANCIAL COMMUNITY** and note from your conference agenda that you shall be dealing with these matters in sessions to follow and therefore I shall not detain you with further analysis of this issue, less so with recommendations as to what needs to be done. Save and except to say that given the costs of corruption nationally, regionally and globally and given the role of banking and financial institutions, as well as, regrettably, attorneys, accountants and auditors in facilitation a heavy responsibility rests on each and every one of us, not just law enforcement officials, to deal more effectively with this phenomenon. In so doing I have to ask you this question:

- Is it fair that, justifiably, political leaders and public officials are investigated, found guilty of corruption are sent to prison when found guilty but banks when pleading guilty to corruption are at best fined? In Brazil, as we speak, President Dilma Rousseff is likely to be impeached as the investigations continue probing the BNP Paribas corruption scandal. Since Obama's term of office 7 Congress men have gone to prison having been convicted of corruption; in the United Kingdom in the last 5 years, 2 members of House of Lords and 3 members of the House of Commons have served time for corrupt practices relating to Parliamentary allowances. Yet I know of no senior banker in the midst of so many admissions of corrupt practices who has gone to prison as a result. And what about some of these fines? Are they adequate, or simply a 'cost of doing business'; can that be satisfactory, given the magnitude of the costs borne by society—and indeed the global economy following the corruption underlying the 2008 global financial crisis? Take one example, in 2011 when the Swiss authorities found that 4 Swiss banks had failed to do the required checks in relation to the Tunisian regime assets, the fines given to 3 of them totaled 211,000 dollars: less than 0.03 percent of the stolen state money Swiss banks were known to have sheltered. The US authorities are stricter but with few exceptions sanctions avoid identifying personal responsibility and punishing senior executives; invariably sanctions consist of financial penalties given to banks and corporations, usually as part of either a non-prosecution agreement or deferred prosecution agreement. Can it be just that Presidents and Prime Ministers are not too big to go to prison but senior bank executives are "too big to jail"? I note in passing that recent legislation, particularly the United Kingdom Bank Reform Act 2013 is moving in the direction of a legislative regime which shall hold senior bankers more accountable for their institutions facilitating corrupt practices.

The second and final observation I would like to make relates to the role of compliance officers. I would like you to note that your colleagues in the banking system elsewhere have been playing a critical role in reducing the extent of corrupt practices and in blowing the whistle, often with great courage, when such practices are perceived. In this regard I refer you to the critical role of compliance officers in exposing wrong at Wachovia, at HSBC and the anonymous

officer who sent the massive data leak about offshore corruption centered around the British Virgin Islands to the International Consortium of Investigative Journalists (ICIJ). Given the costs of corruption which we have discussed, particularly on the poor and most vulnerable, especially in depriving peoples everywhere of roads and water supplies, schools and health services, I can only urge you, compliance officers, to be particular punctilious in your special role, to become, if necessary, whistle blowers where you see wrongs not being corrected and to make use of available legislation, in Jamaica's case, the Protected Disclosure Act , to bring to justice the corrupt in senior positions or in high places. So too, I urge officials in the justice system, investigators, prosecutors, judges to demonstrate the professional will and capacity required to bring the corrupt to justice and to rebuild the confidence, now seriously impaired, in our rule of law. Needless to say we in NIA intend to continue to play our part through sensitization and capacity building week-end seminars which we have been holding with our justice sector officials on a quarterly basis over the last 3 -4 years and, very importantly we remain willing to receive and report complaints regarding corruption, wherever and whenever it occurs, from citizens of all walks of life including from you bankers wherever you perceive corruption in your own sector and institution.

Given the costs of corruption however , I dare say Jamaica needs more than this---we need a social movement for integrity, a social movement against corrupt practices instigated by leaders in every institution, in our schools, in our youth clubs , in our churches, in our service clubs, in our tertiary institutions, in our professional associations and , of course, in our political parties---all should have an effective integrity committee or club—ultimately to deal more effectively with the corrupt and thereby reduce the costs of corruption on the majority of our people.