	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
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SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy Guidelines


1. INTRODUCTION

- 1.1 The Spectrum Management Authority (hereinafter referred to as “the SMA”) established by virtue of the Telecommunications Act, 2000 is the regulatory body charged with the management of the Radio Frequency Spectrum in Jamaica, on behalf of the Government of Jamaica. The SMA was, in accordance with the Companies Act, incorporated as a limited liability company on February 1, 2000 and became operational in April 2001.
- 1.2 The SMA works closely with other regulatory agencies, including the Office of Utilities Regulation, the Broadcasting Commission, the Fair Trading Commission, and the National Environment & Planning Agency.

2. BACKGROUND

- 2.1 The SMA Management in conjunction with the Board of Directors of the SMA (hereinafter referred to as “the Board”) is committed to the achievement of business success and the enhancement of long-term value for Jamaica with the highest standards of integrity, transparency, accountability and ethics. To achieve this objective, SMA Management and the Board have relied on *The Protected Disclosures*




	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

Act, 2011 (“the Act”) and section 6(1)(b) of the *Public Bodies Management and Accountability Act, 2011* to bring into effect this Protected Disclosures Policy (hereinafter referred to as “**this Policy**”).


- 2.2 Accountability and transparency are key tenets of all governance systems and require an enabling mechanism for all individuals, Directors and Employees, to make disclosures in good faith about improper conduct regarding fraud, corruption or other improper activity that exposes the SMA, its Directors, Employees, clients, partners, and the general public to risks. This Policy is also aimed at facilitating prompt and full investigations into reports which are made in Good Faith and to address any Disclosure which alleges acts or attempted acts of interference, intimidation or reprisal against Directors and Employees who report, disclose or investigate such acts.
- 2.3 Therefore, all Directors and Employees are encouraged to adhere to the procedures and guidelines specified in this Policy for reporting all allegations of suspected improper or illegal acts. The Policy is developed on the principles of the Protected Disclosure Act, 2011 (hereinafter called “the Act”) and is in line with the SMA Board Charter and related governance policies.

3. STATEMENT OF SUPPORT

- 3.1. The Directors and Management of the SMA are committed to the provisions of the Protected Disclosures Act, 2011 and have endorsed these procedures. We also pledge

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

to encourage our employees to make disclosures of known or suspected incidences of improper conduct, to facilitate a fair and impartial investigation into each allegation and to take the necessary steps to implement the recommendations of any such investigation. We also give the assurance that all reasonable steps will be taken to protect employees who have made a protected disclosure from occupational detriment or fear of reprisals.


 Chairman
December 10, 2024
 Dated


 Managing Director
December 10, 2024
 Dated


4. KEY DEFINITIONS

4.1 For the purposes of this Policy:

Allegation means an unproved assertion against someone related to suspected wrongdoing.

Board means the Board of Directors of the SMA.

Chairman the person duly appointed to that position pursuant to Article 73 of the Articles of Association of Spectrum Management Authority, charged with presiding over a Board meeting,

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

ensuring its orderly conduct and that procedures are followed and providing leadership to the Board.

Designated Authority


means the individual or entity designated by the Minister of Justice with the responsibility for monitoring compliance with the Act. The Minister has designated the Integrity Commission to be the designated authority further particularized in Appendix II attached hereto.

Designated Officer(s)

means the individual(s) appointed by the employer and conferred with the requisite authority to receive, take steps to investigate or otherwise deal with disclosures. The Designated Officer is also responsible for keeping the employee updated on the status of the investigation of the disclosure. The Designated Officer is identified in Appendix I attached hereto.

Director

a person appointed to that position pursuant to the Companies Act and Article 73 of the Articles of the Association of Spectrum Management Authority Limited

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

from time to time by the Minister with responsibility for telecommunications.

Discloser

means the person who has made a Disclosure in the form of a submission or report, or a Disclosure of a suspicion, concern, or allegation or provides any information concerning any Improper Conduct, in Good Faith and in the public interest to the Designated Officer.


Disclosing

means the action of an Employee in making a Disclosure in the form of a submission or report, or a Disclosure pursuant to the Protected Disclosures Act, 2011.

Disclosure¹

means Disclosure of information made by a Director or Employee, regarding any conduct of an employer of that Employee or another Employee of the employer, where the Employee has a reasonable belief that the information disclosed shows or tends to show the Improper Conduct has occurred, is occurring or is likely to occur, and “disclose” shall be construed similarly.

¹ The Protected Disclosures Act 2011, s. 2

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

Employee²

means

- a) any person who -
 - i. is employed or was employed by the SMA; and
 - ii. receives, received or is entitled to receive any remuneration for work done;
- b) any person who in any manner assists or has assisted in the carrying on or conduct of the business of SMA, without any entitlement to receive remuneration or reward.
- c) any person who is, or was, engaged or contracted under a contract for services to do work for the SMA, or any agent of the person.
- d)

Good Faith

means that the Employee reasonably believes the transmitted information to be true.

Grievance & Disciplinary


means the panel recognized and by the SMA to address grievance, staff related and disciplinary issues.

Improper Conduct³

Refers to any:

² IBID


³ The Protected Disclosures Act 2011, s. 2

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

- a) criminal offence;
- b) failure to carry out a legal obligation;
- c) conduct that is likely to result in a miscarriage of justice;
- d) conduct that is likely to threaten the health or safety of a person;
- e) conduct that is likely to threaten or damage the environment;
- f) conduct that shows gross mismanagement, impropriety or misconduct in the carrying out of any activity that involves the use of public funds;
- g) act of reprisal against or victimization of an Employee;
- h) conduct that tends to show unfair discrimination on the basis of gender, race, place of origin, social class, colour, religion or political opinion; or
- i) willful concealment of any act described in items (a) to (h).

Investigation

means the process designed to gather and analyze information and to determine whether an Improper Conduct has occurred and if so, the person or persons responsible. An Investigation is deemed to commence from the date of receipt of a


	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

Disclosure by the Designated Officer and ends only when the Designated Officer has made a determination in writing that it has ended.

Occupational Detriment⁴ means any act or omission that results in an Employee, in relation to his employment, being:

- a) subject to disciplinary action;
- b) dismissed, suspended, or demoted;
- c) harassed, intimidated or victimized;
- d) transferred against his/her will;
- e) refused transfer or promotion;
- f) subject to a term or condition of employment or retirement from employment, that is altered to his/her disadvantage;
- g) provided with an adverse reference;
- h) denied appointment to any employment, profession or office;
- i) threatened with any of the actions specified in items (a) to (h); or

⁴ The Protected Disclosures Act 2011, s. 2

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

j) otherwise adversely affected in respect of his/her employment, profession or office, including employment opportunities and job security.

Protected Disclosures Guidelines


means the SMA's processes, procedures and systems for secure receipt and handling of all Disclosures in the form of a submission or report pursuant to the Protected Disclosures Act, 2011, or a Disclosure from the Disclosers and witnesses as provided for in this Policy and any procedures issued pursuant to this Policy.

5. SCOPE OF POLICY

5.1 This Policy governs the reporting and Investigation of suspected Improper Conduct as well as the protection offered to persons who are entitled to lodge reports. This Policy does not revoke or change SMA's policies and procedures for reporting individual employee grievances or complaints relating to job performance, terms and conditions of employment or other related issues. The SMA's grievance procedures will be applicable for those circumstances.

5.2 SMA has adopted this Policy to:

- a) cause Improper Conduct to be disclosed;

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

- b) promote a climate of accountability with respect to the SMA's resources, including its Employees and Directors; and
- c) ensure that no one should feel or be intimidated for raising legitimate concerns.

6. POLICY PURPOSE


6.1 The general purpose of this Policy is intended to:

- a) encourage Directors and Employees who wish to, in Good Faith, disclose Improper Conduct
- b) describe the process that will be followed by the SMA in receiving, evaluating, investigating and resolving reports concerning whether Improper Conduct has occurred, is occurring, or is likely to occur;
- c) provide Employees with protection from discrimination, Occupational Detriment or harassment; and
- d) encourage an atmosphere that allows Directors, Employees and/or individuals to raise concerns, and/or to meet their obligations to disclose violations of law and serious breaches of conduct whether or not covered by SMA's policies.

7. THE PROTECTED DISCLOSURE GUIDELINES

7.1 The SMA shall provide a set of Protected Disclosure Guidelines which will be managed by the Designated Officer.

7.2 The SMA will encourage employees to make confidential Disclosures, submissions, reports and disclosures pursuant to the Protected Disclosures Act, 2011 which is

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>


comprehensively distilled in this Policy so as to provide the SMA with the best opportunity to promptly investigate the matter alleged in the Disclosure.

8. EMPLOYEE PROTECTION

- 8.1 Every employee making a Disclosure in the form of a submission or report, or a Disclosure in Good Faith shall be entitled to confidentially, securely and discreetly disclose any suspected Improper Conduct, including an attempt to carry out such Improper Conduct and after making the Disclosure in the form of a submission or report, or a Disclosure, to benefit from protection against Occupational Detriment as provided for in this Policy.
- 8.2 Conduct suspected to be Occupational Detriment against an employee shall be treated as a separate act of Improper Conduct and shall be investigated by the Designated Officer in accordance with this Policy.

9. GOOD FAITH

- 9.1 All Disclosures in the form of a submission or report must be made in Good Faith.
- 9.2 Employees who knowingly make unsubstantiated, malicious or false allegations with reckless or negligent disregard for the truth shall not be protected by this Policy and may be treated as having committed a separate act of Improper Conduct and shall be referred by the Designated Officer for further investigation any consequential action in keeping with the Disciplinary Policy of the SMA.

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

10. ROLES AND RESPONSIBILITIES


10.1 Employee

Employees are encouraged to disclose known or suspected incidences of improper conduct or detrimental action in accordance with Protected Disclosures Act, 2011 and these procedures in good faith and in the public interest. Employees should also support those who have made a legitimate disclosure and should refrain from activities that could be perceived to be victimization, harassment or reveal the identity of the persons who have made disclosures.

10.2 Designated Officer

The Designated Officer shall have the authority to:

- (a) make the necessary arrangements for a disclosure to be made privately and discretely and if necessary, away from the workplace.
- (b) be the contact point for general advice about the operation of the Protected Disclosures Act and these procedures.
- (c) put in writing any disclosure received orally within twenty-four hours of its receipt.
- (d) take all steps to ensure that the identity of the person who makes a disclosure is kept confidential.
- (e) determine whether a disclosure meets the criteria of a protected disclosure under the Act and conducting an impartial investigation into the allegation.


	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

- (f) recommend the referral of disclosures based on the subject matter, the seriousness of its nature or if it prejudices national security, defence or international relations to the appropriate authority.
- (g) give an update to the person who made the disclosure within thirty (30) days and in intervals of thirty (30) days thereafter.
- (h) forward an investigation report and all evidence gathered to the Managing Director for action.
- (i) make monthly reports to the Designated Authority on the status of the investigations into disclosures received.

10.3 Employer

The Managing Director has the responsibility of ensuring that employees are aware of these procedures and that the Designated Officers are accessible and has the requisite training to carry-out their function. He or she is also responsible to approve and monitor the investigation plan and investigation into allegations of improper conduct. The Managing Director is responsible for ensuring that persons who have made a disclosure and the Designated Authority are kept up-to-date with the progress of the investigations, the findings, recommendations and any subsequent actions taken.


10.4 Grievance and Disciplinary Panel

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

The disciplinary panel of the SMA which has as its members the Managing Director /Designate and Director, Corporate Services who has the responsibility to review the findings of the designated officer and approve the actions necessary to correct the Improper Conduct reported.

11. REPORTS TO THE DESIGNATED OFFICER

- 11.1 Any Director or Employee who knows or suspects that Improper Conduct which adversely affects the SMA or is contrary to the public interest has been committed by a Director or Employee shall promptly make a report to either of the Designated Officers identified in Appendix I. Employees first line of report is to the Internal Auditor. Directors can make their report directly to the Chairman of the Audit Committee or Designated Authority. Where the report is being made against the Internal Auditor, then the report should be made to the Chairman of the Audit Committee or Designated Authority.
- 11.2 All reports made in accordance with this clause shall include the information specified in clause 14.2 of this Policy.
- 11.3 Each such Director or Employee is expected to cooperate with the Designated Officer, to provide information in support of his/her report and generally to assist the Designated Officer in its investigation of the relevant suspected, actual or attempted Improper Conduct.

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

11.4 It must be understood that although the SMA wishes to facilitate Disclosures, it will not condone malicious or frivolous reporting or the unlawful use of this Policy to malign and bring into disrepute the SMA, its Employees and/or Directors. Any Employee who makes a frivolous or malicious disclosure shall be subject to disciplinary action.

12. REPORTS TO THE BOARD OF DIRECTORS


12.1 Where the Disclosure and/or the report being made involves the Designated Officer appointed pursuant to this Policy, the Disclosure and/or report should be made directly to the Designated Authority.

12.2 All reports made in accordance with this clause shall include the information specified in clause 16.2 of this Policy.

13. REPORTS TO THE DESIGNATED AUTHORITY

13.1 Any Employee or Director will be entitled to make a report to the Designated Authority if it is reasonable **AND** where the aforesaid individual:

- a) reasonably believes that he or she will be subject to acts of Occupational Detriment if the Disclosure is made to the Designated Officer;
- b) has reason to believe that evidence relating to the Improper Conduct will be concealed or destroyed if the matter is reported to the Designated Officer;

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>


- c) made a disclosure to the Designated Officer on a previous occasion and no Investigation was commenced within thirty (30) working days from the date on which the report was submitted; or
- d) submitted a report, concerning the Designated Officer, to the Chairman of the Board and no Investigation was commenced within thirty (30) working days from the date on which the report was submitted.

14. FORM OF DISCLOSURES

- 14.1 A Disclosure may be made orally or in writing and may be made in person or anonymously.
- 14.2 All Disclosures submitted to the Designated Officer must as far as possible, identify the Discloser by name and provide relevant supporting information to enable the Designated Officer(s) to adequately assess allegations made in the Disclosure.

15. ANONYMOUS DISCLOSURES

- 15.1 Anonymous disclosures are not protected under the Act. However, nothing in this Policy prevents any person from making an anonymous disclosure of Improper Conduct. In the case of anonymous disclosures, basic information such as the name and employer of the person making the disclosure may not be known. This information would be necessary to guarantee that the person(s) making the protected disclosure are protected by the Act. The subject matter of the disclosure should however be examined.

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>


15.2 Anonymous disclosures are not covered under this Policy. Accordingly any person who wishes to make an anonymous disclosure of improper conduct must do so in accordance with the Protected Disclosures Act, 2011.

16. PROCEDURE FOR REPORTING

16.1 All reports of suspected Improper Conduct shall, where reasonably practicable, **be made in writing**. However, where Disclosure has been made orally, the information disclosed must be reduced into writing by the Designated Officer within twenty-four (24) hours after the Disclosure has been made.

16.2 Any individual who makes a report directly to the Designated Officer will be required to give the following information:

- a) his or her name and position;
- b) the name of the person(s) who allegedly committed the improper act;
- c) details of the improper act, which is being alleged, for example time, place etc.;
- d) particulars of any witnesses to the alleged conduct;
- e) details of any previous reports made in relation to the same Improper Conduct and the particulars of the person to whom the report was made; and
- f) any other information which is relevant for the purposes of investigating and determining the matter.

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

16.3 Where possible the disclosure should be made on the Protected Disclosures Form (Appendix III) which is available in each department of the SMA and the SMA website. Oral disclosures will be recorded on this same form.

17. INVESTIGATIONS


17.1 All Disclosures received through the Protected Disclosure Guidelines shall be promptly handled and investigated by the Designated Officer. The Designated Officer shall carry out his/her duties impartially and fairly notwithstanding the position, or length of service of the suspected wrongdoer.

17.2 After the Disclosure is received, the Designated Officer should make an assessment as to whether the subject matter of the Disclosure meets the criteria established as being a protected disclosure under the Act.

17.3. All Disclosures received must be entered into a Protected Disclosures Log – Appendix IV which is kept with the Designated Officer.


17.4. Upon deciding that an investigation is warranted, the Designated Officer shall take all reasonable steps to expedite the Investigation by:

- a) formally acknowledging receipt of the report within two (2) working days;
- b) commencing preliminary investigation within ten (10) working days from receiving the report;
- c) completing further investigations on the allegations contained in the report within thirty (30) working days of receiving the report, or within such further

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

time as is reasonably required to thoroughly investigate the matter. However, no investigation should exceed sixty (60) working days from the time the report was received.

- 17.5 The Designated Officer should prepare an investigation plan detailing the steps to be taken in the investigation, inclusive of witnesses who may have to be interviewed and resources required. The investigation plan should be forwarded to the Managing Director for approval. On approval of the investigation plan the Designated Officer should commence the investigation. The investigation should be done fairly and the rights of the person who made the disclosure and any other witnesses protected.
- 17.6 Where the Designated Officer requires an extension of time to conduct Investigation or where the Investigation is incomplete after sixty (60) days, a request is to be made to the Managing Director or the Chairman of the Board, where the complaint involves a Director for an extension of time to complete the investigation.
- 17.7 In seeking the extension, the Designated Officer is to provide a report of the Investigation to the Managing Director or the Chairman of the Board who will determine and grant the period of extension.
- 17.8 All Directors and Employees will be required to fully support and cooperate with any Investigation conducted in accordance with this Policy.
- 17.9 The Designated Officer should provide an update to the Discloser on the status of the investigation within thirty (30) days of receipt of the disclosure and at intervals of 30 days thereafter.

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

17.10 Following Investigations, the Designated Officer shall prepare an account of his/her findings to be presented to the Managing Director who will then be responsible for convening the Grievance and Disciplinary Panel at the earliest possible time for a decision to be made as to what action will be taken.


17.11 Upon completion of the investigation, the Designated Officer shall, communicate the results of the investigation to the Discloser. Further, the Designated Officer should forward to the Managing Director a report containing; 1) the allegation disclosed, 2) findings of the investigation, 3) conclusion and 4) recommendations of the steps to be taken to correct the improper conduct. All evidence gathered during the investigation should be documented and included in the report.

17.12 Where a report is given, the Designated Officer shall not disclose the identity of the maker of the report unless the maker of the report expressly consents.

17.13 A Protected Disclosure Summary Report (Appendix V) should be completed at the end of each month and forwarded in print and electronically to the Designated Authority and shall be prepared and maintained by the Designated Officer.

18. PROTECTION FROM OCCUPATIONAL DETRIMENT

18.1 The SMA is committed to the protection of the person who makes a protected disclosure from detrimental actions or reprisals for having made the Disclosure. The SMA believes that the best way to empower our employees who are considering or

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

who have made Disclosures is to endorse their rights that are guaranteed under the Act.


18.2 Under the Act the employee has the following rights:

- (a) An employee shall not be subjected to any occupational detriment on the basis that the employee seeks to make, has made, or intends to make, a protected disclosure.
- (b) An employee who is dismissed as a consequence of seeking to make, making or intending to make a protected disclosure shall be treated as being unjustifiably dismissed.
- (c) Where an employee suffers occupational detriment at or about the same time that he makes a protected disclosure, the occupational detriment shall be presumed to be a consequence of the protected disclosure, unless the employer shows that the act that constitutes the occupational detriment is otherwise justified.

18.3 Any Director or Employee who makes a report in accordance with the provisions of this Policy shall be protected from Occupational Detriment, provided that:

- a) the report is made in Good Faith; and
- b) the person making the report reasonably believes that the information provided in the report is true.

18.4 Where an Employee who alleges to have suffered from Occupational Detriment, the burden of proof resides with the SMA to establish that the same action believed by


	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

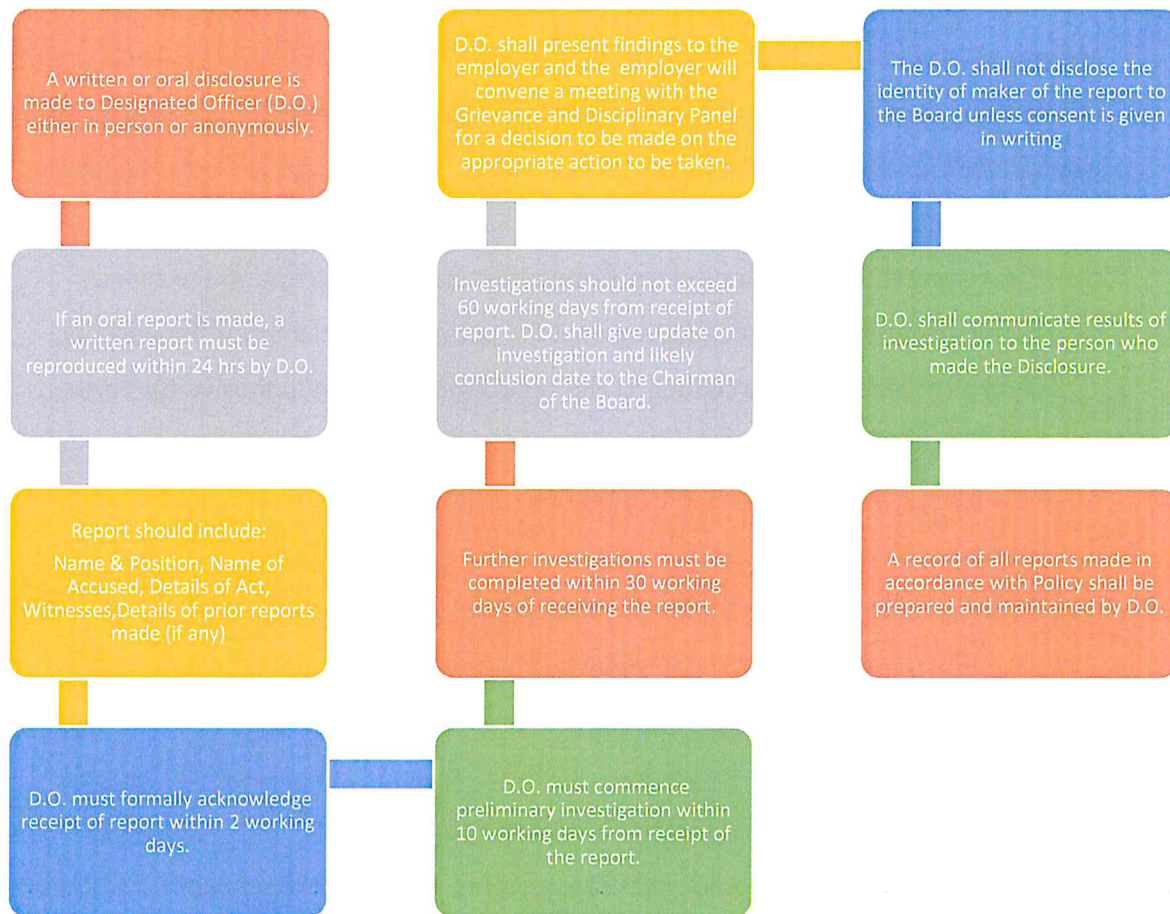
the Employee to be Occupational Detriment would have been taken (whether by itself or as part of a series of actions) if the Disclosing did not occur.


- 18.5 The provisions of this Policy will not protect any person who makes a report from the consequences of being involved in any Improper Conduct which has been reported.
- 18.6 To ensure that Disclosures by Employees do not result in Occupational Detriment, the Act provides for the protection of the disclosure information or any documents pertaining to the Disclosure. As outlined in the Act, any person who makes a protected disclosure, or receives, investigates or otherwise deals with this Disclosure, shall not be liable in any civil or criminal proceedings, due to any of these actions.⁵
- 18.7 A Disclosure, however, is not protected if it is not made in Good Faith.

19. REPORTING PROCESS FLOW

⁵ The Protected Disclosure Act 2011, s. 15

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>



	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

20. ACTIONS TO BE TAKEN AFTER THE INVESTIGATION

20.1 The Managing Director on receipt of the completed report from the designated officer should at the earliest time convene a meeting of the Grievance and Disciplinary Panel to review the findings and recommendations of the investigation. The Grievance and Disciplinary Panel must agree the course of action to be taken which may include:


- (a) Preventing the improper conduct from continuing or recurring in the future.
- (b) Bring disciplinary proceedings against the person responsible for the improper conductor referring the matter to the appropriate person/authority for further consideration.
- (c) Reporting any action taken to the employee who made the disclosure and to the Designated Authority.

20.2 The Grievance and Disciplinary Panel in arriving at its determination should ensure that the rules of natural justice as indicated in Section 22(1)(a)(b)(c) and (d) of the Labour Relations Code are adhered to.

21. COLLATING AND PUBLISHING STATISTICS

21.1 The Designated Officer should maintain a secure log of the disclosures received (Protected Disclosures Log – Appendix IV). This log records the following:

- (a) Date the disclosure was received.


	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

- (b) Disclosure Number - This number for instance could be arrived at by first using the abbreviation of the SMA, followed by the last two numerals of the year and then three digits for numerical count. For example the first case for SMA in the year 2021 would be numbered as SMA21001. The second case for the year 2021 would be SMA21002 and so on.
- (c) Summary of the improper conduct disclosed.
- (d) Date referred where applicable.
- (e) Date of completion of the report which on that date should be forwarded by the Designated Officer to the Managing Director.
- (f) The decision taken as a result of the recommendations made by the Designated Officer.

21.2 The Designated Officer must make monthly reports to the Designated Authority of the status of the disclosures received (Protected Disclosure Summary Report – Appendix V).

The report includes the:

- (a) Entity's Name.
- (b) Date of the report.
- (c) Date the disclosure was received.
- (d) Summary of the improper conduct.
- (e) Summary of the action taken during the period.

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

- (f) Number of days since an update was given to the person who made the disclosure (the discloser).
 - (g) Date and name of entity to which referral made where applicable.
 - (h) Date of completion of the investigation report.
 - (i) Decision taken as a result of the recommendations of the Designated Officer
- Statistics from the records/data may be published however no information must be published that would lead to the identification of the person who made the disclosure.


22. CONFIDENTIALITY⁶

22.1 Every person receiving, investigating, or otherwise dealing with a Disclosure under this Policy shall regard and deal with as secret and confidential:

- a) the identity of the person making the Disclosure and any Disclosure made; and
- b) any statement given, or document, information or thing provided, to the person in carrying out of an Investigation, except that any statement given, or document, information or thing provided, given in furtherance of an investigation or any legal or disciplinary proceedings shall not be regarded as being inconsistent with the obligation for secrecy and confidentiality.

22.2 General, non-identifying information, related to Protected Disclosures, particularly basic numerical data like the number and origin of Disclosures received, may be

⁶ The Protected Disclosure Act, s. 24

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

published at any time by the Designated Officer and the SMA as appropriate and in accordance with the approval of the Managing Director.


- 22.3 Any breach of confidentiality will be considered a serious contravention of this Policy which may result in the imposition of a sanction proportionate to the breach. Such sanction shall be determined by the Board and shall apply in addition to any relevant sanctions provided pursuant to the Protected Disclosures Act, 2011..
- 22.4 Where, however, the Designated Officer is unable to properly investigate the matter without breaching the maker's right to confidentiality, the Designated Officer shall request that the maker provides their disclosure to the Designated Authority. Persons making a report on a confidential basis may at any time choose to change the status of the report.
- 22.5 A person may disclose any statement given or document or information or thing provided in the furtherance of an investigation or any legal or disciplinary proceedings. However, the identity of the person who made the disclosure may not be disclosed.

23. CRIMINAL OFFENCES⁷

23.1 A person commits an offence if he:

- (a) prevents, restrains or restricts any employee from making a protected disclosure;


⁷ The Protected Disclosure Act, s. 23

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

- (b) intimidates any employee who has made or intends to make a protected disclosure;
- (c) induces any person by threats, promises or otherwise to contravene the Act;
or
- (d) being an employer-
 - i. subjects an employee or former employee of that person to occupational detriment as a consequence of the employee or former employee making a protected disclosure;
 - ii. refuses, in bad faith, to receive a disclosure or carry out an investigation in relation to a disclosure;
- (e) being an employee, purports to make a disclosure under the Act knowing that it contains a statement that is false or misleading, or reckless as to whether the statement is false or misleading.
- (f) aids, abets, procures or conspires with any other person to contravene the Act.

Persons who commit the above offences shall be liable upon:

- (a) summary conviction in a Parish Court to a fine not exceeding two million dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment; or
- (b) conviction on indictment in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.


	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

23.2 A person who, without reasonable excuse, fails to comply with a requirement imposed by the designated authority in the lawful exercise of the functions of the authority under this Act, commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding three months.

23.3 Every person receiving, investigating or otherwise dealing with a disclosure under the Act shall regard and deal with as secret and confidential:

- (a) the identity of the employee making the disclosure and any disclosure made; and
- (b) any statement given, or document, information or thing provided, to the person in the carrying out of an investigation, except that any statement given, or document, information or thing provided, given in furtherance of an investigation or any legal or disciplinary proceedings shall not be regarded as being inconsistent with the obligation for secrecy and confidentiality.

23.4 A person who contravenes the confidentiality requirement as noted above commits an offence and is liable upon summary conviction in a Parish Court to a fine not

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

exceeding two million dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.


24. OVERSIGHT AND IMPLEMENTATION

24.1 The Designated Officer directly oversees this Policy and will report directly to the Managing Director on these matters. The Designated Officer shall also report to the Designated Authority in the form of monthly report submissions on the 10th of each month. Management of the SMA bears primary responsibility for working with the Designated Officer to ensure effective staff training, implementation of, and adherence to this Policy.

25. POLICY REVIEW


25.1 This Policy must be submitted to the Audit Committee for review every three (3) years, or as often as is required to determine its effectiveness.

25.2 The Managing Director shall be empowered to recommend amendments to the provisions of this Policy to the Board for its consideration and approval. All recommendations to the Board for amendments to this Policy shall be made in writing. The Designated Officer shall bear the responsibility of notifying the Designated Authority of all amendments to this Policy.

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

25.3 An amendment or modification of this Policy shall not have retrospective effect

Document	Protected Disclosure Policy
Reviewed and Recommended by the Corporate Governance Committee:	Date: July 16, 2024
Approved by the Board of Directors:	Date: <i>October 30, 2024</i>
Version	2

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>


APPENDICES

Appendix I - Designated Officer

Reports concerning Improper Conduct by a Director or Employee of the SMA, which are made in accordance with **Clause 9** of this Policy shall be directed to the following persons:

1. Particulars of Internal Auditor
Name: Mr. Jahmar Gordon
Phone: (876) 561-5642
Email: jagordon@sma.gov.jm


2. Particulars of the Chairman of the Audit Committee
Name: Mr. Merrick Marshall
Phone: (876) 353-8128
E-mail: merrickmarshall@yahoo.com

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

Appendix II - Designated Authority

Reports which are made in accordance with **Clause 11** of this Policy shall be directed to the following entity:

1. **The Integrity Commission**
The Director of Information and Complaints
4th Floor, Sagikor SIGMA Building
63-67 Knutsford Boulevard
Kingston, Jamaica
Telephone: (876) 968-6227, (876) 960-0470, (876) 929-5024
Email: craig.beresford@integrity.gov.jm

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>


APPENDIX III

PROTECTED DISCLOSURES FORM


PROTECTED DISCLOSURES ACT, 2011 - PROCEDURAL GUIDELINES

FORM - PDA1

First Name	Middle Name	Surname	Taxpayer Registration Number
Address			
Occupation			
Nature of Improper Conduct			

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

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Name of Alleged Party of Improper Conduct	
Time and Place of Improper Conduct	
Name of Witness	Name of Witness
Address of Witness	Address of Witness
Brief Description of Witness	Brief Description of Witness
Previous Disclosure(s) Made (State about whom and to whom the disclosure was made)	
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	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

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State whether still in employment

I make this disclosure in good faith and in the public interest. I believe it to be true and accurate to the best of my knowledge and I know that I would be liable for prosecution if this disclosure contains any statement that I know to be false or misleading.


Signature of Person making Disclosure

Date

Name of Witness

Signature of Witness

Date

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

APPENDIX IV


PROTECTED DISCLOSURES LOG

PROTECTED DISCLOSURES ACT, 2011 - PROCEDURAL GUIDELINES

FORM - PDA2

Entity: SPECTRUM MANAGEMENT AUTHORITY

Date Received	Disclosure Number	Summary of Improper Conduct Disclosed	Date and Entity of Referral	Date Closed	Decision Taken

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

APPENDIX V

PROTECTED DISCLOSURES SUMMARY REPORT


PROTECTED DISCLOSURES ACT, 2011 - PROCEDURAL GUIDELINES

FORM - PDA3

Entity: SPECTRUM MANAGEMENT AUTHORITY


Date of Report:

Date Received	Disclosure Number	Summary of Improper Conduct Disclosed	Actions Taken (Brief Description)	Days Since last Notification to the Discloser	Date and Entity of Referral	Date Closed	Decision Taken

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

Revision History

Revision	Change Made	Approved by	Signature	Date


	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

FREQUENTLY ASKED QUESTIONS:

- 1 Can concerns be raised confidentially or anonymously?
 - Yes. However, the best way to raise a concern is to do so openly. Openness makes it easier for the SMA to assess the issue, work out how to investigate the matter, understand any motive and get more information. An individual raises a concern confidentially if he or she gives his or her name on the condition that it is not revealed without their consent. An individual raises a concern anonymously if he or she does not give his or her name at all. Clearly, if the SMA does not know who provided the information, it is not possible to reassure or protect them. It is also not possible for the SMA to communicate the progress or outcome of any investigation with that person.

- 2 What information should a Whistleblower provide?
 - Supporting evidence for the allegations, if available, is clearly helpful. However, the Policy does not require individuals to have evidence before reporting the matter, but it does say that the individual must reasonably believe the information is substantially true. Individuals should talk to the Designated Officer about their concern at the earliest opportunity rather than wait to collate any evidence.


- 3 What activity is covered under this Policy?

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

- This Policy covers all Disclosures in the form of a submission or reports and Disclosures of suspected Improper Conduct related to the areas of transparency accountability, integrity and ethical standards that occur within any of the SMA internal and external activities, systems and operations.

Examples of Improper Conduct are shown in the list below which is indicative only and non-exhaustive and include, but are not limited to fraud (including financial fraud and accounting fraud), improper accounting and auditing of a nature which is designed to achieve financial fraud, violation of laws and regulations, violation of company policies, unethical behaviour or practice, endangerment to public health or safety, failure to carry out a legal obligation, wilful concealment of improper conduct and negligence of duty such as:

- (i) granting a supplier undue favours;*
- (ii) collusion with a supplier to ensure award of contract;*
- (iii) discussions or agreements with suppliers/contractors about prices or submission of bids;*
- (iv) unauthorized or illegal disclosure, copying, duplication, misuse or release of confidential or personal data including but not limited to employment, financial, medical and health, customer lists, licences, contract or other property marked or generally regarded as confidential;*
- (v) knowingly destroying company files subject of government or other investigation;*
- (vi) solicitation of money or gifts from contractors of the company;*
- (vii) misappropriation of funds;*

	SPECTRUM MANAGEMENT AUTHORITY Protected Disclosures Policy		REVISION NO: 2.0
	DOC. NO.		DATE ISSUED: 2022-03-15
	DOCUMENT OWNER:		APPROVED BY: Board of Directors <i>October 30, 2024</i>

- (viii) *inaccurate or non-disclosure of significant information relevant to proper interpretation of the financial statements;*
- (ix) *lack of underlying transactions to support accounting entries;*
- (x) *lack of proper documentation to support accounting entries;*
- (xi) *significant overstatement or understatement of account balances;*
- (xii) *misclassification of accounts;*
- (xiii) *circumvention or disregard of policies;*
- (xiv) *statements or actions that encourage or result in unlawful, untimely, false or intentional misrepresentation, concealment or destruction of information in order to deceive or mislead;*
- (xv) *conduct, actions, policies or practices that either violate environmental, health or safety laws or regulations or may cause or result in potentially hazardous conditions that impact the environment or the health or safety of employees, customers or others.*