

**CHAPTER 4****Foreign Banks****SECTIONS**

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**§ 401. Establishment in the FSM—Requirements.**

(1) Upon compliance with the provisions of this chapter, any foreign bank having a paid-in capital, surplus, and undivided profits of not less than \$20,000,000 (except \$1,000,000 for any bank which is a member of the Federal Deposit Insurance Corporation of the United States or the Federal Savings and Loan Insurance Corporation of the United States) may establish offices or branches in the Federated States of Micronesia.

(2) Before beginning its operations in the Federated States of Micronesia, it shall file in the Office of the Registrar of Corporations a duly authenticated copy of its charter or articles of incorporation, together with a resolution of its board of directors approving the establishment of such office or branch in the Federated States of Micronesia, and a statement verified by oath of the president, manager, agent, cashier, or other authorized officer of said bank, showing:

- (a) the name of such foreign bank;
- (b) the location of its existing or proposed main office or places of business within and without the Federated States of Micronesia;
- (c) the objects of its business;
- (d) the amount of its authorized capital;
- (e) the amount of its capital stock actually paid in cash;
- (f) the amount of the assets of the bank, and of what they consist;
- (g) an itemized statement of the liabilities of the bank;
- (h) the amount of investment to be devoted to its business in the Federated States of Micronesia, which in no case shall be less than \$100,000; and

(i) the names and post office addresses of the chief executive officer in the home bank and all officers in the Federated States of Micronesia, if any, and the time, if any, when the term of office of each expires.

**Source:** PL 1-94 § 401; PL 1-100 § 1.

**Editor's note:** Minor changes were made in the phraseology of this section in the 1982 edition of this code.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. For provisions on filing fees, see section 626 of this subtitle.

#### **§ 402. Establishment—Application for permit required.**

(1) No foreign bank may open any branch or office or change the location of any branch or office in the Federated States of Micronesia without a permit to do so from the Banking Board.

(2) An application to the Banking Board for such permit shall state the benefit to the public expected to result from the granting of the permit applied for.

(3) The Banking Board, upon receipt of such application, may require the submittal of such additional information as may be necessary in order for it to make the necessary investigations.

(4) An application by a foreign bank to open a new branch in the FSM must be accompanied by written confirmation from the supervisory authority in the applicants' country of incorporation that the supervisory authority has no objection to the proposal to establish the branch in the FSM; and that the foreign bank is subject to consolidated supervision and regulation in its country of incorporation.

**Source:** PL 1-94 § 402(1); PL 2-20 § 6 (part); PL 12-57 § 7.

#### **§ 403. Application for permit—Banking Commissioner's investigation.**

It shall be the duty of the Banking Commissioner, immediately after the Banking Board receives an application for a permit, to make whatever investigations may be necessary as to:

(1) the overall financial condition of the application;

(2) whether or not granting the application would reasonably be apt to result in an over-extension of applicant's resources or facilities;

(3) the character and repute, as well as the banking and commercial experience, of applicant and the bank's directors and executive officers;

(4) whether the bank shall be of benefit to the general public;

(5) the investment which the bank has made or has available for its operations in the Federated States of Micronesia; and

(6) whether the bank will maintain insurance or other deposit protection at least equivalent to that offered by a bank which is a member of the Federal Deposit Insurance Corporation of the United States.

**Source:** PL 1-94 § 402(2); PL 2-20 § 6 (part); PL 9-130 § 15; PL 12-57 § 8.

#### **§ 404. Applicant for permit—Issuance by Board.**

The Banking Board may issue the permit applied for if, in its judgment, the results of the investigations are satisfactory; PROVIDED that, in no event shall the Banking Board issue a permit until the applicant provides incontrovertible evidence that the applicant has and will maintain continuing insurance or other deposit protection at least equivalent to that offered by a bank which is a member of the Federal Deposit Insurance Corporation of the United States. Any permit may be granted subject to such conditions as the Banking Board, in its discretion, deems necessary to protect the interests of the people of the Federated States of Micronesia. The decision of the Banking Board shall be final. All expenses incurred by the Banking Board in connection with such investigations shall be paid by the applicant in conformity with regulations which the Banking Board may make.

**Source:** PL 1-94 § 402(3); PL 2-20 § 6 (part); PL 9-130 § 16; PL 12-57 § 9.

**Erratum:** The misspelled word “judgement” was corrected to “judgment”.

#### **§ 405. Issuance of permit—Transmittal to Registrar of Corporations.**

Upon the issuance of a permit to an applicant, the Banking Board shall forthwith transmit a certified copy thereof to the Registrar of Corporations who shall file it along with such other documents submitted to him.

**Source:** PL 1-94 § 402(4); PL 2-20 § 6 (part).

**Cross-reference:** The statutory provisions on Corporations and Business Associations are found in title 36 of this code.

#### **§ 406. Examination for compliance.**

(1) When the permit of the Banking Board is received by the foreign bank, as provided in section 405 of this chapter, it shall proceed to comply with all applicable provisions of law so as to place it in readiness to commence operations upon issuance to it of the license provided by section 501 of this subtitle.

(2) When such foreign bank is in such position of readiness, it shall notify the Banking Commissioner by means of a statement of all facts necessary to enable the Banking Commissioner to determine whether such foreign

bank has, in fact, complied with all the requirements of law and is lawfully entitled to commence operations, such statement to be sworn to by a majority of the directors or by the president or manager of such foreign bank.

(3) Upon receipt of such statement, the Banking Commissioner shall make such investigations as may be necessary to assure himself that the foreign bank has, in fact, complied with all the provisions of law to entitle it to a license to engage in the business of banking.

**Source:** PL 1-94 § 403(1); PL 2-20 § 7 (part); PL 9-130 § 17.

#### **§ 407. Issuance of bank license.**

(1) If, upon a careful examination of the facts so reported or any other relevant facts which may come to his knowledge, he is satisfied that the foreign bank has complied with all of the provisions of this subtitle and the Banking Board permit required before a foreign bank shall be authorized to open or operate a branch or office in the Federated States of Micronesia, the Banking Commissioner shall issue a license to engage in the banking business pursuant to section 501 of this subtitle.

(2) The Banking Commissioner may withhold from a foreign bank the license authorizing it to commence operations whenever he is satisfied that the foreign bank seeks to operate in the Federated States of Micronesia for any other than the legitimate objectives determined by this subtitle.

(3) The expenses incurred by the Banking Commissioner in connection with such investigation shall be paid by the foreign bank in conformity with regulations which the Banking Board may make and issue for that purpose.

**Source:** PL 1-94 § 403(3); PL 2-20 § 7 (part); PL 9-130 § 18.

#### **§ 408. Appointment of agent for service of process.**

Before commencing business in the Federated States of Micronesia, a foreign bank shall file with the Banking Board an appointment of the Banking Commissioner as its agent upon whom all process in any action or proceeding against it arising out of the operations or activities of its office or offices in the Federated States of Micronesia may be served, which appointment shall be by its terms perpetual and irrevocable.

**Source:** PL 1-94 § 403(4); PL 2-20 § 7 (part); PL 9-130 § 19.