

CHAPTER 7

Control over Banks

SECTIONS

- § 701. **Unsafe or unsound practices.**
- § 702. **Enforcement of directives.**
- § 703. **Prevention against money laundering.**
- § 704. **Prohibition on disclosure.**
- § 705. **Retention of records.**

Editor's note: Section 18 of PL 12-57 enacted a new chapter 7 entitled Control over Banks.

§ 701. Unsafe or unsound practices.

- (1) This section shall apply when the Banking Board has determined that a Bank licensed under this subtitle:
- (a) is following unsafe or unsound practices in the conduct of its business that if continued may jeopardize its obligations to its depositors, or adversely affect the operation or stability of the banking system of the FSM; or
 - (b) has contravened or failed to comply with the terms and conditions of its license or the provisions of this subtitle.
- (2) When a Bank is engaged in practices described in subsection (1) of this section, the Banking Board:
- (a) shall issue a directive to such Bank to cease and desist from such practice, contravention or non-compliance or to take such other action as the Banking Board determines is necessary;
 - (b) shall issue a directive to such Bank to take such action (including action to replace or strengthen officers or directors) as may be specified in such directive in order to correct the conditions resulting from such practice, contravention or non-compliance; and
 - (c) may appoint a qualified person to advise the bank on the proper conduct of its business and measures to be taken to rectify its situation; the remuneration to be paid to such advisor shall be fixed by the Banking Board and paid by the Bank.

Source: PL 12-57 § 19; PL 13-56 § 11.

§ 702. Enforcement of directives.

(1) The Banking Commissioner shall promptly and fully enforce all FDIC directives and orders against or involving any FDB or any IAP, except to the extent that such directives or orders conflict with the Constitution of the FSM.

(2) If a Bank to which section 701 of this chapter has been applied fails to comply promptly with any directive or order of the FDIC or Banking Commissioner, such failure shall constitute grounds for an application under section 801 of this subtitle.

Source: PL 12-57 § 20; PL 13-56 § 12.

§ 703. Prevention against money laundering.

(1) Any director, manager or other officer of a Bank in the Federated States of Micronesia who makes or authorizes, or permits to be made or authorized by any officer of the Bank any transaction:

(a) without taking or causing to be taken all reasonable steps to establish the true identity of the persons concerned in the transaction; or

(b) when he or the officer concerned doubts or has reason to doubt the authenticity of documents and the truth of written or oral statements material to the transaction; or

(c) when he or the officer concerned knows or has reason to suspect that any of the funds involved in the transaction have been obtained by any party as the direct or indirect result of activity that is illegal inside or outside the Federated States of Micronesia;

is guilty of an offense and upon conviction, shall be fined not more than \$10,000 or imprisonment for not more than one year or both.

(2) No director, manager or other officer concerned in the management of a financial institution who discloses in good faith to the Banking Commissioner information regarding any customer or transaction which he believes to be connected to illegal activity, shall incur any liability as a result of such disclosure.

Source: PL 12-57 § 21.

§ 704. Prohibition on disclosure.

(1) No person who, in his past or current capacity as a director, manager, officer, employee or agent of any licensed bank, has acquired information concerning a customer of a licensed bank shall disclose such information except:

(a) with the written authorization of the customer or his legal personal representative;

(b) for the purpose of performing his duties under this subtitle;

(c) when required to do so by a court in the Federated States of Micronesia;

(d) in order to comply with the provisions of this subtitle or any other written law; or

(e) to provide to a person, upon a legitimate business request, a general credit rating, a copy of which shall be provided to the subject of the credit rating upon his request.

(2) No member of the Banking Board, Banking Commissioner, employee or agent of the Banking Board shall disclose to any person any information, returns or data whatsoever relating to any licensed Bank or to its customers that he has acquired in the performance of his duties under this subtitle except:

(a) for the purpose of the performance of his duties or the exercise of his functions;

(b) when lawfully required to do so by any court, or in proceedings for an offense against this subtitle;

(c) with the consent of the person to whom the information relates;

(d) to the extent that the information is available under any other law or in a public document;

(e) in aggregated or summary form, in such a manner as to prevent any information disclosed from being identified by any person as being related to a particular person; or

(f) in confidence to a supervisory authority in any other country for the purposes of the exercise of functions corresponding to or similar to those conferred on the Banking Board under this subtitle, so long as the Banking Board is reasonably satisfied the recipient of the information will maintain confidentiality.

Source: PL 12-57 § 22.

§ 705. Retention of records.

(1) A licensed bank must retain, for a period of at least five years, checks and other negotiable instruments drawn on it and paid by it, and other items comprising records of transactions processed by it.

(2) It shall be sufficient compliance with the duty imposed by subsection (1) of this section if a copy of the item has been made by the licensed Bank on microfilm, microfiche, tape, disk, or electronic or photographic storage media, and is retained by the licensed Bank for the same period as the item is required to be retained pursuant to subsection (1) of this section.

(3) Notwithstanding the provisions of any other law, a copy of an item made pursuant to this section shall be admissible as evidence in any legal proceeding to the same extent as the item of which it is a copy would have been admissible.

Source: PL 12-57 § 23.