

CHAPTER 3

Domestic Banks

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§ 301. Organization—Permit required; Application.

(1) Any five or more persons of sufficient legal capacity may organize a domestic bank, but for such purpose they shall first apply in writing for a permit from the Banking Board.

(2) The application shall set forth and prove the need of the services of a banking institution in the locality wherein the bank is sought to be established, and that the services rendered by other banking institutions do not answer the needs of the locality.

(3) The application shall also set forth the following:

(a) A business plan showing the intended strategy for the first three years of operation, including the administrative and organizational structure of the bank, internal controls, and projected balance sheet, profit and loss and cash flow statements for each of the three years, together with the assumptions on which they are based;

(b) The structure and adequacy of the proposed capital in relation to the projected volume of risk assets detailed in the business plan;

(c) The financial capacity, history, qualifications and experience of the applicants and the proposed management.

Source: PL 1-94 § 301(1); PL 2-20 § 4 (part); PL 12-57 § 5.

§ 302. 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 and hold such hearings as he deems may be necessary as to:

- (1) the banking and commercial ability and experience of the applicants;
- (2) whether such ability and experience are sufficient to warrant the efficient functioning and operation of the bank;
- (3) whether local need justifies the application;
- (4) the character and repute, as well as the banking and commercial experience of the prospective directors or officers who are to conduct the business of said bank;
- (5) whether the bank shall be of benefit to the general public; and
- (6) the capital which the bank has available for its operations.

Source: PL 1-94 § 301(2); PL 2-20 § 4 (part); PL 9-130 § 10.

§ 303. Application 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. 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.

Source: PL 1-94 § 301(3); PL 2-20 § 4 (part).

§ 304. Articles of incorporation—Requisites.

The articles of incorporation must be subscribed by each of the incorporators and duly sworn to before a notary public. They shall specifically state:

- (1) the name by which such bank is to be known;
- (2) the State where its main office is to be established, which shall be its legal domicile;
- (3) the amount of the authorized capital stock, the number of shares into which the same is divided, and, if they have a par value, the par value of each share;
- (4) the term of duration of the bank;
- (5) the transactions to which the capital of the bank is to be preferably devoted;

- (6) the time and manner of calling and holding regular meetings of stockholders, and the reasons and circumstances for, and manner of, calling and holding special meetings;
- (7) the manner of constituting a quorum at the regular and special meetings of the stockholders;
- (8) the names and places of residence of the incorporators and the number of shares subscribed by each;
- (9) the number of directors of the bank, which shall not be less than five, and not less than two-thirds of the total number of whom shall be citizens of the Federated States of Micronesia and shall have resided in the Federated States of Micronesia for at least one year prior to the date of the application; the manner of their election, their terms of office, and the number necessary to constitute a quorum; and
- (10) any other articles which the incorporators may deem it advisable to insert for the regulation of the business and the conduct of the affairs of the bank; provided, that such articles shall not be in conflict with this subtitle, or with any other laws of the Federated States of Micronesia.

Source: PL 1-94 § 301(4); PL 2-20 § 4 (part).

Cross-reference: For provisions on filing fees, see section 626 of this title.

§ 305. Certificate of incorporation; Beginning of corporate existence.

(1) Upon subscribing and swearing to the articles of incorporation, as provided in section 304 of this chapter, and upon submitting two copies of the same to the Registrar of Corporations together with the permit granted by the Banking Board authorizing the organization of the bank, and upon payment of the proper filing fee, and upon the issuance by the Registrar of Corporations, under his seal, of a certificate stating that the articles containing the statements required by section 304 of this chapter have been filed in his office, the existence of the bank named in the articles of incorporation shall begin.

(2) From and after the date of such filing, the bank shall constitute a body corporate under the name set forth in the articles. Before such bank may commence business it shall comply with the other requirements of this subtitle and all other applicable provisions of law.

Source: PL 1-94 § 302.

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

§ 306. Issuance of certificate; Transmittal to Banking Commissioner.

Upon the issuance by the Registrar of Corporations of a certificate of incorporation, as provided in section 305 of this chapter, the Registrar of Corporations shall so notify the Banking Commissioner and at the same time shall transmit to the Banking Commissioner a duplicate copy of the articles of incorporation.

Source: PL 1-94 § 303(1); PL 2-20 § 5 (part); PL 9-130 § 11.

§ 307. Examination for compliance.

(1) When the duplicate copy is received by the Banking Commissioner, he shall notify the corporation, and the corporation shall then file with the Banking Commissioner a statement of all the facts necessary to enable him to determine whether the bank has in fact complied with all the requirements of law and is lawfully entitled to commence business, such statement to be sworn to by a majority of the directors and by the president or the manager of the bank.

(2) Upon receipt of such statement by the Banking Commissioner, he shall examine the condition of the corporation and ascertain specifically the amount of its capital paid in; the names and places of residence of its stockholders, directors, and officers; the amount of the capital stock which each owns in good faith; and, generally, whether such corporation has complied with all the provisions of law required to entitle it to a license to engage in the business of banking.

Source: PL 1-94 § 303(2); PL 2-20 § 5 (part); PL 9-130 § 12.

§ 308. Issuance of bank license.

(1) If, upon careful examination of the facts so reported, or of any other relevant facts which may come to his knowledge, the Banking Commissioner is satisfied that such bank has complied with all the applicable provisions of this subtitle, with any conditions in the Banking Board permit required to be satisfied prior to licensing, and with other laws required to be complied with before a bank shall be authorized to commence the business of banking, he shall issue a license to engage in the banking business pursuant to section 501 of this subtitle. The license shall contain any conditions of the Banking Board permit intended to survive past issuance of the license.

(2) The Banking Commissioner may withhold from a bank the license authorizing it to commence business whenever he is satisfied that the shareholders have organized the bank for any other than the legitimate objectives determined by this subtitle.

(3) The expenses incurred by the Banking Commissioner in connection with such investigations shall be paid by the corporation in conformity with the regulations the Banking Board may promulgate for that purpose.

Source: PL 1-94 § 303(3); PL 2-20 § 5 (part); PL 9-130 § 13.

§ 309. Amount and ownership of capital stock.

No domestic bank shall be organized and established in the Federated States of Micronesia with a capital stock less than \$1,000,000, which shall be paid in cash before the bank shall be authorized to commence business, and at least two-thirds of which shall be owned by persons who are citizens of the Federated States of Micronesia and who shall have resided in the Federated States of Micronesia for at least one year prior to the application.

Source: PL 1-94 § 304; PL 1-154 § 3; PL 12-57 § 6.

§ 310. Amendment of articles of incorporation.

(1) Every bank organized under this subtitle may amend its articles of incorporation with the approval of the Banking Board for any lawful purposes.

(2) No amendment may contain a provision which it would not have been lawful and proper to insert in the original articles of incorporation.

(3) No change shall be made in the articles of incorporation by which the rights or security of the existing depositors or creditors of the bank shall be impaired.

Source: PL 1-94 § 305.

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

§ 311. Establishment of offices abroad.

Except with the consent in writing of the Banking Board, no domestic bank licensed under this subtitle shall establish a branch, agency or office outside the Federated States of Micronesia.

Source: PL 9-130 § 14.