

**TITLE 30**  
**DEVELOPMENT BANKING**

**CHAPTERS**

- 1      FSM Development Bank (§§ 101-138)**
- 2      Investment Development Fund (§§ 201-202)**
- 3      Investment Development Act (§§ 301-320)**
- 4      FSM Venture Funds (§§ 401-425)**

**CHAPTER 1**

**FSM Development Bank**

**SECTIONS**

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**Editor's note:** PL 8-47 § 1 repealed all sections of chapter 1 of title 30, except for section 122. Section 122 was relocated from chapter 1 to a new chapter 2, entitled "Investment Development Fund" and renumbered section 201. PL 8-47 also enacted new sections of chapter 1 of this title for the purpose of reorganizing the FSM Development Bank.

PL 4-106 § 3 provided that:

The interest on the remaining principal for any loan from the Federated States of Micronesia Development Bank which is outstanding on October 1, 1987 shall be adjusted to the rate established by section 121 of this chapter. This section shall not apply to any interest or penalties resulting from a loan being delinquent on or before the effective date of PL 4-106, i.e., June 2, 1987. The interest on loans established prior to the effective date of PL 4-106 shall not be reduced by any means to the level set forth in section 121 of this chapter before October 1, 1987.

### **§ 101. Establishment of the FSM Development Bank.**

There is hereby established a body corporate to be known as the Federated States of Micronesia Development Bank, hereinafter referred to as the “Bank.” The Bank shall not be deemed to be a legal successor of either the Micronesia Development Bank or the Bank of Micronesia.

**Source:** PL 8-47 § 4.

**Cross-reference:** The statutory provisions on Commercial Banking are found in title 29 of this code.

**Case annotations:** The FSM Development Bank is an instrumentality of the National Government and part of the National Government for the purposes of FSM Const. art. XI, § 6(a), giving the trial division of the Supreme Court exclusive jurisdiction over cases in which the National Government is a party. *FSM Dev. Bank v. Estate of Nanpei*, 2 FSM R. 217, 221 (Pon. 1986).

### **§ 102. Purpose.**

It is the intent of the Government of the Federated States of Micronesia to establish an independent financial institution operating under its own Board of Directors but conducting its activities within the framework of the National Government’s general economic plans, policies and priorities.

**Source:** PL 8-47 § 5.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the Constitution, the code of the Federated States of Micronesia, and other legal resource information at <http://www.fsmsupremecourt.org/>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

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### **§ 103. Principal place of business and branch offices.**

The principal place of business of the Bank shall be located within the Federated States of Micronesia at a place to be designated by the Board of Directors of said Bank. The Board may designate other branch offices in the States of the Federated States of Micronesia, or abroad, based on the needs of the Bank.

**Source:** PL 8-47 § 6.

### **§ 104. Functions of the Bank.**

(1) Subject to any existing limitation or limitations hereafter created, the Bank is authorized to engage in all banking functions that will assist in the economic advancement of the Federated States of Micronesia.

(2) Such functions shall include but not be limited to the following:

(a) To mobilize, from both within and outside the Federated States of Micronesia, additional financial resources for development;

(b) To provide short, medium and long-term loans for high priority projects, with special emphasis on and attention to the needs of the Federated States of Micronesia;

(c) To provide technical assistance and services for project identification, project formulation, and to perform investment studies;

(d) To administer trust funds and special funds available to the Federated States of Micronesia on a grant or loan basis;

(e) To foster economic activities and cooperate with other lending institutions within and outside the Federated States of Micronesia in supporting activities for its development.

**Source:** PL 8-47 § 7.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code.

**Case annotation:** The statute, 30 F.S.M.C. 104, does not impose a duty upon the FSM Development Bank to provide technical assistance to debtors to whom it has already made a loan, nor to assignees of those debtors. Nor does it give rise to a private cause of action. *FSM Dev. Bank v. Mudong*, 10 FSM R. 67, 76-77 (Pon. 2001).

The stated purpose of the FSM Development Bank under 30 F.S.M.C. 104(1) is to assist in the Federated States of Micronesia's economic advancement. *Adams v. Island Homes Constr., Inc.*, 12 FSM R. 348, 353 (Pon. 2004).

Under 30 F.S.M.C. 104(2), the Development Bank does not have a duty to provide technical support for the project for which the money was loaned because 30 F.S.M.C. 104 does not confer a private cause of action, and the Bank does not have a duty under this statute to

provide technical assistance to debtors to whom it has already made a loan. *FSM Dev. Bank v. Jonah*, 13 FSM R. 522, 523 (Kos. 2005).

### **§ 105. Powers of the Bank.**

In performing the functions authorized pursuant to section 104 of this chapter, the Bank shall have and exercise all powers normally exercised by a banking corporation, including but not limited to the following:

- (1) to adopt, alter, and use a corporate seal;
- (2) to adopt and amend bylaws governing the conduct of its business and the exercise of its powers;
- (3) to sue and be sued in its corporate name;
- (4) to acquire in any lawful manner, real, personal, or mixed property, either tangible or intangible; to hold, maintain, use, and operate such property; and to sell, lease, or otherwise to dispose of such property;
- (5) to acquire in any mode and take over the whole or any part of the business, property, good will, and liabilities of any other bank or banks;
- (6) to act as agent of and as correspondent for other banks;
- (7) to make, issue, and circulate notes upon such terms and subject to such provisions and conditions as may be prescribed by the Board;
- (8) to guarantee or become liable for the payment of money or for the performance of any obligations, and generally to carry on guarantee and indemnity business of all kinds and to effect counter guarantees;
- (9) to take and otherwise acquire and hold shares, stocks, mortgages, bonds, obligations, securities, and investments of all kinds;
- (10) to lend money either with or without security, and if with security upon such terms as may from time to time seem expedient;
- (11) to borrow or raise any sum or sums of money on such security and, upon such terms as to interest or otherwise, as may from time to time seem expedient;
- (12) to buy, sell, and deal in bullion, specie, precious metals, currencies, and exchange of and with all countries;
- (13) to lend and advance money to or negotiate loans or discount promissory notes or other negotiable instruments for, or on behalf of, or otherwise financially assist, persons, firms, or companies concerned in any way whatever in the sale or purchase of any property, real or personal, for cash or on credit or on hire purchase, hire agreement, time payment, installment system, or otherwise, and generally to transact or engage in any class of business commonly undertaken by financiers;
- (14) to establish agencies or connections in relation to the business of the Bank in any part of the world;
- (15) to give letters of credit on agents and banking connections in any part of the world;
- (16) to buy, sell, discount, rediscount, hedge bills of exchange, promissory notes, and treasury securities;
- (17) to buy and sell securities issued by any government agency, international organization, company, institution, or otherwise;
- (18) to form or assist in forming any company for the purpose of carrying on any business which the Bank is authorized to carry on, or any other business which may seem conducive to any of the interests of the Bank, or to

acquire by purchase or otherwise the whole or any part of the business, property, and liabilities, or the whole or any part of the shares or stock of any company carrying on or proposing to carry on any such business as aforesaid; to hold shares, stock, debentures, debenture stock, or any interest in any such company and to dispose of such shares, stock, debenture, debenture stock, or interest and to make or carry out arrangements for giving the Bank the entire or partial control and management or benefit of the business of any such company and to guarantee dividends and interest on shares, stock, debentures, debenture stock, mortgages, bonds, or securities of any such company;

(19) to issue corporate bonds for various periods of time, upon such terms and with such conditions and provisions as are deemed necessary and desirable by the Board for the sale to the general public or to other financial institutions and government agencies;

(20) to permit the Bank to be registered or recognized in any country, state, or place outside of the Federated States of Micronesia, and to comply with any conditions necessary or expedient in order to enable the Bank to carry on business in any such country, state, or place and to establish or guarantee local companies or branch offices constituted or regulated under or by local laws for carrying on any business which the Bank is authorized to carry on;

(21) to sell or otherwise dispose of, with or without recourse, loans or other assets of any kind, or interests therein; and

(22) to do all such other things as may be deemed incidental or conducive to the attainment of the above objects or any of them.

**Source:** PL 8-47 § 8.

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

### **§ 106. Capitalization.**

(1) The authorized capital stock of the Bank shall be \$60,000,000 divided into 12,000,000 shares of common stock of par value of five dollars per share, but said authorized capital stock may be increased or decreased from time to time upon approval of the Board. If issued capital stock is to be increased by the sale of additional shares, each existing shareholder shall be entitled to subscribe for such additional shares in proportion to the number of shares of said issued capital stock owned by said shareholder at the time the increase is authorized by the Board, or at such other time thereafter but before the increase is effectuated as the Board may specify. The Board shall prescribe a reasonable period of time within which the preemptive rights to subscribe to the new shares of stock must be exercised. The Board, at any time and from time to time, may authorize and issue debt obligations, whether or not substantiated, without the approval of the shareholders.

(2) Shares of stock may only be purchased with cash except as described in section 136 of this chapter.

**Source:** PL 8-47 § 9.

### **§ 107. Corporate bylaws.**

The Board shall, by majority vote of its entire membership, adopt, amend, or repeal bylaws of the Bank providing for the management of the business of the Bank, the organization, meetings, and procedures of the Board,

designating the officers of the Bank and the duties thereof, the form of the seal of the Bank, and the preparation and submission of required reports. Bylaws may not be adopted, amended, or repealed except after one week's written notice to each director.

**Source:** PL 8-47 § 10.

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

### **§ 108. Annual shareholders meeting.**

(1) There shall be an annual shareholders meeting to be held on the second Tuesday in April of each year or such other date as the Board may prescribe. The purpose of the meeting shall be to elect directors and to transact whatever other business may be brought before the meeting. The meeting shall be held at the main office of the Bank, or at such other place as the Board may designate. Notice of the meeting shall be mailed, postage prepaid, at least 30 days prior to the date of the meeting, addressed to each shareholder at his or her address appearing on the books of the Bank. Alternatively, such notice may be sent by fax, receipt confirmed by telephone at least ten days prior to the date of the meeting, to a shareholder at his or her fax number, if any, appearing on the books.

(2) Nominations for election to the Board may be made by the Board or by any stockholder of any issued share of the Bank entitled to vote for election of directors. Nominations by a shareholder shall be made in writing and delivered, faxed, or mailed to the President of the Bank not less than 14 days (30 days in the case of mailing) nor more than 50 days prior to any annual stockholders meeting. Such notification shall contain the following information to the extent known to the nominating shareholder:

- (a) the name and address of each nominee;
- (b) the principal occupation of each nominee;
- (c) the name and address of the nominating shareholder; and
- (d) the number of shares of capital stock of the Bank owned by the nominating shareholder.

**Source:** PL 8-47 § 11.

### **§ 109. Special shareholders meeting.**

Special meetings of the shareholders may be called for any purpose at any time by the Board or by any shareholders owning, in the aggregate, not less than 25 percent of the issued stock of the Bank. Every such special meeting, unless otherwise provided by law to the contrary, shall be called by mailing a notice, postage prepaid, stating the purpose of the meeting, not less than 30 days prior to the date fixed for such meeting, to each shareholder at his or her address appearing on the books of the Bank. Alternatively, such notice may be sent by fax, receipt confirmed by telephone at least ten days prior to the date of the meeting, to a shareholder at his or her fax number, if any, appearing on the books of the Bank.

**Source:** PL 8-47 § 12; PL 10-8 § 1.

### **§ 110. Proxies.**

Shareholders may vote at any meeting of the shareholders personally or by proxies duly authorized in writing, but no officer or employee of the Bank shall act as proxy. Proxies shall be valid only for one meeting, to be specified therein, and any adjournments of such meeting. Proxies shall be dated and shall be filed with the record of the meeting.

**Source:** PL 8-47 § 13.

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

### **§ 111. Quorum.**

A majority of the issued stock of the Bank represented in person or by proxy shall constitute a quorum at any meeting of shareholders, unless otherwise provided by law; but less than a quorum may adjourn any meeting, from time to time, and the meeting may be held, as adjourned, without further notice. A majority of the votes cast shall decide every question or matter submitted to the shareholders at any meeting, unless otherwise provided by law to the contrary.

**Source:** PL 8-47 § 14.

### **§ 112. Voting rights; Cumulative voting.**

(1) Only shareholders in whose names shares entitled to vote stand on the stock record of the Bank on the day of any meeting of shareholders, unless some other record date be fixed by the Board for the determination of shareholders of record and then on such other day, shall be entitled to vote at such meeting.

(2) Any shareholder entitled to vote at any election for directors may vote cumulatively and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the shares are entitled, or distribute that shareholder's vote on the same principal among as many candidates as that shareholder thinks fit. The candidates receiving the highest number of votes up to the number of directors to be elected are elected.

**Source:** PL 8-47 § 15.

### **§ 113. Record date.**

The Board may fix a time in the future not exceeding 40 days preceding the date of any meeting of shareholders or the date fixed for the allotment of rights, or when any change or conversion or exchange of shares shall go into



effect, as a record date for the determination of shareholders entitled to receive notice of and to vote at such meeting, or to receive any allotment of rights, or to exercise the rights with respect to any such change, conversion or exchange of shares. In such case only shareholders of record on the date so fixed shall be entitled to notice of and to vote at such meeting, or to receive such allotment of rights, or to exercise such rights, as the case may be, notwithstanding any transfer of any share on the books of the Bank after any record date fixed as aforesaid. The Board may close the books of the Bank against transfer of shares during the whole or any part of such period.

**Source:** PL 8-47 § 16.

#### **§ 114. Board of Directors.**

(1) There shall be a Board of Directors of the Bank consisting of seven members (one of whom shall be the President of the Bank *ex officio*) elected at the annual shareholders meeting by the shareholders by the plurality of votes thereof. A director shall serve until his term is expired or his successor is elected and qualified, whichever is later, and shall be eligible for reelection. Membership on the Board shall not be restricted to shareholders or to citizens of the Federated States of Micronesia. Any vacancy in the Board may be filled by action of the Board.

(2) Directors shall serve staggered terms of three years. At the first organizational meeting of the Board, the six elected directors shall, by lot, determine among themselves which two directors shall have the initial terms of one year, which two directors shall have initial terms of two years, and which two directors shall have initial terms of three years. Thereafter all terms shall be three years.

(3) Until a new Board shall have been elected and qualified as provided in this chapter the Board in existence immediately prior to the time that the Act establishing this chapter becomes law shall continue to serve as the Board of Directors of the Bank, subject to the same quorum standard as was in existence immediately prior to said time.

**Source:** PL 8-47 § 17.

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

#### **§ 115. Professional qualifications of directors and officers of the Bank.**

(1) Board members of the Bank shall be persons experienced in the conduct of business, commerce, finance, banking, accounting, or development economics.

(2) The President and senior Vice President of the Bank shall each have had not less than five years experience in the banking profession, or the equivalent experience in a related profession.

**Source:** PL 8-47 § 18.

#### **§ 116. Organizational meeting.**

Upon receipt of the result of the election at the shareholders meeting, the President of the Bank shall forthwith notify the directors-elect of their election and of the time at which they are required to meet at the office of the Bank for the purpose of organizing the new Board. Such meeting shall be held on the date of the election or as soon thereafter as practicable, and, in any event, within 30 days thereof.

**Source:** PL 8-47 § 19.

### **§ 117. Regular meetings.**

Regular meetings of the Board shall be held without notice, on the second Monday of January, April, July and October of each year at the principal office of the Bank or at such place as the Board may designate. When any regular meeting of the Board falls on a legal holiday, or when there is an emergency or other event that would result in a quorum not being present, the meeting shall be held on the next banking business day unless the Board designates a different day or on such day as the Board may designate.

**Source:** PL 8-47 § 20; PL 9-114 § 1.

### **§ 118. Special meetings.**

Special meetings of the Board may be called by the Chairman of the Board and shall be called at the request of two or more directors. The President shall give 10 days' written notice of any special meeting. Each member of the Board shall be given notice stating the time and place, by telegram, facsimile, letter, or personal delivery, of each such special meeting. Only matters set forth in the notice of special meeting shall be considered at such meeting.

**Source:** PL 8-47 § 21.

### **§ 119. Quorum.**

Four directors shall constitute a quorum at any meeting of the Board.

**Source:** PL 8-47 § 22.

### **§ 120. Removal of Directors.**

Any director may be removed by the affirmative vote of the majority vote of the shareholders present in person or by proxy at any meeting duly called for such purpose.

**Source:** PL 8-47 § 23.

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

### **§ 121. Officers of the Board.**

The officers of the Board shall consist of a Chairman and a Vice Chairman, each of whom must be a member of the Board. Officers of the Board shall be elected by the directors and shall serve for one year or until their successors are elected and qualified, and they shall be eligible for reelection. The duties and responsibilities of the officers of the Board include but are not limited to the following:

(1) *Chairman.* The Chairman of the Board shall, if present, preside at all meetings of the Board, and exercise and perform such other powers and duties as may from time to time be assigned by the Board.

(2) *Vice Chairman.* In the absence of the Chairman, the Vice Chairman shall perform all the duties of the Chairman, and when so acting shall have all the powers of, and be subject to all the restrictions imposed upon, the Chairman. The Vice Chairman shall have such other powers and perform such other duties as from time to time may be prescribed by the Board.

**Source:** PL 8-47 § 24.

### **§ 122. Officers of the Bank.**

The officers of the Bank shall consist of a President, a senior Vice President, a Secretary/Treasurer (or a Secretary and a Treasurer), and such other officers, including one or more junior Vice Presidents, as may be specified in the bylaws of the Bank. The President and senior Vice President shall be appointed by and serve at the pleasure of the Board. All other officers shall be appointed and serve for such terms as may be specified in the bylaws. The duties and responsibilities of the President and Vice President(s) include but are not limited to the following:

(1) *President.* Subject to the control of the Board, and to the extent delegated by the Board, the Chairman, the President shall be the chief executive officer of the Bank and shall have the general supervision, direction and control of the business and officers of the Bank. The President shall be delegated the duties and responsibilities of the day-to-day management and operation of the Bank. The President shall be an *ex officio* member of the Board, with full voting and other rights, except that the President may not hold the office of Chairman or Vice Chairman. The President shall have the general powers and duties of management usually vested in the office of the President of a corporation engaged in the banking business.

(2) *Vice President(s).* In the absence of the President, the senior Vice President, or any other Vice President in the order specified in the bylaws, shall perform all the duties of the President except that of *ex officio* director, and when so acting shall have all the powers of, and be subject to all the restrictions imposed upon, the President.

**Source:** PL 8-47 § 25.

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

**§ 123. Action by unanimous consent.**

Any action required or permitted to be taken by the shareholders or the Board may be taken without a meeting thereof if all the shareholders or directors, as appropriate, shall individually and collectively consent in signed writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the shareholders or the Board, as appropriate, and such action by written consent shall have the same force and effect as unanimous vote of such shareholders or directors.

**Source:** PL 8-47 § 26.

**§ 124. Committees.**

The Board may designate one or more committees, each consisting of two or more directors and with such powers as the Board may designate to perform the functions for which said committee is established. Nondirectors may also serve on such a committee. Such a committee shall continue to exist at the pleasure of the Board.

**Source:** PL 8-47 § 27.

**§ 125. Acts affecting personal financial interest.**

No director or officer of the Bank shall participate personally and substantially in the making of any decision relating to any application for a loan or other commitment from or through the Bank in which, to his knowledge, he, his spouse, child, close relatives, partner, organization in which he or she is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment has a financial interest. No director or officer of the Bank shall be eligible to borrow money from or through the Bank, or to assume responsibility in whole or in part under a guarantee or indemnity or by the deposit of a security to the Bank in respect of a debt or obligation of a third party.

**Source:** PL 8-47 § 28.

**§ 126. Expenses and honoraria.**

Directors shall be entitled to necessary travel expenses while on the business of the Bank. Directors may receive an honorarium of such amount as may be determined by the Board. Government employees shall not be entitled to an honorarium for attending Board meetings during normal hours of employment.

**Source:** PL 8-47 § 29.

**§ 127. Administration of funds.**

The Bank is hereby authorized to administer such fund or funds as may from time to time come into its possession and under its management control. Except as may be more particularly specified by law with respect to any particular fund, the Bank shall charge a reasonable fee to administer such funds and may, in the case of grant funds, waive any such fee.

**Source:** PL 8-47 § 30.

**§ 128. Tax exemption; No dividends.**

(1) The Bank shall exist and operate solely for the benefit of the public and shall be exempt from any taxes or assessments except import taxes or assessments on any of its property, operations, or activities. It is anticipated, although not required, that continuation of this tax exemption will be periodically reviewed by the Congress of the Federated States of Micronesia on its own motion or as requested by the Bank.

(2) For so long as any part of the tax exemption established in this section shall continue, the Bank shall be prohibited from paying any dividend or making any other distribution to its stockholders.

**Source:** PL 8-47 § 31; PL 11-26 § 4.

**Cross-reference:** The statutory provisions on the FSM Congress are found in title 3 of this code. The statutory provisions on Taxation and Customs are found in title 54 of this code.

**§ 129. Debt of the Bank.**

Any debt or obligation incurred by the Bank shall not be a debt or obligation of the Government of the Federated States of Micronesia, nor shall the Government of the Federated States of Micronesia be responsible for any debt or obligation of the Bank unless specifically authorized by statute.

**Source:** PL 8-47 § 32.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

**§ 130. Audit.**

At such times as the Board may provide, the books and records of the Bank shall be thoroughly examined and audited by a qualified auditor appointed by the Board, which may be the Public Auditor. Such auditor shall also determine the book value of the issued stock of the Bank, which information shall be made available to the public.

**Source:** PL 8-47 § 33.

**Cross-reference:** The statutory provisions on the Public Auditor are found in chapter 5 of title 55 (Government Finance and Contracts) of this code.

**§ 131. Records and inspections.**

(1) *Records.* The Bank shall maintain accurate and correct accounts, books and records of its business and properties. All such books, records and accounts shall be kept at the principal place of business of the Bank, or at such other place or places of business as may be designated from time to time by the Board.

(2) *Inspection of books and records.* The books and records of the Bank shall be open to the directors for inspection from time to time upon 24 hours' notice to the Bank of such intent to inspect.

**Source:** PL 8-47 § 34.

**§ 132. Checks, drafts, etc.**

All checks, drafts or other orders for payment of money, notes or other evidence of indebtedness, issued in the name of or payable to the Bank shall be signed or endorsed by such person or persons and in such manner as shall be determined from time to time by resolution of the Board.

**Source:** PL 8-47 § 35.

**§ 133. Contracts; How executed.**

The Board may authorize any officer, agent, or employee to enter into any contract or execute any instrument in the name of and on behalf of the Bank. Such authority may be general or confined to specific instances. Unless so authorized by the Board, no officer, agent or employee shall have any power or authority to bind the Bank by any contract or engagement, or to pledge its credit, or to render it liable for any purpose or for any amount.

**Source:** PL 8-47 § 36.

**§ 134. Annual report.**

The Bank shall as soon as possible, but not exceeding 120 days after the conclusion of each fiscal year, submit to its stockholders an annual report containing:

- (1) An account of its transactions throughout the year;
- (2) A statement of the accounts of the Bank duly audited in accordance with the provisions of section 130 of this chapter; and
- (3) A list and brief description of all outstanding loans or other commitments made to any director or officer of the Bank, or to any other person or organization described in section 125 of this chapter, including a statement of whether the payment status is current or delinquent.

**Source:** PL 8-47 § 37.

**§ 135. Certificates and transfers of shares.**

(1) *Certificates for shares.* Certificates for shares shall be of such form and device as the Board may designate and shall state the name of the record holder of the shares represented thereby; its numbers; date of issuance; the number of shares for which it is issued; the par value, if any; a statement as to redemption or conversion, if any; a statement of liens or restrictions upon transfer or voting, if any; if the shares be assessable, or, if assessments are collectible by personal acting, a plain statement of such facts. Every certificate for shares must be signed by the President and a Vice President or by either the President or a Vice President and a member of the Board of Directors.

(2) *Transfer on the books.* Upon the surrender to the Secretary of the Bank of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the Bank to issue a new certificate and record the transaction upon its books.

(3) *Lost or destroyed certificates.* Any person claiming a certificate of stock to be lost or destroyed shall make an affidavit or affirmation of that fact and advertise the same in such manner as the Board may require, and shall if the Board so requires give the Bank a bond of indemnity, in form and with one or more sureties satisfactory to the Board, in an amount of up to double the value of the stock represented by said certificate, whereupon a new certificate may be issued of the same tenor and for the same number of shares as the one alleged to be lost or destroyed.

**Source:** PL 8-47 § 38.

**§ 136. FSM National Government shares and FSM State government shares.**

(1) It is hereby authorized that the Trust Territory Economic Development Loan Fund and all of the funds (except the Investment Development Fund) appropriated by the Congress of the Federated States of Micronesia which are currently administered by the Federated States of Micronesia Development Bank shall be, and the same hereby are, dedicated to purchase shares of stock in the Bank for the National Government of the Federated States of Micronesia. All cash and the entire portfolio of loans in said funds are hereby transferred to the Bank as capital in return for the issuance of certificates of shares of stock in the Bank in favor of the National Government of the Federated States of Micronesia. All shares of stock shall be issued to and in the name of the Secretary of the Department of Finance as title trustee for the National Government. The cash value of the loan portfolio transferred by the National Government shall

be appraised by an independent appraiser prior to the purchase of the stock in the Bank. The Secretary shall, through the management and voting of shares held in the name of the National Government, make every effort to ensure that at least one citizen from each State serves on the Board of Directors.

(2) Any fund currently administered by the Bank for or on behalf of a State government shall, at the option of that State, be similarly appraised and transferred to the Bank in exchange for stock in the Bank. Such shares shall be issued to and in the name of the chief financial officer of said State, or such other State official as the State may designate, as title trustee.

**Source:** PL 8-47 § 39.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code.

### **§ 137. Foreign ownership.**

It is intended that the Bank shall have and retain the legal capacity to acquire, own title to, dispose of, and otherwise deal in land and waters in the Federated States of Micronesia. Therefore no stock in the Bank may be owned by any person or entity whose partial ownership of the Bank would cause the Bank to lose such capacity under applicable law. Any transfer of stock in the Bank to such a person or entity shall be null, void, and of no effect.

**Source:** PL 8-47 § 40.

### **§ 138. Limit on commitments to single person or project.**

(1) The total commitment of the Bank to any single person or project shall not exceed 15 percent of the unimpaired shareholders' equity in the Bank.

(2) For purposes of this section, the term "person" includes individuals, corporations, partnerships, joint ventures, trusts, governmental organizations, and all other legal entities. A commitment to any individual includes any commitment to that individual's parents, siblings, children, or grandchildren and any commitment to the co-partners or other close business associates of that individual. A commitment to any other entity includes any commitment to other persons controlling, controlled by, or under common control with that entity; to directors or officers of the entity if it is a corporation; to the constituent partners of that entity if it is a partnership; and to the co-partners or other close business associates of that entity.

(3) For purposes of this section, a "commitment" to a person or a project includes the current outstanding balance of any loan by the Bank to that person or for that project, the full remaining amount of exposure under any guarantee or letter of credit issued by the Bank at the request of that person or for the benefit of that project, the original face amount of any equity investment made by the Bank in that person or project, and the amount of any undisbursed loan commitment issued to or for that person or project.

**Source:** PL 8-47 § 41.



