

AN ACT

To further amend title 29 of the Code of the Federated States of Micronesia, as amended, by amending sections 102, 104, 205, 301, 309, 402, 403, 404, 601, 604, 605, 606, 612, 613, 622 and 627, and by enacting a new section 209 and a new chapter 7, to incorporate the Basle Principles of banking supervision into the banking laws of the Federated States of Micronesia, to increase the minimum standards for investment and depositor protection for new banks, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 102 of title 29 of the Code of the
2 Federated States of Micronesia is hereby amended to read as
3 follows:

4 "Section 102. Definitions. As used in this title,
5 unless it is otherwise provided or the context requires
6 a different construction, application, or meaning:

7 (1) 'Agency' means a place of business where
8 transactions are effected with customers on behalf of a
9 branch or main office of a bank, but the accounting
10 records for such transactions are maintained at the
11 branch or main office; includes a remote service
12 facility.

13 (2) 'Bank' means any person or body of persons or a
14 corporation authorized by law to engage in the banking
15 business, and to accept from the public deposits which
16 are withdrawable and transferable by check or other

1 means of payment transfer. 'Bank' includes a savings and
2 loan association but does not include a credit union.

3 (3) 'Banking business' means the business of accepting
4 deposits of money from the public, withdrawable or
5 payable on demand or after a fixed period or after
6 notice, or any similar operation through the frequent
7 sale or placement of notes or other securities, and the
8 use of such funds either in whole or part for loans,
9 investments or any other operation either authorized by
10 law or considered a generally accepted banking practice,
11 for the account and at the risk of the person doing such
12 business.

13 (4) 'Banking Board' means the Board established
14 pursuant to section 201 of this title.

15 (5) 'Banking Commissioner' means the Banking
16 Commissioner appointed pursuant to section 206 of this
17 title.

18 (6) 'Branch' means an office of a bank where banking
19 business is transacted and at which accounting records
20 are maintained.

21 (7) 'Demand deposit' means any deposit which is
22 repayable by its terms not more than three days after
23 the time it is made.

24 (8) 'Deposits' means money or other property
25 transferred or assigned to any person pursuant to an

1 agreement, expressed or implied, that the person shall
2 repay such moneys upon demand (whether in person or by
3 written order) or after a fixed or determinable period
4 of time. Money loaned to a bank which is to be repaid
5 not sooner than five years from the date of loan, and
6 pursuant to a loan agreement under which the obligation
7 to repay is subordinate to the rights of depositors,
8 shall not be deemed to be a deposit. Money transferred
9 to a credit union as a purchase of its shares shall not
10 be deemed to be a deposit.

11 (9) 'Domestic bank' means a bank organized under the
12 provisions of chapter 3 of this title.

13 (10) 'Foreign bank' means a corporation or other
14 financial institution organized for the purpose of
15 engaging in the banking business under the laws of a
16 foreign country, operating a bank in its home territory,
17 State, or country.

18 (11) 'Legal reserve' means the sum which every domestic
19 bank and foreign bank shall at all times have available
20 for the payment of their deposit liabilities pursuant to
21 the provisions of this title.

22 (12) 'Paid-in capital, surplus, and undistributed
23 profits' means, in the case of a foreign bank, the
24 aggregate paid-in capital, surplus, and undistributed
25 profits of such bank and not merely that allocated to,

1 located in, or arising out of its operations in the
2 Federated States of Micronesia.

3 (13) 'Person' includes individuals, corporations,
4 partnerships, and any other business entity.

5 (14) 'Public Auditor' means the Public Auditor
6 appointed by the President of the Federated States of
7 Micronesia with the advice and consent of the Congress
8 pursuant to the Constitution.

9 (15) 'Registrar of Corporations' means the Registrar of
10 Corporations of the National Government of the Federated
11 States of Micronesia.

12 (16) 'Related person' with respect to any person means
13 his spouse, child, parents, brothers, sisters, or any
14 partnership, corporation, or firm in which he owns more
15 than a ten percent interest."

16 Section 2. Section 104 of title 29 of the Code of the
17 Federated States of Micronesia is hereby amended to read as
18 follows:

19 "Section 104. Requirements for banking business.

20 (1) No person shall engage in the business of
21 accepting deposits in the Federated States of Micronesia
22 or shall use the term 'bank' or 'savings and loan
23 association' or any form thereof in the conduct of its
24 business unless it has been granted a license pursuant
25 to the provisions of this title and such license has not

1 expired and has not been canceled.

2 (2) Any person holding such a license shall engage in
3 no business in the Federated States of Micronesia other
4 than the banking business and shall engage in such
5 business only at the locations authorized by the Banking
6 Board. Any such person shall give prior notice in
7 writing to the Banking Board of any intention to cease
8 operations at such authorized location. Such notice
9 should be given not later than 180 days prior to the
10 proposed cessation date, and shall include details of
11 alternative arrangements proposed for customers using
12 such location."

13 Section 3. Section 205 of title 29 of the Code of the
14 Federated States of Micronesia is hereby amended to read as
15 follows:

16 "Section 205. Reports.

17 (1) The Banking Board shall prepare a report each year
18 on the condition of the banking system of the Federated
19 States of Micronesia and on the operations of the Board
20 during the year. Copies of the report shall be
21 submitted to the President and the Speaker of the
22 Congress within three months of the end of each year.
23 The report shall also be published.

24 (2) The Banking Board shall also make up and publish a
25 consolidated statement of assets and liabilities of the

1 Federated States of Micronesia banking system not less
2 frequently than quarterly, and send copies of the
3 statement to the President and the Speaker of the
4 Congress. The Banking Board may also publish from time
5 to time a consolidated statement of assets and
6 liabilities of the Federated States of Micronesia
7 banking system showing figures separately by state."

8 Section 4. Title 29 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by enacting a
10 new section 209 to read as follows:

11 "Section 209. Indemnity.
12 Neither the Banking Board nor any of its members, the
13 Banking Commissioner, employee or any person duly
14 appointed to assist the Banking Board in carrying out
15 its powers and duties under this title shall incur any
16 liability as a result of anything done in good faith in
17 the exercise of any power or the performance of any duty
18 under this title."

19 Section 5. Section 301 of title 29 of the Code of the
20 Federated States of Micronesia is hereby amended to read as
21 follows:

22 "Section 301. Organization - Permit required;
23 Application.

24 (1) Any five or more persons of sufficient legal
25 capacity may organize a domestic bank, but for such

1 purpose they shall first apply in writing for a permit
2 from the Banking Board.

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

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

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

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

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

23 Section 6. Section 309 of title 29 of the Code of the
24 Federated States of Micronesia is hereby amended to read as
25 follows:

1 "Section 309. Amount and ownership of capital stock.

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

11 Section 7. Section 402 of title 29 of the Code of the
12 Federated States of Micronesia is hereby amended to read as
13 follows:

14 "Section 402. Establishment - Application for permit
15 required.

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

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

23 (3) The Banking Board, upon receipt of such
24 application, may require the submittal of such
25 additional information as may be necessary in order for

1 it to make the necessary investigations.

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

10 Section 8. Section 403 of title 29 of the Code of the
11 Federated States of Micronesia is hereby amended to read as
12 follows:

13 "Section 403. Application for permit - Banking
14 Commissioner's investigation. It shall be the duty of
15 the Banking Commissioner, immediately after the Banking
16 Board receives an application for a permit, to make
17 whatever investigations may be necessary as to:

18 (1) the overall financial condition of the
19 application;

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

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

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

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

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

10 Section 9. Section 404 of title 29 of the Code of the
11 Federated States of Micronesia is hereby amended to read as
12 follows:

13 "Section 404. Applicant for permit - Issuance by Board.
14 The Banking Board may issue the permit applied for if,
15 in its judgement, the results of the investigations are
16 satisfactory; PROVIDED that, in no event shall the
17 Banking Board issue a permit until the applicant
18 provides incontrovertible evidence that the applicant
19 has and will maintain continuing insurance or other
20 deposit protection at least equivalent to that offered
21 by a bank which is a member of the Federal Deposit
22 Insurance Corporation of the United States. Any permit
23 may be granted subject to such conditions as the Banking
24 Board, in its discretion, deems necessary to protect the
25 interests of the people of the Federated States of

1 Micronesia. The decision of the Banking Board shall be
2 final. All expenses incurred by the Banking Board in
3 connection with such investigations shall be paid by the
4 applicant in conformity with regulations which the
5 Banking Board may make."

6 Section 10. Section 601 of title 29 of the Code of the
7 Federated States of Micronesia is hereby amended to read as
8 follows:

9 "Section 601. Regulation and supervision of banks by
10 Banking Board - General policies.

11 (1) All domestic banks and, to the extent of and with
12 respect to business done at any branches established in
13 the Federated States of Micronesia, all foreign banks
14 doing business in the Federated States of Micronesia
15 shall be regulated and supervised by the Banking Board
16 in such manner as to secure the safe and sound conduct
17 of such business, to prevent unsound practices, and to
18 maintain the public confidence in such business and
19 protect the public interest and the interests of
20 depositors, creditors, and stockholders.

21 (2) In determining if a Bank is carrying on its
22 business in a prudent manner, the Banking Board will
23 have regard to the following:

24 (a) capital adequacy in relation to the size and
25 nature of the business;

- 1 (b) asset concentration and risk exposure;
- 2 (c) separation of Banking Business from other
3 business and from other interests of any person owning
4 or controlling the Bank;
- 5 (d) adequacy of liquidity in relation to
6 liabilities;
- 7 (e) asset quality and adequacy of provisions for
8 losses;
- 9 (f) internal controls, risk management and
10 accounting systems;
- 11 (g) adequacy of governance arrangements
12 (including Directors and senior management) in relation
13 to the nature and scale of the business; and
- 14 (h) such other matters as the Banking Board
15 considers relevant.

16 (3) Every foreign bank licensed pursuant to section
17 501
18 of this title shall, with the concurrence of the Banking
19 Commissioner, designate the branch in the Federated
20 States of Micronesia which may be used as the channel of
21 communication between the Banking Board and the Bank
22 with respect to the application of this title to its
23 business throughout the Federated States of Micronesia.
24 Such branch shall be responsible for the timely
25 provision of reports and information by other branches

1 requested under this title. The head office of a
2 domestic bank shall be the channel of communication
3 between the Banking Board and its branches, and shall be
4 responsible for the timely provision of reports and
5 information by other branches requested under this
6 title."

7 Section 11. Section 604 of title 29 of the Code of the
8 Federated States of Micronesia is hereby amended to read as
9 follows:

10 "Section 604. Report of Banks.

11 (1) Every domestic or foreign bank shall make at least
12 one report of its condition each year to the Banking
13 Commissioner within 90 days after the close of the
14 bank's fiscal year, and according to forms to be
15 prescribed by him, verified by the oath of the chief
16 executive officer or chief financial officer and
17 attesting officer, certifying and subscribing under oath
18 that each of them has personal knowledge of the facts
19 stated therein and that the same are true.

20 (2) Such reports shall exhibit in detail and under
21 appropriate heads the total resources and liabilities of
22 the bank, and, in the case of a foreign bank, shall show
23 separately the resources, liabilities, and operations in
24 the Federated States of Micronesia.

25 (3) The Banking Commissioner shall have the right to

1 require that any such reports be audited at the bank's
2 expense by independent accountants approved by the
3 Banking Commissioner.

4 (4) Every domestic and foreign bank holding a license
5 under this title shall forward to the Banking
6 Commissioner no later than the 31st day of December each
7 year a report outlining the bank's policy regarding
8 employment of citizens of the Federated States of
9 Micronesia in executive positions in the bank, and the
10 steps being taken to maximize such employment.

11 (5) Every domestic and foreign bank shall publish in
12 such manner as the Banking Commissioner shall direct,
13 within 4 months after the close of its fiscal year, an
14 audited report of its condition as described in
15 subsections (1) and (2) of this section.

16 (6) Each Bank shall deliver to the Banking Board
17 within such period as may be specified and in such form
18 as the Board may from time to time approve, a periodic
19 statement of its:

20 (a) assets and liabilities;

21 (b) earnings and expenses;

22 (c) loans and advances; and

23 (d) such other data as the Board may deem

24 necessary to carry out the purpose of this act."

25 Section 12. Section 605 of title 29 of the Code of the

1 Federated States of Micronesia is hereby amended to read as
2 follows:

3 "Section 605. Special reports.

4 (1) The Banking Commissioner may request from the
5 banks special reports.

6 (2) The Banking Commissioner may, from time to time,
7 by notice in writing, require any domestic or foreign
8 bank to submit such reports and returns as he may
9 require for the purposes of the administration and
10 enforcement of the provisions of this title and any
11 regulations made thereunder.

12 (3) Any bank notified in writing under subsection (2)
13 of this section shall comply with accurate and timely
14 submissions or be subject to a penalty imposed by the
15 Banking Board in an amount not to exceed \$50 per day
16 until the correct information has been provided to the
17 satisfaction of the Banking Commissioner.

18 (4) During the first five years of operations in the
19 Federated States of Micronesia by any domestic bank, the
20 Banking Commissioner shall call for special reports of
21 its condition not less frequently than each calendar
22 quarter."

23 Section 13. Section 606 of title 29 of the Code of the
24 Federated States of Micronesia is hereby amended to read as
25 follows:

1 "Section 606. Misleading or obstructive conduct an
2 offense.

3 (1) Whoever, with intent to deceive:

4 (a) makes a false or misleading entry in any bank
5 book or record;

6 (b) makes, provides or certifies any report
7 required by section 604 or 605 of this title, or
8 provides any information required under this title,
9 which is false in any material particular;

10 (c) omits an entry or alters or conceals any
11 entry in any bank book or record; or

12 (d) conceals or destroys any information, book,
13 voucher, record, report, return, minutes or document
14 relating to the accounts, transactions, affairs or
15 business of a bank;

16 shall be fined not more than \$1,000, or imprisoned for
17 not more than 1 year, or both.

18 (2) Whoever obstructs, or endeavors to obstruct:

19 (a) the proper performance by an Auditor of a
20 Bank of his duties related to that Bank;

21 (b) an examination of a Bank conducted pursuant
22 to section 603 of this title; or

23 (c) the proper performance of his duties by an
24 advisor appointed under section 701 of this title;
25 shall be fined not more than \$1,000, or imprisoned for

1 not more than 1 year, or both."

2 Section 14. Section 612 of title 29 of the Code of the
3 Federated States of Micronesia is hereby amended to read as
4 follows:

5 "Section 612. Limitations on loans - Maximum amount.

6 (1) No domestic bank shall permit a person to become
7 indebted or liable to it, either directly or indirectly,
8 in an amount in excess of 20 percent of the aggregate
9 paid-in and unimpaired capital, surplus, and undivided
10 profits of the bank; PROVIDED however, that this
11 subsection shall not apply to transactions entered into
12 with another bank which is a member of the Federal
13 Deposit Insurance Corporation of the United States, and
14 for which quarterly reports of condition are monitored.

15 (2) In computing the total liabilities, direct or
16 indirect, of any person to a bank, there shall be
17 included all liabilities to the bank of any related
18 person and any loans made for his benefit or for the
19 benefit of any related person.

20 (3) In computing the total liabilities of any firm,
21 copartnership, or unincorporated association to the
22 bank, there shall be included all liabilities of its
23 individual members and all loans made for the benefit of
24 the copartnership or unincorporated association or any
25 members thereof.

1 (4) In computing the total liabilities of any
2 corporation to a bank there shall be included all
3 liabilities of and all loans made for the benefit of the
4 corporation and its majority owned subsidiaries."

5 Section 15. Section 613 of title 29 of the Code of the
6 Federated States of Micronesia is hereby amended to read as
7 follows:

8 "Section 613. Limitations on loans - Related persons.

9 (1) Except as herein provided, no domestic bank shall
10 make any extension of credit to any of its officers,
11 directors, agents, or employees, or to any related
12 person, either directly or indirectly, except upon the
13 written application of such person or related person
14 stating the line of credit applied for, terms and
15 security, if any, offered therefor to the board of
16 directors or to the loan or executive committee of the
17 board, and then only with the written approval of a
18 majority of the board or a majority of the loan
19 committee of the bank (excluding the person seeking the
20 credit) before the loan is made; and the approval of the
21 loan as allowed by the board or the loan committee of
22 the bank shall be made a part of the minutes of the next
23 directors' meeting of the bank.

24 (2) Loans may be made to any officer, director, agent,
25 or employee of any domestic bank or any related person,

1 without such application and approval, in amounts not in
2 excess of \$5,000 in aggregate principal owing by any
3 such individual and related person at any one time.

4 (3) Extensions of credit may only be made pursuant to
5 subsections (1) and (2) of this section if they are made
6 on substantially the same terms, including interest
7 rates and collateral, as those prevailing at the time
8 for comparable transactions by the bank with members of
9 the general public; PROVIDED however, that a bank may
10 offer preferential terms to employees under an
11 internally established employee benefit program."

12 Section 16. Section 622 of title 29 of the Code of the
13 Federated States of Micronesia is hereby amended to read as
14 follows:

15 "Section 622. Limitations on sale of assets, merger,
16 etc.

17 No domestic bank may merge or consolidate with, or sell
18 a substantial portion of its assets to, another bank
19 without the approval of the Banking Board. No foreign
20 bank may make any arrangement or enter into any
21 agreement for the sale or disposal of its business, or
22 part thereof, in the Federated States of Micronesia to
23 any other person without the prior approval in writing
24 of the Banking Board."

25 Section 17. Section 627 of title 29 of the Code of the

1 Federated States of Micronesia is hereby amended to read as
2 follows:

3 "Section 627. General penalties.

4 (1) For any violation of this title, license
5 conditions imposed by the Banking Board pursuant to
6 section 501 of this title, directives issued by the
7 Banking Board_pursuant to section 701 of this title, or
8 the regulations prescribed pursuant to section 602 of
9 this chapter, the delinquent domestic or foreign bank
10 shall be subject to a fine of not more than \$5,000 and
11 if the violation is a continuing one, to a further fine
12 not exceeding \$1,000 for every day during which the
13 violation continues; and, in the case of a material
14 violation, to the cancellation of its license.

15 (2) The Banking Board must give notice to the Bank
16 concerned of the intention to impose a penalty pursuant
17 to subsection (1) of this section, and allow it a
18 hearing in respect to the alleged violation. The
19 Banking Board must take into account the outcome of the
20 hearing in its final decision.

21 (3) The Banking Commissioner shall immediately notify
22 the Bank concerned in writing of any penalty imposed
23 pursuant to subsections (1) and (2) of this section. If
24 the penalty involves cancellation of license, the Bank
25 must immediately cease to carry on banking business, the

1 Banking Commissioner must notify the Registrar of
2 Corporations of the cancellation, and the provisions of
3 section 801 of this title shall apply."

4 Section 18. Title 29 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by enacting a
6 new chapter 7 entitled "Control over Banks".

7 Section 19. Title 29 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by enacting a
9 new section 701 of chapter 7 to read as follows:

10 "Section 701. Unsafe or unsound practices.

11 (1) This section shall apply when the Banking Board
12 has determined that a Bank licensed under this title:

13 (a) is following unsafe or unsound practices in
14 the conduct of its business that if continued may
15 jeopardize its obligations to its depositors, or
16 adversely affect the operation or stability of the
17 banking system of the FSM; or

18 (b) has contravened or failed to comply with the
19 terms and conditions of its license or the provisions of
20 this title.

21 (2) When a Bank is engaged in practices described in
22 subsection (1) of this section, the Banking Board shall:

23 (a) issue a directive to such Bank to cease and
24 desist from such practice, contravention or non-
25 compliance;

1 (b) issue a directive to such Bank to take such
2 action (including action to replace or strengthen
3 management) as may be specified in such directive in
4 order to correct the conditions resulting from such
5 practice, contravention or non-compliance; and

6 (c) appoint a qualified person to advise the bank
7 on the proper conduct of its business and measures to be
8 taken to rectify its situation; the remuneration to be
9 paid to such advisor shall be fixed by the Banking Board
10 and paid by the Bank."

11 Section 20. Title 29 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by enacting a
13 new section 702 of chapter 7 to read as follows:

14 "Section 702. Penalty for failure to comply with
15 section 701 of this title. If a Bank to which section
16 701 of this title has been applied fails to comply
17 within a reasonable time with a directive, such failure
18 shall constitute grounds for an application under
19 section 801 of this title."

20 Section 21. Title 29 of the Code of the Federated States of
21 Micronesia, as amended, is hereby further amended by enacting a
22 new section 703 of chapter 7 to read as follows:

23 "Section 703. Prevention against money laundering.

24 (1) Any director, manager or other officer of a Bank
25 in the Federated States of Micronesia who makes or

1 authorizes, or permits to be made or authorized by any
2 officer of the Bank any transaction:

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

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

10 (c) when he or the officer concerned knows or has
11 reason to suspect that any of the funds involved in the
12 transaction have been obtained by any party as the
13 direct or indirect result of activity that is illegal
14 inside or outside the Federated States of Micronesia;
15 is guilty of an offense and upon conviction, shall be
16 fined not more than \$10,000 or imprisonment for not more
17 than one year or both.

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

24 Section 22. Title 29 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by enacting a

1 new section 704 of chapter 7 to read as follows:

2 "Section 704. Prohibition on disclosure.

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

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

10 (b) for the purpose of performing his duties
11 under this title;

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

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

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

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

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

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

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

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

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

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

19 Section 23. Title 29 of the Code of the Federated States of
20 Micronesia, as amended, is hereby further amended by enacting a
21 new section 705 of chapter 7 to read as follows:

22 "Section 705. Retention of records.

23 (1) A licensed bank must retain, for a period of at
24 least 5 years, checks and other negotiable instruments
25 drawn on it and paid by it, and other items comprising

1 records of transactions processed by it.

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

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

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23 Section 24. This act shall become law upon approval by the
24 President of the Federated States of Micronesia or upon its
25 becoming law without such approval.

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December 18, 2002

/s/ Redley Killion for
Leo A. Falcam
President
Federated States of Micronesia