
A BILL FOR AN ACT

To establish the Federated States of Micronesia Monetary Authority, to authorize for appropriation the sum of \$350,000 from the General Fund of the Federated States of Micronesia for the fiscal year ending September 30, 1986, therefor, and for other purposes.

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

1 CHAPTER 1

2 GENERAL PROVISIONS

3 Section 101. Short title. This act is known and may be cited as
4 "The Federated States of Micronesia Monetary Authority Act of 1985."

5 Section 102. Definitions. In this act, unless the context
6 otherwise requires, the following definitions shall be applicable:

7 (1) "Authority" means the Monetary Authority of the Federated
8 States of Micronesia as established by this act;

9 (2) "Bank" means any financial institution whose operations
10 include the acceptance of deposits subject to check or other means of
11 third party transfer;

12 (3) "Banking business" means:

13 (a) The business of accepting deposits of money from
14 the public or members thereof, withdrawable or payable upon demand or
15 after a fixed period or after notice, or any similar operations through
16 the frequent sale or placement of bonds, certificates, notes, or other
17 securities, and the use of such funds, either in whole or in part, for
18 loans or investments for the account and at the risk of the person doing
19 such business; and

20 (b) Any other activity recognized by the Authority as
21 customary banking practice which a financial institution engaging in the
22 activities described in paragraph (a) may additionally be authorized to do
23 by the Authority;

24 (4) "Board" means the Board of Directors of the Authority;

25 (5) "Credit institution" means any financial institution

1 other than a bank;

2 (6) "Currency" means currency notes, bank notes, or coins;

3 (7) "Demand liabilities of the Authority" means currency in
4 circulation issued or deemed by the Authority to have been issued by it,
5 together with demand deposits held by the Authority;

6 (8) "Dollar(s)" means the currency of the United States of
7 America;

8 (9) "Financial institution" means any person doing banking
9 business; PROVIDED that for the purpose of this act, unless the context
10 otherwise requires, all offices and branches of a financial institution in
11 the Federated States of Micronesia shall be deemed to be one financial
12 institution;

13 (10) "Governments" means the National and State Governments of
14 the Federated States of Micronesia;

15 (11) "Managing director" means the managing director of the
16 Authority;

17 (12) "National Government" means the National Government of
18 the Federated States of Micronesia;

19 (13) "Person(s)" means any individual, corporation,
20 partnership, and any other business entity other than a financial
21 institution; and

22 (14) "President" means the President of the Federated States
23 of Micronesia.

24 CHAPTER 2

25 CONSTITUTION OF THE AUTHORITY

WM

1 Section 201. Establishment of Authority. There is hereby
2 established an authority to be known as the Monetary Authority of the
3 Federated States of Micronesia to do business in accordance with the
4 provisions of this act.

5 Section 202. Status. The Authority shall be a body corporate with
6 perpetual succession and a common seal.

7 Section 203. Powers. The Authority shall have the power to:

8 (1) Enter into contracts and issue obligations;

9 (2) Sue and be sued in its own name;

10 (3) Acquire, hold, and dispose of property, whether movable
11 or immovable, and to pledge and mortgage the same; and

12 (4) Exercise all powers specifically granted by the provisions
13 of this act to the Authority, and such incidental powers as shall be
14 necessary to carry out the powers so granted.

15 Section 204. Purposes. The purposes of the Authority are:

16 (1) To secure and regulate the availability of money and its
17 international exchange;

18 (2) To promote monetary stability;

19 (3) To supervise and regulate banking business; and

20 (4) To promote credit and exchange conditions and a sound
21 financial structure conducive to the balanced growth of the economy.

22 Section 205. Offices, branches, agents, correspondents. The

23 Authority shall have its head office in Kolonia, State of Pohnpei, and may:

24 (1) Establish branches within the Federated States of
25 Micronesia;

WM

1 (2) Appoint agents and correspondents within the Federated
2 States of Micronesia and abroad; and

3 (3) Upon the unanimous vote of all the members of the Board,
4 establish offices abroad.

5 Section 206. Service of documents. The service of any document
6 upon the Authority shall be deemed to be effected by delivering the same
7 or by sending it by registered post to the managing director.

8 CHAPTER 3

9 CAPITAL, PROFITS, AND RESERVES

10 Section 301. Capital.

11 (1) The authorized capital of the Authority shall be \$1
12 million and may be increased by such amounts as may be proposed by the
13 Board and approved by the President. There shall be paid-up by the
14 National Government \$250,000, upon the establishment of the Authority, and
15 such further amounts as may be proposed by the Board and approved by the
16 President. All the paid-up capital shall be subscribed and held
17 exclusively by the Governments in such proportions as may be agreed upon
18 by them, and shall not be transferable or subject to encumbrance. No
19 reduction of capital shall be effected except by an amendment to this act.

20 (2) The President, notwithstanding any other provision of
21 this act, shall cause to be transferred to the ownership of the Authority
22 nonnegotiable, noninterest bearing securities issued by the National
23 Government, from time to time for such an amount as, in the judgment of
24 the Board, is necessary for the purpose of preserving the paid-up capital
25 from any impairment.

WM

1 Section 302. Profits. The net profits of the Authority for each
2 fiscal year shall be determined after allowing for the expenses of
3 operation for that year and after providing:

4 (1) For bad and doubtful debts, depreciation in assets; and

5 (2) With the approval of the President, for such other
6 purposes as the Board may deem necessary.

7 Section 303. General reserve.

8 (1) The Authority shall establish a general reserve to which
9 shall be allocated at the end of each fiscal year of the Authority an
10 amount equal to 50 percent of the net profits until the general reserve
11 amounts to two times the paid-up capital of the Authority. With the
12 approval of the President, the amount to be transferred to the general
13 reserve may be increased to exceed that annual proportion, or the total
14 amount of the general reserve may be increased beyond two times the
15 paid-up capital of the Authority.

16 (2) After transfers to the general reserve have been made
17 under subsection (1) 50 percent of the remainder of the net profits for
18 the fiscal year shall be applied to the redemption of any securities of
19 the National Government held by the Authority which have been issued under
20 section 301(2).

21 (3) The balance of the net profits for the fiscal year
22 remaining after all deductions under subsections (1) and (2) have been made
23 shall be paid to the Governments in the same proportions as agreed upon by
24 them pursuant to section 301(1) as soon as practicable after the end of
25 the fiscal year.

WM

1 (4) No deduction authorized under subsections (1) and (2)
2 shall be required to be made if, in the judgment of the Board, the assets
3 of the Authority are, or after the deduction or payment will be, less than
4 the sum of its liabilities and paid-up capital.

5 Section 304. Revaluation reserve account.

6 (1) The gains or losses arising from any change in the
7 valuation of the Authority's assets or liabilities in, or denominated in,
8 gold, foreign currencies, or other units of account, as a result of
9 alterations of the value of the currency of the Federated States of
10 Micronesia or of any change in the values or exchange rates of such assets
11 with respect to the currency of the Federated States of Micronesia, shall
12 be credited or debited to a revaluation reserve account and neither the
13 profits nor the losses arising from any such changes shall be included in
14 the computation of the annual profits and losses of the Authority.

15 (2) The losses arising from any such change shall be set off
16 against any credit balance in the revaluation reserve account and,
17 notwithstanding any other provisions of this act, if such balance is
18 nonexistent or insufficient to cover such losses, the President shall
19 issue to the Authority nonnegotiable, noninterest bearing securities to
20 the extent of the deficiency.

21 (3) Any credit balance in the revaluation reserve account at
22 the end of each fiscal year of the Authority shall be applied first, on
23 behalf of the National Government, to the redemption of any securities
24 issued under subsection (2) and outstanding; and if thereafter the
25 remaining balance exceeds 5 percent of the Authority's liabilities on

WM

1 account of currency issued, or deemed to have been issued, by it and
2 remaining outstanding the greater of:

3 (a) One-fifth of that remaining balance; or

4 (b) Five percent of the said liabilities, as at the end
5 of the past preceding fiscal year of the Authority shall be paid to the
6 Governments in the same proportions as agreed upon by them pursuant to
7 section 301(1); PROVIDED that when the remaining balance does not exceed 5
8 percent of the aforesaid liabilities the entire amount of the balance
9 shall be paid to the Governments in the same proportions as agreed upon by
10 them pursuant to section 301(1).

11 (4) No credits or debits shall be made to the revaluation
12 reserve account except in accordance with the provisions of this section.

13 CHAPTER 4

14 ADMINISTRATION

15 Section 401. Board of Directors.

16 (1) The powers of the Authority shall be vested in a Board of
17 Directors which shall be responsible for the policy and general
18 administration of the Authority.

19 (2) The Board shall have the power to make, alter, or repeal
20 bylaws, regulations, and orders for the purpose of giving effect to the
21 provisions of this act.

22 (3) The Board shall consist of seven members, namely; the
23 Secretary of Finance, who shall serve by virtue of his office; the
24 managing director; and five other appointed directors.

25 (4) The managing director shall be appointed by the President,

WM

1 upon the recommendation of the Board and with the advice and consent of
2 the Congress of the Federated States of Micronesia, from among persons of
3 experience or standing in financial matters, for a term of 3 years, and
4 shall be eligible for reappointment. He shall be appointed on such terms
5 and conditions as may be set out in his letter of appointment. Such terms
6 and conditions may not be altered to his disadvantage during his tenure.

7 (5) Four other directors, one from each of the four States,
8 shall be appointed by the President after consultation with the Governors
9 of the respective States and with the advice and consent of the Congress
10 of the Federated States of Micronesia, from among persons of experience
11 or standing in financial matters, for a term of 3 years each, and shall be
12 eligible for reappointment.

13 (6) Another director shall be appointed by the Speaker of the
14 Congress of the Federated States of Micronesia for a term of 3 years and
15 shall be eligible for reappointment.

16 (7) The Chairman of the Board shall be elected by the members
17 of the Board.

18 Section 402. Managing director and the other appointed directors.

19 (1) The managing director shall serve as chief executive
20 officer of the Authority, to be in charge of and responsible to the Board
21 for the implementation of the policy and the day-to-day management of the
22 Authority.

23 (2) The managing director shall have the power to act,
24 contract, and sign instruments and documents, on behalf of the Authority.
25 He may, pursuant to resolution of and to the extent deemed appropriate by

WM

1 the Board, delegate such power to other officers.

2 (3) The managing director, while holding office, shall not,
3 without the prior approval of the President, engage in any business,
4 profession, or employment, whether remunerated or not; PROVIDED, that he
5 may:

6 (a) Act as a member of any board or commission appointed
7 by the Government;

8 (b) Become governor, alternate governor, director, or
9 member of any organization, by whatever name called, of any international
10 monetary authority established under any agreement or convention to which
11 the Governments shall have adhered or given support or approval;

12 (c) Become a member of the board of any corporation
13 organized by the Governments for the purpose of insuring deposits in
14 financial institutions.

15 (4) The managing director shall not receive any salary, or
16 contribution to or supplementation thereof, from any source other than
17 the Authority or, without the written authority of the Secretary of
18 Finance, from some other recognized source, for holding this office.

19 (5) Fees and allowances to be received by the other
20 members of the Board shall be determined by the Board.

21 (6) The managing director or any one of the other appointed
22 directors may resign his office upon giving notice in writing to the
23 President. Such resignation will be effective upon its acceptance by the
24 Government.

25 (7) The managing director or any one of the other appointed

WM

1 directors shall be removed from his office by the authority by whom he was
2 appointed only upon a finding by a majority of the members of the Board of:

3 (a) Incapacity;

4 (b) Serious misconduct in office substantially
5 prejudicing the interest of the Authority; or

6 (c) Justifiable cause or causes.

7 (8) If the managing director or any one of the other
8 appointed directors dies, or resigns, or otherwise vacates his office
9 before the expiration of the term for which he has been appointed, as soon
10 as may be practicable, another shall be appointed in his place for the
11 unexpired period.

12 (9) The Board shall make provision in the bylaws for the
13 cases of temporary absence or disability of the managing director or any
14 one of the other appointed directors.

15 Section 403. Meetings of the Board.

16 (1) The Board shall meet as often as the Chairman may
17 consider that the business of the Authority may require, but not less
18 frequently than once every 2 months. Pursuant to its bylaws, the Board
19 may provide for regular meetings for which no notice shall be necessary
20 and for special meetings to be convened at the written request of three
21 directors for which adequate notice shall be required.

22 (2) Four members of the Board shall form a quorum at any
23 meeting and, unless otherwise provided in this act, decisions shall be
24 adopted by a simple majority of the votes of the members present, and in
25 the event of a tie vote the Chairman shall cast a vote.

1 Section 404. Power to appoint officers and employees.

2 (1) The Board may appoint and employ, at such remuneration
3 and on such terms and conditions as it may prescribe, such officers and
4 employees, agents, and correspondents as the Board may consider necessary
5 for the efficient functioning of the Authority.

6 (2) Officers and employees of the Authority shall be exempt
7 from the National Public Service System Act.

8 (3) No salary, fee, wage, or other remuneration or allowance
9 paid by the Authority shall be computed by reference to the net or other
10 profits of the Authority.

11 Section 405. Conflict of interest.

12 (1) No appointed member of the Board shall act as a delegate
13 of any commercial, financial, agricultural, industrial, or other business
14 interest, or receive or accept directions therefrom in respect to duties
15 to be performed under this act.

16 (2) The members of the Board shall fully disclose to the
17 Board any commercial, financial, agricultural, industrial, or other
18 business interests in which they or members of their families may at
19 any time directly or indirectly be interested, and shall refrain from
20 voting on any matter related thereto which becomes the subject of Board
21 action; PROVIDED that such an interest, if so disclosed, shall not
22 disqualify the interested party for the purpose of constituting a quorum.

23 (3) The disclosure referred to in the preceding subsection
24 shall be made at the commencement of Board discussion of matters concerning
25 which a member is an interested party.

WMM

1 CURRENCY

2 Section 501. Monetary unit. The monetary unit of the Federated
3 States of Micronesia shall be the dollar, or such other unit as is
4 prescribed by law.

5 Section 502. Issue of currency. The Authority shall have the
6 sole right to effect the issue of currency notes and coins in the
7 Federated States of Micronesia; PROVIDED that the Authority shall not
8 effect an original issue of currency notes and coins except with the
9 prior enactment of an enabling law to that effect.

10 CHAPTER 6

11 EXTERNAL RESERVE

12 Section 601. External reserve.

13 (1) The Authority shall maintain an external reserve
14 consisting of all or any of the following on such terms and conditions
15 as the Board may prescribe:

16 (a) Gold;

17 (b) Foreign exchange in the form of currency or bank
18 balances held abroad;

19 (c) Any internationally recognized reserve assets,
20 including:

21 (i) Any reserve tranche position of the Federated
22 States of Micronesia in the International Monetary Fund; and

23 (ii) Any holdings of any special drawing rights
24 by the Federated States of Micronesia in the Special Drawing Rights
25 Department of the International Monetary Fund;

1 (d) Bills of exchange and promissory notes denominated
2 in foreign currency and payable at any place outside the Federated States
3 of Micronesia;

4 (e) Treasury bills issued by foreign governments
5 specified, from time to time, by the Board; and

6 (f) Securities issued or guaranteed by foreign
7 governments or international financial institutions specified, from time to
8 time, by the Board.

9 (2) The Authority shall use its best endeavors to maintain
10 the external reserve at a level adequate for the international transactions
11 of the Federated States of Micronesia.

12 (3) If the external reserve has declined, or, in the judgment
13 of the Board, appears likely to decline in such a way as to jeopardize the
14 adequacy of such reserve in light of subsection (2), the Authority shall
15 submit to the President a report on the reserve position and the causes
16 which have led or may lead to such a decline, together with recommendations
17 concerning the measures that may be deemed necessary to forestall or
18 otherwise remedy the situation. The Authority shall make further reports
19 and recommendations at intervals not to exceed 6 months until such time as,
20 in its judgment, the situation is rectified.

21 CHAPTER 7

22 FOREIGN EXCHANGE OPERATIONS

23 Section 701. Depository of official external assets. The Authority
24 shall be the depository of the official external assets of the Federated
25 States of Micronesia; PROVIDED that the Authority may designate such agents

WM

1 as it may select in which these assets may be held.

2 Section 702. Operation in gold and foreign exchange. The Authority
3 may:

4 (1) Buy, sell, or deal in gold coins or bullion or other
5 precious metals;

6 (2) Buy, sell, or deal in foreign exchange, using for these
7 purposes any of the instruments commonly used by bankers;

8 (3) Purchase and sell treasury bills and other securities
9 issued or guaranteed by foreign governments or international institutions;

10 (4) Open and maintain accounts abroad; and

11 (5) Open and maintain accounts and act as agent or
12 correspondent for foreign central banks, foreign financial institutions,
13 foreign governments, foreign government agencies and institutions, and
14 international institutions.

15 Section 703. Limitations on operations in foreign exchange. The
16 Authority shall deal in connection with the operations enumerated in
17 section 702 only with financial institutions operating in the Federated
18 States of Micronesia, the Governments, their boards and agencies, local
19 government bodies, foreign central banks, foreign financial institutions,
20 foreign governments, foreign government agencies and institutions, and
21 international institutions.

22 Section 704. Determination of buying and selling rates of gold and
23 foreign exchange. The Authority shall, from time to time, determine the
24 rates at which it will buy, sell, or deal in gold and foreign currencies.
25 The Authority may also determine the rates at which financial institutions

WM

1 will buy, sell, or deal in gold and foreign currencies, PROVIDED that in
2 making such determinations, the Authority shall have due regard for the
3 obligations which the Federated States of Micronesia has assumed in
4 accordance with the provisions of any international monetary agreements
5 to which it is a party or to which it has adhered.

6 CHAPTER 8

7 RELATIONS WITH FINANCIAL INSTITUTIONS

8 Section 801. Opening accounts for and/or with financial
9 institutions.

10 (1) The Authority may open accounts for and accept deposits
11 from financial institutions doing banking business in the Federated States
12 of Micronesia under such terms and conditions, including the payment of
13 interest and the establishment of charges thereon, as the Board may, from
14 time to time, determine.

15 (2) The Authority may, subject to the prior approval of the
16 Board, open and maintain deposit accounts with financial institutions doing
17 banking business in the Federated States of Micronesia.

18 Section 802. Operations with account holders. The Authority may:

19 (1) Purchase from, sell to, discount, and rediscount for
20 financial institutions bills of exchange and promissory notes drawn or
21 made for bona fide commercial, industrial, or agricultural purposes,
22 bearing two or more good signatures, at least one of which shall be
23 that of a financial institution, and maturing within 90 days from the
24 date of their acquisition by the Authority; PROVIDED that bills of
25 exchange and promissory notes drawn or made for the purpose of financing

WM

1 seasonal agricultural operations or marketing of crops may mature within
2 180 days from the date of their acquisition;

3 (2) Purchase from, sell to, discount, and rediscount for
4 financial institutions any treasury bills of the Governments forming
5 part of a public issue and maturing within 90 days from the date of
6 their acquisition by the Authority;

7 (3) Grant to financial institutions advances, whether by
8 loans or overdrafts, for periods not exceeding 90 days:

9 (a) Secured by:

10 (i) Instruments specified in subsections (1)
11 and (2);

12 (ii) Warehouse warrants and documents of title
13 issued with respect to staple commodities or other goods duly insured;
14 PROVIDED that the Authority shall determine, from time to time, the maximum
15 percentage of advances in relation to the current value of such commodities
16 or goods; or

17 (iii) Holdings of any such assets as the Authority
18 is permitted to buy, sell, or deal in under subsections (1), (2), and (3)
19 of section 702;

20 (b) Unsecured by such assets, on terms and conditions
21 which the Board may prescribe; PROVIDED that no advance shall be made
22 available under this paragraph for an amount in excess of 20 percent of
23 the deposit liabilities of the borrower.

24 Section 803. Determination of Authority rates. The Authority
25 shall fix and publicly announce, from time to time, its rates for

WM

1 discounts, rediscounts, advances, loans, or overdrafts. It may establish
2 differential rates and ceilings for various classes of transactions or
3 maturities.

4 Section 804. Required reserves.

5 (1) The Authority may, from time to time, prescribe by any
6 means of notification it deems appropriate and by written notice to the
7 main office in the Federated States of Micronesia of each financial
8 institution the maintenance of required reserves, including marginal
9 required reserves, against deposit and other similar liabilities which
10 may be specified for this purpose. Such reserves shall be maintained
11 by way of cash holdings with the financial institution or by way of
12 deposits in current accounts with the Authority or both in proportion
13 as the Authority may prescribe; PROVIDED that the Board may, whenever
14 circumstances warrant, permit the maintenance of part of the required
15 reserves in the form of assets other than cash holdings with the
16 financial institution or deposits in current accounts with the Authority.

17 (2) The Authority may prescribe different reserve ratios for
18 different classes of deposits and other similar liabilities and may
19 prescribe the method of their computation; PROVIDED that:

20 (a) The total amount of reserves which the financial
21 institutions are required to hold shall not exceed 40 percent of the
22 total deposits and other similar liabilities to which reserve ratios
23 have been made applicable;

24 (b) The reserve ratios shall be uniform for all similar
25 types of banks and for all similar types of credit institutions, although

WM

1 the ratios may differ between banks and credit institutions; and

2 (c) Any such prescription of, or increase in, the
3 required reserve ratios shall be effective only after reasonable notice
4 thereof has been communicated to the financial institutions.

5 (3) Required reserves held with the Authority may, under such
6 regulations and subject to such charges as may be prescribed by the
7 Authority, be withdrawn by the financial institutions for the purpose of
8 meeting their existing liabilities and may further serve as a basis for the
9 clearance of checks and the settlement of balances among financial
10 institutions.

11 (4) The Authority may impose on any financial institution
12 which fails to maintain required reserves in the appropriate ratio
13 prescribed under this section a penalty charge at an annual rate not in
14 excess of one-tenth of 1 percent per day on the amount of the deficiency.
15 Such penalty charge shall be payable to the Authority on such date as may
16 be prescribed by the Authority and may be recovered by deduction from any
17 balance of that financial institution's account(s) with the Authority.

18 Section 805. Computation of, and minimum and maximum interest rates.

19 (1) The Authority may, from time to time, prescribe by any
20 means of notification it deems appropriate and by written notice to the
21 main office in the Federated States of Micronesia of each financial
22 institution:

23 (a) The method of computation and minimum and maximum
24 rates of interest payable with respect to deposits and other similar
25 liabilities;

WM

1 (b) The permissible purposes, aggregate ceilings,
2 maximum amounts beyond which the Authority's approval is necessary,
3 maximum maturities, and maximum interest chargeable subject to usury
4 limits as established by law, and minimum cash margin, or security
5 required, with respect to:

- 6 (i) The making of advances, whether by loans
7 or overdrafts, and investments;
8 (ii) The discounting of bills and notes;
9 (iii) The issuing of letters of credit; and
10 (iv) The granting of acceptances and other
11 credit.

12 (2) The provisions of subsection (1) may be made applicable
13 by the Authority, through publication by any means it deems appropriate
14 and by written notice to every person, having as a principal object
15 the extension of credit to the public generally or to particular
16 members thereof, that, in the ordinary course of business, during any
17 calendar year extends an amount to be determined, from time to time,
18 by the Board. The Authority shall have the power to examine the
19 accounts, books, and papers of any person that it has reason to suspect
20 is extending or has extended credit in violation of this subsection.

21 (3) In order to avoid possible evasion of maximum interest
22 rates set by the Authority, the Board may also fix the maximum rates that
23 banks may pay to or collect from their customers in the form of
24 commissions, discounts, charges, fees, or payments of any sort.

25 (4) Notices issued under this section shall apply uniformly

1 in the Federated States of Micronesia and shall come into effect on
2 such date specified not earlier than 30 days after the issue date;
3 PROVIDED that the Authority in its notices may differentiate, according
4 to the nature of their business, between banks, credit institutions,
5 and other creditors or classes thereof with respect to the items set
6 out in subsection (1).

7 (5) Any financial institution in violation of subsection (1)
8 may be required to pay to the Authority for each such violation a penalty
9 charge not to exceed \$500 for every day during which such violation
10 continues.

11 (6) Any person to whom the provisions of subsection (1)
12 have been made applicable pursuant to subsection (2) shall be guilty
13 of an offense if:

14 (a) It is in violation of this section; or

15 (b) It supplies false information or fails to furnish
16 within a reasonable time, and before the expiration of a request so to
17 furnish, any information required by the Authority to satisfy the
18 Authority that it is complying with this section.

19 (7) Any person who commits an offense under subsection (5)
20 shall be liable upon conviction thereof in a court of law to a fine of not
21 more than \$100 for every day during which the contravention continues.

22 Section 806. Provision of information.

23 (1) Every financial institution shall furnish to the
24 Authority, at such times and in such manner as the Authority may prescribe,
25 such information and data as the Authority may require for the proper

WM

1 discharge of its functions and responsibilities; PROVIDED that in order
2 to verify compliance with directions issued under sections 803 and 804, the
3 Authority may require any person who is or has been made subject thereto
4 to open his books for inspection.

5 (2) The Authority may publish, in whole or in part, in
6 aggregate form for classes of financial institutions determined in
7 accordance with the nature of their business, at such times as it may
8 decide, the information or data furnished under subsection (1);
9 PROVIDED that no information shall be published which would disclose
10 the affairs of any person who is a customer of a financial institution
11 unless the consent of such interested party has been previously obtained
12 in writing.

13 (3) Any director, officer, or employee of a financial
14 institution or any person who may be subject to the provisions of this
15 act under section 805(2) who:

16 (a) Fails, refuses, or neglects to supply information
17 or data under subsection (1); or

18 (b) In complying with such requirements furnishes any
19 information or data which he knows to be false in any material respect,
20 shall be guilty upon conviction thereof in a court of law of an offense
21 and liable to a fine of not more than \$2,000, or to imprisonment for 6
22 months, or to both such fine and imprisonment.

23 Section 807. Examination of financial institutions, and fee.

24 (1) The Authority may periodically, or at its discretion,
25 cause an examination to be made by any of its officers, or by any other

WM

1 qualified person appointed to that effect by the Authority, of any
2 financial institution and of its books, records, documents, and accounts
3 for the purpose of ascertaining the nature of its business and the
4 condition of its affairs and of ascertaining whether such financial
5 institution is complying with the provisions of this act.

6 (2) The financial institutions which are subject to
7 supervision and examination by the Authority shall be responsible to the
8 Authority for the cost of maintaining the corresponding supervision and
9 examination department or unit of the Authority and, for this purpose,
10 shall pay to the Authority within the first 15 days of January each year,
11 an annual examination fee in an amount to be determined by the Board in
12 the manner provided in this subsection. The examination fee to be paid
13 by each financial institution shall be an amount equal to a prescribed
14 percentage of its average total assets during the preceding calendar year
15 as shown on its end-of-month balance sheets; PROVIDED that such percentage
16 shall not exceed one-twentieth of 1 percent.

17 (3) Any person authorized under this section to examine
18 a financial institution shall be subject to the provisions of section 406
19 and may:

20 (a) Require any such director, officer, or employee
21 of any financial institution to furnish such information as he may consider
22 necessary for the purpose of the examination; or

23 (b) Require any such director, officer, or employee to
24 produce for examination any books, records, or other documents in his
25 possession containing or likely to contain any such information.

NM

1 (4) Any person who:

2 (a) Fails, refuses, or neglects to comply with any
3 requirement of an authorized person made under subsection (1) or (3); or

4 (b) In complying with any such requirement, furnishes
5 any information or produces any book, record, or other document which
6 he knows to be false in any material respect, shall be guilty upon
7 conviction thereof in a court of law of an offense and liable to a fine
8 of not more than \$2,000, or to imprisonment for 6 months, or to both such
9 fine and imprisonment.

10 Section 808. Foreign working balances. The Authority may prescribe
11 the maximum amount of the working balances which financial institutions
12 may hold in foreign currencies generally or in any specified currency
13 or currencies.

14 Section 809. Establishment of clearing house. The Authority may
15 at a suitable time in conjunction with the banks organize a clearing house
16 in Kolonia in premises provided by the Authority and in such other places
17 as may be desirable.

18 CHAPTER 9

19 RELATIONS WITH THE GOVERNMENT

20 Section 901. Authority to be banker, advisor, fiscal agent, and
21 depository to the Governments.

22 (1) The Authority shall be the banker, fiscal agent, and
23 advisor to the National Government on monetary and financial matters and
24 shall be the depository of National Government funds. The Authority
25 may, at the option of each State, be the banker, fiscal agent, and advisor

1 to the State governments on monetary and financial matters and may be
2 the depository of the State governments; PROVIDED that in such cases, for
3 such periods of time, and on such other terms and conditions as may be
4 agreed upon between the Governments and the Authority:

5 (a) The Authority may act in such capacities to
6 government institutions, agencies, and local government bodies; and

7 (b) The Governments may maintain working balances with
8 and generally use the services of other financial institutions.

9 (2) The Governments may request the Authority to render advice
10 and to furnish reports on matters relating to the purposes of the Authority.

11 (3) It shall be the duty of the Authority to inform and
12 advise the President concerning any matter which, in the opinion of the
13 Authority, is likely to affect the achievement of its purposes.

14 Section 902. Depository and fiscal agent of international
15 institutions. The Authority shall, upon designation by the President,
16 serve as the depository and fiscal agent of, and the institution
17 through which dealings shall be conducted with, international financial
18 institutions of which the Federated States of Micronesia is a member.

19 Section 903. Credit to the Governments, their institutions, and
20 agencies. Except in accordance with sections 802(2), 802(3)(a), 904, and
21 905, the Authority shall not, directly or indirectly, make advances to,
22 or acquire the notes, bills, securities, or other evidences of debt from,
23 or guaranteed by, the Governments, their institutions, agencies, and local
24 government bodies; PROVIDED that this section shall not operate to prevent
25 the acquisition by the Authority of securities transferred to it by the

W/M

1 National Government in accordance with section 301 or 304.

2 Section 904. Advances to the Governments.

3 (1) The Authority may make temporary advances, subject to
4 repayment within 3 months following the end of the fiscal year in which
5 they were granted, at such amounts and rates of interest as may be agreed
6 upon between the parties:

7 (a) To the Governments; and

8 (b) With the approval of the President, to National
9 Government institutions, agencies, and local government bodies.

10 (2) Without limiting the generality of the provisions of
11 subsection (1), the Authority is expressly authorized to make advances
12 to the Governments, under such terms and conditions as may be agreed
13 upon, in respect to subscriptions and other payments resulting from,
14 or incidental to, the membership of the Federated States of Micronesia
15 in any international bank or international monetary authority established
16 under governmental auspices, the participation of the Federated States of
17 Micronesia in any account thereof, and any transactions and operations
18 undertaken in connection therewith.

19 Section 905. Acquisition of evidence of indebtedness issued by
20 the Governments. The Authority may purchase, hold, and sell notes, bills,
21 securities, or other evidences of indebtedness issued or guaranteed by the
22 State and National Government bodies, which were publicly offered for sale
23 or form part of an issue which is being made to the public at the time of
24 acquisition by the Authority.

25 Section 906. Consultation on budget and credit operations.

WM

1 (1) The Authority shall be consulted by:

2 (a) The National Government, on the occasion of the
3 preparation of its budget for the purpose of reaching an understanding
4 as to the total amount of credit that may be expected to be extended by
5 the Authority to the National Government during the following fiscal year
6 through the acquisition of evidences of indebtedness under sections 802(2),
7 and 905, the acceptance of securities as collateral under section
8 802(3)(a), and the making of advances under section 904; and

9 (b) The National Government and its institutions and
10 agencies at any time that either domestic or foreign credit operations
11 are contemplated. In the event that, in the opinion of the Board, such
12 operations individually or collectively appear to be of a magnitude
13 inappropriate under prevailing economic conditions, the Authority shall
14 report to the President, drawing attention to the situation and
15 recommending measures to remedy the situation.

16 (2) The Authority may be consulted by:

17 (a) The State governments, on the occasion of the
18 preparation of their budgets for the purpose of reaching an understanding
19 as to the total amount of credit that may be expected to be extended by
20 the Authority to the State governments during the following fiscal year
21 through the acquisition of evidences of indebtedness under sections
22 802(2) and 905, the acceptance of securities as collateral under section
23 802(3)(a), and the making of advances under section 904; and

24 (b) The State governments and State and local government
25 bodies at any time that either domestic or foreign credit operations

1 are contemplated. In the event that, in the opinion of the Board, such
2 operations individually or collectively appear to be of a magnitude
3 inappropriate under prevailing economic conditions, the Authority shall
4 report to the President, drawing attention to the situation and
5 recommending measures to remedy the situation.

6 Section 907. Report to the President. Whenever, in the opinion
7 of the Board, the volume of credit being extended by the Authority to the
8 Governments, their institutions, agencies, and local government bodies
9 by advances under section 904, the acquisition of evidences of indebtedness
10 under section 802(2) and 905, and the acceptance of securities as
11 collateral under section 802(3)(a) threatens to endanger the ability of
12 the Authority to achieve its purposes as provided for in this act, the
13 Authority shall submit a report to the President, drawing attention to
14 the situation, analyzing the causes which have led thereto, and, at its
15 discretion, recommending measures which it deems necessary to forestall
16 or otherwise remedy the situation.

17 CHAPTER 10

18 ACCOUNTS

19 Section 1001. Fiscal year. The fiscal year of the Authority shall
20 coincide with the fiscal year of the National Government.

21 Section 1002. Accounts and annual statement.

22 (1) The Board shall cause to be kept proper books of accounts
23 and other books and records in relation thereto in which shall be recorded
24 all the financial transactions of the Authority.

25 (2) The Authority shall, as soon as may be practicable after

Wm

1 the end of every month, make up a statement of the condition of the
2 Authority at the close of business on the last business day of each month
3 and publish the same by any means it deems appropriate.

4 (3) The Authority shall, within 3 months after the end of
5 each calendar year, submit to the President a copy of its annual accounts
6 certified by the auditor, together with a report on its operations during
7 the year, and shall publish said accounts and report once they have been
8 approved by the President.

9 Section 1003. Audit. The accounts of the Authority shall be
10 audited at least once every fiscal year by a suitably qualified auditor
11 appointed by the Board.

12 CHAPTER 11

13 MISCELLANEOUS PROVISIONS

14 Section 1101. Prohibited transactions. The Authority shall not:

15 (1) Engage in trade or participate directly or indirectly
16 in the ownership of any financial, agricultural, commercial, industrial,
17 or other enterprise, except to the extent provided in subsection (4);

18 (2) Purchase or retain ownership of real estate except
19 insofar as is necessary for the conduct of its business;

20 (3) Make unsecured advances, whether by loans or overdrafts,
21 except as provided in section 802(3)(b) and section 904;

22 (4) Make advances, whether by loans or overdrafts, secured
23 otherwise than as laid down in this act; PROVIDED that should any debts
24 due to the Authority be in jeopardy, the Authority may secure such debts
25 in real or other property, and, if the security is enforced, acquire and

1 hold such property, but with a view to the sale thereof as soon as is
2 practicable;

3 (5) Accept shares as collateral security, except as provided
4 in subsection (4); and

5 (6) Open accounts for or accept deposits from any person
6 except as provided in sections 701, 801, 901, and 902.

7 Section 1102. Exemption from taxes. The Authority shall be exempt
8 from all National and State Governments and local taxes, stamp duties,
9 fees, excise, and all other taxes on its profits, operations, capital,
10 property, and documents.

11 CHAPTER 12

12 TRANSITIONAL ARRANGEMENTS

13 Section 1201. Transitional arrangements.

14 (1) Upon this act taking effect, the Banking Board created
15 under title 29 (Commercial Banking) of the Code of the Federated States
16 of Micronesia is hereby dissolved and:

17 (a) All assets and liabilities of the Banking Board
18 shall by virtue of this section be transferred to and vest in the
19 Authority, and the Authority shall have all necessary powers to take
20 possession of, recover, and deal with such assets and discharge such
21 liabilities;

22 (b) Any agreement, whether in writing or not, and any
23 deed, bond, or other instrument to which the Banking Board was a party or
24 which affected the Banking Board, whether or not rights, liabilities, or
25 obligations thereunder are stated to be capable of assignment, shall have

W/M

1 effect as if the Authority were a party to the agreement, deed, bond, or
2 other instrument instead of the Banking Board, and any reference whether
3 explicit or implicit in the agreement, deed, bond, or other instrument
4 to the Banking Board shall be construed as and have effect as if it were
5 a reference to the Authority; and

6 (c) Any proceedings pending upon that date to which
7 the Banking Board is a party shall be continued as if the Authority
8 were a party to the proceedings instead of the Banking Board.

9 (2) Upon this act taking effect, any reference in any
10 written law to the Banking Board or to the Chairman of the Banking Board
11 shall be construed as and given effect as if it were a reference to the
12 Authority; and

13 (3) For purposes of this section, notwithstanding the repeal
14 of chapter 2 of title 29 of the Code of the Federated States of Micronesia
15 and the dissolution of the Banking Board thereby, any person who is a
16 member of the Banking Board at the effectivity of this act shall continue
17 in office for such temporary period as may be authorized by the President
18 for the purposes of winding up the affairs of the Banking Board and
19 administering the initial operations of the Authority.

20 Section 1202. Authorization of funds. The sum of \$350,000 is
21 hereby authorized to be appropriated from the General Fund of the Federated
22 States of Micronesia for the fiscal year ending September 30, 1986, of
23 which \$250,000 shall represent the payment of the initial paid-up capital
24 pursuant to section 301(1) of this act, and the \$100,000 shall cover
25 the initial operating costs or expenses of the Authority, and generally

MM

1 for the purpose of carrying out the provisions of this act. The Board
2 shall be the allottee of these funds.

3 CHAPTER 13

4 REPEALER

5 Section 1301. Repealer. Chapter 2 of title 29 of the Code of the
6 Federated States of Micronesia is hereby repealed.

7 CHAPTER 14

8 EFFECTIVE DATE

9 Section 1401. Effective date. This act shall become law upon
10 approval by the President of the Federated States of Micronesia or upon
11 its becoming law without such approval.

12
13 Date: 5/15/85 Introduced by: *Elias H. Thomas*
14 Elias H. Thomas

15
16
17
18
19
20
21
22
23
24
25