THIRD CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FOURTH REGULAR SESSION, 1984 WM C.B. NO. 3-363

A BILL FOR AN ACT

To establish the Federated States of Micronesia Monetary Authority, to appropriate the sum of $400,000 therefor, and for other purposes.

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

CHAPTER 1

GENERAL PROVISIONS

Section 101. Short title. This act may be cited as the "Federated States of Micronesia Monetary Authority Act of 1984."

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

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

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

(3) "Banking business" means:

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

(b) Any other activity recognized by the Authority as customary banking practice which a financial institution engaging in the activities described in subsection (3)(a) of this section may additionally be authorized to do by the Authority;

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

(5) "Credit institution" means any financial institution other than a bank;

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

(7) "Demand liabilities of the Authority" means currency in circulation issued by the Authority, together with demand deposits held by the Authority;

(8) ""Dollar or dollars" means the currency of the United States of America;

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

(10) "General manager" means the general manager of the Authority;

(11) "Governments" means the National Government of the Federated States of Micronesia and the State governments;

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

(13) "Person or persons" means any individual, corporation, partnership, and any other business entity other than a financial institution; and

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

CHAPTER 2

CONSTITUTION OF THE AUTHORITY

Section 201. Establishment of Authority. There is hereby established an authority to be known as the Monetary Authority of the

Federated States of Micronesia to do business in accordance with the provisions of this act.

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

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

(1) Enter into contracts and issue obligations;

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

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

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

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

(1) To regulate the issue, supply, and availability of money and its international exchange;

(2) To promote monetary stability;

(3) To supervise and regulate banking business;

(4) To advise the Governments on banking, monetary, and financial matters, and in particular, on monetary implications of any proposed fiscal or credit policies or operation of the Governments;

(5) To promote credit and exchange conditions and a sound financial structure conducive to the balanced growth of the economy; and

(6) To insure deposits in domestic and foreign banks in the Federated States of Micronesia.

Section 205. Offices, branches, agents, and correspondents. The Authority shall have its head office in Kolonia, State of Ponape, and may:

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

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

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

Section 206. Service of documents. The service of any document upon the Authority shall be deemed to be effected by delivering the same or by sending it by registered post to the general manager.

CHAPTER 3

CAPITAL, PROFITS, AND RESERVES

Section 301. Capital.

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

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

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

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

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

Section 303. General reserve.

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

(2) After transfers to the general reserve have been made under subsection (1) of this section, 50 percent of the remainder of the net profits for the financial year shall be applied to the

redemption of any securities of the National Government held by the Authority which have been issued under section 301(2).

(3) The balance of the net profits for the financial year remaining after all deductions under subsections (1) and (2) of this section have been made shall be paid to the Governments, in the same proportions as agreed upon by them pursuant to subsection (1) of section 301 of this act, as soon as practicable after the end of the financial year.

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

Section 304. Revaluation reserve account.

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

(2) The losses arising from any such change shall be set

off against any credit balance in the revaluation reserve account and, notwithstanding any other provisions of this act, if such balance is nonexistent or insufficient to cover such losses, the National Government shall issue to the Authority non-negotiable, non-interest bearing securities to the extent of the deficiency.

(3) Any credit balance in the revaluation reserve account at the end of each financial year of the Authority shall be applied first, on behalf of the National Government, to the redemption of any securities issued under subsection (2) of this section and outstanding; and if thereafter the remaining balance exceeds 5 percent of the Authority's liabilities on account of currency issued and remaining outstanding the greater of:

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

(b) Five percent of said liabilities as of the end of the past preceding financial year of the Authority

shall be paid to the Governments in the same proportions as agreed upon by them pursuant to subsection (1) of section 301; PROVIDED that when the remaining balance does not exceed 5 percent of the aforesaid liabilities, the entire amount of the balance shall be paid to the Governments in the same proportions as agreed upon by them pursuant to subsection (1) of section 301 of this act.

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

CHAPTER 4

ADMINISTRATION

Section 401. Board of Directors.

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

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

(3) The Board shall consist of seven members, namely, the Secretary of Finance, who shall serve by virtue of his office, the general manager, and five other appointed directors.

(4) The general manager shall be appointed by the President, upon the recommendation of the Secretary of Finance and with the advice and consent of the Congress of the Federated States of Micronesia, from among persons of experience or standing in financial matters, for a term of 3 years, and shall be eligible for reappointment. He shall be appointed on such terms and conditions as may be set out in his letter of appointment. Said terms and conditions may not be altered to his disadvantage during his tenure.

(5) The five other appointed directors shall be appointed by the President as follows, from among persons of experience or standing in financial matters with the advice and consent of the Congress of the Federated States of Micronesia for a term of 3 years each, and shall be eligible for reappointment:

(a) One at-large member; and

(b) One member from each of the four States, appointed after consultation with the Governors of the respective States.

(6) The chairman of the Board shall be elected by the members of the Board.

Section 402. General manager and the other appointed directors.

(1) The general manager shall serve as chief executive officer of the Authority, to be in charge of and responsible to the Board for the implementation of the policy and the day-to-day management of the Authority.

(2) The general manager shall have power to act, contract, and sign instruments and documents on behalf of the Authority. He may, pursuant to resolution of and to the extent deemed appropriate by the Board, delegate such power to other officers.

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

(a) Act as a member of any board or commission to which he may be appointed by the President;

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

(4) The general manager shall not receive any salary, or contribution to or supplement thereof, from any source other than the Authority or, without the written authority of the Secretary of Finance, from some other recognized source, for holding this office.

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

(6) The general manager or any one of the other appointed directors may resign his office upon giving notice in writing to the authority by whom he was appointed. Such resignation will be effective upon its receipt by that authority.

(7) The general manager or any one of the other appointed directors shall be removed from his office by the authority by whom he was appointed only upon a finding by a majority of the members of the Board of:

(a) Permanent incapacity; or

(b) Serious misconduct in office substantially prejudicing the interest of the Authority.

(8) If the general manager or any one of the other appointed directors dies, resigns, or otherwise vacates his office before the expiration of the term for which he has been appointed, another shall be appointed in his place, as soon as may be practicable, for the unexpired period in the manner specified in section 401(4) or 401(5) of this act, as the case may be.

(9) The Board shall make provision in the bylaws for cases of temporary absence or disability of the general manager or any one

of the other appointed directors.

Section 403. Meetings of the Board.

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

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

Section 404. Power to appoint officers and employees.

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

(2) Officers and employees of the Authority shall be exempt from the National Public Service System Act of the Federated States of Micronesia.

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

Section 405. Conflict of interest.

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

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

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

(4) Neither the members of the Board nor any officers or employees of the Authority shall receive any gift or advantage for themselves or persons with whom they have family, business, or financial connections if the acceptance thereof would result, or give the appearance of resulting, in the diminution of their impartial devotion to their duties under this act.

(5) Any person who contravenes the provisions of this section shall be guilty, upon conviction in a court of law, of an offense and subject to a fine of not more than $2,000, or to imprisonment for not more than 3 months, or to both such fine and

imprisonment.

Section 406. Secrecy.

(1) Except for the purpose of the performance of his duties, or the exercise of his functions, or when required to do so by any court, or under the provision of any law, no member of the Board or officer or employee of the Authority shall disclose to any person any material information relating to the affairs of the Authority or of any financial institution, or other person, firm, company, or organization which he has acquired in the performance of his duties or the exercise of his functions.

(2) Any person contravening the provisions of subsection (1) of this section shall be guilty, upon conviction in a court of law, of an offense and subject to a fine of not more than $2,000, or to imprisonment for not more than 3 months, or to both such fine and imprisonment.

CHAPTER 5

CURRENCY

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

Section 502. Issue of currency. The Authority shall have the sole right to effect the original issue of currency notes and coins in the Federated States of Micronesia; PROVIDED that the Authority shall not effect an original issue of currency notes and coins except upon the prior enactment by Congress of an enabling act to that

effect.

CHAPTER 6

EXTERNAL RESERVE

Section 601. External reserve.

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

(a) Gold;

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

(c) Any internationally recognized reserve asset, which may, if appropriate, include:

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

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

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

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

(f) Securities issued or guaranteed by foreign governments or international financial institutions specified from

time to time by the Board.

(2) The Authority shall use its best endeavors to maintain the external reserve at a level adequate for the international transactions of the Federated States of Micronesia. In judging the adequacy of the external reserve, the Authority shall be guided by, among other factors, the prospective receipts and payments of foreign exchange in the Federated States of Micronesia.

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

CHAPTER 7

FOREIGN EXCHANGE OPERATIONS

Section 701. Depository of official external assets. The Authority shall be the depository of the official external assets of the Federated States of Micronesia; PROVIDED that the Authority may designate such agents as it may select in which these assets may be held.

Section 702. Operations in gold and foreign exchange. The

Authority may:

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

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

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

(4) Open and maintain accounts abroad; and

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

Section 703. Limitations on operations of foreign exchange. The Authority shall deal, in connection with the operations enumerated in section 702 of this act, only with financial institutions operating in the Federated States of Micronesia, the Governments and their boards and agencies, State and local government bodies, foreign central banks, foreign financial institutions, foreign governments, foreign government agencies and institutions, and international institutions; PROVIDED that other entities or persons may be authorized as foreign exchange dealers subject to such rules and regulations as the Authority may prescribe.

Section 704. Determination of buying and selling rates of gold and foreign exchange. The Authority shall, from time to time,

determine the rates at which it will buy, sell, or deal in gold and foreign currencies. The Authority may also determine the rates at which financial institutions will buy, sell, or deal in gold and foreign currencies; PROVIDED that in making such determinations, the Authority shall have due regard for the obligations which the Federated States of Micronesia has assumed in accordance with the provisions of any international monetary agreements to which it is a party or to which it has adhered.

CHAPTER 8

RELATIONS WITH FINANCIAL INSTITUTIONS

Section 801. Opening accounts for financial institutions. The Authority may open accounts for and accept deposits from financial institutions doing banking business in the Federated States of Micronesia under such terms and conditions, including the payment of interest and the establishment of charges thereon, as the Board may, from time to time, determine.

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

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

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

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

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

(a) Secured by:

(i) Instruments specified in subsections (1) and (2) of this section;

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

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

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

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

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

Section 804. Required reserves.

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

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

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

(b) The reserve ratios shall be uniform for all banks

and for all credit institutions although the ratios may differ between the two classes; and

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

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

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

Section 805. Minimum and maximum interest rates.

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

(a) The method of computation and minimum and maximum

rates of interest payable with respect to deposits and other similar liabilities;

(b) The permissible purposes, aggregate ceilings, maximum amounts beyond which the Authority's approval is necessary, maximum maturities, maximum interest chargeable in accordance with usury limits on major loans as established by Congress, and minimum cash margin or security required, with respect to:

(i) The making of advances, whether by loans or overdrafts, and investments;

(ii) The discounting of bills and notes;

(iii) The issuing of letters of credit; and

(iv) The granting of acceptances and other credit.

(2) The provisions of subsection (1) of this section may be made applicable by the Authority to every person, other than a financial institution, who, during any calendar year, extends credit in excess of an amount to be determined, from time to time, by the Board. The provisions of subsection (1) of this section shall be made applicable to persons other than financial institutions pursuant to this subsection through publication by any means the Authority deems appropriate and only after written notice to such persons. The Authority shall have power to examine the accounts, books, and papers of any person that it has reason to suspect is extending or has extended credit in violation of this subsection.

(3) In order to avoid possible evasion of the prescribed

maximum interest rates, the Board may also fix the maximum rates that financial institutions may pay to or collect from their customers in the form of commissions, discounts, charges, fees, or payments of any kind.

(4) Notices issued under this section shall apply uniformly in the Federated States of Micronesia and shall take effect on such date specified not earlier than 30 days after the issue date; PROVIDED that the Authority in its notices may differentiate, according to the nature of their business, among banks, credit institutions, and other creditors or classes thereof with respect to the items set out in subsection (1) of this section.

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

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

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

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

(7) Any person who commits an offense under subsection (6) of this section shall be subject upon conviction in a court of law to

a fine of not more than $100 for every day during which the contravention continues.

Section 806. Provision of information.

(1) Every financial institution shall furnish to the Authority, at such time and in such manner as the Authority may prescribe, such information and data as the Authority may require for the proper discharge of its functions and responsibilities; PROVIDED that in order to verify compliance with directions issued under sections 803 and 804 of this act, the Authority may require any person who is or has been made subject thereto to open its books for inspection or examination.

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

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

(a) Fails, refuses, or neglects to supply information or data under subsection (1) of this section; or

(b) In complying with such requirements furnishes any

information or data which he knows to be false in any material respect,

shall be guilty upon conviction in a court of law of an offense and subject to a fine of not more than $2,000, or to imprisonment for 6 months, or to both such fine and imprisonment.

Section 807. Examination of financial institutions and fee.

(1) The Authority may, periodically or at its discretion, cause an examination to be made by any of its officers or by any other qualified person appointed to that effect by the Authority, of any financial institution, and to examine its books, records, documents, and accounts for the purpose of ascertaining the nature of its business and the condition of its affairs and to ascertain whether such financial institution is complying with the provisions of this act and other related laws.

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

percent.

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

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

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

(4) Any person who:

(a) Fails, refuses, or neglects to comply with any order of an authorized person made pursuant to subsection (1) or (3) of this section; or

(b) In complying with any such order, furnishes any information or produces any book, record, or other document which he knows to be false in any material respect,

shall be guilty upon conviction in a court of law of an offense and subject to a fine of not more than $2,000, or to imprisonment for 6 months, or to both such fine and imprisonment.

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

Section 809. Establishment of clearing house. The Authority

may at a suitable time in conjunction with the banks organize a clearing house in premises provided by the Authority in such places as may be desirable.

CHAPTER 9

RELATIONS WITH THE GOVERNMENTS

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

(1) The Authority shall be the banker, advisor, and fiscal agent to the National Government on monetary and financial matters and shall be the depository of National Government funds. The Authority may, at the option of each State, be the banker, advisor, and fiscal agent to the State governments on monetary and financial matters and may be the depository of State government funds; PROVIDED that in such cases, for such periods of time, and on such other terms and conditions as may be agreed upon between the Governments and the Authority:

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

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

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

(3) It shall be the duty of the Authority to inform and advise the Governments concerning any matter which in the opinion of

the Authority is likely to affect the achievement of its purposes.

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

Section 903. Credit to the Governments, their institutions, and agencies. Except in accordance with sections 802(2), 802(3)(a), 904, and 905 of this act, the Authority shall not, directly or indirectly, make advances to, or acquire the notes, bills, securities, or other evidence of debt of, or guaranteed by, the Governments, their institutions, agencies, or State and local government bodies; PROVIDED that this section shall not operate to prevent the acquisition by the Authority of securities transferred to it by the National Government in accordance with section 301 or 304 of this act.

Section 904. Advances to the Governments.

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

(a) To the Governments; and

(b) With the approval of the President, to National Government institutions, agencies, and State and local government

bodies.

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

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

Section 906. Consultation on budget and credit operations.

(1) The Authority shall be consulted by:

(a) The National Government, on the occasion of the preparation of its budget, to the end of reaching an understanding as to the total amount of credit that may be expected to be extended by the Authority to the National Government during the following financial year through the acquisition of evidence of indebtedness under sections 802(2) and 905 of this act, the acceptance of

securities as collateral under section 802(3)(a) of this act, and the making of advances under section 904 of this act; and

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

(2) The Authority may be consulted by:

(a) The State governments, on the occasion of the preparation of their budgets, to the end of reaching an understanding as to the total amount of credit that may be expected to be extended by the Authority to the State governments during the following financial year through the acquisition of evidence of indebtedness under sections 802(2) and 905 of this act, the acceptance of securities as collateral under section 802(3)(a) of this act, and the making of advances under section 904 of this act; and

(b) The State governments and State and local government bodies at any time that either domestic or foreign credit operations are contemplated. In the event that, in the opinion of the Board, such operations individually or collectively appear to be of a magnitude inappropriate to prevailing economic conditions, the Authority shall report to the President, drawing attention to the situation and recommending measures to remedy the situation.

Section 907. Report to the President. Whenever, in the opinion of the Board, the volume of credit being extended by the Authority to the Governments, their institutions, agencies, and State and local government bodies by advances under section 904 of this act, the acquisition of evidence of indebtedness under sections 802(2) and 905 of this act, or the acceptance of securities as collateral under section 802(3)(a) of this act jeopardizes the ability of the Authority to achieve its purposes under this act, the Authority shall submit a report to the President, drawing attention to the situation, analyzing the causes which have led thereto, and, at its discretion, recommending measures which it deems necessary to forestall or otherwise remedy the situation.

CHAPTER 10

DEPOSIT INSURANCE

Section 1001. Deposit insurance. The deposits of any bank operating in the Federated States of Micronesia on the effective date of this act, or any bank which thereafter may operate as such, shall be insured by the Authority.

Section 1002. Insured bank and non-insured bank.

(1) "Insured bank" means any bank the deposits of which are insured in accordance with the provisions of this chapter.

(2) "Non-insured bank" means any bank the deposits of which are not insured in accordance with the provisions of this chapter.

Section 1003. Deposits defined. In this chapter, unless the

context otherwise requires, the following definitions shall be applicable:

(1) "Deposit" means the unpaid balance of money or its equivalent received by a bank in the usual course of business and for which it has given or is obliged to give credit to a commercial, checking, savings, time, or thrift account or which is evidenced by a certificate of deposit, and trust funds held by such bank whether retained or deposited in any department of such bank or deposited in another bank, together with such other obligations of a bank as the Board shall find and shall prescribe by regulations to be deposit liabilities of the bank; PROVIDED that any obligation of a bank which is payable at the office of the bank located outside of the Federated States of Micronesia shall not be a deposit for any of the purposes of this chapter or included as part of the total deposits or of the insured deposit; PROVIDED FURTHER that any insured bank which is incorporated under the laws of the Federated States of Micronesia which maintains a branch outside the Federated States of Micronesia may elect to include for insurance its deposit obligations which are payable only at such branch.

(2) "Insured deposit" means the net amount due to any depositor for deposits in an insured bank, after deducting offsets, less any part thereof which is in excess of $15,000. In determining the amount due to any depositor, there shall be added together all deposits in the bank maintained in the same capacity and the same right for his benefit either in his own name or in the name of

others.

(3) "Transfer deposit" means a deposit in an insured bank made available to a depositor by the Authority as payment of an insured deposit of such depositor in a closed bank and assumed by another insured bank.

(4) "Trust funds" means funds held by an insured bank in a fiduciary capacity, including, but not limited to, funds held by the bank as trustee, executor, administrator, guardian, or agent.

Section 1004. Assessment rate and base.

(1) The assessment rate shall be determined by the Board; PROVIDED that the assessment rate shall not exceed one-tenth of 1 percent per annum. The semiannual assessment for each insured bank shall be in the amount of the product of one-half the assessment rate multiplied by the assessment base.

(2) The assessment base shall be the amount of the liability of the bank for deposits, according to the definition of "deposit" in and pursuant to subsection (1) of section 1003 without any deduction for indebtedness of depositors; PROVIDED that the bank:

(a) May deduct:

(i) From the deposit balance due to an insured bank the deposit balance due from such insured bank (other than trust funds deposited by it in such bank) which is subject to an immediate withdrawal; and

(ii) Cash items forwarded for collection on the assessment-base days as set forth in subsection (3) of this section,

and cash items held for clearing at the close of business on said days, which are in the process of collection and which the bank has paid in the regular course of business or credited to deposit accounts, plus such uncollected items paid or credited on preceding days which are in the process of collection; PROVIDED that the Board may define the terms "cash items," "process of collection," and "uncollected items" and shall fix the maximum period for which any such item may be deducted; and

(b) May exclude from its assessment base:

(i) Drafts drawn by it on deposit accounts in other banks which are issued in the regular course of business; and

(ii) The amount of advices or authorizations issued by it for cash letters of credit received, directing that its deposit account in the sending bank be charged with the amount thereof; and

(iii) Cash funds which are received and held solely for the purpose of securing a liability to the bank but not in an amount in excess of such liability, and which are not subject to withdrawal by the obligor and are carried in a special non-interest bearing account designated to properly show their purpose.

(3) Each insured bank, as a condition of the right to make any deduction or exclusion in determining its assessment base, shall maintain such records as will readily permit verification of the correctness thereof. The semiannual assessment base for one semiannual period shall be the average of the assessment base of the

bank as of the close of business on March 31 and June 30 and the semiannual assessment base for the other semiannual period shall be the average of the assessment base of the bank as of the close of business on September 30 and December 31; PROVIDED that when any of said days is a nonbusiness day or a legal holiday, either National or State, the preceding business day shall be used.

(4) On or before July 15 of each year, each insured bank shall file with the Authority a certified statement showing for the 6 months ending on the preceding June 30 the amount of the assessment base and the amount of the semiannual assessment due to the Authority for the period, determined in accordance with subsection (2) of this section, which statement shall contain or be verified by a written declaration that it is made under the penalties of perjury. The certified statement shall be in such form and set forth such supporting information as the Board shall prescribe. Each insured bank shall pay to the Authority the amount of the semiannual assessment it is required to certify. On or before January 15 of each year, each insured bank shall file with the Authority a similar certified statement for the 6 months ending on the preceding December 31 and shall pay to the Authority the amount of the semiannual assessment for the period. The assessment payments required under this subsection shall be made in such manner and at such time or times as the Board shall prescribe; PROVIDED that the time or times so prescribed shall not be later than 60 days after filing the certified statement setting forth the amount of assessment.

(5) Each bank which becomes an insured bank shall not be required to file any certified statement or pay any assessment for the semiannual period in which it becomes an insured bank. On the expiration of such period, each such bank shall comply with the provisions of subsection (4) of this section except that the semiannual assessment base for its first certified statement shall be the assessment base of the bank as of the close of business on the preceding June 30 or December 31, whichever is applicable. The assessment base shall be determined in accordance with subsection (2) of this section. If such bank has assumed the liabilities for deposits of another bank or banks, it shall include such liabilities in its assessment base. The first certified statement shall show as the amount of the first semiannual assessment due to the Authority, an amount equal to the product of one-half of the annual assessment rate multiplied by such assessment base.

(6) As of December 31, 1985, and as of December 31 of each calendar year thereafter, the Authority shall transfer 50 percent of its net assessment income to its capital account and the balance of the net assessment income shall be credited pro rata to the insured banks based upon the assessment of each bank becoming due during said calendar year. Each year such credit shall be applied by the Authority toward the payment of the total assessments becoming due for the next semiannual assessment period, and any excess credit shall be applied upon the assessment next becoming due. The term "net assessment income" as used herein means the total assessments

which become due during the calendar year less:

(a) The operating costs and expenses of the Authority for the calendar year;

(b) Additions to reserve to provide for insurance losses during the calendar year, except that any adjustments to reserve which result in a reduction of such reserve shall be added; and

(c) The insurance losses sustained in said calendar year plus losses from any preceding years in excess of such reserves. If these deductions exceed in amount the total assessment which become due during the calendar year, the amount of such excess shall be restored by deduction from total assessments becoming due in subsequent years.

(7) The Authority at its discretion:

(a) May refund to an insured bank any payment of assessment in excess of the amount due to the Authority; or

(b) May credit such excess toward the payment of the assessment next becoming due from such bank and upon succeeding assessments until the credit is exhausted.

(8) Any insured bank which fails to file any certified statement required to be filed by it in connection with determing the amount of any assessment payable by the bank to the Authority may be compelled to file such statement by mandatory injunction or other appropriate remedy in a suit brought for such purpose by the Authority against the bank and any officer or officers thereof in the

Trial Division of the Supreme Court of the Federated States of Micronesia.

(9) The Authority shall be entitled to recover from any insured bank the amount of any unpaid assessment lawfully payable by such insured bank to the Authority, whether or not such bank shall have filed a certified statement in accordance with subsection (4) or (5) of this section, and whether or not suit shall have been brought to compel the bank to file any such statement. No action or proceeding shall be brought for recovery of any assessment due to the Authority or for the recovery of any amount paid to the Authority in excess of the amount due to it, unless such action or proceeding shall have been brought within 5 years after the right accrued for which the claim is made, except where the insured bank has made or filed with the Authority a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of any assessment, in which case the claim shall not have been deemed to have accrued until the discovery by the Authority that the certified statement is false or fraudulent.

(10) Should any insured bank fail or refuse to pay any assessment required to be paid by such bank under any provision of this chapter, and should the bank not correct such failure or refusal within 30 days after written notice has been given by the Authority to an officer of the bank, citing this subsection and stating that the bank has failed or refused to pay as required by law, the insured status of such bank shall be terminated by the Board. The remedies

provided in this chapter shall not be construed as limiting any other remedies against an insured bank but shall be in addition thereto.

(11) Trust funds held by an insured bank in a fiduciary capacity, whether held in trust or deposited in any other department or in another bank, shall be insured like other forms of deposits, in an amount not to exceed $7,500 for each trust estate, and when deposited by the fiduciary bank in another insured bank such trust funds shall be similarly insured to the fiduciary bank according to the trust estates represented. Notwithstanding any other provision of this chapter, such insurance shall be separate from and in addition to that covering other deposits of the owners of such trust funds or the beneficiaries of such trust estates; PROVIDED that where the fiduciary bank deposits any of such trust funds in other insured banks, the amount so held by other insured banks on deposit shall not for the purpose of any certified statement required under subsections (4) and (5) of this section be considered to be a deposit liability of the bank in which such funds are so deposited by such fiduciary bank. The Board shall have the power by regulation to prescribe the manner of reporting and of depositing such trust funds.

Section 1005. Termination of status as insured bank.

(1) Any insured bank may, upon not less than 90 days written notice to the Authority, terminate its status as an insured bank. Whenever the Board shall find that an insured bank or its directors or trustees have engaged or are engaging in unsafe or unsound practices in conducting the business of such bank, or such

bank is in an unsafe or unsound condition to continue operations as an insured bank, or such bank or its directors or trustees have violated an applicable law, rule, regulation, or order, or any condition imposed in writing by the Authority in connection with the granting of any application or other request by the bank, or any written agreement entered into with the Authority, the Board shall demand the correction thereof by the bank. Unless such correction shall be made within 120 days or such shorter period of time as the Board determines, the Board, if it shall determine to proceed further, shall give to the bank not less than 30 days written notice of its intention to terminate the status of the bank as an insured bank, and shall fix a time and place for a hearing before the Board or before a person designated by it to conduct such hearing, at which evidence may be produced, and upon such evidence the Board shall make written findings which shall be conclusive. Unless the bank shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the termination of its status as an insured bank. If the Board shall find that any imprudent or unsound practice or violation specified in such notice has been established and has not been corrected within the time period prescribed above in which to make such correction, the Board may order that the insured status of the bank be terminated on a date subsequent to such finding and to the expiration of the time specified in such notice of intention. The Authority shall publish notice of such termination to each of the depositors at his last address of record on the books of

the bank, in such a manner and at such time as the Board may find to be necessary and may order to the protection of the depositors. After the termination of the insured status of the bank under the provisions of this subsection, the insured deposits of each depositor in the bank on the date of such termination, less all subsequent withdrawals from any deposits of such depositor, shall continue for a period of 2 years to be insured, and the bank shall continue to pay to the Authority assessments as though it were an insured bank during such period. No additions to any such deposits and no new deposits in such bank made after the date of such termination shall be insured by the Authority, and the bank shall not advertise or hold itself out as having insured deposits unless, in the same connection, it also states with equal prominence that such additions to deposits and new deposits made after such date are not insured. Such bank shall, in all other respects, be subject to the duties and obligations of an insured bank for the period of 2 years from the date of such termination, and in the event that such bank shall be closed on account of insolvency within such period of 2 years, the Authority shall have the same powers and rights with respect to such bank as though it were an insured bank.

(2) Notwithstanding any other provision of law, whenever the Board shall determine that an insured bank is not engaged in the business of receiving deposits, the Authority shall notify the bank that its insured status will terminate at the expiration of the first full semiannual assessment period following such notice. A finding

by the Board that a bank is not engaged in the business of receiving deposits shall be conclusive. The Board shall prescribe the form of notice to be given by the bank of such termination and the Authority may publish notice thereof. Upon the termination of the insured status of any such bank, its deposits shall thereupon cease to be insured and the bank shall thereafter be relieved of all future obligations to the Authority, including the obligation to pay future assessments.

(3) Whenever the liabilities of an insured bank for deposits shall have been assumed by another insured bank or banks, the insured status of the bank whose liabilities are so assumed shall terminate on the date of receipt by the Authority of satisfactory evidence of such assumption with like effect as if its insured status had been terminated on said date by the Board after proceedings under subsection (1) of this section; PROVIDED that if the bank whose liabilities are so assumed gives to its depositors notice of such assumption within 30 days after such assumption takes effect, by publication or by any reasonable means, in accordance with regulations to be prescribed by the Board, the insurance of its deposits shall terminate at the end of 6 months from the date such assumption takes effect. Such bank shall be subject to the duties and obligations of an insured bank for the period its deposits are insured; PROVIDED FURTHER that if the deposits are assumed by a newly insured bank, the bank whose deposits are assumed shall not be required to pay any assessment upon the deposits which have been

assumed after the semiannual period in which the assumption takes effect.

Section 1006. Reports of condition.

(1) Each insured bank shall make to the Authority reports of condition in such form and at such times as the Board may require such reports to be published in such manner, not inconsistent with any applicable law, as it may direct. Every such bank which fails to make or publish any such report within such time, of not less than 5 days, as the Board may require, shall be subject to a penalty, payable to the Authority, of not less than $100 for each day of such failure.

(2) The members of the Board and the officers and employees of the Authority are prohibited from revealing any information relating to the condition or business of any insured bank, and any member of the Board or officer or employee of the Authority violating this provision shall be held liable for any loss or injury suffered by the Authority as a result of such violation.

Section 1007. Insurance fund.

(1) A permanent insurance fund in the initial amount of $50,000 to be appropriated from the General Fund is hereby created to be used by the Authority to carry out the purposes of this chapter.

(2) The permanent insurance fund hereinabove created may, upon recommendation of the Board and upon approval by the President, be increased by such an amount as the Board may deem necessary; PROVIDED that the maximum amount of the insured deposit of any

depositor may also be increased subject to the prior approval by the President.

Section 1008. Closure of insured bank.

(1) For the purposes of this chapter, an insured bank shall be deemed to have been closed on account of insolvency if it has been closed for the purpose of liquidation without adequate provision being made for payment to its depositors.

(2) Whenever an insured bank shall have been closed on account of insolvency, payment of the insured deposits in such bank shall be made by the Authority as soon as possible either:

(a) By cash, or

(b) By making available to each depositor a transfer deposit in another insured bank in an amount equal to the insured deposit of such depositor;

PROVIDED that the Authority, in its discretion, may require proof of claims to be filed before paying the insured deposits. In any case where the Authority is not satisfied as to the validity of a claim for an insured deposit, it may require the final determination by the Trial Division of the Supreme Court of the Federated States of Micronesia before paying such claim.

(3) The Authority, upon the payment to any depositor as provided for in subsection (2) of this section, shall be subrogated to all rights of the depositor against the closed bank to the extent of such payment. Such subrogation shall include the right on the part of the Authority to receive the same dividends from the proceeds

of the assets of such closed bank and recoveries on account of stockholders' liability as would have been payable to the depositor on a claim for the insured deposit, but such depositor shall retain his claim for any uninsured portion of his deposit.

Section 1009. Rights of the Authority.

(1) Payment of an insured deposit to any person by the Authority shall discharge the obligations of the Authority, and payment of a transfer deposit to any person by the new bank or by an insured bank in which a transfer deposit has been made available shall discharge the Authority and such new bank or other insured bank to the same extent that payment to such person by the closed bank would have discharged it from liability for the insured deposit.

(2) Except as otherwise prescribed by the Board, neither the Authority nor such other insured bank shall be required to recognize as the owner of any portion of a deposit appearing on the records of the closed bank under a name other than that of the claimant, any person whose name or interest as such owner is not disclosed on the records of such closed bank as part owner of said deposit, if such recognition would increase the aggregate amount of the insured deposits in such closed bank.

(3) The Authority may withhold payment of such portion of the insured deposit of any depositor in a closed bank as may be required to provide for the payment of any liability of such depositor as a stockholder of the closed bank, or of any liability of such depositor to the closed bank or its receiver, which is not

offset against a claim due from such bank, pending the determination and payment of such liability by such depositor or any other person liable therefor.

(4) If, after the Authority shall have given at least 3 months written notice to a depositor by mailing a copy of such notice to his last-known address appearing on the records of the closed bank, any depositor in the closed bank shall fail to claim the insured deposit from the Authority within 18 months after the Board or the Trial Division of the Supreme Court of the Federated States of Micronesia shall have ordered the conversion of the assets of such closed bank into money, all causes of action of the depositor against the Authority with respect to the insured deposit shall be barred, and all rights of the depositor against the closed bank and its shareholders or the receivership estate to which the Authority may have become subrogated, shall thereupon revert to the depositor.

Section 1010. Display of sign or signs by insured bank. Every insured bank shall display at each place of business a sign or signs which shall include a statement to the effect that the deposits are insured by the Authority. The same statement shall appear in all of the bank's advertisements; PROVIDED that the Board may exempt from this requirement advertisements which do not relate to deposits or advertisements in which it is impractical to include such statement. The Board shall prescribe by regulation the form or forms of such signs and the manner of display and the substance of such statements and the manner of use. For each day an insured bank continues to

violate any provision of this subsection or regulations promulgated pursuant thereto, it shall be subject to a maximum penalty of $100, which the Authority may recover for its use; PROVIDED, however, that a penalty of imprisonment for not more than 1 year, or a maximum fine of $2,000, or both such fine and imprisonment, shall be imposed upon:

(1) The directors and officers of any bank, corporation, partnership, or any other company performing banking functions in the Federated States of Micronesia not insured under the provisions of this chapter which shall in any manner advertise or hold itself out as being insured by the Authority for the purpose of making it appear that its deposits are insured with the Authority; or

(2) The directors and officers of a bank which has ceased to be insured by the Authority if such bank shall continue to advertise in any manner or hold itself out as having its deposits insured by the Authority, unless it also states with equal prominence that additional or new deposits made after the effective date of termination of its insured status are no longer insured; or

(3) Any person who, knowing the purpose for which the official sign, advertising statement, or emblem, as duly prescribed by the Authority, is to be used, reproduces or supplies such official sign, advertising statement, or emblem or a colorable imitation thereof, for the use of a bank not insured under the provisions of this chapter to enable such bank to fraudulently use the same in connection with the advertising of its services.

Section 1011. Payment of dividends or interest in event of

default. No insured bank shall pay any dividends on its capital stock or interest on its capital notes or debentures if such interest is required to be paid only out of net profits, or distribute any of its capital assets while it remains in default in the payment of any assessment due to the Authority, and any director or officer of any insured bank who participates in the declaration or payment of any such dividend or interest or in any such distribution shall, upon conviction, be fined not more than $1,000, or imprisoned not more than 1 year, or both; PROVIDED that if such default is due to a dispute between the insured bank and the Authority over the amount of such assessment, this subsection shall not apply if such bank deposits with the clerk of the Trial Division of the Supreme Court of the Federated States of Micronesia security satisfactory to the Authority for payment upon final resolution of the dispute.

Section 1012. Relationships between insured and uninsured banks. Without prior written consent by the Authority, no insured bank shall:

(1) Merge or consolidate with any noninsured bank or financial institution or convert into a noninsured bank or financial institution; or

(2) Assume liability to pay any deposits made in, or similar liabilities of any noninsured bank or institution; or

(3) Transfer assets to any noninsured bank or institution in consideration of the assumption of liabilities for any portion of the deposits made in such insured bank.

Section 1013. Insurance and indemnification. The Authority may require an insured bank to provide protection and indemnity against burglary, defalcation, and other insurable losses. Whenever any insured bank refuses to comply with any such requirement, the Authority may contract for such protection and indemnity and add the cost thereof to the assessment otherwise payable by such bank.

Section 1014. Penalty for failure to file certified statement or pay assessment. Any insured bank which willfully fails or refuses to file any certified statement or pay any assessment required under this chapter shall be subject to a penalty of not more than $100 for each day that such violations continue, which penalty the Authority may recover for its use; PROVIDED that this subsection shall not be applicable under the circumstances stated in the provisions of section 1011 of this chapter.

CHAPTER 11

ACCOUNTS

Section 1101. Financial year. The financial year of the Authority shall coincide with the financial year of the National Government.

Section 1102. Accounts and annual statements.

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

(2) The Authority shall, as soon as may be practicable after the end of every month, make up a statement of the condition of

the Authority as of the close of business on the last business day of each month and publish the same by any means it deems appropriate.

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

Section 1103. Audit. The accounts of the Authority shall be audited at least once every financial year by the Public Auditor of the Federated States of Micronesia, or his duly authorized representative, or by a suitably qualified auditor appointed by the Board.

CHAPTER 12

MISCELLANEOUS PROVISIONS

Section 1201. Prohibited transactions. The Authority shall not:

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

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

(3) Make unsecured advances, whether by loans or overdrafts, except as provided in sections 802(3)(b) and 904 of this act;

(4) Make advances, whether by loans or overdrafts, secured otherwise than as set forth in this act; PROVIDED that should any debts due to the Authority be in jeopardy, the Authority may secure such debts on real or other property, and, if the security is enforced, acquire and hold such property, but with a view to the sale thereof as soon as is practicable;

(5) Accept shares of stock as collateral security, except as provided in subsection (4) of this section; and

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

Section 1202. Exemption from taxes. The Authority shall be exempt from all National Government, State government, and local taxes, stamp duties, fees, excise, and all other taxes on its profits, operations, capital property, and documents.

CHAPTER 13

APPROPRIATIONS

Section 1301. Appropriation of funds. The sum of $400,000 is hereby appropriated from the General Fund of the Federated States of Micronesia for the fiscal year ending September 30, 1985, of which $250,000 shall represent the payment of the initial paid-up capital of the Authority pursuant to section 301(1) of this act, and $100,000 shall cover the initial operating costs or expenses of the Authority, and generally, for the purpose of carrying out the provisions of this act. The sum of $50,000 shall fund the permanent insurance fund as provided in section 1007 (1) of this act. The Board shall be the

allottee of these funds.

CHAPTER 14

EFFECTIVE DATE

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

Date: NOV. 7, 1984 Introduced by: John R. Haglelgam
(by request)