

DIVISION OF FINANCIAL INSTITUTIONS  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

IN THE MATTER OF THE )  
APPLICATION OF )  
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Bank of the Federated States of Micronesia )  
Applicant )  
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 )  
For Approval to Establish an )  
Intra-Pacific Bank Branch in the )  
State of Hawaii )  
Pursuant to Chapter 412, )  
Hawaii Revised Statutes )  
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DECISION AND ORDER  
REGARDING APPLICATION OF  
BANK OF THE FEDERATED  
STATES OF MICRONESIA

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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII  
335 Merchant Street, Room 221  
Post Office Box 2054  
Honolulu, Hawaii 96805

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DECISION AND ORDER REGARDING  
APPLICATION OF  
BANK OF THE FEDERATED STATES OF MICRONESIA

To: Mr. Robert De Courteney  
President and Chief Executive Officer  
Bank of the Federated States of Micronesia  
Post Office Box 98  
Kolonia, Pohnpei, FSM 96941

Ms. Michelle C. Imata  
Attorney at Law  
Carlsmith Ball LLP  
1001 Bishop St., # 2200  
Honolulu, Hawaii 96813

Pursuant to the authority granted to the Commissioner of Financial Institutions (the Commissioner), Division of Financial Institutions, Department of Commerce and Consumer Affairs, State of Hawaii, in Chapter 412, Hawaii Revised Statutes (HRS), and all applicable Hawaii Administrative Rules (HAR), the following findings of fact and conclusions of law are hereby entered:

## **FINDINGS OF FACT**

1. The applicant in this matter is the Bank of the Federated States of Micronesia (hereinafter referred to as BoFSM or Applicant), with its home office located in Kolonia, Pohnpei, Federated States of Micronesia, and its mailing address as P.O. Box 98, Kolonia, Pohnpei, FSM 96941.
2. BoFSM was chartered under the laws of the Federated States of Micronesia (FSM) for the purpose of engaging in the general banking business and began operations as a commercial bank in 1986.
3. BoFSM has been an insured depository institution with the Federal Deposit Insurance Corporation since February 7, 1986.
4. BoFSM maintains one branch in each of the four states of the FSM, Kosrae State, Pohnpei State, Chuuk State, and Yap State.
5. BoFSM is engaged in the commercial banking business which is the type of business permitted to Hawaii state-chartered banks.
6. All of BoFSM's deposits are located in the Federated States of Micronesia. BoFSM does not own or control any subsidiaries or affiliates which accept deposits outside of the Federated States of Micronesia.
7. BoFSM is not directly or indirectly owned or controlled by any holding company.
8. The Applicant indicated the following:
  - a. The economy of the FSM is based on the U.S. dollar.
  - b. Chapter 4 – Foreign Banks, of the FSM Code (the Code) provides conditions substantially comparable to or less restrictive than the laws of the State of Hawaii concerning the commencement of operations, acquisitions, change of control and mergers of banks and bank holding companies.
  - c. The Code allows a bank that is a Hawaii financial institution to establish and operate a branch in the FSM.
9. BoFSM filed an application dated October 12, 2005 and supporting documents dated October 13, 2005, October 26, 2005, November 3, 2005, November 7, 2005, November 10, 2005, and November 14, 2005 to establish an intra-Pacific bank branch to be located at 614 South Street, Suite 202, Honolulu, Hawaii, in

accordance with the provisions of Chapter 412 HRS, Article 5, Part IV (collectively the Application).

10. The proposed intra-Pacific bank branch will not be opened to the public or accept any deposits. Applicant states that the initial activities to be conducted at the proposed intra-Pacific bank branch will be confined to those activities necessary for BoFSM to maintain a federal routing number and access to the U.S. payment system, to allow BoFSM to continue to provide check clearing, Automated Clearing House, and wire transfer services. Other activities may include coordination of investment purchases, safekeeping through the Federal Reserve Bank of San Francisco, allotment processing, official check reconciliation, loan collection, and other similar, but limited, non-retail services.

11. The Application included a copy of BoFSM's Articles of Incorporation, Bylaws, and a certificate from the FSM Banking Board indicating that the Applicant is in good standing in that jurisdiction.

12. The Application was determined to be complete and accepted by the Commissioner on November 7, 2005.

13. The directors and executive officers of BoFSM are Ihlen Joseph, Chairman of the Board; Larry Adams, Vice Chairman; Robert Andreas, Secretary and Director; Robert De Courteney, President, Chief Executive Officer, and Chief Credit Officer; Eric Nesheim, Chief Operating Officer; Patrick Mackenzie, Head of Branch Banking; Anthony Ganngiyan, Director; Hiteo Shrew, Director; Myron Hashiguchi, Director; and Jason Poll, Director.

14. A Notice of the Application for establishing an intra-Pacific bank branch was published once in the Honolulu Star-Bulletin, a newspaper of general circulation in the City and County of Honolulu, on November 9, 2005. The nonconfidential portions of the Application were made available for inspection and review by the public. No comments on the Application or requests for an informational and comment proceeding on the Application were filed with the Commissioner during the 15-day comment period that ended on November 25, 2005.

### **CONCLUSIONS OF LAW**

Upon review and consideration of the Application, and its supporting and incorporating documents, it is concluded that:

1. Pursuant to HRS Chapter 412, Code of Financial Institutions, Article 5, Part IV, the Commissioner has jurisdiction over this Application.

2. The Application submitted to the Commissioner is in a form prescribed by or acceptable to the Commissioner and includes, together with supporting and

incorporating documents, information required by the Commissioner to make the findings of fact and the conclusions of law set forth herein. Portions of the Application have been deemed confidential by the Commissioner as it contains information that may be withheld from disclosure under HRS Chapter 92F, HRS Section 412:2-104(a), and HAR Sections 16-25-27(b) and 16-25-28.

3. Sufficient information was provided to enable the Commissioner to find the necessary facts and reach the required conclusions needed before issuing a decision on this Application.

4. BoFSM qualifies as an intra-Pacific bank as defined in Section 412:5-400, HRS.

5. The FSM qualifies as a reciprocal region as defined in Section 412:5-400, HRS.

6. BoFSM's paid-in capital and surplus exceeds the \$5 million minimum requirement for an intra-Pacific bank as required pursuant to Section 412:5-406, HRS.

7. The executive officers and board of directors of BoFSM are of good moral character and sound financial standing. Management of BoFSM is competent and sufficiently experienced.

8. Upon consideration and review of the Application and its supporting documents, it is concluded that the proposed activities of the intra-pacific bank branch will be in compliance with the requirements of HRS Chapter 412 and all other applicable laws, rules and regulations, and the operations of the financial institution will be conducted in a safe and sound manner such that will warrant public confidence and a belief that the business of the financial institution will be honestly and efficiently conducted.

9. Any conclusion of law that is deemed to be a finding of fact shall be construed to be a finding of fact.

### **ORDER**

NOW, THEREFORE, GOOD CAUSE APPEARING, THE FOLLOWING DECISION AND ORDER IS HEREBY ENTERED:

1. In accordance with provisions of HRS Chapter 412, Article 5, Part IV, the Application by the Bank of the Federated States of Micronesia to establish an intra-Pacific bank branch in Hawaii, is hereby approved.

2. This Decision and Order is entered on the date set forth below.

3. This approval is made pursuant to the authority granted the Commissioner in Chapter 412, HRS, and applicable administrative rules and is subject to the following conditions:

- a. The Bank of the Federated States of Micronesia's intra-Pacific bank branch in Hawaii will not be open to the public or accept any deposits and will be limited to those activities listed in paragraph 10 under the Findings of Fact. Any changes to the activities of intra-Pacific bank branch shall be subject to the Commissioner's prior approval.
- b. The Bank of the Federated States of Micronesia shall obtain all the necessary regulatory approvals and satisfy all other provisions of applicable federal and state laws, as well as the laws of the Federated States of Micronesia, prior to establishing this intra-Pacific bank branch.
- c. The Bank of the Federated States of Micronesia shall comply with all applicable provisions of Chapter 412, Hawaii Revised Statutes, so long as it maintains this intra-Pacific bank branch.
- d. The Bank of the Federated States of Micronesia shall be subject to examination by the Division of Financial Institutions, State of Hawaii, as may be deemed necessary under the circumstances.
- e. The Bank of the Federated States of Micronesia shall provide written notice to the Commissioner within five days of the actual date this branch commences operations.
- f. The Bank of the Federated States of Micronesia shall provide the name of the individual responsible for answering all inquires regarding this transaction, whom the public may contact should they have any questions regarding this transaction and the status of the Bank of the Federated States of Micronesia.

This Decision and Order shall be voidable in the sole discretion of the Commissioner if material conditions set forth in this Decision and Order are not fulfilled, if material representations made in support of the Application are not complied with or should be determined to be untrue, or if material facts have been omitted from the Application. This Order does not waive or limit any other remedy available to the Commissioner for violation of law.

DATED AND ENTERED: November 29, 2005, in HONOLULU, HAWAII.

/s/ D. B. Griffin III

D. B. GRIFFIN III

COMMISSIONER OF FINANCIAL INSTITUTIONS

DIVISION OF FINANCIAL INSTITUTIONS

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

STATE OF HAWAII

[IN THE MATTER OF THE APPLICATION OF BANK OF THE FEDERATED STATES OF MICRONESIA FOR APPROVAL TO ESTABLISH AN INTRA-PACIFIC BANK BRANCH IN THE STATE OF HAWAII, PURSUANT TO CHAPTER 412, HAWAII REVISED STATUTES.]

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