

FEDERAL RESERVE SYSTEM

Bank Austria Aktiengesellschaft  
Vienna, Austria

Order Approving Establishment of a Branch  
and Representative Offices

Bank Austria Aktiengesellschaft ("Bank"), Vienna, Austria, a foreign bank within the meaning of the International Banking Act ("IBA"), has applied under section 7(d) of the IBA (12 U.S.C. § 3105(d)) to establish a federally licensed branch in Greenwich, Connecticut. Bank has also applied under section 10(a) of the IBA (12 U.S.C. § 3107(a)) to establish representative offices in Atlanta, Georgia; and San Francisco, California. The Foreign Bank Supervision Enhancement Act of 1991, which amended the IBA, provides that a foreign bank must obtain the approval of the Board to establish a branch or representative office in the United States.

Notice of the application, affording interested persons an opportunity to submit comments, was published on November 27, 1998, in a newspaper of general circulation in Greenwich, Connecticut (*Greenwich Time*); Atlanta, Georgia (*Atlanta Journal and Constitution*); and San Francisco, California (*San Francisco Chronicle*). The time for filing comments has expired, and the Board has considered the application and all comments received.

Bank, with total consolidated assets of \$130 billion, is the largest bank in Austria.<sup>1</sup> Anteilsverwaltung-Zentralsparkasse ("AV-Z"), an Austrian holding company, is Bank's largest shareholder.<sup>2</sup> Bank engages directly and indirectly in a number of banking, financial, and other activities in Europe, Asia, and the United States. In the United States, Bank operates a federal branch in New York, New York; a representative office in Chicago, Illinois; and several nonbank subsidiaries. Bank is a qualifying foreign banking organization within the meaning of Regulation K (12 C.F.R. 211.23(b)).

In September 1998 Bank merged with Creditanstalt Aktiengesellschaft, Vienna, Austria, which, up until the merger, operated a branch in Greenwich, Connecticut; and representative offices in Atlanta, Georgia; and San Francisco, California. Bank has requested authority to retain and operate these offices through this application. Pursuant to Regulation K, the Board allowed the merger to proceed before an application to establish the offices was filed and acted on by the Board.<sup>3</sup>

In order to approve an application by a foreign bank to establish a branch or representative office in the United States, the IBA and Regulation K require the Board to determine that the

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<sup>1</sup>Unless otherwise indicated, data are as of June 30, 1999.

<sup>2</sup>As of October 1, 1999, AV-Z owned 24.5 percent of Bank Austria. Although AV-Z is organized as a savings bank, Austrian law provides that AV-Z may only hold and manage assets.

<sup>3</sup>See 12 C.F.R. 211.24(a)(3), and Board Letter dated September 21, 1998, to John C. Murphy, Jr., Esq.

foreign bank applicant engages directly in the business of banking outside of the United States, and has furnished to the Board the information it needs to assess the application adequately. The Board also shall take into account whether the foreign bank and any foreign bank parent are subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor (12 U.S.C. §§ 3105(d)(2), 3107(a)(2); 12 C.F.R. 211.24(d)(2), 211.24(c)(1)).<sup>4</sup> The Board may also take into account additional standards as set forth in the IBA and Regulation K (12 U.S.C. § 3105(d)(3)-(4); 12 C.F.R. 211.24(c)(2)-(3)).

As noted above, Bank engages directly in the business of banking outside the United States. Bank also has provided the Board with information necessary to assess the application through submissions that address the relevant issues. With respect to supervision by home country authorities, the Board previously has determined, in connection with applications

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<sup>4</sup>In assessing this standard, the Board considers, among other factors, the extent to which the home country supervisors: (i) ensure that the bank has adequate procedures for monitoring and controlling its activities worldwide; (ii) obtain information on the condition of the bank and its subsidiaries and offices through regular examination reports, audit reports, or otherwise; (iii) obtain information on the dealings with and relationship between the bank and its affiliates, both foreign and domestic; (iv) receive from the bank financial reports that are consolidated on a worldwide basis or comparable information that permits analysis of the bank's financial condition on a worldwide consolidated basis; (v) evaluate prudential standards, such as capital adequacy and risk asset exposure, on a worldwide basis. These are indicia of comprehensive, consolidated supervision. No single factor is essential, and other elements may inform the Board's determination.

involving other banks in Austria, that those banks were subject to home country supervision on a consolidated basis.<sup>5</sup> Bank is supervised by the Austrian Federal Ministry of Finance (the "Ministry") and the Austrian National Bank on substantially the same terms and conditions as those other banks. Based on all the facts of record, the Board has determined that Bank is subject to comprehensive supervision on a consolidated basis by its home country supervisor.

The Board also has taken into account the additional standards set forth in section 7 of the IBA and Regulation K (see 12 U.S.C. § 3105(d)(3)-(4); 12 C.F.R. 211.24(c)(2)-(3)). The Ministry has no objection to the establishment of the proposed branch and representative offices.

With respect to the financial and managerial resources of Bank, taking into consideration Bank's record of operations in its home country, its overall financial resources, and its standing with its home country supervisors, the Board has also determined that financial and managerial factors are consistent with approval of the proposed branch and representative offices. Bank appears to have the experience and capacity to support the proposed branch and representative offices and has established controls and procedures for the proposed offices to ensure compliance with U.S. law.

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<sup>5</sup>See *Creditanstalt-Bankverein*, 82 Federal Reserve Bulletin 594 (1996); *Erste Bank der Österreichischen Sparkassen Aktiengesellschaft*, 84 Federal Reserve Bulletin 1123 (1998).

With respect to access to information about Bank's operations, the Board has reviewed the restrictions on disclosure in relevant jurisdictions in which Bank operates and has communicated with relevant government authorities regarding access to information. Bank and its parent have committed to make available to the Board such information on the operations of Bank and any of its affiliates that the Board deems necessary to determine and enforce compliance with the IBA, the Bank Holding Company Act of 1956, as amended, and other applicable federal law. To the extent that the provision of such information to the Board may be prohibited by law, Bank and its parent have committed to cooperate with the Board to obtain any necessary consents or waivers that might be required from third parties for disclosure of such information. In addition, subject to certain conditions, the Ministry may share information on Bank's operations with other supervisors, including the Board. In light of these commitments and other facts of record, and subject to the condition described below, the Board concludes that Bank has provided adequate assurances of access to any necessary information that the Board may request.

On the basis of all the facts of record, and subject to the commitments made by Bank and its parent, as well as the terms and conditions set forth in this order, the Board has determined that Bank's application to establish the federally licensed branch and representative offices should be, and hereby is, approved. Should any restrictions on access to information on the operations or activities of Bank and its affiliates

subsequently interfere with the Board's ability to obtain information to determine and enforce compliance by Bank or its affiliates with applicable federal statutes, the Board may require termination of any of Bank's direct or indirect activities in the United States, or in the case of an office licensed by the Office of the Comptroller of the Currency ("OCC"), recommend termination of such office. Approval of this application is also specifically conditioned on compliance by Bank and its parent with the commitments made in connection with this application and with the conditions in this order.<sup>6</sup> The commitments and conditions referred to above are conditions imposed in writing by the Board in connection with its decision and may be enforced in proceedings under 12 U.S.C. § 1818 or 12 U.S.C. § 1847 against Bank, its offices, and its affiliates.

By order of the Board of Governors,<sup>7</sup> effective  
November 18, 1999.

(Signed)

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Robert deV. Frierson  
Associate Secretary of the Board

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<sup>6</sup>The Board's authority to approve establishment of the proposed branch office parallels the continuing authority of the OCC to license federal offices of a foreign bank; the Board's authority to approve establishment of the proposed representative offices parallels the continuing authority of the States of Georgia and California to license offices of a foreign bank. The Board's approval of this application does not supplant the authority of the OCC, or the States of Georgia and California, respectively, to license the proposed offices of Bank in accordance with any terms or conditions that they may impose.

<sup>7</sup>Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Kelley and Meyer. Absent and not voting: Governor Gramlich.