

FEDERAL RESERVE SYSTEM

Kookmin Bank
Seoul, Korea

Order Approving Establishment of a Branch

Kookmin Bank (“Bank”), Seoul, Korea, 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 state-licensed branch in New York, New York. 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 in the United States.

Notice of the application, affording interested persons an opportunity to comment, has been published in a newspaper of general circulation in New York, New York (*The New York Times*, March 5, 1999). The time for filing comments has expired, and the Board has considered the application and all comments received.

Bank, with total consolidated assets of approximately \$68.1 billion, is the second largest bank in Korea.¹ Bank, a privately owned commercial bank,² operates an extensive network of branches and subsidiaries in Korea. Bank also

¹All data are as of December 31, 1998.

²Bank’s largest shareholder is Goldman Sachs, which owns 11.2 percent of Bank; the Korean government owns 7.3 percent of Bank. Bank’s remaining shares are widely held.

operates branches in Argentina, Japan, and New Zealand; a representative office in China; and four foreign subsidiaries. In the United States, Bank operates a representative office in New York, New York. Bank is a qualifying foreign banking organization within the meaning of Regulation K (12 C.F.R. 211.23(b)).

In January 1999 Bank merged with Korea Long Term Credit Bank, Seoul, Korea, which, until the merger, operated a branch in New York, New York. Bank has requested authority to retain and operate the branch through this application. Pursuant to Regulation K, the Board allowed the merger to proceed before an application to establish the office was filed and acted on by the Board.³

In order to approve an application by a foreign bank to establish a branch in the United States, the IBA and Regulation K require the Board to determine that the 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 is subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor (12 U.S.C. § 3105(d)(2); 12 C.F.R. 211.24).⁴ The Board may also take into account

³See 12 C.F.R. 211.24(a)(3), and Board Letter, dated December 16, 1998, to Kookmin Bank.

⁴In 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

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)).

The IBA includes a limited exception to the general requirement relating to comprehensive, consolidated supervision (12 U.S.C. § 3105(d)(6)). This exception provides that, if the Board is unable to find that a foreign bank seeking to establish a branch, agency, or commercial lending company is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country, the Board may nevertheless approve an application by such foreign bank if: (i) the appropriate authorities in the home country of the foreign bank are actively working to establish arrangements for the consolidated supervision of such bank; and (ii) all other factors are consistent with approval (12 U.S.C. § 3105(d)(6)(A)). In deciding whether to exercise its discretion to approve an application under authority of this exception, the Board shall also consider whether the foreign bank has adopted and implements procedures to combat money laundering (12 U.S.C. § 3105(d)(6)(B)). The Board also may take

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.

into account whether the home country of the foreign bank is developing a legal regime to address money laundering or is participating in multilateral efforts to combat money laundering (12 U.S.C. § 3105(d)(6)(B)).

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 Bank's home country authorities, the Board has considered the following information. In early 1997, the Korean economy experienced difficulties in the financial sector. To address these difficulties, the Korean government has taken measures to reform the financial sector, including restructuring bank regulation and supervision through the establishment of a new supervisory authority for Korean financial institutions, the Financial Supervisory Commission ("FSC").⁵ The FSC is responsible for promulgating supervisory regulation, making policy decisions regarding supervision, and imposing sanctions on financial institutions. Bank is supervised by the Financial Supervisory Service ("FSS"), the executive body of the FSC.⁶

⁵Before the establishment of the FSC, there were four industry-specific financial supervisory authorities in Korea; the FSC was created as a single integrated financial supervisory authority.

⁶The FSS, under the direction of the FSC, is responsible for the supervision and examination of financial institutions and handles matters delegated to it by the

Over the past two years, Korea has instituted several new requirements and prudential limitations applicable to banks which are intended to address gaps in the supervisory system that became evident during and after the recent financial crisis. These changes include a new asset quality assessment framework, tighter limitations on loans to a single borrower, a prompt corrective action framework, and improvements in accounting policies.

With regard to measures to prevent money laundering, although the Korean government has not formally adopted the recommendations of the Financial Action Task Force (“FATF”) regarding the prevention and detection of money laundering, Korean laws and regulations contain provisions that parallel certain of the FATF recommendations. Korean law, for example, requires financial institutions to conduct all financial transactions with customers on a real-name basis and to confirm a customer’s identity before engaging in any transactions. In addition, the FSC has issued regulations that prohibit Korean banks from participating in money laundering or other irregular financial transactions and that require Korean banking institutions to establish policies and procedures to safeguard against such activities.

Bank has implemented policies and procedures to ensure compliance with Korean law and FSC regulations. Bank’s employees are required to conduct

FSC.

all financial transactions with customers on a real-name basis and to confirm a customer's identity before engaging in any transaction. Bank has also established detailed identification and recordkeeping procedures.

Based on all the facts of record, the Board has determined that Bank's home country authorities are actively working to establish arrangements for the consolidated supervision of Bank, and that considerations relating to the steps taken by Bank and its home country to combat money laundering are consistent with approval under this standard.⁷

⁷In September 1997, in connection with the application of another Korean bank, the Board found that the Korean supervisory authorities were actively working to establish arrangements for the consolidated supervision of that bank. *See Housing & Commercial Bank*, 83 Federal Reserve Bulletin 935 (1997). The reform measures described in the Board's Housing and Commercial Bank order, as well as the initiatives outlined above, are illustrative of the steps the Korean government is undertaking to strengthen its bank supervisory system.

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

Bank must comply with the minimum capital standards of the Basel Capital Accord (“Accord”), as implemented by Korea. Bank’s capital is in excess of the minimum levels that would be required by the Accord and is considered equivalent to the capital that would be required of a U.S. banking organization. Managerial and other financial resources of Bank are also considered consistent with approval, and Bank appears to have the experience and capacity to support the proposed branch. Bank has established controls and procedures for the proposed branch to ensure compliance with U.S. law, as well as controls and procedures for its worldwide operations generally.

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 has 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 has 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 FSS 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, as well as the terms and conditions set forth in this order, the Board has determined that Bank's application to establish a branch 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. Approval of this application also is specifically conditioned on compliance by Bank with the commitments made in connection with this application and with the conditions in this order.⁸ The

⁸The Board's authority to approve the establishment of the proposed branch parallels the continuing authority of the State of New York to license offices of a foreign bank. The Board's approval of this application does not supplant the authority of the State of New York and the New York State Banking Department ("Department") to license the proposed office of Bank in accordance with any terms or conditions that the Department may impose.

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 against Bank and its affiliates.

By order of the Board of Governors,⁹ effective February 11, 2000.

(signed)

Robert deV. Frierson
Associate Secretary of the Board

⁹Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Kelley, Meyer, and Gramlich.