

FEDERAL RESERVE SYSTEM

DEPFA BANK plc
Dublin, Ireland

Order Approving Establishment of an Agency

DEPFA BANK plc ("Bank"), Dublin, Ireland, 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 an agency 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 an agency 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 (*New York Post*, October 3, 2002). The time for filing comments has expired, and all comments have been considered.

Bank, with total assets of approximately \$146 billion, is the largest bank in Ireland.¹ Bank was formed in 2002 as part of a reorganization of the DEPFA Group. In that reorganization, the group's public finance business was separated from its real property business. Bank is the parent company of the public finance business, which includes DEPFA Deutsche Pfandbriefbank AG, Frankfurt, Germany. DEPFA Holding Verwaltungsgesellschaft mBH ("DEPFA Holding"), Düsseldorf, Germany, owns 40.8 percent of Bank. DEPFA Holding also owns 40.8 percent of Aareal Bank AG, Wiesbaden, Germany, which took over all the real property business formerly conducted by members of the DEPFA Group. DEPFA Holding is an

¹ Asset data are as of June 30, 2002.

investment vehicle for eight primarily financial institutions in Germany, Switzerland, and France. No other shareholder owns more than 5 percent of the shares of Bank. Bank is a qualifying foreign banking organization under Regulation K.

Bank currently operates a U.S. nonbanking subsidiary, DEPFA USA Inc., New York, New York, that provides research and advisory services in the areas of economics, banking, and capital markets.

Bank seeks to establish the New York agency to expand the range of services offered and activities in the United States. On establishment of the proposed agency, Bank intends to liquidate DEPFA USA Inc. and transfer its assets and business to the agency. In addition, the proposed agency would provide a range of services to U.S. municipalities and government-sponsored entities.

In order to approve an application by a foreign bank to establish an agency 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 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).² The

² 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

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 Federal Reserve previously has determined, in connection with applications involving other banks in Ireland, that those banks were subject to home country supervision on a consolidated basis.³ Bank is supervised by the banking regulatory authorities in Ireland on substantially the same terms and conditions as those other banks. Based on all the facts of record, it has been determined that Bank is subject to comprehensive supervision on a consolidated basis by its home country supervisor.

The Board has also 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 home country supervisor of Bank has no objection to the establishment of the proposed agency.

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.

³ See Anglo Irish Bank Corporation plc, 85 Federal Reserve Bulletin 587 (1999); Allied Irish Banks, p.l.c., 83 Federal Reserve Bulletin 607 (1997); Bank of Ireland, 81 Federal Reserve Bulletin 511 (1995).

Ireland's risk-based capital standards are consistent with those established by the Basel Capital Accord. Bank's capital is in excess of the minimum levels that would be required by the Basel Capital Accord and is considered equivalent to capital that would be required of a U.S. banking organization. Managerial and other financial resources of Bank also are considered consistent with approval, and Bank appears to have the experience and capacity to support the proposed agency. In addition, Bank has established controls and procedures for the proposed agency to ensure compliance with U.S. law, as well as controls and procedures for its worldwide operations generally.

Ireland is a member of the Financial Action Task Force and subscribes to its recommendations on measures to combat money laundering. In accordance with these recommendations, Ireland has enacted laws and developed regulatory standards to deter money laundering. Money laundering is illegal in Ireland, and financial institutions are required to establish internal policies, procedures, and systems for the detection and prevention of money laundering throughout their worldwide operations. Bank has policies and procedures to comply with these laws and regulations that are monitored by governmental entities responsible for anti-money laundering compliance.

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 ultimate parent, DEPFA Holding, 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, and other applicable federal law. To the extent that the provision of such information to the Board may be prohibited by law or otherwise, Bank and DEPFA Holding 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 light of these commitments and other facts of record, and subject to the condition described below, it has been determined that Bank and DEPFA Holding have 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 DEPFA Holding, as well as the terms and conditions set forth in this order, Bank's application to establish an agency in New York, New York, is hereby approved.⁴ 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.⁵ The

⁴ Approved by the Director of the Division of Banking Supervision and Regulation, with the concurrence of the General Counsel, pursuant to authority delegated by the Board.

⁵ The Board's authority to approve the establishment of the proposed agency 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 New York State Banking Department to license the proposed agency of Bank in accordance with any terms or conditions that it may impose.

commitments and conditions referred to above are conditions imposed in writing by the Board in connection with this decision and may be enforced in proceedings under 12 U.S.C. § 1818 against Bank and its affiliates.

By order, approved pursuant to authority delegated by the Board, effective March 21, 2003.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board