

FEDERAL RESERVE SYSTEM

Joint Stock Commercial Bank for Foreign Trade of Vietnam
Hanoi, Vietnam

Order Approving the Establishment of a Representative Office

Joint Stock Commercial Bank for Foreign Trade of Vietnam (“Vietcombank”), Hanoi, Vietnam, a foreign bank within the meaning of the International Banking Act of 1978 (“IBA”), has applied under section 10(a) of the IBA¹ to establish a representative office in New York, New York (the “New York Representative Office”). The IBA provides that a foreign bank must obtain the approval of the Board to establish a representative office 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 Daily News*, December 21, 2017). The time for submitting comments has expired, and the Board has considered all comments received.

Vietcombank, with total assets of approximately \$43.6 billion, is the fourth largest bank in Vietnam by asset size.² Vietcombank provides retail and commercial banking services to individuals, corporations, and financial institutions, including international trade finance, foreign exchange and fixed-income trading, lending, project finance, money transfer, and correspondent banking services. Vietcombank operates four domestic subsidiaries that engage in securities activities, financial services, office leasing, and remittance activities. Foreign operations of the bank include a representative office

¹ 12 U.S.C. § 3107(a).

² Asset data is as of June 30, 2018. Ranking data is as of December 31, 2016.

in Singapore, a finance company subsidiary in Hong Kong, and a U.S. money transmitter subsidiary, VCB Money Inc., Garden Grove, California (“VCB Money”).³

Vietcombank’s largest shareholder is the government of Vietnam through the State Bank of Vietnam (“SBV”), the central bank of Vietnam, which currently owns approximately 77 percent of the bank’s voting shares. The second largest shareholder, with 15 percent of Vietcombank’s voting shares, is Mizuho Bank, Ltd., Tokyo, Japan. The remaining shares of Vietcombank are widely held.

The New York Representative Office would act as a liaison with U.S. clients and prospective clients of Vietcombank. The New York Representative Office also would engage in other representational activities, such as providing analysis of the banking sector and financial services market, acting as a liaison with correspondent banks in the United States, and participating in business symposiums and conferences.⁴

Under the IBA and Regulation K, in acting on an application by a foreign bank to establish a representative office, the Board must consider whether (1) the foreign bank has furnished to the Board the information it needs to assess the application adequately, (2) the foreign bank and any foreign bank parent engage directly in the business of banking outside the United States, and (3) the foreign bank and any foreign bank parent are subject to comprehensive supervision on a consolidated basis by their

³ VCB Money is a subsidiary of Vietcombank and was first licensed as a money transmitter in California in 2011. VCB Money provides outbound money transmission services to U.S. residents seeking to send money to Vietnam. VCB Money currently is licensed as a money transmitter in seventeen additional states, and provides services through its own offices and a network of authorized agents in the U.S.

⁴ A representative office may engage in representational and administrative functions in connection with the banking activities of a foreign bank, including soliciting new business for the foreign bank, conducting research, acting as a liaison between the foreign bank’s head office and customers in the United States, performing preliminary and servicing steps in connection with lending and performing back-office functions. A representative office may not contract for any deposit or deposit-like liability, lend money, or engage in any other banking activity. 12 CFR 211.24(d)(1).

home country supervisor.⁵ The Board also considers additional standards set forth in the IBA and Regulation K.⁶

In the case of an application to establish a representative office, the Board has by rule determined that the supervision standard may be met if the Board determines that the applicant bank is subject to a supervisory framework that is consistent with the activities of the proposed office, taking into account the nature of such activities and the operating record of the applicant bank.⁷ This is a lesser standard than the comprehensive,

⁵ 12 U.S.C. § 3107(a)(2); 12 CFR 211.24(d)(2). In assessing the supervision standard, the Board considers, among other indicia of comprehensive, consolidated supervision, the extent to which 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 and relationships 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; and (v) evaluate prudential standards, such as capital adequacy and risk asset exposure, on a worldwide basis. No single factor is essential, and other elements may inform the Board's determination.

⁶ See 12 U.S.C. § 3105(d)(3)–(4); 12 CFR 211.24(c)(2). These standards include the following: whether the bank's home country supervisor has consented to the establishment of the office; the financial and managerial resources of the bank; whether the bank has procedures to combat money laundering, whether there is a legal regime in place in the home country to address money laundering, and whether the home country is participating in multilateral efforts to combat money laundering; whether the appropriate supervisors in the home country may share information on the bank's operations with the Board; whether the bank and its U.S. affiliates are in compliance with U.S. law; the needs of the community; and the bank's record of operation. The Board may also, in the case of a foreign bank that presents a risk to the stability of the United States, take into account, to the extent appropriate, whether the home country of the foreign bank has adopted, or is making demonstrable progress towards adopting, an appropriate system of financial regulation for the financial system of such home country to mitigate such risk. 12 U.S.C. § 3105(d)(3)(E).

⁷ See 12 CFR 211.24(d)(2). In adopting the regulations governing applications to establish representative offices, the Board noted that “[a] lesser standard applies because representative offices do not conduct a banking business, such as taking deposits or making loans, and therefore present less risk to U.S. customers than do branches or agencies.” 66 Fed. Reg. 54346, 54365 (October 26, 2001).

consolidated supervision standard applicable to applications to establish branch or agency offices of a foreign bank. The Board considers the lesser standard sufficient for approval of representative office applications because representative offices may not engage in banking activities. This application has been considered under the lesser standard.

In connection with this application, Vietcombank has provided certain commitments that limit the activities of the New York Representative Office. In particular, Vietcombank has committed that the New York Representative Office would not solicit deposits, make credit decisions or any other decisions that bind Vietcombank (except for local administrative matters), or engage in activities related to securities trading, foreign exchange, or money transmission. The New York Representative Office also would not share office space or premises with VCB Money. The New York Representative Office would engage only in the activities described in its application to the Board.

As noted above, Vietcombank engages directly in the business of banking outside the United States. Vietcombank has provided the Board with the information necessary to assess the application, through submissions that address the relevant issues. With respect to supervision by home country authorities, the Board has considered that Vietcombank is supervised by the SBV.

The SBV serves as the chief supervisory authority over the banking and financial sector in Vietnam, conducts monetary policy, and issues national currency. The SBV applies a risk-based supervisory approach with a focus on credit, liquidity, market, and operational risks. The SBV supervises banking organizations through a combination of off-site monitoring and on-site examinations that focus on compliance with applicable laws and regulations, including anti-money-laundering rules, corporate governance, audit, internal controls, risk management, and financial condition, including asset quality, capital, liquidity, and profitability. The SBV conducts off-site monitoring of Vietcombank through the review of a set of periodic reports on the bank's consolidated operations, including its branches, subsidiaries, and affiliates, both domestic and foreign. Vietcombank is required to provide annual audited financial statements to the SBV.

Vietnam is expected to fully transition to International Financial Reporting Standards in the next few years.

Vietnam was the subject of a 2014 Financial Sector Assessment Program (“FSAP”) review that revealed weaknesses in bank supervision in Vietnam, including low quality financial data, low compliance with Basel Core Principles, infrequent SBV on-site inspections, and conflicting roles of the SBV. Vietcombank has indicated that the SBV and the Government of Vietnam have taken significant steps to address the deficiencies revealed in the FSAP report. These include the issuance of new regulations to improve the quality of financial data, as well as participation in a joint Vietnam-Canada initiative to transition Vietnam’s regulatory and supervisory regime to international standards. To address its independence, the SBV issued a new regulation in February 2017 on the functions, powers, duties, and structure of the SBV.

Based on all the facts of record, including the commitments provided by Vietcombank limiting the activities of the New York Representative Office, it has been determined that Vietcombank is subject to a supervisory framework that is consistent with the current and proposed activities of the New York Representative Office, taking into account the nature of such activities.

The Board also has considered the following additional standards set forth in the IBA and Regulation K: (1) whether the bank has procedures to combat money laundering, whether there is a legal regime in place in the home country to address money laundering, and whether the home country is participating in multilateral efforts to combat money laundering; (2) the financial and managerial resources of the bank; (3) whether the appropriate supervisors in the home country may share information on the bank’s operations with the Board; and (4) whether the bank’s home country supervisor has consented to the establishment of the office.⁸

Vietnam is a member of the Asia/Pacific Group (“APG”) on money laundering and subscribes to its recommendations on measures to combat money

⁸ See 12 U.S.C. § 3105(d)(3)–(4); 12 CFR 211.24(c)(2).

laundering and international terrorism. In accordance with those recommendations, Vietnam has created legislative and regulatory standards to deter money laundering, terrorist financing, and other illicit activities. Money laundering is a criminal offence in Vietnam, and financial institutions are required to establish internal policies, procedures, and systems for the detection and prevention of money laundering. The SBV enforces these requirements with respect to Vietnamese banks, including Vietcombank. Vietcombank has policies and procedures to comply with these laws and regulations, which are monitored by government entities responsible for anti-money-laundering compliance.

Vietcombank appears to have the experience and capacity to support the New York Representative Office. In addition, Vietcombank has established controls and procedures for the New York Representative Office to ensure compliance with U.S. law, as well as controls and procedures for its worldwide operations generally. Taking into consideration Vietcombank's record of operations in its home country, its overall financial resources, and its standing with its home country supervisors, financial and managerial factors are consistent with approval of Vietcombank's application to establish the New York Representative Office.

Vietcombank has committed to make available to the Board such information on the operations of Vietcombank 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,⁹ and other applicable federal law. To the extent that providing such information to the Board may be prohibited by law or otherwise, Vietcombank has committed to cooperate with the Board to obtain any necessary consents or waivers that might be required from third parties for the disclosure of such information. In addition, subject to certain conditions, the SBV may share information on Vietcombank's operations with other supervisors, including the Board. In light of these commitments and other facts of record, and subject to the condition described

⁹ 12 U.S.C. § 1841 et seq.

below, it has been determined that Vietcombank has provided adequate assurances of access to any necessary information that the Board may request. In addition, the SBV has no objection to the establishment of the New York Representative Office.

The Board has also considered whether Vietcombank's proposal would present a risk to the stability of the United States. The proposal would not appear to affect financial stability in the United States. In particular, the absolute and relative size of Vietcombank in its home country; the scope of Vietcombank's activities, including the types of activities it proposes to conduct in the United States and the potential for those activities to increase or transmit financial instability; and the framework in place for supervising Vietcombank in its home country do not appear to create significant risk to the financial stability of the United States. Based on these and other factors, financial stability considerations in this proposal are consistent with approval.

On the basis of all the facts of record and subject to commitments made by Vietcombank, Vietcombank's application to establish the New York Representative Office is hereby approved by the Director of the Division of Supervision and Regulation, with the concurrence of the General Counsel, pursuant to authority delegated by the Board.¹⁰ Should any restrictions on access to information on the operations or activities of Vietcombank and its affiliates subsequently interfere with the Board's ability to obtain information to determine and enforce compliance by Vietcombank or its affiliates with applicable federal statutes, the Board may require termination of any of Vietcombank's direct or indirect activities in the United States. Approval of this application also is specifically conditioned on compliance by Vietcombank with the conditions imposed in this order and the commitments made to the Board in connection with this application.¹¹

¹⁰ 12 CFR 265.7(d)(12).

¹¹ The Board's authority to approve the establishment of the New York Representative Office 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 or its agent, the New York State Department of Financial Services, to license the New York Representative Office in accordance with any terms or conditions that they may impose.

For purposes of this action, these commitments and conditions are deemed to be conditions imposed by the Board in writing in connection with this decision and, as such, may be enforced in proceedings under applicable law.

By order, approved pursuant to authority delegated by the Board, effective
October 26, 2018.

Ann E. Misback (Signed)

Ann E. Misback,
Secretary of the Board