To amend title 29 of the Code of the Federated States of Micronesia by modifying sections 402, 404 and 405, to set a separate treatment over application of foreign banks seeking to establish a new branch in the FSM as opposed to first-time applications for issuance of a license; modifying section 612 to alter the loan exposure ceiling imposed on banks; and to change section 613 in order to increase the limit that a bank may loan to its officer, director, agent, employee and/or related person; and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

   Section 1. Section 402 of title 29 of the Code of the Federated States of Micronesia, as amended by Public Law No. 12-57, is hereby further amended to read as follows:

   "Section 402. Establishment – Application for permit required.

   (1) No foreign bank may open any branch or office or change the location of any branch or office in the Federated States of Micronesia without a permit to do so from the Banking Board.

   (2) An application to the Banking Board for such permit shall state the benefit to the public expected to result from the granting of the permit applied for.

   (3) The Banking Board, upon receipt of such application, may require the submittal of such additional information as may be necessary in order for it to make the necessary investigations.
(4) An application by a foreign bank to open a new branch in the FSM must be accompanied by written confirmation from the supervisory authority in the applicants’ country of incorporation, that the supervisory authority has no objection to the proposal to establish the branch in the FSM, and that the foreign bank is subject to consolidated supervision and regulation in its country of incorporation.

(5) A foreign bank already licensed under this chapter seeking to establish a new branch in the Federated States of Micronesia needs only to comply with the provision of subsection 4 of this section. The Banking Board may require the foreign bank to submit such additional information as may be deemed necessary."

Section 2. Section 404 of title 29 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 9-130 and 12-57, is hereby further amended to read as follows:

“Section 404. Applicant for permit - Issuance by Board.

(1) The Banking Board may issue the permit applied for if, in its judgment, the results of the investigations are satisfactory; PROVIDED that, in no event shall the Banking Board issue a permit until the applicant provides incontrovertible evidence that the applicant has and will maintain continuing insurance or other deposit protection at least equivalent to that offered
by a bank which is a member of the Federal Deposit Insurance Corporation of the United States. Any permit may be granted subject to such conditions as the Banking Board, in its discretion, deems necessary to protect the interests of the people of the Federated States of Micronesia. The decision of the Banking Board shall be final. All expenses incurred by the Banking Board in connection with such investigations shall be paid by the applicant in conformity with regulations which the Banking Board may make.

(2) An application by a licensed foreign bank to open another branch in a state in the Federated States of Micronesia shall be governed, not by this section, but by subsection 5 of section 402 of title 29."

Section 3. Section 405 of title 29 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 405. Issuance of permit – Transmittal to Registrar of Corporation.

Upon the issuance of a permit to an applicant under this chapter, the Banking Board shall forthwith transmit a certified copy thereof to the Registrar of Corporations who shall file it along with such other documents submitted to him."
Section 4. Section 612 of title 29 of the Code of the Federated States of Micronesia, as amended by Public Law No. 12-57, is hereby further amended to read as follows:

"Section 612. Limitation on loans – Maximum amounts.

(1) No domestic bank shall permit a person to become indebted or liable to it, either directly or indirectly, in an amount in excess of twenty percent of the aggregate paid-in and unimpaired capital, surplus, and undivided profits of the bank; provided, however, that this subsection shall not apply to:

(a) transactions entered into with another bank which is a member of the Federal Deposit Insurance Corporation of the United States, and for which quarterly reports of condition are monitored; or

(b) holdings of securities issued by, or loans and securities explicitly guaranteed by, the government of the United States of America; or

(c) indebtedness or liabilities to the extent that they are secured by a deposit held with the bank which cannot be withdrawn without the approval of the bank.

(2) Notwithstanding subsection 1 hereof, the Banking Board may, in writing, set specific limits on the indebtedness or liabilities to a bank of particular
counterparties or groups of counterparties on a case-by-case basis.

In computing the total liabilities, direct or indirect, of any person to a bank, there shall be included all liabilities to the bank of any related person and any loans made for his benefit or for the benefit of any related person.

In computing the total liabilities of any firm, copartnership, or unincorporated association to the bank, there shall be included all liabilities of its individual members and all loans made for the benefit of the co-partnership or unincorporated association or any members thereof.

In computing the total liabilities of any corporation to a bank there shall be included all liabilities of and all loans made for the benefit of the corporation and its majority owned subsidiaries."

Section 5. Section 613 of title 29 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 12-57 and 13-56, is hereby further amended to read as follows:

"Section 613. Limitations on loans — Related persons.

(1) Except as herein provided, no domestic bank shall make any extension of credit to any of its officers, directors, agents, or employees, or to any related
person, either directly or indirectly, except upon the written application of such person or related person stating the line of credit applied for, terms and security, if any, offered therefore to the board of directors or to the loan or executive committee of the board, and then only with the written approval of a majority of the board or majority of the loan committee of the bank (excluding the person seeking the credit) before the loan is made; and the approval of the loan as allowed by the board or the loan committee of the bank shall be made part of the minutes of the next directors’ meeting of the bank.

(2) Loans may be made to any officer, director, agent, employee, or shareholder of any domestic bank or any related person, without such application and approval, in amounts not in excess of $[5,000] 25,000 in aggregate principal owing by any such individual and related person at any one time."

Section 6. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 5/12/09  
Introduced by: /s/ Joe N. Suka
Joe N. Suka  
(by request)