

PALAU FINANCIAL SERVICES AUTHORITY

ADMINISTRATIVE REGULATION
PFSA-AR-03

QUALIFICATIONS FOR RECEIVERS

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PART I: PRELIMINARY

- 1: **Short Title** – Receiver qualifications.
- 2: **Authorization** – The Financial Services Authority (the Commission) of the Republic of Palau (Palau) is authorized to promulgate regulations under Sections 12 and 80 of the Financial Institutions Act of 2001 (the Act) as amended. In addition, Section 65 of the Act provides that the Commission establish by regulation the qualifications of persons appointed as a receiver of a bank in Palau.
- 3: **Application** – This regulation applies to all persons, natural or legal, who are or may be appointed as a receiver for a bank operating in Palau.
- 4: **Definitions** – Terms used within this regulation are as defined in the Act, as defined within this regulation, or as reasonably implied by contextual usage.

PART II: STATEMENT OF POLICY

- 1: **Purpose** – This regulation is intended to assure that a person who is or may be appointed as a receiver of a bank is properly qualified to perform the duties and functions thereof as provided in the Act and in accordance with applicable laws in Palau.
- 2: **Scope** – This regulation applies to all persons who are, or who may be, appointed by the Commission as a receiver of a bank in Palau.
- 3: **Responsibility** – It is the responsibility of the Governing Board of the Commission to ensure that each person who is, or is proposed as, a receiver of a bank operating in Palau is properly qualified in respect of the criteria set forth in this regulation. In addition, it is the responsibility of each person who is, or who intends to be, appointed as a receiver of a bank in Palau complies with this regulation.

PART III: IMPLEMENTATION AND SPECIFIC REQUIREMENTS

- 1: **Qualifications** – a person who is, or is to be appointed as, a receiver of a bank operating in Palau shall satisfy, as determined by the Commission, the following qualifications:
 - (a) **Fit and proper**: a natural person must be a fit and proper person as defined by regulation issued by the Commission.
 - (b) **Experience**: a natural person must have appropriate professional qualifications and experience in respect of the assets, liabilities and operations of a bank which, in the opinion of the Commission, are sufficient for the person to fulfill the duties and functions of the proposed receivership. In making its determination, the Commission will consider academic and professional qualifications, experience as a manager or liquidator of a bank or financial institution, and any other relevant information which is available.

(c) Conflicts of interest: no person may be appointed as or continue to be a receiver of a bank if such person has, or may be seen to have, personal interests which impair or could impair his ability to exercise independent and impartial judgment, or which are or could result in a breach of his fiduciary duty by placing personal pecuniary interests ahead of the interests of the receivership.

- 2: **Legal persons** – a company, partnership, association or any group of persons acting in concert may be appointed as receiver of a bank in Palau provided that all natural persons who comprise the legal entity and who will be participating directly or indirectly in the activities of the receivership must satisfy the qualifications in paragraph 1 above.
- 3: **Notification** – a person, whether natural or legal, who is or intends to become a receiver of a bank in Palau shall immediately notify the Commission in writing if he fails to meet the qualifications set forth in this regulation and the Commission shall immediately upon receiving such notification suspend that person as receiver and decide on an appropriate course of action for the circumstances. If a person is unsure whether the qualifications for a receiver have been satisfied, such person shall promptly notify the Commission in writing of the circumstances and the Commission shall determine if the person complies with the qualification and notify the person accordingly. In either case, the decisions of the Commission shall be final and binding on the person.

PART IV: EFFECTIVE DATE

- 1: **Effective date** – The effective date of this regulation shall be 1st September 2008.

Questions relating to this regulation may be addressed to the Financial Services Authority of the Republic of Palau.

Adopted _____, 2008

**Governing Board
Financial Services Authority
Republic of Palau**

Adopted _____, 2008

**Honorable President
Tommy E. Remengesau, Jr.**