

TITLE 4: ECONOMIC RESOURCES
DIVISION 6: BANKING AND FINANCIAL INSTITUTIONS

§ 6103. Definitions.

As used in this division unless the context clearly requires otherwise:

(a) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, setoff, suit in equity and any other proceedings in which rights are determined.

(b) "Bank" means any person doing a banking business, whether subject to the laws of the Commonwealth or the laws of any other jurisdiction. Bank includes offshore, retail, state, national, foreign, Micronesian and Commonwealth banks but does not include the Development Bank of the Commonwealth government.

(c) "Banking business" means engaging for profit, but not on an occasional, incidental or fiduciary basis, in the activity of accepting deposits, making secured or unsecured loans, extending credit on the credit of the extender, issuing credit instruments, purchasing and selling credit instruments, commercial paper, securities, coin, currency, and bullion, and generally dealing in finance on behalf of the business or of others, singularly or in conjunction with other financial institutions. Banking business does not include limited purpose brokers in money, security or credit, factors, and numismatic dealers, but none of such excepted enterprises may accept deposits on their own credit as defined herein.

(d) "Commonwealth bank" means any bank chartered by the Commonwealth.

(e) "Department" means the Department of Commerce and Labor.

(f) "Director" means the Director of Commerce and Labor or his or her authorized designee, unless the context indicates that "director" means the director of a bank.

(g) "Executive officer," when referring to a bank, means any person designated as such in the bylaws and includes, whether or not to designated, the president, any vice-president, the treasurer, the cashier, the comptroller and the secretary, or any person who performs the duties appropriate to those offices.

(h) "Fiduciary" means trustee, agent, executor, administrator, committee, guardian or conservator for a minor or other incompetent person, receiver, trustee in bankruptcy, assignee for creditors or any holder of a similar position of trust.

(i) "Foreign bank" means a bank organized under the laws of a foreign state.

(j) "Foreign state" means any foreign government or any governmental organization or subdivision of a foreign government or any agency or instrumentality thereof.

(k) "Good faith" means honesty in fact in the transaction and some reasonable ground for belief that the transaction is rightful or authorized.

(l) "Item" means any instrument for the payment of money even though negotiable, but does not include money.

(m) "License," unless specifically qualified, means the general license required of all Commonwealth, state, national, Micronesian or foreign banks by this division as a prerequisite of engaging in any banking business in the Commonwealth.

(n) "Licensee" means any person holding a license under this division.

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(o) “Micronesian bank” means any bank chartered under the banking laws of the Marshall Islands, Federated States of Micronesia, or Palau; provided, that such bank is owned 51 percent or more by residents of the Commonwealth, Marshall Islands, Federated States of Micronesia, or Palau.

(p) “National bank” means any bank chartered under the banking laws of the United States.

(q) “Officer” when referring to a bank, means any person designated as such in the bylaws and includes, whether or not so designated, any executive officer, the chairman of the board of directors, the chairman of the executive committee, and any trust officer, assistant vice-president, assistant treasurer, assistant cashier, assistant comptroller, or any person who performs the duties appropriate to those offices.

(r) “Offshore bank” or “Offshore banking corporation” means an entity incorporated in the Commonwealth whose purpose and activities are limited to:

(1) Negotiating, making and extending loans to borrowers who are not residents or citizens of the Commonwealth; and/or

(2) Borrowing from lenders who are not residents or citizens of the Commonwealth.

(s) “Offshore bank license” means a license granted under 4 CMC § 6601.

(t) “Person” means an individual, corporation, partnership, joint venture, trust, estate, unincorporated association, or other group or combination acting as a unit.

(u) “Reason to know” means that upon the information available a person of ordinary intelligence in the particular business, or of the superior intelligence or experience which the person in question may have, would infer that the fact in question exists or that there is such a substantial chance of its existence that, if exercising reasonable care with reference to the matter in question, conduct would be predicated upon the assumption of its possible existence.

(v) “Retail bank” means any bank authorized pursuant to this division to accept or hold deposits from persons domiciled in, or formed pursuant to laws of, the Commonwealth.

(w) “Special license” means retail and other such special licenses that may be required in addition to a general license.

(x) “State bank” means any bank chartered under the banking laws of one of the states of the United States or one of the territories of the United States.

Source: PL 3-104, § 102.

Commission Comment: With respect to the references to the “Department of Commerce and Labor” and the “Director of Commerce and Labor,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.