

taking into consideration eBANK's record of operations in its home country, its overall financial resources, and its standing with its home country supervisor, financial and managerial factors are consistent with approval of the proposed representative office. eBANK appears to have the experience and capacity to support the proposed representative office and has established controls and procedures for the proposed representative office to ensure compliance with U.S. law and for its operations in general. The FSA has no objection to the establishment of the proposed representative office.

Japan is a member of the Financial Action Task Force ("FATF") and subscribes to the FATF's recommendations on measures to combat money laundering. In accordance with those recommendations, Japan has enacted laws and developed regulatory standards to deter money laundering. Money laundering is a criminal offense in Japan, and Japanese financial institutions are required to establish internal policies, procedures, and systems for the detection and prevention of money laundering throughout their worldwide operations. The 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 eBANK's operations, the Board has reviewed restrictions on disclosure in the relevant jurisdictions in which eBANK operates and has communicated with relevant government authorities regarding access to information. eBANK has committed to make available to the Board such information on its operations 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, eBANK has 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 eBANK has 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 eBANK and the terms and conditions set forth in this order, eBANK's application to establish the representative office is hereby approved by the Director of the Division of Banking Supervision and Regulation, with the concurrence of the General Counsel, acting pursuant to authority delegated by the Board.<sup>8</sup> Should any restrictions on access to information on the operations or activities of eBANK or any of its affiliates subsequently interfere with the Board's ability to obtain information to determine and enforce compliance by eBANK or its affiliates with applicable federal statutes, the Board may require or recommend termination of any of

eBANK's direct and indirect activities in the United States. Approval of this application also is specifically conditioned on compliance by eBANK with the commitments made in connection with this application and with the conditions in this order.<sup>9</sup> The 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 applicable law.

By order, approved pursuant to authority delegated by the Board, effective January 16, 2008.

ROBERT DEV. FRIERSON  
*Deputy Secretary of the Board*

## *State Bank of India Mumbai, India*

### Order Approving Establishment of a Branch

State Bank of India ("Bank"), Mumbai, India, a foreign bank within the meaning of the International Banking Act ("IBA"), has applied under section 7(d) of the IBA<sup>1</sup> to establish a branch in Jackson Heights, New York. The Foreign Bank Supervision Enhancement Act of 1991 ("FBSEA"), which amended the IBA, provides that a foreign bank must obtain the approval of the Board to establish a branch 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 Jackson Heights, New York (*The New York Times*, August 5, 2005). The time for filing comments has expired, and the Board has considered all comments received.

Bank, with total assets of approximately \$187.5 billion, is the largest bank in India.<sup>2</sup> The government of India owns approximately 63.8 percent of Bank's shares.<sup>3</sup> No other shareholder owns directly more than 5 percent of Bank's shares.

Bank engages primarily in corporate and retail banking and trade finance but also provides through its subsidiaries life insurance, merchant banking, brokerage, credit card processing, and credit information services in India. Outside India, Bank maintains offices in 32 countries. In the

9. The Board's authority to approve the establishment of the proposed representative office parallels the continuing authority of California to license offices of a foreign bank. The Board's approval of this application does not supplant the authority of the California Department of Financial Institutions to license the proposed representative office of eBANK in accordance with any terms or conditions that it may impose.

1. 12 U.S.C. § 3105(d).

2. Asset data are as of March 31, 2007. Ranking data are as of June 30, 2006.

3. In June 2007, the government of India purchased 59.7 percent of Bank's shares from the Reserve Bank of India ("RBI") for approximately \$8.7 billion. An additional 4.1 percent of Bank's shares are owned by the government of India through the Life Insurance Corporation of India, a government-owned insurance company.

8. See 12 CFR 265.7(d)(12).

United States, Bank operates insured branches in New York, New York, and Chicago, Illinois; an agency in Los Angeles, California; and a representative office in Washington, D.C. Bank also operates a wholly owned subsidiary, State Bank of India (California), also in Los Angeles.<sup>4</sup> Bank is a qualifying foreign banking organization under Regulation K.<sup>5</sup>

The proposed Jackson Heights branch would offer a range of banking products and services, including permissible deposit accounts and small business loans, as well as remittance, investment advisory, and trade-related services.<sup>6</sup>

Under the IBA and Regulation K, in acting on an application by a foreign bank to establish a branch, the Board must consider whether (1) the foreign bank engages directly in the business of banking outside the United States; (2) has furnished to the Board the information it needs to assess the application adequately; and (3) is subject to comprehensive supervision on a consolidated basis by its home-country supervisors.<sup>7</sup> The Board also considers additional standards as set forth in the IBA and Regulation K.<sup>8</sup>

The IBA includes a limited exception to the general standard relating to comprehensive, consolidated supervision.<sup>9</sup> This exception provides that, if the Board is unable to find that a foreign bank seeking to establish a branch, agency, or commercial lending company is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country, the Board may nevertheless approve the application, provided that (i) the appropriate authorities in the home country of the foreign bank are actively working to establish arrangements for the consolidated supervision of such bank; and (ii) all other factors are consistent with approval.<sup>10</sup> In deciding whether to exercise its discretion to approve an application under authority of this exception, the Board must also consider whether the foreign bank has adopted and implemented procedures to combat money launder-

ing.<sup>11</sup> The Board also may take into account whether the home country of the foreign bank is developing a legal regime to address money laundering or is participating in multilateral efforts to combat money laundering.<sup>12</sup> This is the standard applied by the Board in this case.

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.

Based on all the facts of record, the Board has determined that Bank's home-country supervisory authority is actively working to establish arrangements for the consolidated supervision of Bank and that considerations relating to the steps taken by Bank and its home jurisdiction to combat money laundering are consistent with approval under this standard.<sup>13</sup> The RBI is the principal supervisory authority of Bank, including its foreign subsidiaries and affiliates. The RBI has the authority to license banks, regulate their activities and approve expansion, both domestically and abroad. It supervises and regulates Bank through a combination of regular on-site reviews and off-site monitoring. On-site examinations cover the major areas of operation, capital adequacy, management (including risk-management strategies), asset quality (including detailed loan portfolio analysis), earnings, liquidity, and internal controls and procedures (including anti-money-laundering controls and procedures). The frequency of on-site examinations depends on a bank's risk profile, but generally all Indian banks, including Bank, are examined at least annually.

Off-site monitoring is conducted through the review of required quarterly or monthly reports on, among other things, asset quality, earnings, liquidity, capital adequacy, loans, and on- and off-balance-sheet exposures. The RBI monitors the foreign activities of Indian banks using guidelines designed to ensure that banks identify, control, and minimize risk in the bank and in its joint ventures and subsidiaries. The RBI also periodically audits Indian banks' foreign operations.

Bank is required to be audited annually by a firm of chartered accountants approved by the RBI, and the audit report is submitted to the RBI. The scope of the required audit includes a review of financial statements, asset quality, internal controls, and anti-money-laundering procedures. The RBI may order a special audit at any time. In connection with its listing of Global Depository Receipts on the London Stock Exchange, Bank files reports with the London Stock Exchange that also are subject to annual external audit. In addition, Bank conducts internal audits of its offices and operations on a risk-based schedule. The proposed branch would be subject to internal audits to determine compliance with internal controls and RBI guidelines.

4. Bank's home state under the IBA and Regulation K is New York. All of Bank's operations in the United States were established before enactment of FBSEA.

5. 12 CFR 211.23(a).

6. The proposed branch would not be insured.

7. 12 U.S.C. § 3105(d)(2); 12 CFR 211.24. In assessing this standard, the Board considers, among other indicia of comprehensive, consolidated supervision, 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 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.

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

9. 12 U.S.C. § 3105(d)(6).

10. 12 U.S.C. § 3105(d)(6)(A).

11. 12 U.S.C. § 3105(d)(6)(B).

12. *Id.*

13. The Board recently approved an application by another Indian bank under this standard. See *ICICI Bank Limited*, 94 *Federal Reserve Bulletin* C26 (2008).

Indian laws impose various prudential limitations on banks, including limits on transactions with affiliates and large exposures. The RBI is authorized to request and receive information from any bank and its domestic and foreign affiliates and to impose penalties for failure to comply with a disclosure request or for providing false or misleading information. The RBI also has the authority to impose conditions on licensees and to impose penalties for failure to comply with the RBI's rules, orders, and directions. Penalties include monetary fines, removal of management, and the revocation of the authority to conduct business.

In recent years, the Indian government has enhanced its anti-money-laundering regime. In January 2003, India took initial steps to adopt an anti-money-laundering law, the Prevention of Money Laundering Act. The law, related amendments, and implementing rules (collectively, the "PMLA") became effective in July 2005 and established a regulatory infrastructure to assist the anti-money-laundering effort. In accordance with the PMLA, India has established the Financial Intelligence Unit, India ("FIU-IND"), which reports directly to the Economic Intelligence Council headed by the Finance Minister of India. The FIU-IND is responsible for receiving, processing, analyzing, and disseminating information related to cash and suspicious transaction reports. The Directorate of Enforcement, a department within the Ministry of Finance, is responsible for investigating and prosecuting money laundering cases. In addition, the RBI issued "Know Your Customer (KYC) Guidelines — Anti-Money Laundering Standards" ("Guidelines") in November 2004, which require financial institutions to establish systems for the prevention of money laundering. Indian banks were required to be fully compliant with the Guidelines by December 31, 2005. The RBI issued further guidelines in February 2006 providing clarification on reporting cash and suspicious transactions to the FIU-IND.

India participates in international fora that address the prevention of money laundering and terrorist financing. India is a member of the Asia/Pacific Group on Money Laundering (Financial Action Task Force for the Asia/Pacific region), an observer organization to the Financial Action Task Force ("FATF"), and is actively seeking to join FATF as a member.<sup>14</sup> India is a party to the 1988 U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the U.N. International Convention for the Suppression of the Financing of Terrorism.

Bank has policies and procedures to comply with Indian laws and regulations and the RBI's Guidelines regarding anti-money laundering. Bank has also taken additional steps on its own initiative to combat money laundering and other illegal activities. Bank states that it is committed to implementing the relevant recommendations of the FATF and that it has put in place anti-money-laundering policies and procedures to ensure ongoing compliance with statutory and regulatory requirements, including designating

branch-level and regional officers who are responsible for implementing Bank's anti-money-laundering policies and procedures. Bank's compliance with anti-money-laundering requirements is monitored by the RBI and by Bank's internal and external auditors.

The Board also has taken into account the additional standards set forth in section 7 of the IBA and Regulation K.<sup>15</sup> The RBI has no objection to Bank's establishment of the proposed branch.

The Board has also considered carefully the financial and managerial factors in this case. India'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 Accord and is considered equivalent to capital that would be required of a U.S. banking organization. Managerial and other financial resources of Bank are consistent with approval, and Bank appears to have the experience and capacity to support the proposed branch. In addition, Bank has established controls and procedures for the proposed branch to ensure compliance with U.S. law.

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 has 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 has 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, the Board has determined that Bank has provided adequate assurances of access to any necessary information that it may request.

On the basis of all the facts of record, and subject to the commitments made by Bank, as well as the terms and conditions set forth in this order, Bank's application to establish a branch in Jackson Heights, New York, is hereby approved. 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

14. India became an observer to FATF in February 2007.

15. See 12 U.S.C. § 3105(d)(3)-(4); 12 CFR 211.24(c)(2). The additional standards set forth in section 7 of the IBA and Regulation K 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 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; the bank's record of operation.

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.<sup>16</sup> The commit-

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16. The Board's authority to approve the establishment of the proposed branch 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 Banking Department ("Department"), to license the proposed office of Bank in accordance with any terms or conditions that the Department may impose.

ments 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 of the Board of Governors, effective January 25, 2008.

Voting for this action: Chairman Bernanke, Vice Chairman Kohn, and Governors Warsh, Kroszner, and Mishkin.

ROBERT DEV. FRIERSON  
*Deputy Secretary of the Board*

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