

EXECUTIVE ORDER NO. 178
[repealed by Executive Order 187]
*Establishing the Office, Functions, Powers
and Duties of the National Bank Commissioner*

WHEREAS, Article VIII, Section 7, of the Constitution of the Republic of Palau mandates that the President enforce the law of the land; and

WHEREAS, Section 110 of Title 2 of the Palau National Code declares that the President may by executive order establish offices and agencies within the Executive branch and prescribe their duties, responsibilities and functions to assist the President, Vice President and ministers in the performance of their duties, responsibilities and functions; and

WHEREAS, legislation will soon be introduced to allow for effective monitoring and control of the banking industry in the Republic of Palau;

WHEREAS, there is a substantial need for centralized supervision, regulation, and policing of the banking industry in the Republic of Palau in order to implement legislation for the effective monitoring and control of that industry and to prevent the use of financial institutions as conduits and tools for illicit or illegal activities

NOW, THEREFORE, by the powers vested in me by the Constitution and the laws of the Republic of Palau, I hereby order as follows:

1. There is hereby created the office of “Bank Commissioner of the Republic of Palau” hereinafter “Commissioner”).
2. The Commissioner shall be appointed by and serve at the will of the President.
3. The Commissioner shall be deemed a public official for purposes of the Palau Code of Ethics Act and shall be subject to all provisions thereof, as well as regulations promulgated thereunder, including, but not limited to, those provisions regarding conflicts of interest.
4. The Commissioner shall have the following powers, duties, and authority, in addition to any other powers which may from time to time be delegated to the Bank Commissioner by executive or legislative actions:
 - a. To promulgate regulations pursuant to the Administrative Procedure Act (including its provisions regarding waiver of normal procedural requirements) concerning any and all aspects (other than taxation) of the banking industry and/or the offering or providing of financial services for profit in the Republic of Palau;
 - b. To establish procedures, protocols, and mechanisms for

implementation and/or enforcement of regulations promulgated by the Commissioner;

- c. To establish guidelines and forms for use by entities offering or providing financial services for profit in the Republic of Palau and to offer informal guidance and education to such entities regarding their obligations under legislation and/or regulations concerning their operations;
- d. To bring civil actions to compel compliance with any laws or regulations concerning the banking industry and/or the offering or providing of financial services for profit in the Republic of Palau;
- e. To make recommendations to and cooperate with the Attorney General concerning any criminal actions to compel compliance, and penalize non-compliance, with any laws or regulations concerning the banking industry and/or the offering or providing of financial services for profit in the Republic of Palau;
- f. To initiate investigations into possible violations of any laws or regulations concerning the banking industry and/or the offering or providing of financial services for profit in the Republic of Palau;
- g. To receive and investigate reports of possible violations of any laws or regulations concerning the banking industry and/or the offering or providing of financial services for profit in the Republic of Palau;
- h. To cooperate with international organizations and appropriate bodies of other jurisdictions in the detection, prevention, prosecution, termination, and cure of illicit and/or illegal operations of entities (including, but not limited to, banks) offering or providing financial services for profit, whether or not such offer or provision of financial services occurs in the Republic of Palau;
- i. To seek the assistance of international organizations and appropriate bodies of other jurisdictions in the detection, prevention, prosecution, termination, and cure of illicit and/or illegal operations of entities (including, but not limited to, banks) offering or providing financial services for profit in the Republic of Palau;
- j. To seek the assistance of international organizations and appropriate bodies of other jurisdictions in the detection, prevention, prosecution, termination, and cure of illicit and/or

illegal operations of entities (including, but not limited to, banks) falsely claiming to be chartered, licensed, or in any way authorized by the Republic of Palau to offer or provide financial services in any jurisdiction;

- k. To consult with the Attorney General and Registrar of Corporations regarding appropriate standards and procedures for the processing, grant and/or denial of applications by private entities for authorization from the Republic of Palau to offer or provide financial services for profit and, with the Attorney General and Registrar of Corporations, to promulgate regulations incorporating such standards and procedures;
- l. To hire from time to time such clerical and professional staff as may be needed to perform the tasks and duties assigned to the Commissioner, which staff shall serve at the discretion and will of the Commissioner;
- m. To delegate any powers, tasks, and/or duties of the Commissioner to such staff as the Commissioner may employ;
- n. To conduct and/or direct audits and investigations of any entities offering or providing or claiming to offer or provide financial services for profit in the Republic of Palau;
- o. To conduct and/or direct investigations of any claims by any entity regarding such entity's ability to obtain, either for itself or for others, a charter, license, permit, or authorization of any type from the Republic of Palau to offer or provide financial services for profit; and
- p. To regularly advise the President and other appropriate bodies of the Executive Branch regarding issues of concern in connection with banking and/or the offer or provision of financial services for profit in the Republic of Palau;
- q. To prepare and present to the President, for the President's consideration and possible introduction in the Olbiil Era Kelulau, legislation to improve and further legitimize the banking industry in the Republic of Palau; and
- r. To take such other and further actions, independently and in conjunction with appropriate bodies of the Executive Branch, as are necessary and appropriate to achieve the objectives of effective regulation, monitoring and control over the banking industry and

the provision of financial services in Palau.

The powers described in a., b., and c., *supra*, shall be exclusive to the Commissioner (although subject to delegation by the Commissioner to members of the Commissioner's staff). With the exception of a., b., and c., *supra*, the enumerated powers of this paragraph 4 shall not be exclusive. Nothing in this Order shall be deemed to be in derogation of the authority of any other Executive Branch entity.

5. In addition to the responsibilities described in paragraph 4, *supra*, the first Commissioner shall, within 120 days of appointment by the President, develop and deliver to the Olbiil Era Kelulau proposed schedules of fees and charges to be paid by: (a) an entity seeking approval of an application for a charter, license, permit, or authorization in any form to engage in banking operations and/or to offer or provide financial services pursuant to legislation or regulations regarding the issuance of such charter, license, permit, etc.; and (b) an approved entity for issuance of a charter, license, permit, or authorization in any form to engage in banking operations and/or to offer or provide financial services pursuant to legislation or regulations regarding banking operations and/or the offer or provision of financial services.

6. In addition to the responsibilities described in paragraph 4, *supra*, the first Commissioner shall, within 120 days of appointment by the President, promulgate regulations concerning auditing of banks and reporting requirements imposed on banks.

SO ORDERED THIS 20th DAY OF JULY, 2000.

Kuniwo Nakamura
President of the Republic of Palau