

# FEDERAL RESERVE SYSTEM

Eurohypo Aktiengesellschaft  
Frankfurt, Germany

## Order Approving Establishment of a Branch and Representative Offices

Eurohypo Aktiengesellschaft (“Bank”), Frankfurt, Germany, a foreign bank within the meaning of the International Banking Act (“IBA”), has applied under sections 7(d) and 10(a) of the IBA (respectively, 12 U.S.C. §§ 3105(d) and 3107(a)) to establish a branch in New York, New York, and representative offices in Chicago, Illinois, and Los Angeles, California. The Foreign Bank Supervision Enhancement Act of 1991, which amended the IBA, provides that a foreign bank must obtain the approval of the Board to establish a branch or representative office in the United States.

Notice of the application, affording interested persons an opportunity to submit comments, has been published in newspapers of general circulation in New York, New York (*New York Times*, July 1, 2002); Chicago, Illinois (*Chicago Tribune*, July 1, 2002); and Los Angeles, California (*Los Angeles Times*, July 1, 2002). The time for filing comments has expired, and all comments have been considered.

Bank, with total consolidated assets of approximately \$242 billion,<sup>1</sup> is the largest mortgage bank and the ninth largest bank in Germany.<sup>2</sup> Bank primarily engages in real estate and public sector financing activities. It also offers a range of commercial banking services. Bank operates ten offices in

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<sup>1</sup> Unless otherwise indicated, data are as of June 30, 2002.

<sup>2</sup> Bank was formed in mid-2002 through the merger of the German mortgage bank subsidiaries of Deutsche Bank AG, Dresdner Bank AG, and Commerzbank AG, all foreign banks with significant U.S. operations. Deutsche Bank, Dresdner Bank, and Commerzbank respectively own 35.9, 29.1, and 35 percent of Bank’s voting shares.

Germany, as well as offices in other countries in Europe. On establishment of the proposed branch, Bank would be a qualifying foreign banking organization within the meaning of Regulation K (12 C.F.R. 211.23(b)).

The proposed branch would offer a range of real estate finance products and advice. The proposed representative offices would market the products and services of the proposed branch and otherwise support its activities.

In order to approve an application by a foreign bank to establish a branch or representative office in the United States, the IBA and Regulation K require the Board to determine that the foreign bank applicant engages directly in the business of banking outside of the United States, and has furnished to the Board the information it needs to assess the application adequately. The Board also shall take into account whether the foreign bank and any foreign bank parent is subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor (12 U.S.C. §§ 3105(d)(2) & 3107(a)(2); 12 C.F.R. 211.24).<sup>3</sup> The Board may also take into account additional standards as set forth in the IBA and Regulation K (12 U.S.C. § 3105(d)(3)-(4); 12 C.F.R. 211.24(c)(2)-(3)).

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<sup>3</sup> In assessing this standard, the Board considers, among other factors, 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; (v) evaluate prudential standards, such as capital adequacy and risk asset exposure, on a worldwide basis. These are indicia of comprehensive, consolidated supervision. No single factor is essential, and other elements may inform the Board's determination.

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.

With respect to supervision by home country authorities, the Board previously has determined, in connection with applications involving other German banks, including Deutsche Hyp (one of Bank's predecessors), Deutsche Bank, Dresdner Bank, and Commerzbank, that those banks were subject to home country supervision on a consolidated basis.<sup>4</sup> Bank is supervised by the German Financial Supervisory Agency on substantially the same terms and

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<sup>4</sup> See Landesbank Schleswig-Holstein Girozentrale, 88 Federal Reserve Bulletin 399 (2002); Hamburgische Landesbank Girozentrale, 88 Federal Reserve Bulletin 397 (2002); Allgemeine HypothekenBank Rheinboden AG, 88 Federal Reserve Bulletin 196 (2002); DePfa Bank AG, 87 Federal Reserve Bulletin 710 (2001); RHEINHYP Rheinische Hypothekenbank AG, 87 Federal Reserve Bulletin 558 (2001); Deutsche Hyp Deutsche Hypothekenbank, 86 Federal Reserve Bulletin 658 (2000); Deutsche Bank AG, 85 Federal Reserve Bulletin 509 (1999); Westdeutsche ImmobilienBank, 85 Federal Reserve Bulletin 346 (1999); Commerzbank AG, 85 Federal Reserve Bulletin 336 (1999); West Merchant Bank Limited, 81 Federal Reserve Bulletin 519 (1995).

conditions as those other German banks.<sup>5</sup> Based on all the facts of record, it has been determined that Bank is, and Bank's foreign bank parents continue to be, subject to comprehensive supervision and regulation on a consolidated basis by their home country supervisor.

The additional standards set forth in section 7 of the IBA and Regulation K (*see* 12 U.S.C. § 3105(d)(3)-(4); 12 C.F.R. 211.24(c)(2)) have also been taken into account. The German Financial Supervisory Agency has no objection to the establishment of the proposed offices.

Germany'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 Basel Capital Accord and is considered equivalent to capital that would be required of a U.S. banking organization. Managerial and other financial resources of Bank also are considered 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, as well as controls and procedures for its worldwide operations generally.

Germany is a member of the Financial Action Task Force and subscribes to its recommendations regarding measures to combat money laundering. In accordance with these recommendations, Germany has enacted laws and created legislative and regulatory standards to deter money laundering. Money laundering is a criminal offense in Germany, and credit institutions are required to establish internal policies and procedures for the detection and

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<sup>5</sup>On May 1, 2002, the German Federal Banking Supervisory Office merged with the Federal Insurance Supervisory Office and the Securities Supervisory Office to create a single cross-sector structure for financial supervision.

prevention of money laundering. Bank has established policies and procedures to ensure compliance with these requirements.

With respect to access to information on Bank's operations, the restrictions on disclosure in relevant jurisdictions in which Bank operates have been reviewed and relevant government authorities have been communicated with regarding access to information. Bank and its parents have committed to make available to the Board such information on the operations of Bank and any of their affiliates that the Board deems necessary to determine and enforce compliance with the IBA, the Bank Holding Company Act of 1956, as amended, 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 and its parents have 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 addition, subject to certain conditions, the German Financial Supervisory Agency may share information on Bank's operations with other supervisors, including the Board. In light of these commitments and other facts of record, and subject to the condition described below, it has been determined that Bank 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 Bank and its parents, and the terms and conditions set forth in this order, Bank's application to establish the branch and representative offices is hereby approved.<sup>6</sup> If any restrictions on access to information on the operations or activities of Bank or any of its affiliates subsequently interfere

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<sup>6</sup> Approved by the Director of the Division of Banking Supervision and Regulation, with the concurrence of the General Counsel, pursuant to authority delegated by the Board. See 12 C.F.R. 265.7(d)(12).

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 or recommend termination of any of Bank's direct and indirect activities in the United States. Approval of this application also is specifically conditioned on compliance by Bank and its parents with the commitments made in connection with this application and with the conditions in this order.<sup>7</sup> The commitments and conditions referred to above are conditions imposed in writing by the Board in connection with its decision and may be enforced in proceedings against Bank and its affiliates under 12 U.S.C. § 1818.

By order, approved pursuant to authority delegated by the Board,  
effective October 8, 2002.

(Signed)

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Robert deV. Frierson  
Deputy Secretary of the Board

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<sup>7</sup> The authority to approve the establishment of the branch and representative offices parallels the authority of the States of New York, Illinois, and California to license offices of a foreign bank. The approval of this application does not supplant the authority of those states or their agents to license the offices of Bank in accordance with any terms or conditions that they may impose.