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AN ACT

To establish a Chuuk State Foreign Investment Act consistent with the FSM Foreign Investment Act of 1997, enacted as FSM Public Law No. 10-49; to repeal Truk State Law No. 5-108, and for other purposes.

BE IT ENACTED BY THE CHUUK STATE LEGISLATURE:

1           Section 1. Short Title. This act is known and may be cited as the "Chuuk State  
2 Foreign Investment Act of 1998."

3           Section 2. Purpose. The purpose of this act is to encourage foreign investment  
4 within the territory of Chuuk State in a manner that serves the economic, social and  
5 cultural interests of Chuuk State. This purpose shall be borne in mind in the  
6 implementation and interpretation of the provisions of this act.

7           Section 3. Definitions. When used in this act, the following words shall have  
8 meanings as defined below, unless otherwise required by the context:

9                   (1) 'business entity' means any sole proprietorship, partnership, company,  
10                    corporation, joint venture, government, government entity, or other  
11                    association of persons engaging in business;

12                   (2) 'citizen' means a citizen of the FSM;

13                   (3) 'Director' means the Director of the Chuuk State Department of  
14                    Commerce and Industry;

15                   (4) 'Eco-tourism' means the business of engaging in tourism that is  
16                    focused on bringing visitors to Chuuk to view its cultures, traditions,  
17                    land and marine environment with a minimal negative or intrusive  
18                    effect. Eco-tourism is subject to all appropriate governmental  
19                    regulations;

20                   (5) 'engaging in business' means carrying out any activity relating to the  
21                    conduct of a business, and shall include the activities enumerated in  
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1 subsection (5) (a) below but shall not include the activities enumerated  
2 in subsection (5) (b) below:

3 (a) 'engaging in business' shall include:

4 (i) buying, selling, leasing, or exchanging goods, products,  
5 or property of any kind for commercial purposes;

6 (ii) buying, selling or exchanging services of any kind for  
7 commercial purposes;

8 (iii) conducting negotiations for transactions of the types  
9 described in items (i) or (ii) above; provided, however,  
10 that negotiations with licensed importers for periods of  
11 less than fourteen (14) days per calendar year shall not  
12 be considered 'engaging in business';

13 (iv) appointing a representative, agent, or distributor by a  
14 noncitizen to perform any of the acts described in items  
15 (i) through (iii) above, unless said representative, agent,  
16 or distributor has an independent status and transacts  
17 business in its name for its own account and not in the  
18 name of or for the account of any noncitizen principal;

19 (v) maintaining a stock of goods in the FSM for the  
20 purpose of having the same processed by another  
21 person in the FSM;

22 (vi) establishing or operating a factory, workshop,  
23 processing plant, warehouse, or store, whether  
24 wholesale or retail;

25 (vii) mining or exploring for minerals, or the commercial  
26 exploitation or extraction of other natural resources;

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1 (viii) providing services as a management firm or  
2 professional consultant in the management, supervision,  
3 or control of any business entity; and  
4 (ix) providing professional services as an attorney, physician,  
5 dentist, engineer, surveyor, accountant, auditor, computer  
6 consultant or other professional providing service for a  
7 fee; provided, however, that such a professional shall  
8 not be considered to be 'engaging in business' unless he  
9 or she, while present in the FSM, performs his or her  
10 respective professional services for more than fourteen  
11 (14) days in any calendar year.

12 (b) engaging in business does not include:

- 13 (i) the publication of general advertisements through  
14 newspapers, brochures, or other publications, or through  
15 radio or television;
- 16 (ii) the conducting of scientific research or investigation, if a)  
17 the research or investigation is sponsored by a university,  
18 college, agency, or institution normally engaged in such  
19 activities primarily for purposes other than commercial  
20 profit and b) the particular research or investigation at issue  
21 is not for purposes of, or expected to yield, commercial  
22 profit;
- 23 (iii) the collection of information by a bona fide journalist for  
24 news publication or broadcast; and
- 25 (iv) the lawful sale of corporate shares or other interest or  
26 holdings in a business entity acquired not for speculation or  
27 profit;

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- 1 (6) 'foreign investment' means any activity in the FSM by a noncitizen  
2 that amounts to 'engaging in business' as defined above;
- 3 (7) 'foreign investor' means a noncitizen who is 'engaging in business' in  
4 the FSM, as defined above;
- 5 (8) 'FSM' means the Federated States of Micronesia;
- 6 (9) 'FSM Foreign Investment Act' means the Foreign Investment Act of  
7 1997 enacted by the Congress of the Federated States of Micronesia as  
8 FSM Public Law No. 10-49, and codified in the FSM Code, Title 32,  
9 Chapter 2;
- 10 (10) 'Foreign Investment Permit' means an FSM Foreign Investment  
11 Permit, a Chuuk State Foreign Investment Permit, or a Pre-Existing  
12 Foreign Investment Permit;
- 13 (11) 'FSM Foreign Investment Permit' means a permit issued by the  
14 Secretary in accordance with the provisions of the FSM Foreign  
15 Investment Act;
- 16 (12) 'FSM Foreign Investment Regulations' means regulations  
17 promulgated by the Secretary in accordance with the provision of the  
18 FSM Foreign Investment Act;
- 19 (13) 'FSM R&D Department' means the Department of Resources and  
20 Development of the FSM or Department of Economic Affairs;
- 21 (14) 'holder' or 'holder of the permit' means:  
22 (a) any person or entity that appears on the application for a  
23 Foreign Investment Permit; or  
24 (b) the business on Chuuk which is described in the application, as  
25 deemed appropriate by the Director;
- 26 (15) 'Chuuk State' means the State of Chuuk;

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(16) 'Chuuk State Foreign Investment Permit' means a permit issued by the Director in accordance with the provisions of this act.

(17) 'Chuuk State Foreign Investment Regulations' means regulations promulgated by the Director in accordance with the provisions of this act;

(18) 'local product' means any product locally grown, harvested, created, produced, assembled or manufactured in Chuuk;

(19) 'noncitizen' means any person who is not a citizen of the FSM or any business entity in which any ownership interest is held by a person who is not a citizen of the FSM;

(20) 'ownership interest' in a business entity means ownership of or control over, either directly or indirectly, some or all of the shares of, property or assets of, voting rights in, or rights to profits or revenue from, that business entity; provided, however, that:

(a) 'ownership interest shall not include a security interest in real or personal property for the purpose of securing a loan; and

(b) any interest held by the spouse, minor child, or other dependent of a person shall be counted as owned by that person in determining whether he or she has an ownership interest in a business entity;

(21) 'person' includes both individuals and legal entities;

(22) 'Preexisting Foreign Investment Permit' means a permit issued by the Secretary of FSM R&D Department or by Chuuk State prior to the date on which this act took effect and which has not expired according to its terms or been suspended, or canceled;

(23) 'Professional Services' means an attorney, physician, dentist, engineer, surveyor, accountant, auditor, computer consultant or other

1 types of professionals providing service for a fee. The Director may  
2 designate additional categories in the Chuuk State Foreign Investment  
3 Regulations;

4 (24) 'real property brokering' means the business of procuring the  
5 purchase and sale of land or acting as intermediary between vendor  
6 and purchaser; and

7 (25) 'Secretary' means the Secretary of the FSM R&D Department.

8 Section 4. Requirement that a foreign investor obtain a Foreign Investment  
9 Permit. A non-citizen may not conduct any activity in the territory of Chuuk State that  
10 amounts to 'engaging in business', as defined in section 3 of this act and section 203 of  
11 the FSM Foreign Investment Act, unless that non-citizen holds a currently valid Foreign  
12 Investment Permit authorizing that non-citizen to conduct that activity.

13 Section 6. Categories of economic sectors. In administering the system of Chuuk  
14 State Foreign Investment Permits established in this act, and in regulating foreign  
15 investment generally within the territory of Chuuk State, the Director shall be guided by  
16 the system of categories of economic sectors established in section 205 of the FSM  
17 Foreign Investment Act, as follows:

18 (1) Categories for National Regulations - those economic sectors  
19 identified by the FSM Foreign Investment Act or FSM Foreign  
20 Investment Regulations as categories A, B and C.

21 (2) Categories for State Regulations- economic sectors that are not  
22 identified by the FSM Foreign Investment Act or the FSM Foreign  
23 Investment Regulations. The categories in Chuuk State are:

24 (a) Category D ('Chuuk State Red List') - the set of economic  
25 sectors that are closed to foreign investment within the  
26 territory of Chuuk State:

1 (i) such other economic sectors as the Director may  
2 designate in the Chuuk State Foreign Investment  
3 Regulations as being on the Chuuk State Red List.

4 (b) Category E ('Chuuk State Amber List') - the set of economic  
5 sectors as to which certain criteria specified in the Chuuk State  
6 Foreign Investment Regulations must be met before a Chuuk  
7 State Foreign Investment Permit will be issued include any  
8 economic sector that is not included on any other list (Category A  
9 through D and F). The economic sectors on the Chuuk State  
10 Amber List include the following:

- 11 (i) Casinos
- 12 (ii) Lotteries
- 13 (iii) Such other economic sectors as the Director may  
14 designate in the Chuuk State Foreign Investment  
15 Regulations as being on the Chuuk State Amber List;  
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17 (c) Category F ('Chuuk State Green List') - the set of economic  
18 sectors which no special criteria need to be met before a  
19 Chuuk State Foreign Investment Permit will be issued,  
20 except for the minimum value standards that may be  
21 established under section 6 (4)(c) of this act. The  
22 economic sectors on the Chuuk State Green List include the  
23 following:

- 24 (i) Eco-tourism;
- 25 (ii) Professional services;
- 26 (iii) Intrastate airline services;

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1 (iv) Exportation of local products; and

2 (v) such other economic sectors as the Director may  
3 designate in the Chuuk State Foreign Investment  
4 Regulations as being on the Chuuk State Green List.

5 Section 7. Relationship between the Chuuk State Government and the National  
6 Government regarding the regulation of foreign investment within the territory of Chuuk  
7 State. The Director shall be guided by the provisions of section 206 of the FSM Foreign  
8 Investment Act, and in particular shall:

9 (1) take all action necessary and within the Director's power to  
10 prohibit foreign investment within the territory of Chuuk State  
11 falling within economic sectors designated pursuant to section 205  
12 (1) of the FSM Foreign Investment Act for inclusion on the  
13 National Red List (Category A);

14 (2) participate, or nominate someone from his or her office to  
15 participate, in meetings convened by the FSM National  
16 Government to review sector developments and to add economic  
17 sectors to, or remove them from, Categories A, B and C under  
18 section 205(1) of the FSM Foreign Investment Act;

19 (3) cooperate in other ways with the FSM R&D Department, and with  
20 responsible authorities from other States, regarding the regulation  
21 of foreign investment; and

22 (4) subject to section 16 (3) of this act, take responsibility for  
23 regulating foreign investment within the territory of Chuuk State,  
24 including:

25 (a) determining what, if any, additional economic sectors shall be  
26 designated for inclusion in Categories D, E and F pursuant to  
27 section 5(2) of this act;

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- 1 (b) determining what Chuuk State criteria, if any, shall be specified  
2 for foreign investments in Category E economic sectors;  
3 (c) determining whether foreign investments in Category E or  
4 Category F economic sectors shall be subjected to a minimum  
5 value standard and, if so, what that minimum value standard  
6 should be. Minimum value standard may be required in order  
7 to prevent abuse of the system of Chuuk State Foreign  
8 Investment Permits as a vehicle for gaining entry to Chuuk State  
9 without a bona fide intention of engaging in business;  
10 (d) the issuance of Chuuk State Foreign Investment Permits  
11 pursuant to section 7 of this act in respect of foreign investment  
12 taking place or proposed to take place within the territory of  
13 Chuuk State in all economic sector categories other than those  
14 designated for inclusion in A, B, C or D pursuant to this act and  
15 the FSM Foreign Investment Act.

16 Section 7. Application procedures for Chuuk State Foreign Investment Permits.

- 17 (1) An application for a Chuuk State Foreign Investment Permit shall  
18 be made on the form or forms prescribed in the Chuuk State  
19 Foreign Investment Regulations, as may be supplemented in  
20 particular cases by order of the Director in accordance with section  
21 16(3) of this act. Such application form or forms shall be made  
22 publicly available by the Director. The application form shall  
23 require the applicant to identify clearly the person(s) residing in  
24 Chuuk State who are designated as agent(s) for service of process.  
25 (2) Submission of an application for a Chuuk State foreign Investment  
26 Permit shall be made to the Director. Upon receiving an  
27 application for a Chuuk State Foreign Investment Permit, the  
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Director shall, within such periods of time as may be prescribed for this purpose in the Chuuk State Foreign Investment Regulations, take one or more of the following actions, as appropriate:

- (a) determine whether the application relates to foreign investment in an economic sector included in Category A, B or C, as described in section 205 of the FSM Foreign Investment Act, or in an economic sector included in Category D, E or F, as described in section 5 above;
- (b) deny the application if it relates to:
  - (i) foreign investment in an economic sector of Category D (Chuuk State Red List);
  - (ii) foreign investment in an economic sector of Category E (Chuuk State Amber List) or a Category F (Chuuk State Green List) when the application is incomplete or the Foreign Investor does not meet a minimum value standards established pursuant to section 6(4)(C) of this act: or
  - (iii) foreign investment in an economic sector in category E (Chuuk State Amber List) economic sector but does not satisfactorily demonstrate that the investment meets all of the applicable Chuuk State criteria established in the Chuuk State Foreign Investment Regulations pursuant to section 6 (4) (b) of this act;
- (c) forward the application to the Secretary if it relates to foreign investment in an economic sector included in Category A, B or C, as described in section 205 of the

- 1 FSM Foreign Investment Act;
- 2 (d) require the applicant to submit further information if the
- 3 application is incomplete or does not provide enough
- 4 information for the Director to determine (i) what economic
- 5 sector(s) is(are) involved, or (ii) whether the requirements for a
- 6 Chuuk State Foreign Investment Permit have been or will be
- 7 met;
- 8 (e) hold a public hearing for the review of any new or renewal
- 9 application submitted which falls under Category E (Chuuk
- 10 State Amber List), if, in the Director's discretion he determines
- 11 one is appropriate. Any required hearing shall be held pursuant
- 12 to provisions of the Chuuk State Foreign Investment
- 13 Regulations;
- 14 (f) issue a Chuuk State Foreign Investment Permit if:
- 15 (i) the application:
- 16 A) relates to a foreign investment in a Category E
- 17 (Chuuk State Amber List) economic sector;
- 18 B) is complete; and
- 19 C) demonstrates that the foreign investment meets all
- 20 of the applicable Chuuk State criteria established in
- 21 the Chuuk State Foreign Investment Regulations
- 22 pursuant to section 6 (4)(b) and (c) of this act; or
- 23 (ii) the application:
- 24 A) relates to foreign investment in a Category F
- 25 (Chuuk State Green List) economic sector;
- 26 B) is complete; and
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- 1 (C) meets any minimum value standards established  
2 pursuant to section 6 (4) (c) of this act.
- 3 (g) Place conditions or restrictions on the issuance of the Chuuk  
4 State Foreign Investment Permit as deemed appropriate.
- 5 (3) Upon taking any action described in section 7 (2) (b), (2) (d), or (2) (f)  
6 above, the Director shall, within such periods of time as may be  
7 prescribed for this purpose in the Chuuk State Foreign Investment  
8 Regulations, advise the applicant of the action and the reasons therefor.
- 9 (4) The amount of the application fee to be paid by an applicant seeking a  
10 Chuuk State Foreign Investment Permit shall be established in the  
11 Chuuk State Foreign Investment Regulations.
- 12 (5) If the Director issues a Chuuk State Foreign Investment Permit  
13 pursuant to section 7 (2) (f) above, the Chuuk State Foreign  
14 Investment Permit will be sent to the applicant and copies of any  
15 Foreign Investment Permit shall be:
- 16 (a) inserted into a register to be maintained by the Director for this  
17 purpose; and
- 18 (b) sent to the Secretary, for insertion in a register to be maintained  
19 by the FSM R&D Department for this purpose.
- 20 (6) If the Director denies an application for a Chuuk State Foreign  
21 Investment Permit pursuant to section 7 (2) (b) (ii) or (iii) above,  
22 the applicant may:
- 23 (a) resubmit the application with modifications designated to meet  
24 any applicable criteria established in the Chuuk State Foreign  
25 Investment Regulations; or
- 26 (b) provide to the Director additional information or explanation to  
27 indicate how, in the applicant's opinion, the foreign investment  
28 would satisfy such criteria. On receipt of such modifications or

1 additional information, the Director shall review the application  
2 and make a determination under the procedures prescribed in  
3 section 7 above. There is no limit to the number of times an  
4 applicant may modify an application in order to meet the  
5 requirements for a Chuuk State Foreign Investment Permit.

6 Section 8. Form, fees, renewal, modification, and cancellation of a Chuuk State  
7 Foreign Investment Permit.

- 8 (1) A Chuuk State Foreign Investment Permit shall be in the form  
9 prescribed in the Chuuk State Foreign Investment Regulations.
- 10 (2) In the application for a Chuuk State Foreign Investment Permit, the  
11 holder shall fulfill the requirements, if any, included in the Chuuk  
12 State Foreign Investment Regulations for the payment of an  
13 application fee.
- 14 (3) Upon the issuance of a Chuuk State Foreign Investment Permit, the  
15 holder shall fulfill the requirements, if any, included in the Chuuk  
16 State Foreign Investment Regulations for the payment of an annual  
17 permit fee.
- 18 (4) A Chuuk State Foreign Investment Permit shall be valid for one year,  
19 and, unless it has been canceled, suspended or surrendered pursuant to  
20 section 8 (8)-(11) below, it shall be automatically renewable on an  
21 annual basis upon the fulfillment of the requirements, if any, included  
22 in the Chuuk State Foreign Investment Regulations for the payment of  
23 an annual fee.
- 24 (5) A Chuuk State Foreign Investment Permit shall not be transferable  
25 between investments or investors and shall not be assignable to any  
26 investment or investor other than the one for which it was issued.

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1 (6) The holder of a Chuuk State Foreign Investment Permit may not  
2 make a change in the business for which the holder has obtained a  
3 Chuuk State Foreign Investment Permit without obtaining their  
4 new Chuuk State Foreign Investment Permit for that purpose under  
5 section 7 of this act or, if applicable, a new FSM Foreign  
6 Investment Permit under section 207 of the FSM Foreign  
7 Investment Act or obtaining a modification in the terms of their  
8 present Chuuk State Foreign Investment Permit. Such a  
9 modification may be requested by the holder, and granted by the  
10 Director, in accordance with such procedures and requirements as  
11 the Director may establish in the Chuuk State Foreign Investment  
12 Regulations.

13 (7) For purposes of section 8 (6) above, a 'change in the business' occurs  
14 if the holder either:

15 (a) begins operation in a different economic sector from the one(s)  
16 for which the Chuuk State Foreign Investment Permit was  
17 issued; or

18 (b) alters, changes, modifies or transfers the amount of the  
19 ownership interest which the non-citizen retains.

20 (8) The Director may cancel a Chuuk State Foreign Investment Permit  
21 only if the Director determines, following the procedural  
22 requirements of section 8 (10) below, that one or more of the  
23 following circumstances exist:

24 (a) the annual fee required under either section 8(2) or 8(3) above  
25 has not been paid;

26 (b) the holder of the permit requests its cancellation;

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- (c) the permit application is found to have contained false or fraudulent information;
  - (d) if any person bribes or otherwise exercises, or attempts to exercise, undue influence upon the application process for the Permit;
  - (e) the holder of the permit fails or refuses to comply with the reporting requirements under section 10 of this act or with any other requirements of this act or of the Chuuk State Foreign Investment Regulations;
  - (f) the holder of the permit fails or refuses to comply with any restrictions or conditions included in the Permit, or engages in activities not authorized by the Permit; and
  - (g) he holder fails to comply with any applicable State or National laws.
- (9) If a Chuuk State Foreign Investment Permit is canceled pursuant to section 8(8) above, the noncitizen holding that canceled Permit shall:
- (a) immediately stop engaging in business in Chuuk State;
  - (b) take such steps as the Director shall direct in order to dispose of that noncitizen's interest in any applicable business entity; and
  - (c) pay any fines or other penalties that may be imposed under section 13 of this act or under Chuuk State Foreign Investment Regulations.
- (10) If it appears to the Director that one or more of the grounds for cancellation of a Chuuk State Foreign Investment Permit, as enumerated in section 8 (8) above, may exist, the Director

- 1                   may temporarily suspend the validity of that Chuuk State  
2                   Foreign Investment Permit and shall commence the following  
3                   procedures leading to cancellation:
- 4                   (a) The Director, or the Director's designee, may schedule a  
5                   hearing on the matter before the Director, or the Director's  
6                   designee. At least 21 days written notice of the hearing, stating  
7                   the alleged ground for cancellation, shall be given to the  
8                   holder of the Chuuk State Foreign Investment Permit, at the  
9                   address designated on the application for such notice. If during  
10                  that time the holder of the Chuuk State Foreign Investment  
11                  Permit takes action satisfactory to the Director to disprove the  
12                  allegations or otherwise remedy the situation, the Director may  
13                  cancel the hearing and reinstate the Chuuk State Foreign  
14                  Investment Permit if it was temporarily suspended.
- 15                  (b) Hearing procedures shall be prescribed by the Director in the  
16                  Chuuk State Foreign Investment Regulations and shall include  
17                  the right of the holder of the Chuuk State Foreign Investment  
18                  Permit to participate and to be represented by counsel, to call  
19                  witnesses, and to cross-examine witnesses called against the  
20                  holder of the Chuuk State Foreign Investment Permit.
- 21                  (c) Within the ten days after a hearing, the Director shall issue a  
22                  written decision including reasons for the action taken and the  
23                  remedy to be imposed pursuant to section 8(9) above, and shall  
24                  transmit that decision immediately to the holder of the Chuuk  
25                  State Foreign Investment Permit.
- 26                  (d) If a decision has not been issued pursuant to section 8(10)(c)  
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1 above, within the ten days specified, any temporary suspension  
2 ordered by the Director shall automatically end, and the  
3 validity of the Chuuk State Foreign Investment Permit  
4 shall automatically be reinstated.

5 (e) Within 20 days after receiving the notice of the decision of  
6 the Director, the holder of the Chuuk State Foreign Investment  
7 Permit may appeal the decision to the Chuuk State Court. Copies  
8 of any notice of appeal shall be served on the Director and the  
9 Attorney General of Chuuk State.

10 (11) A holder of a Chuuk State Foreign Investment Permit may surrender  
11 it by meeting requirements specified for this purpose in the Chuuk  
12 State Foreign Investment Regulations. Mere cessation of engaging in  
13 business in Chuuk State, without meeting such requirements, does not  
14 relieve the holder of Chuuk State Foreign Investment Permit from the  
15 requirements incident thereto.

16 Section 9. Expatriate Worker Authorizations and Entry Permits. Sections 210,  
17 211 and 212 of the FSM Foreign Investment Act and the provisions of the FSM Foreign  
18 Investment Regulations issued pursuant to those sections, set forth the entitlements to  
19 expatriate worker authorization (EWAs') and entry permits. The Director will work with  
20 the FSM Immigration Division, as needed, to assist the holder to obtain any necessary  
21 EWA.

22 Section 10. Reports by holders of Chuuk State Foreign Investment Permits.

23 (1) The holder of any Chuuk State Foreign Investment Permit shall submit  
24 to the Director such reports concerning the foreign investment as the  
25 Director may prescribe in the Chuuk State Foreign Investment  
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1 Regulations. Details of the information required, the reasons for  
2 the requirements, and the frequency and form of such reports shall be  
3 set forth in the Chuuk State Foreign Investment Regulations.

4 (2) Any change in foreign ownership of an investment for which a Chuuk  
5 State Foreign Investment Permit has been issued shall be reported  
6 immediately to the Director, who may take such action as the Director  
7 considers appropriate in respect of the Chuuk State Foreign  
8 Investment Permit, including its cancellation if appropriate under the  
9 provisions of section 8 of this act.

10 Section 11. Reports by the Director.

11 (1) The Director shall publish information annually, in such form and  
12 detail as may be prescribed in the Chuuk State Foreign Investment  
13 Regulations, concerning the extent of foreign investment in Chuuk  
14 State.

15 (2) The Director shall be guided by the provisions of section 215 of the  
16 FSM Foreign Investment Act and by the provisions of the FSM  
17 Foreign Investment Regulations issued thereunder, concerning reports  
18 to be submitted by States to the FSM National Government regarding  
19 foreign investment.

20 Section 12. Guarantees and entitlements regarding foreign investments.

21 (1) The Director shall be guided by and shall take no action inconsistent  
22 with the provisions of sections 216 and 217 of the FSM Foreign  
23 Investment Act or with any provisions of the FSM Foreign Investment  
24 Regulations issued thereunder concerning compulsory acquisition of  
25 foreign investment property and transfers of earnings and capital  
26 relating to foreign investments.

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1 (2) Upon payment of such additional fees as the Director may  
2 prescribe for this purpose, the holder of a Chuuk State Foreign  
3 Investment Permit shall be entitled, for 5 years, to an exemption  
4 from any future changes in the Chuuk State transaction and sales  
5 tax rates and similar rules applicable to the business entity to which  
6 the Permit applies.

7 (3) Subject to the provisions of both the FSM Foreign Investment Act and  
8 this act, and subject to regulations promulgated pursuant to those  
9 provisions, the Government of Chuuk State shall not take action, or  
10 permit any subsidiary political unit within Chuuk State to take action,  
11 that would result in a foreign investor being given treatment that is less  
12 favorable than the treatment given to citizens engaging in business in  
13 Chuuk State.

14 Section 19. Injunction and penalties.

15 (1) Where, on application by the Chuuk State Attorney General, the  
16 Chuuk State Court is satisfied that a noncitizen has acted, or is about to  
17 act, in contravention of the provisions of the FSM Foreign Investment  
18 Act, the provisions of this act, the provisions of the FSM Foreign  
19 Investment Regulations, or the provisions of the Chuuk State Foreign  
20 Investment Regulations, the court may impose an injunction on any  
21 such action. The Attorney General shall provide to the concerned  
22 noncitizens(s) at least two business days prior notice of an intention to  
23 file such an application with the court.

24 (2) If the Director determines that any person has failed or refused to  
25 comply with requirements imposed under or pursuant to the FSM  
26 Foreign Investment Act, this act, the FSM Foreign Investment  
27 Regulations, or the Chuuk State Foreign Investment Regulations, the

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1 Director may, in addition to the action initiated under subsection (1)  
2 above:

3 (a) suspend or cancel a Chuuk State Foreign Investment Permit  
4 pursuant to section 8 of this chapter;

5 (b) impose such administrative fines and penalties as may be  
6 prescribed in the FSM Foreign Investment Regulations or in  
7 the Chuuk State Foreign Investment Regulations; or

8 (c) initiate measures for the imposition of criminal or civil  
9 penalties as described in section 13 (3) and (4) below or in  
10 other laws of Chuuk State.

11 (3) Any person guilty of willfully contravening the provisions of section 4  
12 of this act commits a crime as set forth in section 220 of the FSM  
13 Foreign Investment Act, and upon conviction shall be subject to the  
14 penalties provided for in said section.

15 (4) Any person who fails to comply with any of the provisions of this act  
16 is subject to the following civil penalties:

17 (a) in the case of an individual, the imposition of a civil fine in an  
18 amount up to \$10,000 per incident;

19 (b) in the case of a legal entity, the imposition of a civil fine in an  
20 amount up to \$50,000 per incident;

21 (c) in any case, the forfeiture to the Chuuk State Government of  
22 assets or property rights in any business entity engaging in  
23 business in contravention of this act; provided, however, that  
24 the value of such assets or property so forfeited shall not be  
25 unreasonable in relation to the illegal behavior and injury it  
26 caused. The Attorney General shall file and prosecute an

27  
28

1 action for the imposition of civil penalties in the appropriate  
 2 court.

3 Section 14. Judicial Review. A decision by the Director pursuant to section 7 of  
 4 this act regarding an application for a Chuuk State Foreign Investment Permit may be  
 5 appealed by the applicant. The notice of any such appeal shall be filed with the Chuuk  
 6 State Court within 30 days of receipt of notice of the Director's decision. A copy of any  
 7 such notice shall also be served on the Attorney General of Chuuk State and the Director.  
 8 Such appeals shall be made under applicable rules of civil procedures.

9 Section 15. Confidentiality. In carrying out the responsibilities imposed by this  
 10 act regarding the regulation of foreign investment in Chuuk State, the Director shall  
 11 maintain the confidentiality of any sensitive business information relating to a particular  
 12 foreign investor or prospective foreign investor, if so requested by such person; provided,  
 13 however, that this provision shall not prevent the Director from disclosing information  
 14 upon order of a court or pursuant to other laws and regulations of Chuuk State or of the  
 15 FSM.

16 Section 16. Enforcement.

17 (1) Primary responsibility for the enforcement of this act shall be placed in  
 18 the Attorney General of Chuuk and, as to criminal sanctions provided  
 19 in section 17 of this act, in appropriate law enforcement authorities  
 20 within Chuuk State.

21 (2) In carrying out the responsibility imposed by this act, the Director may  
 22 require the attendance of any citizen or noncitizen at a meeting or  
 23 hearing conducted by the Director and may require such persons to  
 24 testify or to produce at, before, or after such meeting or hearing  
 25 documents, information, and things relevant to enforcement of the  
 26 provisions of this act.  
 27  
 28

1           (3) The Director shall promulgate regulations necessary to implement this  
2           act and any amendments or modifications thereto the Director deems  
3           necessary, subject to legislative approval of said regulations and  
4           amendments or modifications thereto, which regulations and amendments  
5           or modifications shall have the force and effect of law.

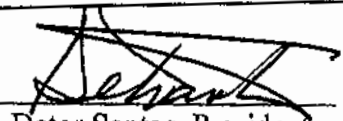
6           Section 17 ~~Unauthorized foreign business~~. Unauthorized foreign business is  
7           engaging in business as defined in section 3(5) of this act without having complied with  
8           section 4 of this act, or engaging in business not authorized by a Foreign Investment  
9           Permit issued by the FSM or Chuuk State, or failing to comply with the provisions of the  
10          Chuuk State Foreign Investment Regulations. Unauthorized foreign business is a  
11          category one misdemeanor.

12          Section 18 ~~Repeal~~. Truk State Law No. 5-108 is hereby repealed.

13          Section 19 ~~Effectiveness; transition~~ This act shall take effect upon its  
14          approval by the Governor, or upon its becoming law without such approval. For a period  
15          of twelve (12) months after the date on which this act becomes effective, any Preexisting  
16          Foreign Investment Permit applicable within the territory of Chuuk State shall continue to  
17          be valid in accordance with its terms, subject to the provisions of this act and the  
18          provisions of the FSM Foreign Investment Act. Notwithstanding the provisions of  
19          section 4 of this act, any noncitizen who was, as of the date on which this act becomes  
20          effective, conducting any activity that amounts to 'engaging in business', as defined in  
21          section 3 of this act, but who was not required, under the law in effect immediately prior  
22          to that date, to obtain a foreign investment permit for that activity, shall have a period of  
23          three months from that date in which to either (a) apply for and obtain a foreign  
24          investment permit or (b) cease conducting the activity.

25  
26  
27  
28

Signed by: \_\_\_\_\_



Detor Santos, President  
Senate  
Chuuk State Legislature

Attested:



Ismael Dobich, Chief Clerk  
Senate  
Chuuk State Legislature

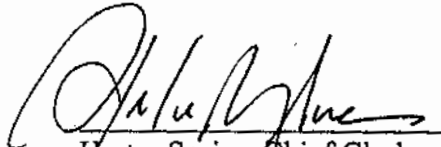
Date: Feb. 10, 1999

Signed by: \_\_\_\_\_



Masachiro Christlib, Speaker  
House of Representatives  
Chuuk State Legislature

Attested:



Herter Sorim, Chief Clerk  
House of Representatives  
Chuuk State Legislature

Date: Feb. 8, 1999

Approved by: \_\_\_\_\_

Ansito Walter, Governor  
Chuuk State Government

Date: \_\_\_\_\_

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History : S.B.No: 4-123;HD1  
: S.C.R.No: None  
: H.C.R.No:None

## Foreign Investment Regulations State of Chuuk

### Part I-- General Provisions

- Section 1 Purpose and legal effect; Authority of the Director....  
Section 2 Definition.....

### Part II Investment Categories and Criteria

- Section 3 Chuuk State Red, Amber, and Green List.....  
Section 4 Criteria for foreign investment in Chuuk State Amber List

### Part III Foreign Investment Permit Requirement & Procedures

- Section 5 Application forms and submission requirements.....  
Section 6 Action by the Director on application—time periods.....  
Section 7 Form of permits.....  
Section 8 Application fees and annual fees.....  
Section 9 Modification or surrender of a permit.....

### Part IV Other Provisions

- Section 10 EWA entitlements.....  
Section 11 Reports by holders of permits.....  
Section 12 Reports by the Director.....  
Section 13 Fines and penalties.....  
Section 14 Permit cancellation hearing procedure.....  
Section 15 Repatriation of capital.....

Schedule 1--- Economic Sectors on the Chuuk State Red List (Category D)

Schedule 2--- Economic Sectors on the Chuuk State Amber List (Category E)

Schedule 3--- Economic Sector on the Chuuk State Green List (Category F)

Schedule 4--- Criteria to be met for Foreign Investment in Economic Sectors on the Chuuk State Amber List

Schedule 5--- Application form for Chuuk State Investment Permit

Schedule 6--- form of Chuuk State foreign Investment Permit

Schedule 7--- Application, annual, and modification request fees

Schedule 8---Criteria for the automatic award of additional EWA's for Senior Positions

Schedule 8(a)- Application form for Expatriate Worker Authorization (EWA)

Schedule 8(b)-Expatriate Worker Authorization (EWA) approval form

Schedule 9---Forms for annual reports by FSM Foreign Investment Permit Holders

Schedule 10--- Fines and Penalties



**Part I**  
**General Provisions**

**Section 1. Purpose and legal effect; Authority of the Director**

- (1) The purpose of these regulations is to carry into effect and to facilitate implementation of the Chuuk State Foreign Investment Act of 1998 (Chuuk State Public Law 4-99-03) hereinafter referred to as the Act.
- (2) These regulations and any amendments thereto, shall have the force and effect of law.
- (3) The Director of the Department of Commerce & Industry (hereinafter referred to as the Director) is vested with the authority to promulgate regulations necessary and proper to implement the Act, including rules and procedures regarding:
  - (a) categories of economic sectors and criteria to be used in evaluating applications for Chuuk State Foreign Investment Permits in economic sectors on the State Amber & Green List (Category E & Category F) (Section 5(2) (b) & (c) of the Act);
  - (b) forms to be used in applications for Chuuk State Foreign Investment Permits (Section 7(1) of the Act);
  - (c) time period within which the Director is to take action in response to an application for a Chuuk State Foreign Investment Permit (Section 7(2) and (3) of the Act);
  - (d) application fees, if any, to accompany applications for Chuuk State Foreign Investment Permits (Section 7(4) of the Act);
  - (e) forms of Chuuk State Foreign Investment Permits (Section 7(5) of the Act);
  - (f) annual fees, if any, to be paid by holders of Chuuk State Foreign Investment Permits (Section 8(3) and (4) of the Act);
  - (g) modifications to Chuuk State Foreign Investment Permits (Section 8(6) of the Act);
  - (h) criteria for entitlements to Expatriate Worker's Authorization (EWA) (Section 9 of the Act);
  - (i) reports to be submitted by holders of Chuuk State Foreign Investment Permits (Section 10(1) of the Act);
  - (j) reports to be submitted by the Director (Section 11(1) and (2) of the Act); and
  - (k) fines and penalties for contravention of the Act or these Regulations (Section 13 of the Act);
- (4) More generally, the Director is responsible for carrying out the function of the Chuuk State Government relating to the regulation of foreign investment in Chuuk State in accordance with the provisions of the Act. These functions include, among others, the following principal elements:
  - (a) issuing Chuuk State Foreign Investment permits in appropriate cases, and administering the Foreign Investment rules established by the Act or by these regulations (Section 6 & 7 of the Act);
  - (b) coordinating with authorities of the FSM National Government regarding Foreign Investment policies, procedures, and promotion (Section 6 of the Act);
  - (c) monitoring the activities of holders of Chuuk State Foreign Investment Permits, including the collecting of fees (if any), keeping of records, publishing of reports, and where necessary, modifying, cancelling, and suspending Chuuk State Foreign Investment Permits and imposing fines and penalties (Section 8, 10, 11, and 13 of the Act); and
  - (d) refraining from acting contrary to specified guarantees designed to provide confidence to foreign investors, including assurance against arbitrary expropriation, and implementing exemptions from future changes in laws and regulations (Section 12 of the Act);

**Section 2. Definitions**

- (1) When words defined in the Act are used in these Regulations, unless otherwise required by context, the definitions provided in the Act shall govern.
- (2) When words defined in this subsection are used in these Regulations, unless otherwise required by context, the following definitions shall govern:
  - (a) 'business day' means a day on which the Offices of the Director is open for public business
  - (b) 'Chuuk State Red List' means the Category D economic sectors—those in which foreign investment is prohibited anywhere in the territory of Chuuk State—as provided for in Section 5(2a) of the Act;
  - (c) 'Chuuk State Amber List' means the Category E economic sectors—those in which foreign investment is permitted in the territory of Chuuk state subject to the satisfaction of specific criteria—as provided in Section 5(2b) of the Act;
  - (b) 'Chuuk State Green List' means the Category E economic sectors—those in which foreign investment is freely permitted in the territory of Chuuk state—as provided for in Section 5(2c) of the Act).

**Part II**  
**Investment Categories and Criteria**

**Section 3. Chuuk State Red, Amber, and Green Lists**

- (1) The economic sectors designated as being on the Chuuk State Red List are listed in Schedule 1 to these regulations.
- (2) The economic sectors designated as being on the Chuuk State Amber list are listed in Schedule 2 to these regulations.
- (3) The economic sectors designated as being on the Chuuk State Green List are listed in Schedule 3 to these regulations. The Director would provide the National Government written notification of any variations to the contents of Schedule 2 or 3 within 5 business days.

**Section 4. Criteria for Foreign Investment in Chuuk State Amber List economic sectors**

- (1) the criteria to be met for foreign investment in Chuuk State Amber List (Category E) economic sector are listed in Schedule 4 to these regulations.
- (2) The Director would provide to the National Government written notification of any variations of Schedule 4, within 5 business days after any such variation is made.

**Part III**  
**Foreign Investment Permit Requirements & Procedures**

**Section 5. Application forms and submission requirements**

- (1) Schedule 5 to these regulations prescribes the form to be used in applying for a Chuuk State Foreign Investment Permit.
- (2) An application for a Chuuk State Foreign Investment Permit shall be submitted (only one copy is required) to the Director at the State Department of Commerce & Industry.

**Section 6. Action by the Director or his designee on application-time periods**

- (1) Subject to the provisions of subsection (2) below, the following time periods shall apply to the Director's handling of an application for a Chuuk State Foreign Investment Permit:
  - (a) to determine, under Section 7 (2) (a) of the Act, which Category of economic sectors the application is related to—within 5 business days after the application is submitted, unless the application is incomplete or does not provide enough information to make such a determination.
  - (b) to request, under Section 7 (2) (d) of the Act, further information from the applicant, if the application is incomplete or does not provide enough information for the Director to determine (1) what economic sector(s) is (are) involved or whether the requirements of a Chuuk State Foreign Investment Permit have been or will be met—within 5 business days after the application is submitted.
  - (c) to deny an application, under Section 7 (2)(b)(i) if the application relates to a foreign investment in a Chuuk State Red List (Category D) economic sector—within 5 business days after that determination.
  - (d) to deny an application, under Section 7 (2) (b) (ii) of the Act, if the Director has determined that the application relates to a foreign investment in a Chuuk State Amber List (Category E) economic sector—within 5 business days after that determination.
  - (e) to issue a Chuuk State Foreign Investment Permit, under Section 7 (2) (f) of the Act—within 5 business days after the determination that the application related to a foreign investment in a Chuuk State Green List (Category F) economic sector.
  - (f) to forward the application to the Secretary, under Section 7 (2) (c) of the Act, if the Director has determined that the application related to a foreign investment in an economic sector falling in a Category for the National Regulation—within 1 business day after that determination.
  - (g) to advise the applicant of an action described above in subsection (b), (c), (d), or (e)—within 2 business days after the action has been taken.
- (2) If it is impossible for the Director to take action on an application within the time prescribed above, the Director shall, by written notice, inform the applicant of that fact within one day after the expiration of the prescribed period, and shall indicate (a) why the action could not be taken within the prescribed period and (b) a specific date (no later than 10 days from the date of the written notice) by which the Director will take action.

**Section 7. Forms permits**

Chuuk State Foreign Investment Permits shall be in the form prescribed in Schedule 6 to these Regulations.

**Section 8. Application fees and annual fees**

- (1) An application fee shall accompany an application for a Chuuk State Foreign Investment Permit, to help defray the processing cost by the Director. The application fee shall be payable to the Director in an amount specified in Schedule 7 to these Regulations.
- (2) An annual fee shall be payable to the Director by every holder of a Chuuk State Foreign Investment Permit, to help defray the Director's cost in monitoring the foreign investment. Upon payment of the annual fee, the Chuuk State Foreign Investment Permit shall be renewed automatically, with no documentation necessary either by the holder of the Chuuk State Foreign Investment Permit or by the Director.

**Section 9. Modification or surrender of a Permit**

- (1) A modification of a Chuuk State Foreign Investment Permit pursuant to Section 8 of the Act may be made under the following conditions and procedures:
  - (a) The holder of the Chuuk State Foreign Investment Permit shall file with the Director a written request for modification, indicating (i) the nature of and reason for the change in the business that has prompted the request for modification; (ii) the specific provisions in the terms of the Chuuk State Foreign Investment Permit that are proposed to be modified, and (iii) other information that would reasonably be considered pertinent to the Director's consideration of the request for modification.
  - (b) The Director, on receipt of such a request for modification, may require the holder of the Chuuk State Foreign Investment Permit to provide additional information pertinent to the request. The Director may deny or suspend action on the request if the holder fails to provide any such information.
  - (c) A modification request fee shall be payable to the Director upon filing of a written request for modification. The amount of such fee shall be or set forth in Section 7 of these Regulations.
  - (d) In evaluating the request for modification, the Director shall be guided by the principle applicable to the original issuance of a Chuuk State Foreign Investment Permit, and shall not grant the request for modification if the foreign investment following such modification would not meet all the applicable criteria for issuance of a Chuuk State Foreign Investment Permit.
  - (e) If the Director determines that the Chuuk State Foreign Investment Permit should be modified, the Director may modify it as appropriate; such modification need not be precisely as requested by the holder of the Chuuk State Foreign Investment Permit.
  - (f) The Director shall, within 5 business days after having received the written request for modification and any further information required pursuant to subsection (1) (b) above, notify the holder of the Chuuk State Foreign Investment Permit as to whether the request for modification has been granted or denied, and, if it has been granted, the precise terms of the modification.
- (2) Surrender of a Chuuk State Foreign Investment Permit shall be carried out in appropriate cases as follows:
  - (a) The holder of the Chuuk State Foreign Investment Permit shall notify the Director in writing of the reasons for the requested surrender;
  - (b) The Director shall determine whether any fees remain unpaid or any requirements remain unfulfilled by the holder of the Chuuk State Foreign Investment Permit, and require the holder to take appropriate action in that regard;
  - (c) If no further outstanding obligations remain, the Director shall declare the Chuuk State Foreign Investment Permit surrendered and shall so notify the holder and the FSM National Authority responsible for foreign investment information.

**PART IV  
Other Provisions****Section 10. EWA Entitlements**

The Director shall coordinate efforts with the Division of Immigration and Labor of the FSM National Government in implementing the provisions of Section 9 of the Act, and of Section 210, 211, and 212 of the FSM Foreign Investment Act of 1997.

**Section 11. Reports by Holders of Permits**

- (1) For the purpose of monitoring the amount and flow of foreign investment in Chuuk State, and to provide services to foreign investors, the Director shall, pursuant to Section 14 of the Act, collect reports from holders of Chuuk State Foreign Investment Permits:
  - (a) on an annual basis, with the time of submission for each holder to be established by the Director, or, failing that, by the 15<sup>th</sup> of January of each year.
  - (b) immediately in the case of a change in foreign ownership of the investment.
- (2) The form to be used for the annual reports referred to in subsection (1) above appears as Schedule 9 to these regulations.
- (3) The Director may, in the case of a change-in-ownership, report of the type referred to in subsection (1)(b) above, request further information before taking any action under Section 10(2) of the Act.

**Section 12. Reports by the Director**

The information to be published annually pursuant to Section 11 of the Act shall include data regarding the number of foreign investments, the type of business entities they involve, the numbers of foreign investors, their shares of ownership in the business entities, and any unusual developments during the year being reported on, including cancellations or penalties imposed. Such information shall be published within two months after the end of each calendar year. And submitted to the FSM National Government pursuant to Section 215 of the FSM Foreign Investment Act and to the provisions of its Regulations.

**Section 13. Fines and Penalties**

- (1) Administrative fine and penalties under Section 13(2) of the Act are set forth in Schedule 10 of these regulations.
- (2) Any fine and monetary penalties assessed under Section 13 (2) of the Act shall be paid to the Office of the Director..

**Section 14. Permit Cancellation Hearing Procedure**

The following procedure shall be followed during any Foreign Investment Permit cancellation hearing, as specified in Section 8 (10)(b) of the Act;

- (1) The permit holder or the holder's registered agent or counsel shall be entitled to be physically present.
- (2) The hearing shall be open to public, unless otherwise requested by the permit holder. The entire proceeding shall be tape-recorded.
- (3) The FSM Supreme Court Rules of Evidence shall not apply.
- (4) The Director or his designee shall preside over the hearing. The Director or his designee shall present the evidence of the grounds for cancellation of the permit. The permit holder or the holder's agent or counsel shall be afforded the right to be heard, to present evidence, to confront any adverse witness, and to be represented by counsel.

**Section 15. Repatriation of Capital**

Any holder of a currently valid Foreign Investment Permit shall not repatriate any capital in excess of \$50,000, which was brought into the FSM for, or that accrued on, a business entity to which such permit applies, without first obtaining the written permission of the Director.

**Schedule 1-  
Economic Sectors on the Chuuk State Red List  
(Category D)**

As expressly included in the Act (Section 5 (2) (a) ):

- Manufacture and distribution of arms, toxic and biological materials;
- Minting of coins and printing of bills used as currency;
- Business activities relating to nuclear power or radioactivity;
- Business activities relating to manufacture and distribution of biological and chemical warfare components.

As designated by the Director (Section 5 (2)(a) and (b) ):

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**Schedule 2-  
Economic Sectors on the Chuuk State Amber List  
(Category E)**

As expressly included in the Act (Section 5 (2)(b) ):

- Casinos and gambling establishment;
- Lotteries and slot machines

As designated by the Director (Section 5 (2)(b) (iii) ):

- Real property brokering
- Business activities that are involved with:
  - Creating a high degree of environmental pollution;
  - Destroying ecological balance, local culture, and tradition;
  - Depleting any natural resources
- \_\_\_\_\_
- \_\_\_\_\_

**Schedule 3  
Economic Sectors on the Chuuk State Green List  
(Category F)**

As expressly included in the Act (Section 5 (2)(c) ):

- Eco-tourism;
- Professional services;
- Intrastate airline services; and
- Exportation of local products and value-added products

As designated by the Director (Section 5 (2)(v) ):

- Intrastate passenger boat service & dry-docking services;
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**Schedule 4 -  
Criteria to be met for Foreign Investment  
In Economic Sectors on the Chuuk State Amber List**

In determining whether to issue a Chuuk State Foreign Investment Permit in an economic sector on the Chuuk State Amber List, the regulation of which is not already provided for under Chuuk State Law, the Director shall base his decision on all relevant factors, including:

- (a) The extent to which the activity would deplete any non-renewable natural resources;
- (b) The extent to which the activity would have a favorable effect on the balance of trade;
- (c) The extent to which the activity would cause pollution or harm the environment;
- (d) The extent to which the activity would not be a monopoly;
- (e) The willingness and specific plans of the applicant to give employment preference to citizens and to train citizens for positions in management and at other levels;
- (f) The extent to which the capital, management skills, and technical skills required for such an enterprise are available among Chuuk State citizens at the current time or can be expected to be available in the near future;
- (g) The extent to which an operation will contribute to the overall economic well-being of the State and the extent to which any interest, including economic, social, traditional, or environmental of the State may be affected;
- (h) The extent to which the activity will contribute to the Constitutional policy of making education, health care, and legal services available to the people of Chuuk State;
- (i) The financial responsibilities (i.e. latest balance sheet, profit and loss statement, bank references, bank statements). If the applicant is a new corporation, the proforma and the principal stockholders' financial statements must be provided. If the applicant is a sole proprietorship, the proforma and personal financial statements must be provided.

Schedule 5-  
Application form for a Chuuk State Investment Permit



OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE & INDUSTRY  
STATE OF CHUUK

P.O. Box 280  
Weno, Chuuk 96942  
Phone: (691) 330-2552  
Fax: (691) 330-2133

Date Prepared: \_\_\_\_\_

Date Received: \_\_\_\_\_

Application No: \_\_\_\_\_

Economic Sector: \_\_\_\_\_

This is to be completed fully by any applicant for a Foreign Investment Business Permit as required by Section 3(1) of the Chuuk State Foreign Investment Act. File at the office of the Director. Additional pages may be attached. (Please include a non-refundable application fee of \$250.00 payable to the Director of the Department of Commerce & Industry)

1. Name of Business: \_\_\_\_\_

2. Address of principal office:

In Chuuk State

Outside Chuuk State

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Name & Address of registered agent within Chuuk State: \_\_\_\_\_

4. Purpose, Scope, and Objective of Business: \_\_\_\_\_

5. Total capital to be invested in Micronesia: \_\_\_\_\_

(a) To be effected within \_\_\_\_\_ years

(b) Foreign participation \_\_\_\_\_ % \$ \_\_\_\_\_

Micronesian participation \_\_\_\_\_ % \$ \_\_\_\_\_

6. Form of Business:

( ) Foreign Corporation: \_\_\_\_\_  
(Date of Charter) (Country)

( ) Proposed FSM Corporation

( ) Partnership (attach copy of partnership agreement)

( ) Joint Foreign and FSM \_\_\_\_\_

( ) Joint Venture (attach joint-venture agreement stating particular as to participants, including nationality/citizenship of parties involved)

( ) Association

( ) Sole Proprietorship

( ) Other (Specify) \_\_\_\_\_



7. If form of business other than corporation:

(a) Specify ownership of business (describe FSM citizen participation):  
\_\_\_\_\_

(b) Specify names of ownership and management, addresses, and citizenship:

(c) Provide Social Security Number(s) & Passport Number(s) of the principal owner(s):

<u>Name</u>	<u>Social Security No.</u>	<u>Passport No.</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Manpower- (provide total number of FSM citizens and non-FSM citizens with wages, positions, benefits, level of skills, and nationality; specific training to be developed for FSM employees):

Above information is:            ( ) Attached            ( ) Not Attached

9. What economic, social and environmental programs the applicant intends to implement:

Above information is:            ( ) Attached            ( ) Not Attached

10. Provide copy of lease or legal ownership documents for real property where the project will take place

Above information is:            ( ) Attached            ( ) Not Attached

11. For Corporation, only provide Articles of Incorporation and By-laws.

Above information is:            ( ) Attached            ( ) Not Attached

12. Any other business names used: \_\_\_\_\_

13. Any criminal convictions or adverse civil judgments or administrative proceeding determinations:  
\_\_\_\_\_

14. Provide any other information that the applicant deems to be necessary in support of the application.  
The following additional information is attached: \_\_\_\_\_  
\_\_\_\_\_

The undersigned being a duly authorized officer of the corporation/business, upon penalty of perjury, deposes and says that he has read the foregoing application and that the same is true of his own knowledge and belief.

Submitted this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Name & Title  
\_\_\_\_\_  
Notary Public

Schedule 6  
Form 1

DEPARTMENT OF COMMERCE & INDUSTRY  
STATE OF CHUUK  
FEDERATED STATES OF MICRONESIA

Foreign Investment Permit No: \_\_\_\_\_

Pursuant to Chuuk State Law No. 4-99-03, enacted as Chuuk State Foreign Investment Act, this permit is granted to:

Scope of Permit: \_\_\_\_\_

*This permit is renewable every year after the date of approval upon compliance with requirements and conditions provided in the accompanying documents.*



Ignacio Stephen, Director

Effective Date: \_\_\_\_\_

This permit must be displayed in a conspicuous place at the permit premises.

**Schedule 7--  
Application, Annual, and Modification Request Fees**

- (1) A non-refundable application fee is required under Section 8(2) of the Chuuk State Foreign Investment Act which shall be \$250.00
- (2) The annual fee to be paid under Section 8(3) of the Chuuk State Foreign Investment Act shall be \$150.00
- (3) The modification request fee to be paid under Section 8(6) of the Chuuk State Foreign Investment Act shall be \$250.00

Schedule 8 -  
Form 1

**APPLICATION FORM FOR  
EXPATRIATE WORKER'S AUTHORIZATION  
(EWA)**

Submitted to: **Department of Commerce & Industry  
State of Chuuk**

Name of Enterprise: \_\_\_\_\_

Foreign Investment Permit No: \_\_\_\_\_ Date: \_\_\_\_\_ Pending: \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_ Email: \_\_\_\_\_

Street Address/Post Office:
City:
State/Province:
Country:
Zip/Mail Code:

**APPLICATION FOR EXPATRIATE WORKER'S AUTHORIZATION:**

Automatic EWA: \_\_\_\_\_ Additional EWA \_\_\_\_\_ How many EWA? \_\_\_\_\_  
( ) ( ) ( )

**Application Information:**

	Job Title	Name	Nationality	Justification
(1)	_____	_____	_____	_____
(2)	_____	_____	_____	_____
(3)	_____	_____	_____	_____

(Use additional sheet for more EWA positions)

	Share-holding	Management Role in Enterprise	Police Check	Health Certificate
(1)	_____	_____	_____	_____
(2)	_____	_____	_____	_____
(3)	_____	_____	_____	_____

**A Police Check from the area of residence is required for any foreign applicant who intends to become a Director, Shareholder, or Staff member and must be attached to the final application.**

**Attach additional information if relevant:**

- (1) \_\_\_\_\_
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_

Application submitted by:

First Name

Middle Name:

Last Name:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Note: If any item is not applicable to your application, write 'N/A' in the blank line provided.

Schedule 8 -  
Form 2  
Expatriate Worker's Authorization (EWA)  
APPROVAL FORM

Approved by: Chuuk State Department of Commerce & Industry \_\_\_\_\_

Name of Enterprise: \_\_\_\_\_

Foreign Investment Permit No.: \_\_\_\_\_

Date: \_\_\_\_\_

Pending: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

EWA Approval For:

Automatic EWA: \_\_\_\_\_

Job Title: \_\_\_\_\_

Additional EWA: \_\_\_\_\_

No. \_\_\_\_\_

Job Title(s): (1) \_\_\_\_\_  
(2) \_\_\_\_\_

(2) \_\_\_\_\_  
(3) \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

**Schedule B -  
Criteria for the Automatic Award of Additional EWA's for Senior Management Positions**

- (1) The following is to be used as relevant factors in determining whether to approve or disapprove additional EWA's for senior management positions and other EWA's:
- (a) filing of the available EWA positions;
  - (b) thirty (30) days announcement of the available positions;
  - (c) application endorsement by (a) Director or his designee; (b) Immigration & Labor Office in the State;
  - (d) applicant must be a professional in the specific area of employment;
  - (e) must be a graduate of a recognized college or university;
  - (f) must possess at least four years of progressive work experience in the area of work being applied for;
  - (g) must provide a negotiated employment contract between parties;
  - (h) contract of employment must indicate the employers responsibility in the recruitment and repatriation of the non-citizen worker;
  - (i) applicant has not been convicted of a crime involving moral turpitude;
  - (j) providing of false and misleading material information;
  - (k) finding that the worker's presence is not in the best interest of the FSM;
  - (l) finding that the worker is likely to become a public charge;
  - (m) finding that the worker is carrying, bringing or intending to carry or bring controlled substance in the FSM;
  - (n) submission of physical examination performed by a licensed physician; and
  - (o) others as may be deemed necessary by the Director.

Schedule 9 -  
**ANNUAL REPORT**  
**CHUUK STATE FOREIGN INVESTMENT PERMIT HOLDER(S)**

**FOREIGN INVESTMENT ANNUAL REPORT AND RENEWAL FOR FISCAL YEAR:**

**SECTION A - GENERAL**

1. Name of Business: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_
2. Permit No. \_\_\_\_\_ Date of Issuance: \_\_\_\_\_
3. Registered Agent in Chuuk (FSM): \_\_\_\_\_
4. Date of Business operation began: \_\_\_\_\_
5. State(S) in which the Business is conducted:
 

<u>STATE</u>	( )	<u>LOCATION</u>
CHUUK	( )	_____
KOSRAE	( )	_____
POHNPEI	( )	_____
YAP	( )	_____
6. Current percentage (%) ownership held by FSM citizen(s): \_\_\_\_\_
7. Economic Sector/Type of Business: \_\_\_\_\_  
 Product manufactured/Services provided: \_\_\_\_\_
8. Did you file a "Report" for last year?    Yes    ( )                      No    ( )  
 If "No", please explain why: \_\_\_\_\_
9. Name of your Bank(s): \_\_\_\_\_
10. Membership in the Chuuk Chamber of Commerce:    Yes    ( )                      No    ( )

**SECTION B - FOR ALL ORGANIZATION**

1. Form of Organization:
 

(a) Sole Proprietorship	( )
(b) Partnership	( )
(c) Foreign Corporation	( )
(d) Joint Venture (FSM & Foreign)	( )
(e) FSM Corporation	( )
2. Date of Incorporation/Registration: \_\_\_\_\_

3. Names and addresses of Sole Proprietors, Partners/Board of Directors:

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
- (d) \_\_\_\_\_

Principal Personnel:

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

4. Capitalization:

- (a) Authorized Capital: Foreign Amount %: \_\_\_\_\_ Local Amount %: \_\_\_\_\_
- (b) Paid up Capital: Foreign/Amount %: \_\_\_\_\_ Local/Amount %: \_\_\_\_\_
- (c) Do you intend to promote unsold shares? Yes ( ) No ( )  
If "Yes", how? \_\_\_\_\_

(d) List of Names & Amount of Shareholding: (attach list if necessary)

Name	Amount
1) _____	_____
2) _____	_____
3) _____	_____
4) _____	_____

e) State any Dividend Payments during the last years:

Year	Rate	Amount Paid
_____	_____	_____
_____	_____	_____
_____	_____	_____

f) List any Equity Investment during the year: Amount: \_\_\_\_\_  
Place/Project: \_\_\_\_\_

g) State total Assets for the Corporation as the end of reporting period:  
\_\_\_\_\_  
\_\_\_\_\_

**SECTION C - MANAGEMENT UTILIZATION (This should be filled by all enterprises)**

1. Number of Employees:

	No. of FSM	No. of Non-FSM	Total
(a) Executive/Managerial	_____	_____	_____
(b) Clerical/Office	_____	_____	_____
(c) Skilled	_____	_____	_____
(d) Unskilled	_____	_____	_____
(e) Other (Specify)	_____	_____	_____



2. Indicate the Highest/Lowest Wages Paid:
- |                     | FSM           | Non-FSM |
|---------------------|---------------|---------|
| Highest Wage: _____ | Rate/Hour ( ) | ( )     |
| Lowest Wage: _____  | Rate/Hour ( ) | ( )     |
3. Indicate the Manpower growth during the reporting period:  
 Beginning of year: \_\_\_\_\_  
 End of reporting year: \_\_\_\_\_
4. Indicate any Training offered to the staff during the year: (Please specify and attach separate sheet if necessary.) \_\_\_\_\_
5. What training needs exist in your Corporation?: \_\_\_\_\_  
 \_\_\_\_\_  
 How do you plan to accomplish it?: \_\_\_\_\_  
 \_\_\_\_\_
6. Category of Employees:
- |                      |       |
|----------------------|-------|
| a) Permanent Regular | _____ |
| b) Temporary         | _____ |
| c) Piece-rate        | _____ |
| d) Other             | _____ |
| e) Total             | _____ |

**SECTION D - MARKETING (SALES) (FOR ALL ENTERPRISES)**

1. Total sales during the report period:
- | No. of units (Products/Services) | Total Value (\$) |
|----------------------------------|------------------|
| a) _____                         | _____            |
| b) _____                         | _____            |
| c) _____                         | _____            |
| d) _____                         | _____            |
2. Indicate the Value of Imported/Local Sales:  
 Imported: \_\_\_\_\_  
 Local: \_\_\_\_\_
3. What steps have been taken to increase local sales or substitute imports?  
 \_\_\_\_\_  
 \_\_\_\_\_
4. External Trade:
- |  |       |
|--|-------|
| a) Indicate Principal Export Items:        | _____ |
| b) Total Export Value of reporting period: | _____ |
| c) Exported to:                            | _____ |

**SECTION E - FINANCIAL STATEMENT (FOR ALL ENTERPRISES)**

Please provide the following:

1. Financial Statement (including Balance Sheet and Income Statement for the reporting period).
2. Provide Audited Statements and Reports:
3. Total working capital during the year:
4. Annual Taxes paid:
5. Indicate any long-term borrowing:

**SECTION F - PROBLEM ASSESSMENT**

1. Indicate any Constraints, Problems, etc., that affected your business enterprise during the reporting period:
2. What other prospects exist to diversify your business:
3. What is your future business plan:
4. Other comments or suggestions:

WE HEREBY CERTIFY THAT NONE IS A MINOR OR AN INCOMPETENT PERSON.

WE FURTHER CERTIFY THAT ALL OF THE ANSWERS MADE IN THIS STATEMENT ARE TRUE, COMPLETE AND CORRECT TO THE BEST OF OUR KNOWLEDGE.

By: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Date: \_\_\_\_\_

THIS STATEMENT MUST BE SIGNED BY ALL SHAREHOLDERS IN THE COMPANY AND ACKNOWLEDGED BEFORE A NOTARY PUBLIC, CLERK OF COURTS OR OTHER PERSON AUTHORIZED TO TAKE ACKNOWLEDGEMENT.

**ACKNOWLEDGEMENT**

Personally appeared before me the above name \_\_\_\_\_

persons who executed the foregoing instrument and acknowledged to me that they executed the same as their free act and deed.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Notary Public in and for

My Commission expires on the \_\_\_\_\_ day of \_\_\_\_\_

Schedule 10 -  
Fines and Penalties

**Criminal Penalties**

- (1) Any Non-Citizen who intentionally engages in business activities in the State of Chuuk for which a Foreign Investment Permit is required without first obtaining that permit.
- (2) Any Non-Citizen who provides false information on his/her application.
- (3) Any Non-Citizen who after obtaining a Foreign Investment Permit, intentionally fails to comply with the limitations, if any, stated in the permit.
- (4) Any Non-citizen who obtains a Foreign Investment Permit by fraud or misrepresentation shall be deemed guilty of a criminal offense and upon conviction thereof in Chuuk State Court or FSM Court shall be imprisoned for a period determined by the courts, or in case of fines, an amount not to exceed \$50,000 per incident for legal entity, and \$10,000 per incident for individual.
- (5) Any citizen(s) or non-citizen(s), who aids or abets a non-citizen(s) in violating any of the terms of Subsection (1) above, shall be guilty of a criminal offense and upon conviction thereof in Chuuk State Court or FSM Court shall be imprisoned for a period of not exceeding 1 year, or fined \$5,000, or both.

**Civil Penalties**

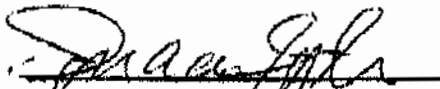
(Administrative fines and penalties (Section 13 (2) ) ):

The Director may impose the following fines and penalties pursuant to Section 13 (2)(b) of the Act:

- (1) An administrative fine not exceeding \$ 500.00 for failure to comply with the reporting requirements under Section 10 (1) of the Act and Section 11 of these Regulations.
- (2) An administrative fine not exceeding \$1,000.00 for failure or refusal to comply with any restrictions or conditions included in the Chuuk State Foreign Investment Permit or for engaging in activities not authorized by the permit.
- (3) An administrative fine not exceeding \$500.00 for any other violations of the Act or these Regulations.

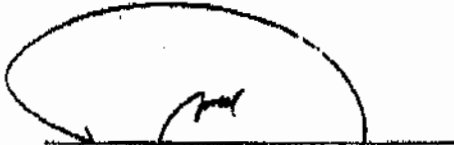
### PROMULGATION OF FOREIGN INVESTMENT REGULATIONS

Pursuant to the authority vested in them by Chuuk State Law No. 4-99-03, enacted as Chuuk State Foreign Investment Act of 1998, the above Foreign Investment Regulations are hereby adopted and shall have the force and effect of law.



Honorable Ignacio Stephen  
Director  
Department of Commerce & Industry

Date: 8/8/02



Honorable Anaito Walter, PhD  
Governor  
State of Chuuk

Date: 8/30/02

Approved as to legal sufficiency:



Honorable Randy Johnny  
Attorney General  
State of Chuuk

Date: 8/8/02