

FEDERAL RESERVE SYSTEM

BAWAG P.S.K. Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse  
Aktiengesellschaft  
Vienna, Austria

Order Approving the Establishment of a Representative Office

BAWAG P.S.K. Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse Aktiengesellschaft (“BAWAG P.S.K.”), Vienna, Austria, a foreign bank within the meaning of the International Banking Act of 1978 (“IBA”), has applied under section 10(a) of the IBA<sup>1</sup> to establish a representative office in Venice, California (“Venice Representative Office”). The IBA provides that a foreign bank must obtain the approval of the Board to establish a representative office in the United States.

Notice of the application, affording interested persons an opportunity to comment, has been published in a newspaper of general circulation in Los Angeles, California (*Los Angeles Daily News*, September 10, 2021). The time for submitting comments has expired, and any comments received have been considered.

BAWAG P.S.K., with total assets of approximately \$61.7 billion, is the fourth largest bank in Austria by asset size.<sup>2</sup> BAWAG P.S.K. provides retail, business, and corporate banking services, including savings, payment, lending, leasing, factoring, and international real estate financing activities. The bank’s foreign operations include branches in Germany and the United Kingdom and subsidiaries in Germany and Switzerland that engage in activities such as leasing, factoring, and mortgage lending.

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<sup>1</sup> 12 U.S.C. § 3107(a).

<sup>2</sup> Asset data is as of June 30, 2021. Ranking data is as of December 31, 2020.

BAWAG P.S.K. is a wholly-owned subsidiary of BAWAG Group AG (“BAWAG Group” – consolidated assets of \$63.7 billion), Vienna, Austria. BAWAG Group is a holding company for BAWAG P.S.K and three other foreign banks, as well as various nonbank companies.

BAWAG Group’s largest shareholder is GoldenTree Asset Management LP, New York, New York, which currently owns approximately 12.1 percent of BAWAG Group’s voting shares. The second largest shareholder, with 5.6 percent of BAWAG Group’s voting shares, is T. Rowe Price Group, Inc., Baltimore, Maryland. The remaining shares of BAWAG Group are widely held.

The Venice Representative Office would act as a liaison with U.S. clients and prospective clients of BAWAG P.S.K. The Venice Representative Office also would identify and assist in the preparation of potential new investments for BAWAG P.S.K., perform back-office functions, solicit and prepare applications for loans, and assemble credit information.<sup>3</sup>

Under the IBA and Regulation K, in acting on an application by a foreign bank to establish a representative office, the Board must consider whether (1) the foreign bank has furnished to the Board the information it needs to assess the application adequately, (2) the foreign bank and any foreign bank parent engage directly in the business of banking outside the United States, and (3) the foreign bank and any foreign bank parent are subject to comprehensive supervision on a consolidated basis by their

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<sup>3</sup> A representative office may engage in representational and administrative functions in connection with the banking activities of a foreign bank, including soliciting new business for the foreign bank, conducting research, acting as a liaison between the foreign bank’s head office and customers in the United States, performing preliminary and servicing steps in connection with lending, and performing back-office functions. A representative office may not contract for any deposit or deposit-like liability, lend money, or engage in any other banking activity. 12 CFR 211.24(d)(1).

home country supervisor.<sup>4</sup> The Board also considers additional standards set forth in the IBA and Regulation K.<sup>5</sup>

In the case of an application to establish a representative office, the Board has by rule determined that the supervision standard may be met if the Board determines that the applicant bank is subject to a supervisory framework that is consistent with the activities of the proposed representative office, taking into account the nature of such activities and the operating record of the applicant bank.<sup>6</sup> This is a lesser standard than the comprehensive, consolidated supervision standard applicable to applications to establish branch or agency offices of a foreign bank. The Board considers the lesser

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<sup>4</sup> 12 U.S.C. § 3107(a)(2); 12 CFR 211.24(d)(2). In assessing the supervision standard, the Board considers, among other indicia of comprehensive, consolidated supervision, the extent to which 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 and relationships between the bank and its affiliates, both foreign and domestic; (iv) receive from the bank financial reports that are consolidated on a worldwide basis or comparable information that permits analysis of the bank's financial condition on a worldwide consolidated basis; and (v) evaluate prudential standards, such as capital adequacy and risk asset exposure, on a worldwide basis. No single factor is essential, and other elements may inform the Board's determination. 12 CFR 211.24(c)(1).

<sup>5</sup> See 12 U.S.C. § 3105(d)(3)–(4); 12 CFR 211.24(c)(2). These standards include the following: whether the bank's home country supervisor has consented to the establishment of the office; the financial and managerial resources of the bank; whether the bank has procedures to combat money laundering, whether there is a legal regime in place in the home country to address money laundering, and whether the home country is participating in multilateral efforts to combat money laundering; whether the appropriate supervisors in the home country may share information on the bank's operations with the Board; whether the bank and its U.S. affiliates are in compliance with U.S. law; the needs of the community; and the bank's record of operation. The Board may also, in the case of a foreign bank that presents a risk to the stability of the United States, take into account, to the extent appropriate, whether the home country of the foreign bank has adopted, or is making demonstrable progress towards adopting, an appropriate system of financial regulation for the financial system of such home country to mitigate such risk. 12 U.S.C. § 3105(d)(3)(E).

<sup>6</sup> *See* 12 CFR 211.24(d)(2).

standard sufficient for approval of representative office applications because representative offices may not engage in banking activities. This application has been considered under the lesser standard. As noted above, BAWAG P.S.K. engages directly in the business of banking outside of the United States. BAWAG P.S.K. has provided the Board with the information necessary to assess the application, through submissions that address the relevant issues.

BAWAG P.S.K. is subject to supervision by the European Central Bank (“ECB”) and the Financial Market Authority (“FMA”), Austria’s financial supervisory authority, under the Single Supervisory Mechanism (“SSM”). The SSM is a system of financial supervision composed of the ECB and the national competent authorities of participating European Union Member states by which specific tasks are distributed between the ECB and the national competent authorities. Under the SSM framework, the ECB has direct prudential supervisory responsibility for BAWAG P.S.K., while the FMA, as the relevant national competent authority for BAWAG P.S.K., retains supervisory authority over all other areas, including consumer protection and the prevention of money laundering and terrorist financing.

The methodologies and standards that underpin the day-to-day supervision of large European Union banking organizations by the ECB under the SSM regulatory framework are aimed at achieving a consistent supervisory approach across the European Union. The Board has previously found that other European banking organizations supervised by the SSM and the relevant national competent authority are subject to comprehensive consolidated supervision.<sup>7</sup> The system of supervision applied to all large

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<sup>7</sup> See, e.g., *Allfunds Bank S.A.U.*, FRB Order No. 2020-07 (October 20, 2020); *Abanca Corporación Bancaria, S.A.*, FRB Order 2018-20 (September 28, 2018); *Nordea Bank Abp*, FRB Order 2018-16 (August 3, 2018); *Deutsche Pfandbriefbank AG*, FRB Order 2018-01 (January 3, 2018); *ING Bank N.V.*, FRB Order 2017-27 (October 20, 2017); Board letter to Rita Milazzo dated August 1, 2017 (finding comprehensive consolidated supervision for Banco Bilbao Vizcaya Argentaria, S.A.); and *Unione di Banche Italiane, S.p.A.*, FRB Order 2016-01 (January 19, 2016).

banks within the European Union has not changed materially since it was last considered by the Board.

Based on all the facts of record, it has been determined that BAWAG P.S.K. is subject to a supervisory framework that is consistent with the proposed activities of the Venice Representative Office, taking into account the nature of such activities.

The following additional standards set forth in the IBA and Regulation K have also been considered: (1) whether the bank has procedures to combat money laundering, whether there is a legal regime in place in the home country to address money laundering, and whether the home country is participating in multilateral efforts to combat money laundering; (2) the financial and managerial resources of the bank; (3) whether the appropriate supervisors in the home country may share information on the bank's operations with the Board; and (4) whether the bank's home country supervisor has consented to the establishment of the office.<sup>8</sup>

Austria is a member of the Financial Action Task Force and subscribes to its recommendations on measures to combat money laundering and international terrorism. In accordance with those recommendations, Austria has enacted laws and created legislative and regulatory standards to deter money laundering, terrorist financing, and other illicit activities. Money laundering is a criminal offense in Austria, and credit institutions are required to establish internal policies, procedures, and systems for the detection and prevention of money laundering. The FMA enforces those requirements with respect to Austrian banks, including BAWAG P.S.K. BAWAG P.S.K. has policies and procedures to comply with these laws and regulations that are monitored by government entities, including the FMA, which is responsible for anti-money-laundering compliance.

BAWAG P.S.K. appears to have the experience and capacity to support the Venice Representative Office. BAWAG P.S.K. operates branches and subsidiaries in

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<sup>8</sup> See 12 U.S.C. § 3105(d)(3)–(4); 12 CFR 211.24(c)(2).

Austria, Germany, the United Kingdom, Switzerland, and several other countries. In addition, BAWAG P.S.K. has established controls and procedures for the Venice Representative Office to ensure compliance with U.S. law, as well as controls and procedures for its worldwide operations generally. Taking into consideration BAWAG P.S.K.'s record of operations in its home country, its overall financial resources, and its standing with its home country supervisors, it has been determined that financial and managerial factors are consistent with approval of BAWAG P.S.K.'s application to establish the Venice Representative Office.

BAWAG P.S.K. has committed to make available to the Board such information on the operations of BAWAG P.S.K. and any of its affiliates that the Board deems necessary to determine and enforce compliance with the IBA, the Bank Holding Company Act of 1956, as amended,<sup>9</sup> and other applicable federal law. To the extent that providing such information to the Board may be prohibited by law or otherwise, BAWAG P.S.K. has committed to cooperate with the Board to obtain any necessary consents or waivers that might be required from third parties for the disclosure of such information. In addition, subject to certain conditions, the ECB and FMA may share information on BAWAG P.S.K.'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 BAWAG P.S.K. has provided adequate assurances of access to any necessary information that the Board may request. In addition, the ECB has no objection to the establishment of the proposed representative office.

Whether BAWAG P.S.K.'s proposal would present a risk to the stability of the United States has also been considered. The proposal would not appear to affect financial stability in the United States. In particular, the absolute and relative size of BAWAG P.S.K. in its home country; the scope of BAWAG P.S.K.'s activities, including the types of activities it proposes to conduct in the United States and the potential for

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<sup>9</sup> 12 U.S.C. § 1841 *et seq.*

those activities to increase or transmit financial instability; and the framework in place for supervising BAWAG P.S.K. in its home country do not appear to create significant risk to the financial stability of the United States. Based on these and other factors, financial stability considerations in this proposal are consistent with approval.

On the basis of all the facts of record and subject to the commitments made by BAWAG P.S.K, BAWAG P.S.K.'s application to establish the Venice Representative Office is hereby approved by the Director of the Division of Supervision and Regulation, with the concurrence of the General Counsel, pursuant to authority delegated by the Board.<sup>10</sup> Should any restrictions on access to information on the operations or activities of BAWAG P.S.K. and its affiliates subsequently interfere with the Board's ability to obtain information to determine and enforce compliance by BAWAG P.S.K. or its affiliates with applicable federal statutes, the Board may require termination of any of BAWAG P.S.K.'s direct or indirect activities in the United States. Approval of this application also is specifically conditioned on compliance by BAWAG P.S.K. with the conditions imposed in this order and the commitments made to the Board in connection with this application.<sup>11</sup> For purposes of this action, these commitments and conditions are deemed to be conditions imposed by the Board in writing in connection with this decision and, as such, may be enforced in proceedings under applicable law.

By order, approved pursuant to authority delegated by the Board, effective  
January 13, 2022.

*(Signed) Ann E. Misback*

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Ann E. Misback,  
Secretary of the Board

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<sup>10</sup> 12 CFR 265.7(d)(3).

<sup>11</sup> The Board's authority to approve the establishment of the Venice Representative Office parallels the continuing authority of the State of California to license offices of a foreign bank. The Board's approval of this application does not supplant the authority of the State of California or its agent, the California Department of Financial Protection and Innovation, to license the Venice Representative Office in accordance with any terms or conditions that they may impose.