

ANNEX II

Select Country Practices on licensing of new banks in the private sector – Table I

Country	Legal framework	Authority granting license/authorization	Types of banks authorized/licensed	Eligible applicants	Criteria for granting licenses	
					Minimum start-up capital	Limit on ownership
Germany	Sections 32 and 33 of the Banking Act, 1989	Bafin [Federal Financial Services Authority (FFSA)]	Deposit-taking credit Institutions, investment banks, and financial services institutions		5 million euro for deposit-taking credit institutions and 0.73 million euro for investment banks	The holder of a qualified participating interest ¹ is required to notify Bafin and Deutsche Bundesbank if he intends to increase the amount of qualified participating interest in such a way that the threshold of 20%, 33% or 50% of the voting rights or capital are reached or exceeded, or that the institution comes under his control.
Australia	Section 9(3) of the Banking Act 1959	Australian Prudential Regulation Authority (APRA) grants authorization to carry on banking business. The applicant can call itself a bank only when consent is also granted by APRA under Section 66 of the Banking Act.	Institutions authorized to carry on banking business are referred to as 'Authorized Deposit-Taking Institutions'.	Only corporations (i.e. excluding partnerships or unincorporated entities) are permitted. A non-operating holding company (NOHC) that does not hold a NOHC authority under the Act, are not permitted.	<ul style="list-style-type: none"> - Fixed by APRA based on the scale, nature and complexity of operations of the applicant. - However, applicants required to have a minimum of \$ 50 million in Tier 1 capital. - Prudential Capital Ratio (PCR) of 8% of which at least half of it being made up of Tier 1 capital. - Foreign ADIs not required to maintain endowed capital in Australia. 	<ul style="list-style-type: none"> - shareholding of individual or group of associated shareholders cannot exceed 15 % of the ADI's voting shares. - The Treasurer may allow higher percentage limit. - NOHCs with 100% shareholding in ADI must have wide spread of ownership unless exempted.
Canada	Bank Act, 1991	There are 2 parts to the process. The Minister of Finance on	<u>Schedule I</u> : allowed to accept deposits and are not subsidiaries of a	Any entity or person	<ul style="list-style-type: none"> - \$ 5 million since 2002. - Minimum capital of 4% 	Ownership is based on size of Federally Regulated Financial Institution (FRFI) (banks, federal trust or loan company).

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		<p>recommendations of the Office of the Superintendent of Financial Institutions (OSFI) issues 'letters patent of incorporation'. The second part is to issue an 'Order to Commence and Carry on Business' by the Superintendent after 'letters of patent of incorporation' has been issued.</p>	<p>foreign bank. <u>Schedule II</u>: allowed to accept deposits and are subsidiaries of a foreign bank. <u>Schedule III</u>: foreign banks but not incorporated under the Bank Act and operate only in large cities, with certain restrictions.</p> <p>Banks intending to take deposits also required to become member of Canada Deposit Insurance Corporation (CDIC).</p>		<p>Tier I capital ratio and 8% total capital ratio to be maintained on a continuous basis.</p>	<p>Small Bank – shareholders' equity is less than \$ 2 billion and no restriction on ownership other than permission of Minister required to own more than 10% and up to 100% of any class of shares; and if the bank is controlled by a large Canadian bank or by a Canadian bank holding company and the bank has equity of more than \$ 250 million, no other person can be a major shareholder of the bank.</p> <p>Medium Bank – shareholders' equity is more than \$ 2 billion but less than \$ 8 million, and no restriction on ownership other than permission of Minister required to own more than 10% of any class of shares; at least 35% of voting shares to be listed on Canadian Stock Exchanges and owned by persons who are not major shareholders; and if the bank is controlled by a large Canadian bank or by a widely held Canadian bank holding company, no other person can be a major shareholder of the bank.</p> <p>Large bank – shareholders' equity is \$ 8 billion or more and widely held. No permission for holding 10% of any class of shares, but permission of the Minister is required for holding more than 10% of any class of shares and up to 20% of any class of voting shares or up to 30% of any class of non-voting shares, provided the person does not control the bank. If large bank is subsidiary of a widely held bank holding company, it may own 100% of the shares of large</p>

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						<p>bank. Certain eligible institutions (e.g. widely held insurance holding companies, widely held Canadian financial institutions, eligible foreign institutions), which control banks with shareholders' equity of less than \$ 8 billion, can continue to closely hold those banks as the equity grows through the \$ 8 billion threshold.</p> <p>- No person can be a major shareholder of a bank with equity of \$ 8 billion or more, except for above cases.</p>
Hong Kong	Section 16(1) (a) of the Banking (Amendment) Ordinance, 1997	Hong Kong Monetary Authority (HKMA)	<p>Three-tier system of authorized institutions</p> <ul style="list-style-type: none"> - banks (permitted to engage in full range of retail and wholesale banking business) - Restricted License Banks (RLBs) not eligible to carry on banking business but may take call, notice or time deposits from public in amounts of HK\$ 5 lakh and above without restriction on maturity, - Deposit-Taking Companies (DTCs) engaged in specialized activities, including consumer finance, trade finance or 	Only body corporates are permitted.	<p>Banks - HK\$ 300 million or more.</p> <p>DTCs - HK\$ 25 million or more.</p> <p>RLBs - HK\$ 100 million or more.</p> <p>An authorized institution is also required to maintain a minimum CAR of 10% and HKMA can raise it to 12% in the case of banks and up to 16% in the case of RLBs and DTCs. A non-statutory trigger ratio of 1% has also been stipulated.</p>	<p>No restriction on maximum percentage of shares that an individual can hold.</p> <p>However, a person intending to hold 50% or more of share capital of an authorized institution, can do only in well established bank or other supervised financial institution in good standing and with appropriate experience.</p>

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			securities business, but are restricted to take deposits of HK\$ 1 lakh or above with an original term to maturity, or call or notice period, of at least 3 months.			
MALAYSIA	Section 6 (4) of Banking and Financial Institutions Act (BAFIA), 1989	Minister of Finance, Government of Malaysia on recommendations of the Bank Negara Malaysia	Banks, finance company, merchant banking, discount house business	Public company	<p>RM 2 billion for domestic banking groups (capital funds for domestic banking groups are calculated based on aggregate capital funds of the commercial banks and investment bank in each group). Each banking institution within the banking group is also required to comply with the minimum regulatory capital requirement as a part of Capital Adequacy requirement.</p> <p>RM 300 million for locally incorporated foreign banks</p> <p>RM 500 million for stand-alone investment banks</p>	There is no restriction on the maximum percentage of shares that an individual can hold in a licensed bank or licensed finance company.
EUROPEAN UNION	Article 6 of The Capital	Competent authorities of Member States			5 million euro or more.	Any person desirous of acquiring, directly or indirectly, a qualifying holding in a credit

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	Requirements Directive (CRD) issued by the European Parliament and the Council of European Union				However, the Member States can grant authorizations to particular categories of credit institutions whose initial capital is less than 5 million euro, provided their initial capital is not less than 1 million euro.	institution or to further increase such holding so as to reach 20%, 30% or 50% or more of the total voting rights or of the capital held, rendering it to become a subsidiary of the credit institution, are required to obtain supervisory approval from the competent authority of the concerned Member State.
FRANCE	Monetary and Financial Code, the Banking Act and the Financial Activity Modernisation Act	The Prudential Supervision Authority (ACP) (the Credit Institutions and Investment Firms Committee)	Two broad categories - <u>credit institutions</u> comprising banks, mutual or cooperative banks, municipal credit banks, financial companies and specialized financial institutions - and <u>investment firms</u>		5 million euro for credit institutions, that carries out all types of operations. 2.2 million euro for municipal credit banks which grant loans secured by pledge or loans to natural persons but are not authorized to receive funds from public 1.1 million euro for municipal credit banks which confine to lending against physical collateral, financial companies that provide either guarantees or confine to leveraged spot foreign exchange transactions. Required to maintain a	A single natural person is not permitted to own a credit institution's entire share capital. A shareholder or several shareholders acting in concert may hold a controlling interest in a credit institution.

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					<p>solvency ratio of at least 8% at all times.</p>	
UNITED KINGDOM	Section 40(1) of Financial Services and Markets Act, 2000	Part IV permission by Financial Services Authority (FSA)		Individual, body corporate, partnership or unincorporated association	<p>5 million euro.</p> <p>The bank is also required to maintain, at all times, capital resources equal to or in excess of the sum of credit risk capital requirement, market risk capital requirement and operation risk capital requirement.</p>	No information is available. However, the applicant firm can have close links with another person (i.e. owns or controls 20% or more of voting rights or capital of the applicant firm), provided FSA is satisfied that such links are not likely to prevent its effective supervision.
USA	National Bank Act	<p>The Office of the Comptroller of the Currency (OCC) is designated authority.</p> <p>OCC grants approval in two steps: preliminary conditional approval and final charter approval.</p>	National Banks for full services, special purpose or narrow focus banks (trust banks, credit card banks, bankers' banks, community development banks, cash management banks) for special operations.	Organizing groups compulsorily composed of five or more persons (normally the bank's initial board of directors). It should be a body corporate.	<p>No minimum dollar level of capital for national bank charter applications.</p> <p>OCC evaluates sufficiency of the proposed capital level in light of the risks present. It expects projected capital to remain at or above the "well capitalized" level for the first three years of operation, which is considered to be the minimum capital standards.</p> <p>For more complex bank proposals, higher levels of</p>	<p>No restriction on maximum percentage of shares that an individual can hold.</p> <p>New national bank may be owned by individuals or a holding company.</p>

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JAPAN	The Banking Law of Japan, 1981	The Prime Minister		Any person	1 billion yen or more	No restriction on maximum percentage of shares that an individual can hold. However, any person who intends to acquire voting rights equal to or more than standard value of main shareholders of a bank, should seek prior approval in advance from the Prime Minister

ⁱ A qualified participating interest exist if at least ten per cent of the capital of, or the voting rights in, an enterprise is held directly or indirectly through one or more subsidiaries or a similar relationship or through collaboration with other persons or enterprises, or if a significant influence can be exercised on the management of the enterprise in which a participating interest is held.