Bank Shot:
Establishing Your Own
International Bank in Nevis.

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Introduction. One of the most profitable businesses in the World is banking and finance, but reputation, regulation and capital investment are the three (3) biggest obstacles for persons who seek to open their own bank. Investors should seek to establish their headquarters in a prestigious jurisdiction where entities are supervised according to a risk-based approach, instead of a one-size-fits-all method, and where business can be maintained in a cost-efficient manner. Opening an international bank in an international financial services center is an option which can provide a bank with a positive affiliation, adequate supervision and proper economies of scale.

International banking. Offshore or international banking is the type of banking which occurs outside of the accountholder's home country or residence. International banking allows clients who live in unstable countries to hold their assets in a stable country in a stable currency, and avoid the diminution of assets if their home country periodically undergoes episodes of unrest. Having an international bank account is useful for businesses who engage in cross-border transactions, as it allows them to maintain a portion of their assets outside their home jurisdiction, potentially minimizing their domestic tax burden. An account in an international bank, when coupled with an entity registered in an international financial center can be used by a debtor to limit their exposure to creditors. International financial centers are jurisdictions which allow the registration of companies, foundations and trusts at a cost-efficient basis with a certain level of anonymity. An international bank in an international financial services center offer benefits and opportunities for bankers and their potential clients.

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Cross-border banking. While there are many negative assumptions about international banking, the mere fact that a person has opened an account in a foreign territory is not evidence of illegal or illicit activity. Opening an account in an international bank could not be used to hide assets from tax authorities, since most countries require their citizens to report all of their bank accounts regardless of location. Due to concerns about being removed from the international banking system, banks will not knowingly assist in the concealment of information or assist their clients in committing crimes.

Nevis. The Caribbean island of Nevis is a part of the Federation of Saint Christopher and Nevis (the "**Federation**"), a twin-island nation which is colloquially known as Saint Kitts Nevis. A former British colony, Saint Kitts Nevis received its Independence in 1983. The majority of the Federation's population are of African-Caribbean heritage, with 40,000 residing on Saint Kitts and 12,000 Nevis residents. The basis of the Federation's economy are tourism, international financial services and international medical and veterinary schools. Saint Kitts Nevis uses the Eastern Caribbean dollar (EC$) which is official currency of six (6) other countries or territories in the region. The Federation is also the home of the Eastern Caribbean Central Bank (the "**ECCB**") which is the central bank and regulatory authority for the Eastern Caribbean dollar.

Jurisprudence. The basis of Saint Kitts Nevis' jurisprudence is the common law of England. Under the nation's Constitution, Nevis has its own executive and legislative branches of government. Nevis' Premier heads the Nevis Island Administration (the "**NIA**"), while the House of Assembly is Nevis' legislature. Nevis' Premier has

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traditionally also acted as the Minister of Finance (the "**Minister**") and is assisted by a Permanent Secretary of Finance. Nevis has exclusive jurisdiction over commercial, fiscal, corporate and trust laws.[1] Federal law, called "*Acts*" applies to both islands, while Nevis' laws are known as "*Ordinances*". Since 1984, the House of Assembly has enacted several laws which have encouraged its growth and development as international financial services center. Nevis is now the home to captive insurance companies, corporations, companies, foundations, trusts ("**Nevis-registered international services entities**") and banks.

International banking in Nevis. Banks which engage in transactions with local residents, or domestic banking is governed by the federal Banking Act and are regulated by the ECCB.[2] International banking is regulated by the Regulator of International Banking (the "**Regulator**"), under the auspices of the Nevis International Banking Ordinance, Cap. 7.05 (the "**NIBO**").[3] Under the NIBO, only foreign persons may establish accounts with an international bank, and with the exception of Nevis-registered international services entities, a licensee may not "… *receive or solicit funds from any resident in Nevis*…".[4]

Corporate requirements. A licensee must be either be an eligible company or a qualified foreign bank ("**QFB**").[5] A QFB is one which is incorporated and regulated

[1] Constitution of Saint Christopher and Nevis, Section 103
[2] Banking Act, Cap. 21.01
[3] Nevis International Banking Ordinance, Cap. 7.05, Section 30
[4] Nevis International Banking Ordinance, Cap. 7.05, Section 3
[5] Nevis International Banking Ordinance, Cap. 7.05, Section 5

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under the laws of a jurisdiction other than the Federation. An eligible company can be a subsidiary of a local bank, a foreign bank or a company of which the Chief Executive Officer has at least ten (10) years experience in banking or finance. An eligible company would be incorporated under the Companies Ordinance, while a QFB would be registered as an external company under the law.[6] An eligible company must be incorporated as a company limited by shares, restrict its business and activities to international banking and must have the word "*bank*" in its name.[7] A bank shall have at least three (3) directors who are all natural persons, one (1) of whom must be a Federation citizen and a resident of Nevis.[8]

Financing requirements. An applicant must be capitalized for at least two million United States dollars (US$2,000,000) or a greater amount if the Regulator requires. The bank must also purchase and hold two hundred thousand United States dollars (US$200,000) in approved financial products. To satisfy the purchase and hold requirement, treasury bills, bonds or debentures issued by the federal government or the NIA could be bought, or the bank could also make a deposit in a local bank or in an approved foreign account. The bank could not encumber the purchase and hold without prior approval of the Regulator.[9] The applicant must also establish a reserve fund equal to twenty-five percent (25%) of its annual profits before a dividend is paid, if the fund is

[6] Companies Ordinance, No. 4 of 1999, Sections 4 and 338
[7] Nevis International Banking Ordinance, Cap. 7.05, Section 9 (1) (a)
[8] Nevis International Banking Ordinance, Cap. 7.05, Section 22 (3)
[9] Nevis International Banking Ordinance, Cap. 7.05, Section 11

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less than the paid up capital. The reserve fund must be held at an approved independent bank.[10]

Physical location. Nevis does not want brass-plate banks and any licensee must have a meaningful connection to Nevis. The bank must maintain a physical place of business within Nevis which will be its registered office.[11] A licensee cannot change its place of business without notification and approval of the Regulator. If real property is purchased for the bank's place of business, the owners would need to obtain an Alien Landholding License ("**ALHL**") to buy the land, but the purchase could be used as the basis to apply for citizenship under Saint Kitts Nevis' Citizenship-by-Investment Program.

Application. In order to establish an international bank in Nevis, an application must be submitted which must provide pertinent information about the bank. The application must be in the form as prescribed by the Regulations and include a fee is seven thousand, five hundred United States dollars (US$7,500). The application must confirm if it is applying as an eligible company or a QFB, and report the particulars of the type of international banking that it proposes to conduct. The details and qualifications about the bank's directors, including its Nevis-resident director, senior management and shareholders need to be provided. Any proposed director or shareholder who is not a Saint Kitts Nevis citizen would need to apply for an ALHL in order to assume their position. The applicant will need to appoint an auditor and compliance officer and

[10] Nevis International Banking Ordinance, Cap. 7.05, Section 12
[11] Nevis International Banking Ordinance, Cap. 7.05, Section 7

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provide their credentials.[12] The application would also need to include copies of the corporate documents of the bank.[13] Any applicant which is a QFB, would need to submit corporate documents and copies of past audited financial statements. While it is the duty of the Minister issue or reject any completed applications within three (3) months of submission, since the Regulator has the right to request additional information, it is likely that the approval process could take additional time.

Business Plan. The application must include a business plan which should include a multi-year projection regarding the applicant's commercial objectives, proposed operations and business development goals. The business plan specifically needs to include criteria and standards regarding its credit, investment and lending policies, its "*Know-Your-Client*" standards and practices and the sources of its initial and future capital infusion. Projected staffing requirements, an organizational chart detailing corporate governance and information regarding subsidiary and affiliate companies also need to be included. In today's World since most banking is done online, the business plan should contain details regarding security of internet banking facilities, protection of customer information, the location of its servers and the details of any outsourcing arrangements. The bank also needs to state its financial year-end and provide its disaster contingency plans along with its Policy and Procedures Manual and Employee Manual.

[12] Nevis International Banking Ordinance, Cap. 7.05, Section 9 (2)
[13] Nevis International Banking Ordinance, Cap. 7.05, Section 9 (3), (4) and (5)

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Basel Committee Principles. The business plan should follow the guidelines which have been laid out by the Basel Committee's guidelines regarding internal supervision, corporate governance, risk management and compliance. The Principles also provide guidance about Anti-Money Laundering and Combat of Financing of Terrorism policies, audit operations and procedures regarding the identification and management of conflicts of interest. The applicant should establish an internal management system whereby an executive board supervises the persons who control the bank's daily affairs. The applicant-bank should also ensure that remuneration is adequate and appropriate for duties and responsibilities.

Examination by Regulator. The Regulator will review the application and business plan to certify that it fulfills all of the requirements of the NIBO and ensure that the approval of a license is in the public interest and would not harm Nevis' reputation. The Regulator will also conduct a due diligence review of the directors, any shareholders holding greater than five percent (5%) of the shares and all senior management (the "**key persons**") to ensure that they are *"… fit and proper persons…*".[14] All ultimate beneficial owners will be subject to a due diligence review regardless of their shareholding percentage. New key persons will have to be chosen if such person has committed an offense of fraud, dishonesty, violence or has engaged in questionable business practices.[15]

[14] Nevis International Banking Ordinance, Cap. 7.05, Section 13
[15] Nevis International Banking Ordinance, Cap. 7.05, Section 80 (3)

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Preliminary report. In advance of submitting the formal application, an applicant may wish to submit a proposal to the Minister, who would indicate whether or not a subsequent application based on the proposal would be favorably received.[16] The Minister must submit a preliminary report to the applicant with ninety (90) days of receipt.[17] If Minister provides the applicant with a favorable response, the application may still be refused if it is determined that material information was withheld or the application was submitted in bad faith.[18] The fee for a preliminary report is two thousand five hundred United States dollars (US$2,500).

Licensing, fees and taxes. Once an applicant is successful and a license has been granted, the new licensee must commence international banking operations within six (6) months or their license may be suspended or revoked.[19] Licenses to conduct international banking are issued on a calendar year basis, and must be renewed by 31ST January.[20] After an international banking license has been granted, an initial fee must be paid and a renewal fee must when the license is renewed. The initial fee and the renewal fee are both one hundred thousand United States dollars (US$100,000).[21] The renewal fee is the sole payment that a licensee must make to the NIA on an annual basis, Nevis' government will not impose any tax on profits and gains, no income tax, capital gains tax, withholding tax or any other direct tax.[22] Provided the purchaser is not a resident of

[16] Nevis International Banking Ordinance, Cap. 7.05, Section 10 (1), (4)
[17] Nevis International Banking Ordinance, Cap. 7.05, Section 10 (5)
[18] Nevis International Banking Ordinance, Cap. 7.05, Section 10 (4)
[19] Nevis International Banking Ordinance, Cap. 7.05, Section 35 (1) (a)
[20] Nevis International Banking Ordinance, Cap. 7.05, Section 8 (2)
[21] Nevis International Banking Regulations 2021, Schedule 1 (A)
[22] Nevis International Banking Ordinance, Cap. 7.05, Section 64

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Nevis, no tax will be imposed on the transfer of the shares of a licensee.[23] If any equipment or fixtures, which are not manufactured in Nevis, need to be imported in order to allow the licensee to carry on business, the Minister may grant an exemption from customs duty.[24]

Submission of information to Regulator. A licensee must submit to the Regulator, a monthly statement of assets and liabilities within fourteen (14) days after the end of the month. The bank must also submit a quarterly return which includes an analysis of liabilities, loans, advances and assets within fourteen (14) days of the end of each fiscal quarter. The Regulator may require the submission of additional statements and returns.[25]

Audited financial statements. The balance sheets and accounts of a licensee shall be audited on an annual basis in accordance with international financial reporting standards.[26] The auditor's report shall be submitted to the shareholders of the bank and the Regulator within three (3) months of the close of its fiscal year.[27] The auditor's report shall be read to the shareholders at the Annual General Meeting, and shall be displayed at a conspicuous place at its office in Nevis.[28]

[23] Nevis International Banking Ordinance, Cap. 7.05, Section 65
[24] Nevis International Banking Ordinance, Cap. 7.05, Section 65
[25] Nevis International Banking Ordinance, Cap. 7.05, Section 30 (4); Nevis International Banking Regulations, Schedule, Regulation 12
[26] Nevis International Banking Ordinance, Cap. 7.05, Section 34 (1)
[27] Nevis International Banking Ordinance, Cap. 7.05, Section 31 (1)
[28] Nevis International Banking Ordinance, Cap. 7.05, Section 34 (4), (5)

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Employees. The Federation is a member of the Organisation of Eastern Caribbean States ("**OECS**") which aims to deepen economic integration between its members. In addition to the Federation, the six (6) other full members of the OECS are; Antigua-Barbuda, Dominica, Grenada, Montserrat, Saint Lucia and Saint Vincent and the Grenadines. The bank cannot employ anyone who is not a Saint Kitts Nevis or an OECS citizen "*... unless there is a work permit in force.*.".[29] All work permits cost are one thousand, six hundred Eastern Caribbean dollars (EC$1,600) and are valid for one (1) year.[30] If the bank needs a specially qualified person who cannot be retained in Saint Kitts, they may employ such person and pay their salary in non-Eastern Caribbean dollars.[31] Employee benefits are covered by payments made by an employer to the Social Security Board (the "**SSB**"). Under the Social Security Act, all employers are required to registered with the SSB and to monthly payments on behalf of employees. Employers must deduct amounts from an employee's salary to pay for Social Security ("**SS**") and Housing and Social Development Levy ("**HDSL**"). Employers must make contributions for SS and HSDL and Severance Payment Contribution. Any directors' fees paid to persons who are not also employees are subject to a deduction of eight percent (8%) for HDSL.

Restrictions. NIBO places some restrictions on licensees to ensure the protection of depositors, shareholders and to protect the reputation of Nevis as an international financial services center. A bank cannot pay a dividend if such action would leave the bank insolvent or if liabilities would be greater than assets.[32] A licensee cannot advance,

[29] Immigration Act, Section 19 (2)
[30] Immigration Regulations, Third Schedule, Regulation 23
[31] Nevis International Banking Ordinance, Cap. 7.05, Section 69
[32] Nevis International Banking Ordinance, Cap. 7.05, Section 19

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credit or give financial guarantees which is secured, to a related party which is greater than forty percent (40%) of assets and paid-up capital. If portion is unsecured, it cannot be greater than ten percent (10%) of assets and paid-up capital. The bank cannot grant credit facilities on more favorable terms to a director or any person affiliated with a director if such director controls greater than twenty percent (20%) of the voting shares. The licensee may not give an officer or employee an unsecured advance or credit which is greater than such person's one (1) year's salary. Unless in satisfaction for debts owed, a bank cannot engage in trade, import-export, have a direct interest in a commercial undertaking or hold an amount equal to twenty percent (20%) of stated capital or published reserves. Unless approval is granted by the Regulator, a bank cannot invest in asset if its value is greater than ten percent (10%) of the bank's stated capital and published reserves. A licensee cannot acquire real estate unless such property is for business or staff housing and market value is less than stated capital.[33]

Conclusion. Investors looking for a domicile in which to establish their own international bank should ensure that the destination that they choose fulfills all of the criteria that their business needs to flourish. After careful consideration of all of the factors, Nevis should be the premier choice for new international banks. Nevis has a sterling reputation as a quality international financial services center with innovative legislation, and Nevis International Banking Ordinance, the banking law continues such trend. The NIBO allows bankers to own their own bank in a cost-efficient manner. Licensees avoid all taxes on their operations and would only have to pay an annual fee to

[33] Nevis International Banking Ordinance, Cap. 7.05, Section 20

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conduct business. Nevis' regulatory environment also offers relative freedom to licensees in the management of their business, while simultaneously ensuring that the bank's clients, shareholders and the public-at-large are protected.

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