FEDERAL RESERVE SYSTEM

China Construction Bank Corporation
Beijing, People's Republic of China

Order Approving Establishment of a Branch

China Construction Bank Corporation ("CCB"), Beijing, People's Republic of China, a foreign bank within the meaning of the International Banking Act ("IBA"), has applied under section 7(d) of the IBA[1] to establish a branch in New York, New York. The Foreign Bank Supervision Enhancement Act of 1991, which amended the IBA, provides that a foreign bank must obtain the approval of the Board to establish a branch 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 New York, New York (*The New York Post,* March 12, 2008). The time for filing comments has expired, and the Board has considered all comments received.

CCB, with total assets of approximately $1.1 trillion, is the second largest bank in China.[2] The government of China owns approximately 57.0 percent of CCB's shares.[3] Bank of

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[1] 12 U.S.C. § 3105(d).

[2] Asset and ranking data are as of September 30, 2008.

[3] Central SAFE Investments Limited (also known as "Huijin") directly and indirectly owns approximately 57.0 percent of CCB's shares. Huijin is currently owned directly by the government of China and was formed to assist in the restructuring of major Chinese banks. The government transferred shares of several Chinese banks, including CCB, to Huijin at the time of the recapitalization and restructuring of these banks between 2004 and 2006. Huijin also owns a majority interest in Bank of China Limited, which operates three branches in the United States, and, together with the Chinese Ministry of Finance, it owns a majority interest in Industrial and Commercial Bank of China Limited ("ICBC"), which operates a branch in New York. The government of China intends to transfer the ownership of Huijin to China Investment Corporation ("CIC"), an investment fund that is also wholly owned by the government of China. Both CIC and Huijin are non-operating companies that hold investments on behalf of the government of China. Neither CIC nor Huijin engages directly in commercial or financial activities.

Under the IBA, any company that owns a foreign bank with a branch in the United States is subject to the Bank Holding Company Act ("BHC Act") as if it were a bank holding company. As a result of the ownership by Huijin of Bank of China Limited and ICBC, Huijin is subject to the BHC Act. On the transfer of Huijin to CIC, CIC would also become subject to the BHC Act.

America Corporation[4] and Temasek Holdings, a sovereign wealth fund owned by the government of Singapore, own 19.1 and 5.7 percent, respectively, of the shares of CCB. No other shareholder owns more than 5 percent of CCB's shares.[5]

CCB engages primarily in corporate and retail banking and treasury operations throughout China, including Hong Kong and Macau. Outside China, CCB operates branches in Singapore, Japan, South Africa, Korea, and Germany and representative offices in the United Kingdom and Australia. In the United States, CCB operates a representative office in New York.[6] CCB would meet the requirements for a qualifying foreign banking organization under Regulation K.[7]

The proposed New York branch would engage in wholesale deposit-taking, lending, trade finance, and other banking services.

Under the IBA and Regulation K, in acting on an application by a foreign bank to establish a branch, the Board must consider whether (1) the foreign bank engages directly in the business of banking outside the United States; (2) has furnished to the Board the information it needs to assess the application adequately; and (3) is subject to comprehensive supervision on a

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The Board has provided certain exemptions to CIC and Huijin under section 4(c)(9) of the BHC Act (12 U.S.C. § 1843(c)(9)), which authorizes the Board to grant exemptions to foreign companies from the nonbanking restrictions of the BHC Act where the exemptions would not be substantially at variance with the purposes of the act and would be in the public interest. The exemptions provided to CIC and Huijin would not extend to CCB or any other Chinese banking subsidiary of CIC or Huijin that operates a branch or agency in the United States. See Board letter to H. Rodgin Cohen, dated August 5, 2008.

[4] Under the Board's Regulation K, Bank of America Corporation is required to seek the Board's approval to retain its investment in CCB once CCB establishes a branch in the United States.

[5] HKSCC Nominees Limited holds 10.8 percent of the shares of CCB as the registered nominee of several shareholders that each owns less than 5 percent of the shares of CCB.

[6] CCB represents that the New York representative office would be closed when the branch is established.

[7] 12 CFR 211.23(a).

consolidated basis by its home country supervisors.[8] The Board also considers additional standards as set forth in the IBA and Regulation K.[9]

The IBA includes a limited exception to the general standard relating to comprehensive, consolidated supervision.[10] This exception provides that, if the Board is unable to find that a foreign bank seeking to establish a branch, agency, or commercial lending company is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country, the Board may nevertheless approve the application provided that: (i) the appropriate authorities in the home country of the foreign bank are actively working to establish arrangements for the consolidated supervision of such bank; and (ii) all other factors are consistent with approval.[11] In deciding whether to exercise its discretion to approve an application under authority of this exception, the Board must also consider whether the foreign bank has adopted and implemented procedures to combat money laundering.[12] The Board also may take into account whether the home country of the foreign bank is developing a legal regime to address money laundering or is participating in multilateral efforts to combat money laundering.[13] This is the standard applied by the Board in this case.

As noted above, CCB engages directly in the business of banking outside the United States. CCB also has provided the Board with information necessary to assess the application through submissions that address the relevant issues.

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[8] 12 U.S.C. § 3105(d)(2); 12 CFR 211.24. In assessing this standard, the Board considers, among other indicia of comprehensive, consolidated supervision, the extent to which the home country supervisors: (i) ensure that the bank has adequate procedures for monitoring and controlling its activities worldwide; (ii) obtain information on the condition of the bank and its subsidiaries and offices through regular examination reports, audit reports, or otherwise; (iii) obtain information on the dealings with and relationship between the bank and its affiliates, both foreign and domestic; (iv) receive from the bank financial reports that are consolidated on a worldwide basis or comparable information that permits analysis of the bank's financial condition on a worldwide consolidated basis; (v) evaluate prudential standards, such as capital adequacy and risk asset exposure, on a worldwide basis. No single factor is essential, and other elements may inform the Board's determination.

[9] 12 U.S.C. § 3105(d)(3)-(4); 12 CFR 211.24(c)(2)-(3).

[10] 12 U.S.C. § 3105(d)(6).

[11] 12 U.S.C. § 3105(d)(6)(A).

[12] 12 U.S.C. § 3105(d)(6)(B).

[13] Id.

Based on all the facts of record, the Board has determined that CCB's home country supervisory authority is actively working to establish arrangements for the consolidated supervision of the bank and that considerations relating to the steps taken by CCB and its home jurisdiction to combat money laundering are consistent with approval under this standard. The China Banking Regulatory Commission ("CBRC") is the principal supervisory authority of CCB, including its foreign subsidiaries and affiliates, for all matters other than laws with respect to anti-money laundering.[14] The CBRC has the authority to license banks, regulate their activities and approve expansion, both domestically and abroad. It supervises and regulates CCB, including its subsidiaries and foreign operations, through a combination of targeted on-site examinations and continuous consolidated off-site monitoring. Since its establishment in 2003, the CBRC has enhanced existing supervisory programs and developed new policies and procedures designed to create a framework for the consolidated supervision of banks in China.

On-site examinations by the CBRC cover, among other things, the major areas of operation: corporate governance and senior management responsibilities; capital adequacy; asset structure and asset quality (including the structure and quality of loans); off-balance-sheet activities; earnings; liquidity; liability structure and funding sources; expansionary plans; internal controls (including accounting control and administrative systems); legal compliance; accounting supervision and internal auditing (including accounting control and administrative systems); and any other areas deemed necessary by the CBRC.

Off-site monitoring is conducted through the review of required annual, semiannual, quarterly, or monthly reports on, among other things, asset quality, capital adequacy, liquidity, risk management, corporate governance, affiliate transactions, and internal controls.

CCB is required to be audited annually by an accounting firm approved by the PBOC, and the results are shared with the CBRC and the PBOC. The scope of the required audit includes a review of CCB's financial statements, asset quality, and internal controls. The CBRC may order a special audit at any time. In addition, in connection with its listings on the Shanghai

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[14] Before April 2003, the People's Bank of China ("PBOC") acted as both China's central bank and primary banking supervisor, including anti-money laundering matters. In April 2003, the CBRC was established as the primary banking supervisor and assumed the majority of the PBOC's regulatory functions. The PBOC maintained its roles as China's central bank and primary supervisor for anti-money laundering matters.

and Hong Kong stock exchanges, CCB is required to have external audits conducted under both International Financial Reporting Standards and generally accepted accounting practices under Chinese law. CCB is required to publish its financial statements annually. CCB conducts internal audits of its offices and operations, including its overseas operations, generally based on an annual schedule. The internal audit results are shared with the CBRC, the PBOC, and the external auditors of CCB. The proposed branch would be subject to internal audits.

Chinese laws impose various prudential limitations on banks, including limits on transactions with affiliates and large exposures. The CBRC is authorized to require any bank to provide information and to impose sanctions for failure to comply. The CBRC also has the power to apply administrative penalties, including warnings, fines, and removal from office, for violations of applicable laws and rules. Criminal violations are transferred to the judicial authorities for investigation and prosecution.

In recent years, the Chinese government has enhanced its anti-money laundering regime. In 2005, the Chinese government took initial steps to adopt an anti-money laundering law, the PRC Anti-Money Laundering Law ("AML Law"). The AML Law and two related rules, the Rules for Anti-Money Laundering by Financial Institutions ("AML Rules") and the Administrative Rules for the Reporting of Large Value and Suspicious Transactions by Financial Institutions ("LVT/STR Rules") were enacted in October 2006 and December 2006, respectively. The AML Law and AML Rules became effective on January 1, 2007, and the LVT/STR Rules became effective on March 1, 2007. Together, the law and related rules establish a regulatory infrastructure to assist China's anti-money laundering effort.

An Anti-Money Laundering Bureau ("AML Bureau") was established within the PBOC in 2003.[15] The AML Bureau coordinates anti-money laundering efforts at the PBOC and among other agencies. The AML Bureau also supervised the creation of the China Anti-Money Laundering Monitoring and Analysis Center ("AML Center") in September 2004. The AML Center collects, monitors, analyzes, and disseminates suspicious transaction reports and large-value transaction reports. The AML Center sends suspicious transaction reports to the AML Bureau for further investigation. The PBOC issued additional rules in June 2007

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[15] The AML Bureau conducts administrative investigations and handles violations of AML Rules. Money laundering cases are referred to the Ministry of Public Security, China's main law enforcement body, for investigation and prosecution.

providing clarification on reporting suspicious transactions to the AML Center and on customer due diligence and recordkeeping.

China participates in international fora that address the prevention of money laundering and terrorist financing. China is a member of the Financial Action Task Force ("FATF") [16] and is a party to the 1988 U.N. Convention Against the Illicit Traffic of Narcotics and Psychotropic Substances, the U.N. Convention Against Transnational Organized Crime, the U.N. Convention Against Corruption, and the U.N. International Convention for the Suppression of the Financing of Terrorism.

As noted, the PBOC is China's primary supervisor for anti-money laundering matters. Like the CBRC, the PBOC supervises and regulates CCB through a combination of on-site examinations and off-site monitoring. On-site examinations focus on CCB's compliance with anti-money laundering laws and rules, including the AML Law, AML Rules, and LVT/STR Rules. Off-site monitoring is conducted through the review of periodic reports. In performing its responsibilities, the PBOC may require any bank to provide information and can impose administrative penalties for violations of applicable laws and rules.

CCB has policies and procedures to comply with Chinese laws and rules regarding anti-money laundering. CCB represents that it has taken additional steps on its own initiative to combat money laundering and other illegal activities. CCB states that it has implemented measures consistent with the recommendations of the FATF and that it has put in place policies, procedures, and controls to ensure ongoing compliance with all statutory and regulatory requirements, including designating anti-money laundering compliance personnel and conducting routine employee training at all CCB branches. CCB's compliance with anti-money laundering requirements is monitored by the PBOC and by CCB's internal and external auditors.

The Board also has taken into account the additional standards set forth in section 7 of the IBA and Regulation K.[17] The CBRC has no objection to CCB's establishment of the proposed branch.

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[16] China became a member of FATF in June 2007.

[17] See 12 U.S.C. § 3105(d)(3)-(4); 12 CFR 211.24(c)(2). The additional standards set forth in section 7 of the IBA and Regulation K 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 appropriate supervisors in the home country may share

The Board has also considered carefully the financial and managerial factors in this case. China has adopted risk-based capital standards that are consistent with those established by the Basel Capital Accord ("Accord"). CCB's capital is in excess of the minimum levels that would be required by the Accord and is considered equivalent to capital that would be required of a U.S. banking organization. Managerial and other financial resources of CCB are consistent with approval, and CCB appears to have the experience and capacity to support the proposed branch. In addition, CCB has established controls and procedures for the proposed branch to ensure compliance with U.S. law. In particular, CCB has stated that it will apply strict anti-money laundering policies and procedures at the branch consistent with U.S. law and regulation and will establish an internal control system at the branch consistent with U.S. requirements to ensure compliance with those policies and procedures.

With respect to access to information about CCB's operations, the Board has reviewed the restrictions on disclosure in relevant jurisdictions in which CCB operates and has communicated with relevant government authorities regarding access to information. CCB has committed to make available to the Board such information on its operations and any of its affiliates that the Board deems necessary to determine and enforce compliance with the IBA, the BHC Act, and other applicable federal law. To the extent that the provision of such information to the Board may be prohibited by law or otherwise, CCB has committed to cooperate with the Board to obtain any necessary consents or waivers that might be required from third parties for disclosure of such information. In light of these commitments and other facts of record, and subject to the conditions described below, the Board has determined that CCB has provided adequate assurances of access to any necessary information that the Board may request.

On the basis of all the facts of record, and subject to the commitments made by CCB, as well as the terms and conditions set forth in this order, CCB's application to establish a branch is hereby approved. Should any restrictions on access to information on the operations or activities of CCB and its affiliates subsequently interfere with the Board's ability to obtain information to determine and enforce compliance by CCB or its affiliates with applicable federal statutes, the Board may require termination of any of CCB's direct or indirect activities in the

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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; the bank's record of operation.

United States. Approval of this application also is specifically conditioned on compliance by CCB with the commitments made in connection with this application and with the conditions in this order.[18] The commitments and conditions referred to above are conditions imposed in writing by Board in connection with this decision and may be enforced in proceedings under 12 U.S.C. § 1818 against CCB and its affiliates.

By order of the Board of Governors,[19] effective December 8, 2008.

*(signed)*

Robert deV. Frierson
Deputy Secretary of the Board

[18] The Board's authority to approve the establishment of the proposed branch parallels the continuing authority of the State of New York to license offices of a foreign bank. The Board's approval of this application does not supplant the authority of the State of New York or its agent, the New York State Banking Department ("Department"), to license the proposed office of CCB in accordance with any terms or conditions that the Department may impose.

[19] Voting for this action: Chairman Bernanke, Vice Chairman Kohn, and Governors Warsh, Kroszner, and Duke.