

**#2003-125 also Terminates
#2002-1**

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY**

In the Matter of:)
)
Bank of China, New York Branch)
New York, New York;)
)
Bank of China, Chinatown Branch)
New York, New York;)
)
And)
)
Bank of China, Los Angeles Branch)
Los Angeles, California;)
)
Federal branches of)
)
Bank of China)
Beijing, People's Republic of China)

MODIFIED CONSENT ORDER

The Comptroller of the Currency of the United States of America (“Comptroller”), through his staff, has examined Bank of China, New York Branch (“New York Branch”), Bank of China, Chinatown Branch (“Chinatown Branch”), and Bank of China, Los Angeles Branch (“Los Angeles Branch”) (collectively, “Branches”), which are Federal branches of Bank of China, Beijing, People's Republic of China (“Bank”), and his findings have been made known to the Branches and the Bank.

The Branches, by and through their General Manager U.S.A. (“General Manager”), duly authorized by the Bank, executed a Stipulation and Consent to the Issuance of a Consent Order, dated January 17, 2002, that was accepted by the Comptroller (“January 2002 Order”).

The Branches, by and through their General Manager, duly authorized by the Bank, have executed a Stipulation and Consent to the Issuance of a Modified Consent Order, (“Stipulation and Consent”) dated October 23, 2003, that is accepted by the Comptroller. By this Stipulation and Consent, which is incorporated by reference, the Branches have consented to the issuance of this Modified Consent Order (“Modified Order”) by the Comptroller. This Modified Order replaces in its entirety the January 2002 Order, and the January 2002 Order is hereby terminated.

Pursuant to the authority vested in him by the International Banking Act of 1978, as amended, 12 U.S.C. § 3101 *et seq.*, and the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

Article I

CHIEF RISK OFFICER

(1) The Branches shall continue to employ a qualified Chief Risk Officer (“CRO”) who shall be a “Senior Executive Officer” within the meaning of 12 U.S.C. § 1831i, and who shall continue to manage the Risk Management Department (“Department”), headquartered in the New York Branch. The qualifications of the CRO shall continue to include:

- (a) Education and training focused on bank operations within the United States;
- (b) Expertise in the banking laws and regulations of the United States;
- (c) Significant experience in fraud control; and
- (d) Experience in lending and trade finance.

(2) The CRO and the Department shall continue to be responsible for:

- (a) Updating policies, processes, procedures, systems and controls to mitigate and prevent fraud;

- (b) Supervising the Branches' fraud control measures and adherence to internal policies and procedures;
- (c) Investigating potential internal and external fraud;
- (d) Reporting suspected fraudulent activity to the compliance department and reviewing all Suspicious Activity Reports ("SARs") filed by the Branches;
- (e) Performing monthly direct verifications of the authenticity of a sample of all bills of lading associated with trade settlement transactions submitted during the preceding one-month period:
 - (i) By November 30, 2003, the CRO shall submit to the Assistant Deputy Comptroller ("ADC"), for review and prior written determination of no supervisory objection, the proposed sampling methodology and direct verification procedures; and
 - (ii) The CRO and the Department thereafter shall implement and adhere to the sampling methodology and the direct verification procedures;
- (f) Identifying high risk credit and deposit accounts and conducting additional verification procedures:
 - (i) By November 30, 2003, the CRO shall submit to the ADC, for review and prior written determination of no supervisory objection, the proposed methodology for identifying high risk accounts and the additional verification procedures; and
 - (ii) The CRO and the Department thereafter shall implement and adhere to the methodology and the additional verification procedures;

- (g) Identifying, utilizing a risk-based sampling methodology, other deposit accounts and conducting additional reviews of those accounts:
 - (i) By November 30, 2003, the CRO shall submit to the ADC, for review and prior written determination of no supervisory objection, the proposed sampling methodology and the additional review procedures; and
 - (ii) The CRO and the Department thereafter shall implement and adhere to the sampling methodology and the additional review procedures;
- (h) Reviewing, and making written recommendations where applicable, on all proposed extensions of credit, including new extensions or credit, renewals of existing extensions of credit, and any change in terms of any extension of credit, including changes in collateral.

(3) The CRO and the Department shall continue to have all authority necessary to carry out the functions, duties and responsibilities of the CRO and the Department, including, but not limited to, the authority to gain access to all branch records, including personnel records, the authority to conduct comprehensive investigations, the authority to require the Branches to adopt policies, processes, procedures, systems and controls, and the authority to require the Branches to produce such reports deemed necessary or appropriate by the CRO or the Department.

(4) The Branches shall continue to provide to the CRO and the Department on a monthly basis the following reports and information, maintained in searchable databases where applicable, which shall continue to contain at a minimum the same items of information which were included as of the effective date of the Modified Order, unless amended by this Modified Order, or following review and prior written determination of no supervisory objection by the ADC:

- (a) New, renewed or modified credit accounts, including changes in the collateral for any credit account, and trade settlement transactions;
- (b) Loan participations;
- (c) Sales, purchases or transfers of assets by any of the Branches (exclusive of fixed assets and investment securities);
- (d) Collateral issued by or held by any party other than the obligor, to secure (in whole or in part) credit extended by any of the Branches;
- (e) Subpoenas received by any of the Branches, law enforcement inquiries directed to any of the Branches, litigation involving any of the Branches, and any known litigation involving customers of the Branches; provided, however, that the requirement to provide litigation reports involving customers of the Branches shall not apply to U.S. domestic syndicated loans that are not underwritten or originated by the Branches or to corporations where the litigation has already been reported and published in a 10K, 10Q or other public securities filing;
- (f) All deposit accounts and credit accounts or transactions of any nature, other than clearings or routine inter-branch treasury transactions, directly or indirectly related to other branches of the Bank; and
- (g) The existence of Related Accounts and the activity between Related Accounts. The term "Related Accounts" shall be broadly construed and includes:
 - (i) All accounts at the Branches, collectively, for which there are common signatories, directors, officers, addresses, or phone numbers;

- (ii) All accounts at the Branches, collectively, of relatives of the customer, whether by blood or by marriage, including, but not limited to, spouse, sons, daughters, sons-in-law, daughters-in-law, and parents;
- (iii) All accounts of any corporation, partnership, joint enterprise or other enterprise or undertaking whatsoever, controlled by or operated substantially in the interest of any of the Branches' customer;
- (iv) All accounts where the Branches' customer exercises control or authority over the account holder; and
- (v) All accounts of any Affiliate of the Branches' customer.
- (vi) The term "Related Account" excludes borrowers under U.S. domestic syndicated loans that were not underwritten or originated by the Branches and corporations in which Moody's Investor Service or Standard & Poor's has issued a current credit opinion.

(5) The CRO or the Department shall produce quarterly reports to the General Manager and the Bank, copied to the ADC, summarizing any investigations initiated, conducted or concluded by the CRO or the Department, including whether the investigation(s) resulted in the filing of a SAR or the termination of an account, any events or transactions deemed significant by the CRO or the Department, any risk assessments deemed significant by the CRO or the Department, and any modifications to the policies or procedures of the Branches. With respect to modifications to policies or procedures, the report shall indicate what was in the original policy or procedure and highlight the changes.

Article II

TRADE SETTLEMENT

(1) Trade settlement transactions shall continue to be conducted in compliance with policies and procedures existing as of the effective date of the Modified Order, or as amended from time-to-time as permitted under this Modified Order.

(2) All trade settlement transactions, excluding local deliveries, shall continue to be supported by signed original bills of lading or original warehouse receipts from an independent warehouse, and original commercial invoices, or, with the prior written consent of the CRO or the Department, duplicate bills of lading or warehouse receipts from an independent warehouse, bearing an original signature or original stamp of the carrier or warehouse, and original commercial invoices.

(3) All trade settlement transactions calling for local delivery shall continue to be approved in advance by the CRO or the Department.

(4) The Branches shall not conduct a trade settlement transaction for any customer on whom a SAR has been filed by one of the Branches, or for any Related Account of such customer, without the prior written consent of the CRO or the Department.

(5) The Branches' trade settlement policies and procedures may be amended only after review and prior written determination of no supervisory objection by the ADC.

Article III

CREDIT TRANSACTIONS

(1) Credit transactions shall continue to be conducted in compliance with established policies and procedures existing as of the effective date of the Modified Order, or as amended from time-to-time as permitted under this Modified Order.

(2) All credit granted to Related Accounts shall continue to be treated as one borrower for loan approval, credit analysis, and monitoring purposes.

(3) The Branches shall not extend additional credit or renew existing credit to any customer on whom a SAR has been filed by one of the Branches, or to any Related Account of such customer, without the prior written consent of the CRO or the Department.

(4) The Branches shall continue to require audited financial statements, tax returns, and, where applicable, a list of major suppliers and major customers, from each customer where the aggregate credit to all Related Accounts of the customer totals three million dollars (\$3,000,000) or more, and will require unaudited financial statements from each customer where the aggregate credit to all Related Accounts of the customer totals less than three million dollars (\$3,000,000), but more than one million dollars (\$1,000,000).

- (a) This paragraph shall not apply to U.S. domestic syndicated loans that are not underwritten or originated by the Branches, mortgage loans, or corporations in which Moody's Investor Service or Standard & Poor's has issued current credit opinions.
- (b) The tax return requirements of this paragraph shall not apply to cash secured loans, publicly traded companies, or non-public companies that generate annual sales of \$50 million and maintain a net worth greater than \$5 million.
- (c) The information required by this paragraph shall be obtained prior to extending new credit or renewing existing credit, and annually for all other credit.
- (d) Business customers who have been established for less than one year may provide an unaudited financial statement in lieu of an audited statement.

(5) The Branches shall not extend or participate in any credit where any part of the funds would be:

- (a) Used to fund an equity investment by any another branch of the Bank or any affiliate of the Bank;
- (b) Used to fund a joint venture or any other business arrangement owned or controlled, in whole or in part, by any other branch of the Bank or by an affiliate of the Bank; or
- (c) Used to facilitate a transaction by any other branch of the Bank or any affiliate of the Bank that would be impermissible if the other branch of the Bank or the affiliate of the Bank, as applicable, were a national bank located in the United States.

(6) Loan administration shall continue to be segregated from the lending departments and dual controls maintained in loan administration. A standard structure for loan file documentation shall continue to remain in place.

(7) The Branches shall continue to strengthen loan underwriting by improving credit and collateral analysis and risk grading. Criticized asset reports shall continue to outline the timing and scope of collection efforts.

(8) The Branches shall continue to review and evaluate the methodology for risk rating loans and the loan loss reserve to maintain consistency with United States standards.

(9) The aggregate amount of outstanding credit extended by the Branches (excluding documentary letters of credit) to individuals and entities domiciled outside of the United States shall not exceed twenty-five percent (25%) of total assets of the Branches.

(10) Except for U.S. domestic syndicated loans, all cash collateral and pledged securities shall continue to be held by the Branch extending credit.

(11) The Branches shall continue to conduct direct verifications of all guarantees.

(12) All trust receipts shall continue to include a description and the location of the goods, and such other documents required for Trade Settlement Transactions.

(13) The Branches' credit transaction policies and procedures may be amended only after review and prior written determination of no supervisory objection by the ADC.

Article IV

LOW-QUALITY ASSETS

(1) The Branches shall continue to refrain from purchasing any Low-Quality Asset from any other branch of the Bank or from any affiliate of the Bank. The term "Low-Quality Asset" means an asset that falls in any one or more of the following categories:

- (a) An asset classified as "substandard," "doubtful," "loss" or treated as "other loans especially mentioned" by the OCC, or classified as lower than "pass" (or equivalent classification) by the Branches or other branches of the Bank;
- (b) An asset in a nonaccrual status;
- (c) An asset on which the principal or interest payments are more than thirty (30) days past due; and
- (d) An asset whose terms have been renegotiated or compromised due to the deteriorating financial condition of the obligor.

Article V

INFORMATION TECHNOLOGY AND RECORDS

(1) Pursuant to the Branches software replacement project plan, no later than November 30, 2003, the Branches shall enter into a contract with the third party vendor to supply a new software system which addresses the Branches information technology needs.

(2) The Branches shall ensure that the software system is appropriate to the size and complexity of the Branches, the markets involved in and the products and services offered.

(3) No later than November 30, 2003, the Branches shall develop and submit to the ADC a written analysis which details how the new software system will address and correct existing needs and deficiencies, ensure compatibility with existing systems as applicable, and the new system's capability to meet the Branches strategic business plans.

(4) The new information technology application systems shall be fully implemented and operational no later than June 30, 2005.

(5) All of the Branches documents, books, and records, including correspondence from the Bank and other branches of the Bank, shall continue to be maintained in English.

Article VI

ONGOING COMPLIANCE MONITORING AND DUE DILIGENCE REVIEWS

(1) The Branches shall continue to adhere to established policies and procedures, to comply with the Bank Secrecy Act, Office of Foreign Assets Control ("OFAC") regulations, the USA Patriot Act, and to detect and prevent money laundering, and shall continue to adhere to the established Suspicious Activity Reporting program, existing as of the effective date of the Modified Order.

(2) The Branches shall continue to identify high-risk accounts, including those with high volume or frequent transactions that originate or end in non-cooperative countries (as defined by the Financial Crimes Enforcement Network) or other high-risk countries, and maintain the systems in place for ongoing review of account activity.

(3) Established account opening procedures, existing as of the effective date of the Modified Order, shall continue to remain in place. The Branches shall not open any account if the customer does not provide the information required by the account opening procedures. The Branches shall not open any account for a customer, and shall terminate all accounts of a customer, if the information available indicates that the customer's relationship with the Branches would be detrimental to the reputation risk of the Branches or the Bank.

(4) The Branches shall implement a system to monitor all intermediary wire transfers to ensure that the Branches are not being used to facilitate money laundering or terrorist funding.

(5) The Branches shall continue to follow the policies and procedures applicable to correspondent banking relationships and shall continue to adhere to the established Due Diligence policy for correspondent bank account opening and monitoring, existing as of the effective date of the Modified Order.

(6) The Branches shall continue to ensure that all employees receive comprehensive semi-annual training in compliance with the Bank Secrecy Act, OFAC regulations and the US Patriot Act, and in detection and prevention of money laundering.

(7) The Branches' policies, procedures and programs cited in this Article may be amended only after review and prior written determination of no supervisory objection by the ADC.

Article VII

AUDIT

(1) The Branches shall continue to implement a risk-based audit approach, improve audit methodology and documentation, and enhance the staffing qualifications and the experience of internal auditors.

(2) The Branches shall continue to retain the consultation services of a qualified independent external auditor to assist with the internal audit function until such time that the ADC notifies the Branches in writing that the internal audit function is satisfactory.

(3) Internal audit shall review the accuracy and integrity of management prepared reports until the new IT software system is implemented, and periodically test the accuracy of the new system after implementation.

(4) Follow-up of internal audit exceptions shall be timely and shall include verification procedures to ensure that management has undertaken the requisite corrective actions.

(5) Internal audit shall review compliance with established policies and procedures and each article in this Modified Order annually.

(6) The New York Branch, in consultation with the Bank, shall continue to retain the services of a qualified independent external auditor to perform an annual audit of the Branches, to include compliance with this Modified Order. The audit report shall be submitted to the ADC upon completion.

(7) Before retaining the independent external auditor, the Branches shall notify the ADC of the name of the independent external auditor, for review and prior written determination of no supervisory objection. Failure to exercise any objection does not constitute an approval or endorsement of the independent external auditor.

Article VIII

CLOSING

(1) The Branches shall submit to the ADC quarterly progress reports. These reports shall set forth in detail:

- (a) Actions taken to comply with this Modified Order;
- (b) The results of those actions; and
- (c) A description of the actions, if any, needed to achieve compliance with this Modified Order.

(2) Although the Branches are required to submit certain proposed actions and programs for the review or supervisory non-objection of the ADC, the Bank and the General Manager have the ultimate responsibility for proper and sound management of the Branches as well as compliance with all of the provisions contained in this Modified Order.

(3) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States to undertake any action affecting the Branches, nothing in this Modified Order shall in any way inhibit, estop, bar or otherwise prevent the Comptroller from so doing.

(4) Any time limitations imposed by this Modified Order shall begin to run from the effective date of this Modified Order. Such time limitations may be extended in writing by the ADC for good cause upon written application by the General Manager.

(5) The provisions of this Modified Order are effective upon issuance of this Modified Order by the Comptroller, through his authorized representative whose hand appears below, and shall remain effective and enforceable, except to the extent that, and until such time as, any

provisions of this Modified Order shall have been amended, suspended, waived or terminated in writing by the Comptroller.

(6) This Modified Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818(b) and expressly does not form, and may not be construed to form, a contract binding on the OCC or the United States. Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the OCC may enforce any of the commitments or obligations herein undertaken by the Branches under its supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. The Branches expressly acknowledge that neither the Branches nor the OCC have any intention to enter into a contract. The Branches also expressly acknowledge that no OCC officer or employee has statutory or other authority to bind the United States, the United States Treasury Department, the OCC, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the OCC's exercise of its supervisory responsibilities. The terms of this Modified Order, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or arrangements, or negotiations between the parties, whether oral or written.

IT IS SO ORDERED, this 23rd day of October, 2003.

signed

Ronald G. Schneck
Director for Special Supervision
Comptroller of the Currency

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY**

In the Matter of:)
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Federal branches of)
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Bank of China)
Beijing, People's Republic of China)

**STIPULATION AND CONSENT TO THE ISSUANCE
OF A MODIFIED CONSENT ORDER**

The Comptroller of the Currency of the United States of America (“Comptroller”), through his staff, has examined Bank of China, New York Branch (“New York Branch”), Bank of China, Chinatown Branch (“Chinatown Branch”), and Bank of China, Los Angeles Branch (“Los Angeles Branch”) (collectively, “Branches”), which are Federal branches of Bank of China, Beijing, People's Republic of China (“Bank”), and his findings have been made known to the Branches and the Bank.

The Branches, by and through their General Manager U.S.A. (“General Manager”), duly authorized by the Bank, in the interest of compliance and cooperation, consent to the issuance of a Modified Consent Order, dated October 23, 2003 (“Modified Order”).

In consideration of the above premises, the Comptroller, through his authorized representative, and the Branches, by and through their General Manager, duly authorized by the Bank, hereby stipulate and agree to the following:

Article I

JURISDICTION

(1) The Branches are Federal branches licensed and examined by the Comptroller pursuant to the International Banking Act of 1978, as amended, 12 U.S.C. § 3101 *et seq.*

(2) The Comptroller is “the appropriate Federal banking agency” regarding the Branches pursuant to 12 U.S.C. §§ 1813(q), 1818(b) and 3108(b).

(3) Each of the Branches is a “national banking association” within the meaning of 12 U.S.C. § 1818(b)(5).

Article II

AGREEMENT

(1) The Branches, without admitting or denying any wrongdoing, hereby consent and agree to the issuance of the Modified Order by the Comptroller.

(2) The Branches further agree that said Modified Order shall be deemed an “order issued with the consent of the depository institution” as defined in 12 U.S.C. § 1818(h)(2), and consent and agree that said Modified Order shall become effective upon its issuance and shall be fully enforceable by the Comptroller under the provisions of 12 U.S.C. §§ 1818(i) and 3101 *et seq.*

Article III

WAIVERS

(1) The Branches, by signing this Stipulation and Consent, hereby waive:

(a) The issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(b);

- (b) Any and all procedural rights available in connection with the issuance of the Modified Order;
- (c) All rights to seek any type of administrative or judicial review of the Modified Order; and
- (d) Any and all rights to challenge or contest the validity of the Modified Order.

Article IV

OTHER ACTION

(1) The Consent Order dated January 17, 2002, between the Branches and the Comptroller is hereby superceded by this Modified Order, and, therefore, the January 17, 2002 Consent Order is hereby terminated.

(2) The Branches agree that the provisions of this Stipulation and Consent to the Issuance of a Modified Consent Order shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

IN TESTIMONY WHEREOF, the undersigned, authorized by the Comptroller as his representative, has hereunto set his hand on behalf of the Comptroller.

signed

Ronald G. Schneck
Director for Special Supervision
Comptroller of the Currency

10-23-2003

Date

IN TESTIMONY WHEREOF, the undersigned General Manager, U.S.A., duly authorized by the Bank to enter into this Stipulation and Consent to the Issuance of a Modified Consent Order, has irrevocably hereunto set his hand, on behalf of the Branches.

signed

General Manager, U.S.A.
Bank of China

10-23-2003

Date