

#2005-126

Also Terminates #2003-125

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
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)
)
Bank of China, Los Angeles Branch)
Los Angeles, California)
)
Federal Branches of)
)
Bank of China Limited)
<u>Beijing, People's Republic of China</u>)

AMENDED CONSENT ORDER

The Comptroller of the Currency of the United States of America (“Comptroller”), through his National Bank Examiner, has examined 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 (collectively “Branches”), Federal branches of Bank of China Limited, Beijing, People’s Republic of China (“Bank”).

The Branches, by and through their General Manager, duly authorized by the Bank, executed a “Stipulation and Consent to the Issuance of an Amended Consent Order,” dated September 7, 2005, that is accepted by the Comptroller. By this Stipulation and Consent that is incorporated by reference the Branches have consented to the issuance of this Amended Consent Order (“Order”) by the Comptroller for the primary purpose of ensuring implementation and operation of the Branches’ new information

technology application system, which supercedes the Modified Consent Order (OCC 2003-125) entered into between the Comptroller and the Branches on October 23, 2003.

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

INFORMATION TECHNOLOGY

(1) No later than September 30, 2005, the Branches shall complete a Project Plan that follows a system development life cycle (SDLC) to achieve the core application conversion known as T-24. The SDLC shall conform to the requirements in the Federal Financial Institutions Examination Council (FFIEC) Acquisition and Development Handbook. The Project Plan shall specify the SDLC phases, their function and goals, and plans to satisfy the requirements of each phase. The Project Plan must include timeframes, names of responsible managers, and deliverables to be produced to document that completion of each project phase. The Project Plan shall outline the means by which Internal Audit will verify the implementation of and compliance with each SDLC phase.

(2) Upon completion of the Project Plan, the Branches shall submit the Project Plan to the Assistant Deputy Comptroller for review and non-objection. The Branches shall establish appropriate procedures for the implementation of the Project Plan. The Project Plan shall be implemented pursuant to the time frames set forth within the Project Plan unless events dictate modifications to the Project Plan. Where the Branches consider modifications to the Project Plan appropriate or necessary, those modifications shall be determined by Branch Management with the exception of the go-live date, which

shall be no later than June 30, 2006. Any changes to the go-live date shall be submitted to the Assistant Deputy Comptroller for prior determination of no supervisory objection. The Branches shall ensure that they have processes, personnel, and control systems to ensure implementation of and adherence to the Project Plan developed pursuant to this Article.

(3) Within ten business days following the completion of each project phase of the Project Plan, the Branches must provide the Assistant Deputy Comptroller with:

- a. Written confirmation that the project phase was completed;
- b. Independent verification from Internal Audit of the results and steps taken to evaluate the accuracy and completeness of the deliverables supporting the completion of the project phase;
- c. Head Office's review and approval; and
- d. Notice that the Branches are proceeding to implement the next project phase.

(4) No later than April 30, 2006, the Branches must submit to the Assistant Deputy Comptroller a business continuity plan, in accordance with the requirements of the FFIEC Business Continuity Handbook.

(5) No later than May 15, 2006, the Branches must submit to the Assistant Deputy Comptroller plans for ongoing maintenance of the new system.

(6) The new information technology application system shall be implemented and operational in accordance with the Project Plan no later than June 30, 2006.

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

ARTICLE II

RISK MANAGEMENT AND INTERNAL CONTROLS

The Chief Risk Officer shall continue to assure the Branches maintain sufficient risk management and internal control systems to mitigate the lack of automated controls on the computer system, including BSA/AML risk, until the new system and appropriate controls are in place. Policies, procedures, and management practices in place for all risk areas of the Branches' operations as of the effective date of the Modified Consent Order (OCC 2003-125) shall continue to be maintained. When the Branches consider modifications to such policies, practices, and procedures appropriate, those modifications shall be reviewed and approved by the Chief Risk Officer and the General Manager, U.S.A., and sent to Head Office. In the event that there are discrepancies between those modifications and the current policies and procedures of the Head Office, the Branches must seek Head Office Approval. The Branches shall notify the Assistant Deputy Comptroller of material modifications to such policies, practices, and procedures within ten (10) business days of the modification.

ARTICLE III

BOOKS AND RECORDS

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

ARTICLE IV

ADMINISTRATIVE APPEALS AND EXTENSIONS OF TIME

(1) If the Branches determine that an exception to any provision of this Order is in the best interests of the Branches, or requires an extension of any timeframe within this Order, the Branches shall submit a written request to the Assistant Deputy Comptroller asking for relief.

(2) Any written requests submitted pursuant to this Article shall include a statement setting forth in detail the special circumstances that prevent the Branches from complying with any provision, that require the Assistant Deputy Comptroller to exempt the Branches from any provision, or that require an extension of any timeframe within this Order. All such requests shall be accompanied by relevant supporting documentation.

(3) The Assistant Deputy Comptroller's decision in granting the request is final and not subject to further review.

ARTICLE V

CLOSING

(1) Although the Bank and the Branches, through their General Manager, are required to submit certain proposed actions and programs for the review or approval of

the Assistant Deputy Comptroller, the Head Office and the General Manager have the ultimate responsibility for proper and sound management of the Bank and the Branch as well as compliance with all of the provisions contained in this Order.

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

(3) Any time limitations imposed by this Order shall begin to run from the effective date of this Order. Such time limitations may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Bank or General Manager.

(4) The provisions of this Order are effective upon issuance of this 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 Order shall have been amended, suspended, waived, or terminated in writing by the Comptroller.

(5) This 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 Comptroller or the United States.

(6) The terms of this Order, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

IT IS SO ORDERED, this 7th day of September, 2005.

/s/

Carlos D. Hernandez
Assistant Deputy Comptroller
New York Metro – North Field Office

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

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<u>Beijing, People's Republic of China</u>)

**STIPULATION AND CONSENT TO THE ISSUANCE
OF AN AMENDED CONSENT ORDER**

The Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate cease and desist proceedings against 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 (collectively “Branches”), Federal branches of Bank of China Limited, Beijing, People’s Republic of China (“Bank”), pursuant to 12 U.S.C. § 1818(b) and 12 U.S.C. § 3101 *et seq.*).

The Branches, in the interest of compliance and cooperation, consent to the issuance of an Amended Consent Order, dated September 7, 2005 (“Order”) for the primary purpose of ensuring implementation and operation of the Branches’ new information technology application system, which supercedes the Modified Consent

Order (OCC 2003-125) entered into between the Comptroller and the Branches on October 23, 2003.

In consideration of the above premises, the Comptroller, through his authorized representative, and the Branches, by and through its 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 Order by the Comptroller. The Branches further agree that said 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 Order shall become effective upon its issuance and shall be fully enforceable by the Comptroller under provisions of 12 U.S.C. §§ 1818(i) and 3101 *et seq.*

(2) Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Branches under his supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. The Branches expressly acknowledge that neither the Bank, the Branches, nor the Comptroller have any intention to enter into a contract.

(3) The Branches also expressly acknowledge that no officer or employee of the Office of the Comptroller of the Currency has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller's exercise of his supervisory responsibilities.

ARTICLE III

Waivers

(1) The Branches, by and through its General Manager, duly authorized by the Bank, 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 Order;
- (c) all rights to seek any type of administrative or judicial review of the Order; and
- (d) any and all rights to challenge or contest the validity of the Order.

ARTICLE IV

Other Action

(1) The Branches agree that the provisions of this Stipulation and Consent shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Branches if, at any time, he/she deems it appropriate to do so to fulfill the responsibilities placed upon him/her 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.

/s/

September 7, 2005

Carlos D. Hernandez
Assistant Deputy Comptroller
New York Metro – North Field Office

Date

IN TESTIMONY WHEREOF, the undersigned, the General Manager of the Branches, duly authorized by the Bank, has hereunto set his hands, on behalf of the Branches.

/s/

September 7, 2005

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

Date