

**#2007-007**

AGREEMENT BY AND BETWEEN  
CITIC Ka Wah Bank Limited  
New York, New York and Alhambra, California  
and  
The Comptroller of the Currency

CITIC Ka Wah Bank Limited, New York, New York and Alhambra, California (“Branches”), limited Federal branches of CITIC Ka Wah Bank Limited, Hong Kong, People’s Republic of China (“Bank” or “Head Office”) and the Comptroller of the Currency of the United States of America (“Comptroller”) wish to protect the interests of the depositors and other customers, and, toward that end, wish the Branches to operate safely and soundly and in accordance with all applicable laws, rules and regulations.

The Comptroller has found significant deficiencies relating to the Bank Secrecy Act; the Branches’ international banking facility; and the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973.

In consideration of the above premises, it is agreed, between the Branches, by and through its General Manager, duly authorized by the Bank, and the Bank, by and through its designated representative and as authorized by the Bank’s Board of Directors (“Board”), and the Comptroller, through his authorized representative, that the Branches shall operate at all times in compliance with the articles of this Agreement.

ARTICLE I

JURISDICTION

(1) This Agreement shall be construed to be a “written agreement entered into with the agency” within the meaning of 12 U.S.C. § 1818(b)(1).

(2) This Agreement shall be construed to be a “written agreement between such depository institution and such agency” within the meaning of 12 U.S.C. § 1818(e)(1) and 12 U.S.C. § 1818(i)(2).

(3) This Agreement shall be construed to be a “formal written agreement” within the meaning of 12 C.F.R. § 5.51(c)(6)(ii). See 12 U.S.C. § 1831i.

(4) This Agreement shall be construed to be a “written agreement” within the meaning of 12 U.S.C. § 1818(u)(1)(A).

(5) In addition, this Agreement shall cause the Bank not to be designated as an “eligible foreign bank” for purposes of 12 C.F.R. § 28.12(f), unless otherwise informed in writing by the Comptroller.

(6) All reports or plans which the Branches or Board have agreed to submit to the Assistant Deputy Comptroller pursuant to this Agreement shall be forwarded to:

Carlos D. Hernández  
Assistant Deputy Comptroller  
New York Metro-North  
340 Madison Avenue, 4th Floor  
New York, NY 10017-2613

## ARTICLE II

### LOOKBACK

(1) Within sixty (60) days of the date of this Agreement, the Branches shall retain the services of a qualified independent Consultant to assess the internal controls in the Bank Secrecy Act (“BSA”) area.

(2) Prior to the appointment or employment of any Consultant or entering into any contract with a Consultant, the Branches shall submit a copy of the Branches’ proposed

“Engagement Letter” with this Consultant, and any amendments thereto, to the Assistant Deputy Comptroller for review and a prior determination of no supervisory objection.

(3) Within one hundred and eighty (180) days of the date of retention, the Consultant specified in paragraph (1) of this Article shall:

- (a) conduct an Office of Foreign Assets Control (“OFAC”) screening and review of all wire activity at the Branches since September 30, 2004 through the date of this Agreement in order to ascertain any unusual or suspicious transactions that may have occurred at the Branches during this period and to determine if any potential OFAC violations were processed through the wire transfers. At the Assistant Deputy Comptroller’s discretion, the period of review may be expanded to cover a period prior to this date once the results of the Consultant’s review are reviewed and accepted by the Assistant Deputy Comptroller and
- (b) within thirty (30) days of the conclusion of the review of all wire activity, submit a report summarizing the Consultant’s conclusion (“Lookback Report”).

(4) The Consultant’s findings, observations, and recommendations made in connection with the reviews conducted in accordance with Paragraph 3 of this Article shall be set forth in the Lookback Report to the Branch Manager and the Board, with a copy submitted to the Assistant Deputy Comptroller.

(5) Within thirty (30) days of receiving the Lookback Report of the Consultant, the Branches shall confirm the existence of suspicious activity and file Suspicious Activity Reports

("SARs"), in accordance with 12 C.F.R. § 21.11, for any previously unreported suspicious activity identified during this review.

(6) The Branch Manager and the Board shall review and, as appropriate, act to implement corrective actions to address the Consultant's findings, observations and recommendations.

### ARTICLE III

#### BANK SECRECY ACT - INTERNAL CONTROLS

(1) Within ninety (90) days of the date of this Agreement, the General Manager, with the approval of the Board, shall, as appropriate, expand, implement, and thereafter ensure Branches adherence to the revised written program of policies and procedures to provide for compliance with the Bank Secrecy Act, as amended (31 U.S.C. §§ 5311 et seq.), the regulations promulgated thereunder at 31 C.F.R. Part 103, as amended, and 12 C.F.R. Part 21, Subparts B and C, including amendments from the USA PATRIOT Act, and the rules and regulations of the Office of Foreign Assets Control (collectively referred to as the "Bank Secrecy Act" or "BSA") and for the appropriate identification and monitoring of transactions that pose greater than normal risk for compliance with the BSA. At a minimum, this program should be expanded, as appropriate, to include the following:

- (a) an ongoing and comprehensive process to assess, identify, and assign risk levels to customers, products, services, and geographies, consistent with the Quantity of Risk Matrix included as Appendix J to the FFIEC Bank Secrecy Act/Anti-Money Laundering Examination Manual ("BSA

Manual”), and to evaluate the quality of BSA risk management in each line of business (“LOB”);

- (b) implementation of suspicious activity monitoring controls for all LOBs, including controls in each LOB that are commensurate with the level of risk identified in that LOB to ensure suspicious activity monitoring in all LOBs;
- (c) an assessment of the staffing plan and ensuring that staffing is adequate and commensurate with the level of risk identified in all LOBs;
- (d) strengthening due diligence policies and procedures for the foreign correspondent accounts, including conducting due diligence in order to assess the legitimacy of transactions through the foreign correspondent account;
- (e) ensuring effective BSA risk management of foreign correspondent accounts, which includes the following:
  - (i) at a minimum, incorporating the foreign correspondent banking procedures from the BSA Manual and
  - (ii) having procedures that identify the nature and the level of activities expected from the foreign correspondent accounts and determining if such services may be offered to non-accountholders;
- (f) procedures to ensure that records are maintained on funds transfers, as required by the BSA;
- (g) comprehensive procedures to identify and report to appropriate management personnel:

- (i) frequent or large volume wire transfers or book entry transfers to or from offshore or domestic entities or individuals;
  - (ii) wire transfers or book entry transfers that are deposited into several accounts;
  - (iii) receipt and disbursement of wire transfers or book entry transfers without an apparent *bona fide* business reason; and
  - (iv) receipt and disbursement of wire transfers or book entry transfers that are suspicious or inconsistent with the customer's business.
- (h) adequate policies and procedures to provide for compliance with the OFAC rules and regulations, which shall include:
- (i) requirement that all transactions, in particular wire transfers, are screened against the OFAC list;
  - (ii) checking existing customers when there are additions or changes to the OFAC list;
  - (iii) updating timely the lists of blocked countries, entities, and individuals and disseminating such information throughout the Bank's U.S. operations; and
  - (iv) handling items that are valid blocked or rejected items under the various sanctions programs and the management of blocked accounts;
- (i) adequate policies and procedures to ensure that compliance with section 314(a) of the USA PATRIOT Act requests from FinCEN are

comprehensive and cover all records identified in the General Instructions for such requests, which includes searching:

- (i) accounts maintained by the named subject during the preceding twelve (12) months and
- (ii) transactions conducted within the last six (6) months;

(2) Within ninety (90) days of the date of this Agreement, the General Manager, shall expand, implement, and thereafter ensure Branches adherence to a revised and Board approved written program of policies and procedures to provide for the Branches' monitoring of suspicious wire transfers and other activities for all types of transactions, accounts, customers, products, services, and geographic areas. The revised program shall include:

- (a) periodic analysis of aggregate wire activity;
- (b) reviews of high risk transactions, accounts, customers, products, services, and geographic areas; and
- (c) submission of Suspicious Activity Reports ("SARs") based on these reviews and analyses.

(3) The Branches shall consider not opening any account for a customer and shall consider closing any existing account of a customer if the information available to the Branches indicates that the customer's relationship with the Branches would be detrimental to the reputation of the Branches to the extent legally permitted or authorized.

(4) Upon completion and approval of the Board, a copy of this revised program shall be submitted to the Assistant Deputy Comptroller for review. In the event that the Assistant Deputy Comptroller recommends changes to the program, the General Manager, with the approval of the Board, shall immediately incorporate those changes into the program.

(5) The General Manager shall ensure that the Branches have processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

#### ARTICLE IV

##### BANK SECRECY ACT - AUDIT

(1) Within ninety (90) days of the date of this Agreement, to the extent that the Branches continue with Head Office's Internal Auditor ("Internal Auditor") as the party that will conduct independent testing under the BSA, the General Manager and the Board shall review and evaluate the level of service and ability of the audit function for BSA matters currently being provided by its Head Office, including:

- (a) the General Manager's and Board's expectations of how the Internal Auditor can and should assist in ensuring the Branches' compliance with the Bank Secrecy Act;
- (b) an assessment of prior audits and the Branches' response to those audits; and
- (c) an evaluation of the audit tools, including technology, available.

(2) Within ninety (90) days of the date of this Agreement, the General Manager, with the approval of the Board shall expand the Branches' existing BSA audit procedures to include:

- (a) development of a program to test periodically the adequacy of internal controls designed to ensure compliance with the provisions of the Bank Secrecy Act;
- (b) management response and follow-up to all audit exceptions or other recommendations of the Internal Auditor;



- (c) a risk-based approach to Bank Secrecy Act compliance that includes transactional testing and verification of data for higher-risk accounts, including foreign correspondent accounts, intermediary wires, or geographic areas of specific concern; and
- (d) providing the Internal Auditor with up-to-date comprehensive training with respect to the requirements of the Bank Secrecy Act.

(3) The General Manager and the Board shall ensure appropriate oversight of the BSA audit function, with particular emphasis on an adequately staffed department with respect to both the experience level and number of the individuals employed.

(4) The General Manager and the Board shall ensure that the audit program is independent. The persons responsible for implementing the BSA audit program described above shall report directly to the General Manager and the Board, which shall have the sole power to direct their activities. All reports prepared by the audit staff shall be filed directly with the General Manager and the Board and not through any intervening party.

(5) All audit reports shall be in writing and supported by adequate workpapers, which must be provided to the Branches. The General Manager and the Board shall ensure that immediate actions are undertaken to remedy deficiencies cited in audit reports, and that auditors maintain a written record describing those actions.

(6) The General Manager and the Board shall evaluate the audit reports of any party providing services to the Branches, and shall assess the impact on the Branches of any audit deficiencies cited in such reports.

(7) The audit staff shall have access to any records necessary for the proper conduct of its activities. National bank examiners shall have access to all reports and work papers of the audit staff and any other parties working on its behalf.

(8) The General Manager shall ensure that the Branches have processes, personnel, and control systems to ensure implementation of, and adherence to, the program developed pursuant to this Article.

(9) Upon completion and approval of the Board, a copy of the revised internal audit program shall be promptly submitted to the Assistant Deputy Comptroller for review. In the event that the Assistant Deputy Comptroller recommends changes to the program, the General Manager, with the approval of the Board, shall immediately incorporate those changes into the program.

## ARTICLE V

### BANK SECRECY ACT - COMPLIANCE FUNCTION

(1) Within forty-five (45) days of the date of this Agreement, the Board shall make an assessment of the changes needed to the BSA Officer position, including the responsibilities, authority, structure, independence, skills and qualifications of the BSA Officer. Based on this assessment, the Board shall appoint or employ a full-time BSA Officer who shall be vested with sufficient authority to monitor and ensure the Branches' compliance with the Bank Secrecy Act, OFAC, and the USA PATRIOT Act. This BSA Officer shall:

- (a) exercise independent authority on suspicious activity monitoring and filing and in other BSA/AML matters;
- (b) coordinate with the Head Office division responsible for the oversight of the Bank's consolidated BSA/AML program; and

- (c) be responsible for the complete and timely filing of all reports required under the Bank Secrecy Act, including, but not limited to, Currency Transaction Reports (“CTRs”) and SARs.
- (2) The Board shall ensure that the BSA Officer has sufficient training, authority, and skill to perform his/her assigned responsibilities.
- (3) Within forty-five (45) days of the date of this Agreement, the Board shall determine whether any changes or additions are needed to the Branches’ BSA Officer’s supporting staff, including the responsibilities, authority, structure, independence, competencies, or capabilities of the BSA Officer’s supporting staff.

## ARTICLE VI

### BANK SECRECY ACT - TRAINING

- (1) Within sixty (60) days of the date of this Agreement, the General Manager, with the approval of the Board, shall expand, as appropriate, implement, and thereafter ensure the Branches adherence to a comprehensive ongoing training program for all appropriate operational and supervisory personnel to ensure their awareness of their responsibility for compliance with the requirements of the Bank Secrecy Act, including the reporting requirements associated with SARs pursuant to 12 C.F.R. Part 21, Subpart B, regardless of the size of the relationship or type of customer involved.
- (2) The Branches’ training program should specifically
  - (a) identify the unique or special risks posed by certain accounts and activities, in particular, foreign correspondent accounts and intermediary wire activity, due to the type and volume of business activity conducted in the Branches and

(b) address those risks in the training program.

(3) This comprehensive training program shall include strategies for mandatory attendance, the frequency of training, procedures and timing for updating training programs and materials, and the method for delivering training.

(4) The General Manager shall ensure that the Branches have the resources and personnel to ensure implementation of, and adherence to, the comprehensive training program developed pursuant to this Article.

## ARTICLE VII

### SUSPICIOUS ACTIVITY REPORTS

(1) Within ninety (90) days of the date of this Agreement, the General Manager, with the approval of the Board, shall revise, implement, and thereafter ensure the Branches' adherence to a written program establishing a system of internal controls and processes to ensure compliance with the requirements to file Suspicious Activity Reports set forth in 12 C.F.R. § 21.11, as amended. At a minimum, this written program shall be revised, as appropriate, to include:

- (a) procedures for identifying and reporting known or suspected violations of Federal law, violations of the Bank Secrecy Act, or suspicious transactions related to money laundering activity, including suspicious activity relating to the opening of new accounts, the monitoring of current accounts, and the transfer of funds through the Branches; and
- (b) procedures and criteria for determining when to close accounts with repeated and continuing suspicious activity.

(2) Upon completion, a copy of this program shall be submitted to the Assistant Deputy Comptroller for review. In the event the Assistant Deputy Comptroller recommends changes to the program, the General Manager and the Board shall immediately incorporate those changes into the program.

(3) The General Manager shall ensure that the Branches have processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

## ARTICLE VIII

### INTERNATIONAL BANKING FACILITY

(1) Within ninety (90) days of the date of this Agreement, the General Manager, with approval of the Board, shall develop, implement, and thereafter ensure the Branches adherence to a written program of policies and procedures to establish lines of credit with their International Banking Facility (“IBF”) and an expanded audit program that includes:

- (a) policies and procedures to conduct an audit of the IBF, in particular, an audit of the credit operations performed with an IBF and
- (b) a determination of the Branches’ level of compliance with all applicable laws, rules and regulations related to an IBF;

(2) Upon completion, a copy of the programs shall be submitted to the Assistant Deputy Comptroller for review.

(3) The General Manager shall ensure that the Branches have processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

## ARTICLE IX

### FLOOD ACTS COMPLIANCE

(1) Within ninety (90) days of the date of this Agreement, the General Manager, with the approval of the Board, shall strengthen the Branches' program designed to ensure compliance with the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 (collectively, the "Flood Acts"). Specifically, the program shall:

- (a) provide for Flood Acts training of all appropriate staff in the Branches;
- (b) for loans secured by improved real estate located in a special flood hazard area, implement processes and procedures that:
  - (i) continually monitor flood insurance coverage to prevent lapses in coverage;
  - (ii) document control procedures;
  - (iii) expand the notification letter to include a statement that flood insurance coverage is available under the national flood insurance program and may also be available from private insurers;
  - (iv) expand the Credit Policy to include the requirement that the notification letter must include a statement of whether Federal disaster relief assistance may be available in the event of damage to the building caused by flooding in a Federally declared disaster; and

(c) initiate a quality assurance program that includes, where applicable, periodic reviews of transactions to ensure Flood Acts compliance.

(2) The General Manager shall ensure that the Branches have processes, personnel and systems to ensure implementation of and adherence to the program developed pursuant to this Article.

## ARTICLE X

### VIOLATIONS OF LAW

(1) The General Manager shall immediately take all necessary steps to ensure that the Branches correct each violation of law, rule or regulation cited in the Report of Examination (“ROE”) for the most recent examination of the Branches’ BSA compliance program. The Branches shall submit quarterly progress reports, which shall include the date and manner in which each correction has been effected during that reporting period.

## ARTICLE XI

### CLOSING

(1) Although the Branches, through their General Manager, and the Bank, through its Board, has agreed to submit certain programs and reports to the Assistant Deputy Comptroller for review or prior written determination of no supervisory objection, the General Manager and the Board have the ultimate responsibility for proper and sound management of the Branches.

(2) 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 of America to undertake any action affecting the Branches, nothing in this Agreement shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing.

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

(4) The provisions of this Agreement shall be effective upon execution by the parties hereto and its provisions shall continue in full force and effect unless or until such provisions are amended in writing by mutual consent of the parties to the Agreement or excepted, waived, or terminated in writing by the Comptroller.

(5) In each instance in this Agreement in which the General Manager and the Board are required to ensure adherence to, and undertake to perform certain obligations of the Branches, it is intended to mean that the General Manager and the Board shall:

- (a) authorize and adopt such actions on behalf of the Branches as may be necessary for the Branches to perform its obligations and undertakings under the terms of this Agreement;
- (b) require the timely reporting by Branch management of such actions directed by the General Manager to be taken under the terms of this Agreement;
- (c) follow-up on any non-compliance with such actions in a timely and appropriate manner; and
- (d) require corrective action be taken in a timely manner of any non-compliance with such actions.



(6) This Agreement is intended to be, and shall be construed to be, a supervisory “written agreement entered into with the agency” as contemplated by 12 U.S.C. § 1818(b)(1), and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States. 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 Bank and the Branches under his supervisory powers, including 12 U.S.C. § 1818(b)(1), and not as a matter of contract law. The Bank and the Branches expressly acknowledge that neither the Bank, the Branches, nor the Comptroller has any intention to enter into a contract. The Bank and 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. The terms of this Agreement, 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.

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

Signed  
\_\_\_\_\_  
Carlos D. Hernández  
Assistant Deputy Comptroller  
New York Metro-North

December 20, 2006  
\_\_\_\_\_  
Date

IN TESTIMONY WHEREOF, the undersigned, the designated representative of the Bank, as authorized by its Board of Directors, and the General Manager of the Branches, have hereunto set their hands, on behalf of the Bank and the Branches, respectively.

Signed

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Designated Representative and Title  
CITIC Ka Wah Bank Limited

8 January 2007

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Date

Signed

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General Manager  
CITIC Ka Wah Bank Limited

Dec. 20, 2006

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Date