



# **Memorandum of Understanding**

**between**

**The China Banking Regulatory  
Commission**

**and**

**The Czech National Bank**

The China Banking Regulatory Commission ("CBRC") and the Czech National Bank ("CNB") have reached the following understanding in order to establish an arrangement for the sharing of supervisory information and the enhancing of cooperation in the area of supervision of banking organisations.

## **I. INTRODUCTION**

### **1. The Functions of the Banking Supervisory Authorities**

#### **(a) The China Banking Regulatory Commission**

Under the Law of the People's Republic of China (PRC) on Banking Regulation and Supervision adopted in December 2003, the CBRC is responsible for the regulation and supervision of financial institutions taking public deposits, issuing loans, arranging settlement of accounts and engaging in other business in accordance with the Commercial Banking Law of the PRC and the Company Law of the PRC. The CBRC was established in April 2003 by the Decision on the Exercise of Regulatory and Supervisory Functions by the China Banking Regulatory Commission in place of the People's Bank of China adopted at the First Session of the Standing Committee of the Tenth National People's Congress.

#### **(b) The Czech National Bank**

In accordance with Act No. 6/1993 Coll., on the Czech National Bank, as amended, the CNB supervises the activities of entities operating on the financial market, analyse the evolution of the financial system, see to the sound operation and development of the financial market in the Czech Republic, and contribute to the stability of its financial system as a whole.

### **2. The CBRC and the CNB agree to work to:**

- (a) ensure that the operations of the cross-border branches and subsidiaries of banking organisations under their respective jurisdictions are prudently conducted;**
- (b) ensure that the head offices and parent banking organisations exercise adequate and effective control over the operations of their cross-border branches and subsidiaries; and**
- (c) ensure that their respective ongoing supervision of banking organisations effectively covers cross-border banking establishments on a group-wide basis and assists each other in performing such function.**

## **II. DEFINITIONS**

3. For the purpose of this Memorandum:

- (a) "banking organisation" shall mean an enterprise legal person which is established to take public deposits, issue loans, arrange settlement of accounts and engage in other business in accordance with the Commercial Banking Law of the PRC and the Company Law of the PRC, including commercial banks, policy banks, postal saving banks, asset management companies, rural financial institutions, non-bank financial institutions such as finance companies, money brokers, etc. and other relevant entities that are subject to the supervision of the CBRC;  
"banking organisation" shall mean a bank, credit union, credit institution and other relevant entities supervised by the CNB.
- (b) "cross-border establishment" shall mean the cross-border establishment of branches, or subsidiaries by their home head office or parent banking organisation;
- (c) "Authorities" shall mean the CBRC and the CNB;
- (d) "jurisdiction" shall mean the country, state or other territory, as the case may be, in which the CBRC or the CNB has legal authority, power and/or jurisdiction by law;
- (e) "Home Authority" shall mean the authority of the country where the parent banking organisation is established;
- (f) "Host Authority" shall mean the authority of the country where cross-border establishments are established;
- (g) "Requested Authority" shall mean the authority to whom a request is made pursuant to this Memorandum of Understanding; and
- (h) "Requesting Authority" shall mean the authority that makes a request pursuant to this Memorandum of Understanding.

## **III. INFORMATION SHARING**

- 4. The Authorities recognize the importance and desirability of mutual assistance and exchange of information relating to cross-border establishments. Information should be shared to the extent reasonable and subject to any relevant statutory provisions, including those restricting disclosure.
- 5. Information-sharing includes contact during the authorisation and licensing process, relating to supervision of on-going activities and handling of problem situations on the solo and group-wide bases.

6. In connection with the authorisation process:
  - (a) the Host Authority should notify the Home Authority, without delay, of applications for approval to establish a cross-border establishment;
  - (b) upon request, the Home Authority should inform the Host Authority whether the applicant banking organisation is in substantial compliance with applicable laws and regulations and whether it may be expected, given its administrative structure and internal controls, to manage the cross-border establishment in an orderly manner. The Home Authority should also, upon request, assist the Host Authority by verifying or supplementing any information submitted by the applicant banking organisation;
  - (c) upon request, the Home Authority should inform the Host Authority about the nature of its regulatory system and the extent to which it will conduct group-wide supervision of the applicant banking organisation. Similarly, upon request, the Host Authority should indicate the nature of its regulatory system and the extent to which it will supervise the cross-border establishments of the applicant banking organisation; and
  - (d) to the extent permitted by law, the Home and Host Authorities should share information on the fitness and propriety of prospective managers of a cross-border establishment.
7. In connection with the ongoing supervision of cross-border establishments<sup>\*</sup>, the Authorities intend to:
  - (a) provide relevant information to their counterpart regarding material developments or material supervisory concerns in respect of the operations of a cross-border establishment;
  - (b) respond to requests for information on their respective national regulatory systems and inform each other about major changes, in particular those which have a significant bearing on the activities of cross-border establishments;
  - (c) inform their counterpart of material administrative penalties imposed, or other formal enforcement action taken, against a cross-border establishment. Prior notification shall be made, as far as practicable and subject to applicable laws; and
  - (d) facilitate the transmission of any other relevant information that might be required to assist with the supervisory process.
8. In connection with supervision on a group-wide basis the Authorities shall exchange available significant information on the concerned entities or groups, which might be relevant for the other Authority.

9. The term “material supervisory concern” encompasses a matter relating to (a) whether the operations of a banking organisation are conducted in a safe and sound manner and substantially in conformity with applicable prudential standards; (b) whether there has been evidence of a material violation of law; or (c) events that would have a material adverse effect on the financial stability of banking organisations in the jurisdiction of the other authority. A material supervisory concern as described herein would include concerns that arise from actions of cross-border establishments of the banking organisation.
10. Where remedial action is called for to address a material supervisory concern as described above, each authority will endeavour to notify the other authority prior to it taking the appropriate action or, as circumstances dictate, as soon thereafter as practicable.
11. In carrying out the undertakings stipulated above in the case of a PRC or a Czech Republic banking organisation facing serious financial difficulties that could have a material adverse impact on the operations of such banking organisation in the respective host jurisdiction, the Authorities recognize that close liaison between them would be mutually advantageous. The Authorities will endeavour to communicate such information as would be appropriate in the particular circumstances, taking into account all relevant factors, including the status of efforts by the Home Authority to resolve the banking organisation difficulties and restore confidence in the banking organisation.
12. The Authorities shall co-operate and share relevant information in the process of decision-making with regard to granting permission (consent) to acquiring shares (stakes) by banking organisations registered in one country of a banking organisation registered in the other country. The term “acquisition” shall mean the acquisition of a participatory interest in the authorized capital of a banking organisation registered within the PRC or the Czech Republic in the amount that requires, under national legislation, preliminary permission (consent) from the appropriate banking supervisory authority;

#### **IV. ON-SITE EXAMINATIONS**

13. The Home Authority shall give the Host Authority advance notice of its intention to conduct an on-site examination of cross-border establishments in the host country. The Host Authority may assist in such examinations and inform the Home Authority of any subject matter in which it has a particular concern or interest.
14. The Home Authority may request on an exceptional basis the Host Authority to conduct an on-site examination of cross-border establishments in the host country. The Authorities will endeavour to establish the basis and terms upon which such examinations are to be conducted.

15. As may be mutually agreed between the Authorities, examinations may be carried out by the Home Authority alone, or accompanied by the Host Authority. Following the examination, an exchange of views should take place between the examination team and the Host Authority.
16. In addition to the procedures outlined in chapter III, upon written request signed by an authorized official of the Requesting Authority, the Requested Authority may, to the extent permitted by law, provide the Requesting Authority with information contained in reports of examinations or inspections concerning the cross-border establishment that is obtained as part of the supervisory process. Such information normally would not include customer account information unless this is of particular relevance only to the supervisory concern prompting the request.

#### **V. REPRESENTATIVE OFFICES**

17. The provisions of Article III and of Article IV shall apply also to representative offices of banking organisations, when supervised by the authorities. When requested, the Home Authority shall notify the Host Authority its opinion in writing on the establishment of a representative office by a banking organisation supervised by the Home Authority.

#### **VI. CONFIDENTIALITY**

18. Any confidential information shared pursuant to this Memorandum shall be used only for lawful supervisory purposes.
19. To the extent permitted by law, the Authorities shall hold confidential all information received from each other pursuant to this Memorandum and will not otherwise disclose such information other than in accordance with such conditions (if any) attached by the other Authority to the provision of such information and as necessary to carry out its lawful supervisory responsibilities.
20. All documents provided pursuant to this Memorandum shall remain the property of the authority providing such information. Subject to the provisions of paragraphs 18-19 above, if the CBRC or the CNB is legally compelled to disclose any confidential information provided pursuant to this Memorandum, the CBRC or the CNB, as the case may be, will promptly notify the Authority that originated the information and will co-operate in seeking to preserve the confidentiality of such information.
21. Subject to the provisions of paragraphs 18-20 above, with regard to requests from third parties for confidential information provided pursuant to this Memorandum, the party receiving such requests shall, as soon as feasible prior to releasing such information, notify the providing party and solicit the providing party's views as to the propriety of

releasing such information to the third party, and shall cooperate in seeking to preserve the confidentiality of such information.

22. The sharing of confidential information pursuant to this Memorandum is done in reliance on the foregoing assurances and shall not constitute a waiver of any legally cognizable privilege.
23. The CBRC and the CNB, in providing confidential written materials pursuant to this Memorandum, should mark every page of the materials provided with a legend reading substantially as follows:

**“CONFIDENTIAL - PROVIDED PURSUANT TO CBRC/CNB MEMORANDUM OF UNDERSTANDING”.**

#### **VII. MEETINGS OF THE AUTHORITIES**

24. Representatives of the Authorities intend to hold meetings in case of necessity to discuss general developments in banking organisations, which maintain operations in both the PRC and the Czech Republic. In addition, every effort shall be made to encourage continuous and informal contacts between the staff of the Authorities.

#### **VIII. GENERAL PROVISIONS**

25. Requests for information should normally be made in writing in English. However, when there is a need for expedited action, requests may be initiated in any form, including orally, but should be confirmed subsequently in writing. The authority receiving such requests will endeavor to provide the information as quickly as possible.
26. The provision of, or request for, information under this Memorandum may be denied (a) where compliance would require the CBRC or the CNB to act in a manner that would violate applicable law or any agreement entered into before the date of this Memorandum; (b) when compliance with a request or provision of information would interfere with an investigation in circumstances where the prejudice to the investigation is likely to outweigh the adverse effects of denying the information; or (c) on grounds of public interest or national security.
27. This Memorandum shall be effective from the date of its signing. Cooperation and assistance in accordance with this Memorandum shall continue until the expiration of 60 days after one of the Authorities gives written notice to the other Authority of its intention to discontinue cooperation and assistance. In this case the Memorandum shall terminate on the sixtieth day following receipt of the notice of withdrawal by the other Authority, unless agreed otherwise. If one Authority gives such notice of withdrawal, cooperation and assistance in accordance with this Memorandum shall continue with

respect to all requests for assistance that were made before the effective date of notification until the requesting Authority withdraws the matter for which assistance was requested. In addition, the provisions set forth under the headings "Confidentiality" and "General Provisions" are to continue with respect to any information provided or actions taken under this Memorandum prior to its termination.

28. Any amendment to this Memorandum shall be made in writing only. Any such amendment to the Memorandum shall enter into force when signed by both Supervisors.
29. This Memorandum is a statement of intent and does not, and is not intended to, create any legally binding obligations on either Authority.

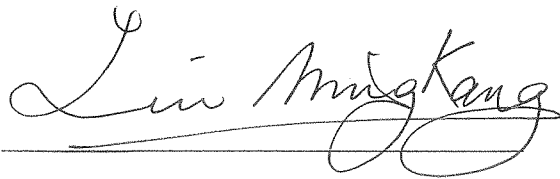
**IX. MISCELLANEOUS**

30. This Memorandum is made in two copies in English. Communication between the Authorities shall be in English.
31. Annex A contains a list over designated contact officers, which shall be updated as necessary.

This Memorandum is signed by correspondence.

For the China Banking Regulatory Commission

For the Czech National Bank



Liu Mingkang  
Chairman



Zdeněk Tůma  
Governor

Date: 24-12-2009

Date: 01/05/10



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