

Appendix to Memorandum of Understanding between the China Banking Regulatory Commission and the Federal Deposit Insurance Corporation to Address Cross Border Resolutions

A Memorandum of Understanding (hereinafter referred to as “the MOU”) was entered into between the China Banking Regulatory Commission (“CBRC”), the Federal Deposit Insurance Corporation (“FDIC”)¹ and other U.S. banking supervisors on June 17, 2004, as amended, March 20, 2007, to establish an arrangement for the sharing of supervisory information to facilitate the performance of their respective duties and to promote the safe and sound functioning of Banking Organizations subject to the jurisdiction of the Authorities in their respective national jurisdictions.

The CBRC and FDIC recognize the importance of enhancing cross-border cooperation through the exchange of information and cooperation in resolving troubled Banking Organizations and maintaining critical operations. The CBRC and FDIC express, through this Appendix, their intention to cooperate with each other in the interest of fulfilling their respective statutory objectives, in the areas of resolving troubled Banking Organizations during (potential) emergency situations, and maintaining confidence and systemic stability.

1. This Appendix is a statement of intent to consult, cooperate, and exchange information in connection with contingency planning for and the implementation of the resolution of Banking Organizations in the People’s Republic of China and the United States in a manner consistent with, and permitted by, the laws and requirements that govern the Authorities. Furthermore, the Authorities will seek to enhance cooperation in the analysis of cross-border banking resolution issues, planning for potential resolution scenarios, and appropriate simulations, contingency planning or other work designed to improve preparations of the Authorities for managing and resolving crises involving Banking Organizations with cross-border operations in the People’s Republic of China or the United States.
2. If the condition of a Banking Organization deteriorates, it is expected that cooperation between the Authorities will intensify as well. Either of the Authorities may request special meetings in an emergency situation to address issues of concern as appropriate. Additional communications may take place under the terms of this Appendix or as otherwise agreed by the Authorities.
3. This Appendix does not create any legally binding obligations, confer any rights, or supersede domestic laws. In addition, this Appendix is not intended to alter the terms and conditions of the other arrangements concerning cooperation in financial

¹ For purposes of this Appendix only, references to the “Authority” or “Authorities” shall refer only to the CBRC and/or the FDIC as appropriate.

supervisory matters pursuant to the Memorandum of Understanding between the CBRC, the FRB, the OCC, the OTS and the FDIC (June 17, 2004, as amended, March 20, 2007).

4. To the extent practicable, and as appropriate in the particular circumstances, including the status of efforts to address any difficulties experienced by a Banking Organization, each Authority will endeavor to inform the other Authority in advance of regulatory changes relating to resolution measures and which may accordingly have a significant, material impact on the operations or activities of a Banking Organization in the other jurisdiction. This will, however, be without prejudice to any arrangements relating to specific prudential issues.
5. The Authorities will designate a contact person or persons of sufficient seniority ex ante, involved in ongoing resolution and crisis management of Banking Organizations. These contact people will be listed in Attachment A to this Appendix. Each Authority will inform the other Authority of these appointments and any changes therein. Senior-level contacts will be underpinned by regular working-level contact and collaboration, potentially including joint work on issues of mutual interest.
6. To the extent necessary to supplement periodic consultations, the Authorities intend in any emergency situation to cooperate with each other in assisting with the resolution of a Banking Organization, and ensuring compliance with the laws or regulations of the People's Republic of China or the United States. The assistance covered by this Paragraph may include, as appropriate to each entity, and in accordance with paragraph 3 and the rights of each Authority to collect or otherwise obtain information, providing:
 - i) Information relevant to the financial and operational condition of a Banking Organization, including, for example, capital structure, liquidity and funding profiles, internal controls procedures, external market or ratings information, entities and locations providing important operational capabilities, and identification of materially significant subsidiaries and affiliates, such as entities engaged in capital markets, information technology, and data processing services;
 - ii) Assessments on systemic impact, liquidity, solvency and contingency funding plans of a specific cross-border establishment and its head office or parent banking organization;
 - iii) Contingency liquidation arrangements developed by a cross-border establishment to be employed in the event of insolvency;
 - iv) Assistance in obtaining or interpreting requested information, if such assistance is needed; and

- v) In addition, the Authorities will discuss and agree on the information each should provide to the other for the purpose of resolution contingency planning, as well as time frames within which the information may be needed.
7. The Authorities recognize that communication and coordination can play an important role in promoting efficiency and preserving value in the resolution of a Banking Organization. The Authorities further acknowledge that their legal duties and objectives will often align with the goals of maximizing recoveries and minimizing losses for the benefit of different stakeholders. Where this is the case, they will endeavor, subject to applicable laws, to cooperate and coordinate in order to identify and implement resolution processes that meet these goals in both of their respective jurisdictions.
 8. To the extent possible, a request for information pursuant to this Appendix should be made in writing, and addressed to the relevant contact person(s) in Attachment A.
 9. In emergency situations, the Authorities will endeavor to notify each other of the emergency situation and communicate information to the other as would be appropriate in the particular circumstances, taking into account all relevant factors, including the status of efforts to address the emergency situation. During emergency situations, requests for information may be made in any form, including orally, provided such communication is confirmed subsequently in writing. The Authorities will endeavor to provide information as quickly as possible during emergency situations.
 10. Confidentiality and use of the information provided by the Authorities pursuant to this Appendix shall be subject to the provisions stipulated in paragraphs 11-15 under Confidentiality and Use of Information of the MOU.
 11. No privileges or confidentiality associated with information provided by an Authority are intended to be waived as a result of sharing such information pursuant to this Appendix.
 12. Cooperation in accordance with this Appendix will commence as of the date written below and continue indefinitely subject to modification by the mutual consent of the Authorities or termination by an Authority with 30 days' advance notice to the other Authority. After termination, the confidentiality provisions as specified by Paragraph 10 will continue to apply to any information provided under this Appendix prior to termination.

The CBRC and the FDIC accept the MOU modifications stated in this Appendix.

For the China Banking Regulatory
Commission

For the Federal Deposit Insurance
Corporation

Liu Mingkang
Chairman

Sheila C. Bair
Chairman

Date: _____

Date: _____

ATTACHMENT "A" - CONTACT OFFICERS

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