

**Memorandum of Understanding**

**between**

**China Banking Regulatory Commission**

**and**

**The Superintendence of Financial and Exchange Entities  
for the Central Bank of the Argentine Republic**

China Banking Regulatory Commission (CBRC) and the Superintendence of Financial and Exchange Entities (SEFyC) for the Central Bank of the Argentine Republic (BCRA) 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 banking supervision.

This Memorandum of Understanding sets out the commitment undertaken by both Authorities as regards the principles of effective consolidated banking cooperation and supervision between banking supervisors and their relevant responsibilities as provided in the paper issued by the Basle Committee on Banking Supervisors of May 1983 –known as “the Basle Concordat”- and subsequent revisions, particularly in the “Core Principles for Effective Banking Supervision”.

## **I. INTRODUCTION**

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

#### **(a) 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 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 Superintendence of Financial and Exchange Entities**

The main legal framework of the SEFyC and the policy of financial supervision are established under Act No. 24,144 (the BCRA Charter) and Act 21,526 (Financial Entities Act). Article 43 of the BCRA Charter provides that “The CENTRAL BANK OF THE ARGENTINE REPUBLIC shall oversee financial and exchange activities through the Superintendence of Financial and Exchange Entities...” Pursuant to Article 44, the Superintendence “is separate from, though budgetary dependent upon, the Central Bank of the Argentine Republic...”

In Argentina, supervision involves on-site (either yearly or bi-yearly, as the case may be) and off-site (on an ongoing fashion) examinations. Financial entities shall provide consolidated information on their related companies and their



shareholders.

2. The CBRC and SEFyC agree to work to:

- (a) encourage the prudential performance of the operations of cross-border branches, representative offices and subsidiaries of banking organizations under their respective jurisdictions;
- (b) encourage the parent and head office of banking organizations to exercise adequate and effective control over the operations of their cross-border branches and subsidiaries; and
- (c) enhance the ongoing supervision of the relevant banking organizations through an effective consolidated supervision of cross-border banking entities within a framework of mutual assistance which may contribute to the performance of such function.

## **II. DEFINITIONS**

3. For the purpose of this Memorandum:

- (a) "banking organization" shall mean in the PRC, 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, and in Argentina it shall mean a private, public or jointly-owned legal person or company belonging to the Nation, provinces or municipalities, which regularly intermediates in the supply and demand of financial resources as under the Financial Entities Act and the regulations thereof;
- (b) "cross-border establishment" shall mean the cross-border establishment of branches, representative offices or subsidiaries by their home head office or parent banking organization;
- (c) "Authorities" shall mean the CBRC and the SEFyC;
- (d) "jurisdiction" shall mean the country, state or other territory, as the case may be, in which the CBRC or the SEFyC/BCRA 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; and
- (h) "Requesting Authority" shall mean the authority that makes a request pursuant to this Memorandum.

### **III. INFORMATION SHARING**

- 4. The Authorities recognize the importance and desirability of mutual assistance and exchange of information. 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.
- 6. In connection with the authorization process, the Authorities undertake as follows:
  - (a) The Host Authority shall notify the Home Authority, without delay, of the applications for approval to establish a cross-border establishment;
  - (b) The Home Authority shall inform the Host Authority, at the latter's request, 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) The Home Authority shall inform the Host Authority, at the latter's request, of the nature of its regulatory system and the extent to which it will conduct consolidated or group-wide supervision of the applicant banking organisation. Similarly, 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, the Authorities intend to:
  - (a) provide relevant information to their counterpart regarding material developments or 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 substantial administrative penalties imposed, or other meaningful formal enforcement actions 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. The term "material supervisory concern" referred to in paragraph 7.a) above 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.
9. 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.
10. In carrying out the undertakings stipulated above in the case of a banking organisation located in the PRC or the Argentine Republic faces serious financial difficulties that could have a substantial adverse impact on the operations of such banking organization 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 bank's difficulties and restore confidence in the bank.

11. 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 financial institutions registered in one country of a banking organisation registered in the other country. The term "acquisition" shall mean the purchase of a participatory interest in the authorized capital of a banking organisation registered within the PRC or the Argentine Republic in the amount that requires, under national legislation, preliminary permission (consent) from the appropriate banking supervisory authority.
12. 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 endeavour to provide the information as quickly as possible.

#### **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 in line with such methodology as each Authority may implement.
15. 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.
16. 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.

## **V. CRISIS MANAGEMENT**

17. In connection with cross-border cooperation on crisis management:

- (a) for a cross-border establishment and its head office or parent banking organisation affected by crisis, the Home and Host Authorities should consider together possible issues and barriers that may arise in cross-border cooperation, and seek potential solutions.
- (b) the Home Authority may request special meetings to be held in order to deal with a specific cross-border establishment and its head office or parent banking organisation of concern, as appropriate. The Host Authority may propose to hold special meetings about a specific cross-border establishment and its head office or parent banking organisation of concern as appropriate.
- (c) the Home and Host Authorities should inform their counterparts, on a timely basis, of the arrangements for crisis management developed for a specific cross-border establishment and its head office or parent banking organisation.

The Authorities should share, at minimum, the following information:

- assessments on systemic impact, liquidity, solvency and contingency funding plans of a specific cross-border establishment and its head office or parent banking organisation;
  - other contingency arrangements; and
  - contingency liquidation arrangements developed by a cross-border establishment in the event of bankruptcy.
- (d) the Authorities should provide their counterparts, on a timely basis, with information pertaining to deposits protection arrangements for a specific cross-border branch under their respective jurisdictions.
  - (e) to assist the Host Authority responsible for a specific cross-border branch, the Home Authority, where necessary, shall require the head office of the branch to provide, on a timely basis, an action plan outlining the measures and solutions to be implemented in support of its branch's liquidity.



To assist the Host Authority responsible for a specific cross-border subsidiary, the Home Authority, where necessary, shall require the parent banking organisation of the subsidiary to provide, on a timely basis, its initiatives and solutions for liquidity assistance to as well as other supporting measures for the subsidiary.

- (f) where permitted by legal frameworks and confidentiality arrangements, the Home and Host Authorities should provide their counterparts with the aforesaid information within a prescribed time period. In such cases where the Requested Authority fails to provide relevant information on a timely basis, the Requesting Authority is entitled, at its discretion, to take special supervisory measures to safeguard its domestic financial market, as appropriate.

## **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 SEFyC/BCRA is legally compelled to disclose any confidential information provided pursuant to this Memorandum, the CBRC or the SEFyC, 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. In providing written materials pursuant to this Memorandum, which may be assessed as confidential, the CBRC and the SEFyC should mark every page of the materials they may provide with a legend reading substantially as follows:

**“CONFIDENTIAL - PROVIDED PURSUANT TO CBRC/SEFyC 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 Argentine Republic. In addition, every effort shall be made to encourage continuous and informal contacts between the staff of the Authorities.

## **VIII. GENERAL PROVISIONS**

25. The provision of, or request for, information under this Memorandum may be denied (a) where compliance would require the CBRC or the SEFyC 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.
26. This Memorandum shall be effective from the date of its signing. It shall continue in effect for a period of one year from the latest date entered below and shall automatically be renewed each year subject to modification by the mutual consent of the Authorities, provided, however, that 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.
27. 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**

28. This Memorandum is made in two copies in English.

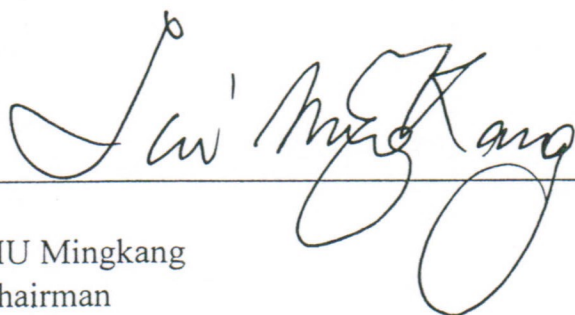
29. Annex A contains a list of designated contact officers, which shall be updated as necessary.

This Memorandum is signed by correspondence.

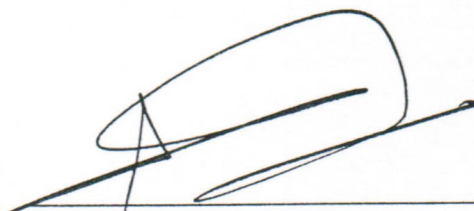
For China Banking  
Commission

Regulatory

For the Superintendence of Financial  
and Exchange Entities



LIU Mingkang  
Chairman



Santiago Carnero  
Superintendent

Date: 2011-09-14

Date: 2011-10-05