

FEDERAL RESERVE SYSTEM

CITIC Ka Wah Bank Limited
Hong Kong Special Administrative Region
People's Republic of China

Order Approving Establishment of Branches

CITIC Ka Wah Bank Limited ("Bank"),¹ Hong Kong S.A.R., the People's Republic of China, a foreign bank within the meaning of the International Banking Act ("IBA"), has applied under section 7(d) of the IBA (12 U.S.C. § 3105(d)) to establish branches in New York, New York, and Los Angeles, California. The Foreign Bank Supervision Enhancement Act of 1991, which amended the IBA, provides that a foreign bank must obtain the approval of the Board to establish a branch in the United States.

Notice of the application, affording interested persons an opportunity to comment, has been published in newspapers of general circulation in New York, New York (*New York Post*, August 23, 2002, and November 11, 2002), and Los Angeles, California (*Pasadena Star-News*, August 26, 2002). The time for filing comments has expired, and all comments have been considered.

Bank, with total assets of \$9.3 billion,² engages primarily in commercial and retail banking in Hong Kong. In January 2002, all of Bank's shares were acquired by CITIC Ka Wah Bank Limited ("CKWB"),

¹ Bank, formerly known as The Hongkong Chinese Bank Limited, assumed the name of its former parent bank after filing the application and now conducts business as CITIC Ka Wah Bank Limited.

² Asset data are as of December 31, 2002.

Hong Kong, S.A.R., the People's Republic of China. Under an internal reorganization in November 2002, CKWB transferred substantially all its banking business to Bank, and Bank assumed CKWB's name.³ CKWB had branches in New York, New York, and Los Angeles, California, and substantially all the assets and liabilities of these branches have been transferred to Bank as part of the reorganization.⁴ On November 4, 2002, the Federal Reserve System granted Bank's request to proceed with the acquisition of the banking business of CKWB before final action on Bank's application to establish offices in the United States.⁵

As discussed above, Bank conducts business as CITIC Ka Wah Bank Limited and is a wholly owned subsidiary of CITIC FHC. China International Trust & Investment Corporation ("CITIC"), Beijing, People's Republic of China, a state-owned enterprise, holds 55 percent of the shares of CITIC FHC, and no other shareholder holds more than 5 percent of the shares. CITIC's business is predominantly financial in nature, including investments in two commercial banks, a securities firm, trust and leasing companies, and an

³ CKWB became a financial holding company over Bank and was renamed CITIC International Financial Holdings Limited ("CITIC FHC").

⁴ Bank could not retain the FDIC-insured status of CKWB's New York branch after the transfer. Accordingly, the insured deposits at CKWB's New York branch were not transferred to Bank's New York branch.

⁵ Prior Board approval generally is required for the establishment of branches by foreign banks. Regulation K provides that "to establish" an office means, among other things, to acquire directly, through merger, consolidation, or similar transaction with another foreign bank, the operations of an office that is open and conducting business. 12 C.F.R. § 211.21(k). The regulation further provides that under certain circumstances, a branch may be established through merger, consolidation, or similar transaction before receiving Board approval. 12 C.F.R. § 211.24(a)(6).

insurance company, and it also has investments in industrial and nonfinancial services companies.⁶

Bank's New York branch engages in commercial and retail lending, wholesale deposit services, loan participations and syndications, funds transfer and remittance services, trade financing, foreign exchange and money market trading, domestic and international bank facilities, and safe deposit box services. The Los Angeles branch engages in lending and other financing activities, but only takes deposits permitted for a corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. § 611 *et seq.*).

In order to approve an application by a foreign bank to establish a branch in the United States, the IBA and Regulation K require the Board to determine that the foreign bank applicant engages directly in the business of banking outside of the United States and has furnished to the Board the information it needs to assess the application adequately. The Board also shall take into account whether the foreign bank and any foreign bank parent is subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor (12 U.S.C. § 3105(d)(2); 12 C.F.R. 211.24).⁷ The

⁶ CITIC is a qualifying foreign banking organization within the meaning of Regulation K (12 C.F.R. § 211.23).

⁷ In assessing this standard, the Board considers, among other factors, the extent to which the home country supervisors: (i) ensure that the bank has adequate procedures for monitoring and controlling its activities worldwide; (ii) obtain information on the condition of the bank and its subsidiaries and offices through regular examination reports, audit reports, or otherwise; (iii) obtain information on the dealings with and relationship between the bank and its affiliates, both foreign and domestic; (iv) receive from the bank financial reports that are consolidated on a worldwide basis or comparable information that permits analysis of the bank's financial condition on a worldwide consolidated basis; (v) evaluate prudential standards, such as capital adequacy and risk asset exposure, on a worldwide basis. These are indicia of

Board may also take into account additional standards as set forth in the IBA and Regulation K (12 U.S.C. § 3105(d)(3)-(4); 12 C.F.R. 211.24(c)(2)-(3)).

The IBA includes a limited exception to the general requirement relating to comprehensive, consolidated supervision (12 U.S.C. § 3105(d)(6)). This exception provides that if the Board is unable to find that a foreign bank seeking to establish a branch, agency, or commercial lending company is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country, the Board may nevertheless approve the application if: (i) the appropriate authorities in the home country of the foreign bank are actively working to establish arrangements for the consolidated supervision of such bank; and (ii) all other factors are consistent with approval (12 U.S.C. § 3105(d)(6)(A)). In deciding whether to exercise its discretion to approve an application under authority of this exception, the Board shall also consider whether the foreign bank has adopted and implemented procedures to combat money laundering. The Board also may take into account whether the home country of the foreign bank is developing a legal regime to address money laundering or is participating in multilateral efforts to combat it (12 U.S.C. § 3105(d)(6)(B)).

As noted above, Bank engages directly in the business of banking outside the United States. Bank also has provided the Board with information necessary to assess the application through submissions that address the relevant issues.

With respect to supervision by home country authorities, the Board previously has determined, in connection with applications involving

comprehensive, consolidated supervision. No single factor is essential, and other elements may inform the Board's determination.

other banks in Hong Kong, that those banks were subject to comprehensive supervision on a consolidated basis by the Hong Kong Monetary Authority (“HKMA”), the principal supervisory authority of banks in Hong Kong.⁸ Bank is supervised by the HKMA on substantially the same terms and conditions as those other banks. In this case, however, Bank is part of a large financial group headquartered in the People's Republic of China. This group, headed by Bank's ultimate parent, CITIC, includes a bank in the People's Republic of China. Although the HKMA has authority to limit transactions by Bank with its affiliates and to obtain information from them, the HKMA does not have supervisory responsibility for CITIC.

Hong Kong is a member of the Financial Action Task Force and subscribes to its recommendations on measures to combat money laundering. In accordance with these recommendations, Hong Kong has enacted laws and created legislative and regulatory standards to deter money laundering. Money laundering is a criminal offense in Hong Kong, and financial institutions are required to establish internal policies, procedures, and systems for the detection and prevention of money laundering throughout their worldwide operations. Bank has policies and procedures to comply with these laws and regulations. Bank's compliance with applicable laws and regulations is monitored by the HKMA and Bank's internal and external auditors.

Based on all the facts of record, it has been determined that Bank's home jurisdiction supervisory authority is actively working, in conjunction with the relevant supervisory authorities of the People's Republic

⁸ See Bank of East Asia, Ltd., 84 Federal Reserve Bulletin 886 (1998); Hong Kong and Shanghai Banking Co., 81 Federal Reserve Bulletin 902 (1995); Liu Chong Hing Bank, Ltd., 81 Federal Reserve Bulletin 905 (1995); Dah Sing Bank, Ltd., 80 Federal Reserve Bulletin 182 (1994).

of China, to establish arrangements for the consolidated supervision of Bank, and that considerations relating to the steps taken by Bank and its home jurisdiction to combat money laundering are consistent with approval under this standard.⁹

The additional standards set forth in section 7 of the IBA and Regulation K (*see* 12 U.S.C. § 3105(d)(3)-(4); 12 C.F.R. 211.24(c)(2)-(3)) have also been taken into account. The HKMA has no objection to the establishment of the proposed branches.

Hong Kong's risk-based capital standards are consistent with those established by the Basel Capital Accord. Bank's capital is in excess of the minimum levels that would be required by the Accord and is considered equivalent to capital that would be required of a U.S. banking organization. Managerial and other financial resources of Bank also are considered consistent with approval, and Bank appears to have the experience and capacity to support the proposed branches. In addition, Bank has established controls and procedures for the proposed branches to ensure compliance with U.S. law, as well as controls and procedures for its worldwide operations generally.

With respect to access to information about Bank's operations, the restrictions on disclosure in relevant jurisdictions in which Bank operates have been reviewed and relevant government authorities have been communicated with regarding access to information. Bank and its ultimate parent have committed to make available to the Board such information on the operations

⁹ In reaching this view, the oversight of Bank's parent companies has been considered. Financial holding companies in Hong Kong are subject to the supervision of the HKMA and, accordingly, the HKMA supervises CITIC FHC. The Hong Kong Banking Ordinance also contains restrictions on transactions with affiliates.

of Bank and any of its affiliates that the Board deems necessary to determine and enforce compliance with the IBA, the Bank Holding Company Act, and other applicable federal law. To the extent that the provision of such information to the Board may be prohibited by law or otherwise, Bank and its ultimate parent have committed to cooperate with the Board to obtain any necessary consents or waivers that might be required from third parties for disclosure of such information. In addition, subject to certain conditions, the HKMA may share information on Bank's operations with other supervisors, including the Board. In light of these commitments and other facts of record, and subject to the condition described below, it has been determined that Bank has provided adequate assurances of access to any necessary information that the Board may request.

On the basis of all the facts of record, and subject to the commitments made by Bank and its ultimate parent, as well as the terms and conditions set forth in this order, Bank's application to establish branches is hereby approved.¹⁰ Should any restrictions on access to information on the operations or activities of Bank and its affiliates subsequently interfere with the Board's ability to obtain information to determine and enforce compliance by Bank or its affiliates with applicable federal statutes, the Board may require termination of any of Bank's direct or indirect activities in the United States. Approval of this application also is specifically conditioned on compliance by Bank and its ultimate parent with the commitments made in connection with

¹⁰ Approved by the Director of the Division of Banking Supervision and Regulation, with the concurrence of the General Counsel, pursuant to authority delegated by the Board.

this application and with the conditions in this order.¹¹ The commitments and conditions referred to above are conditions imposed in writing in connection with this decision and may be enforced in proceedings under 12 U.S.C. § 1818 against Bank and its affiliates.

By order, approved pursuant to authority delegated by the Board,
effective August 6, 2003.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

¹¹ The Board's authority to approve the establishment of the proposed branches parallels the continuing authority of the Office of the Comptroller of the Currency to license offices of a foreign bank. The Board's approval of this application does not supplant the authority of the Office of the Comptroller of the Currency to license the proposed offices of Bank in accordance with any terms or conditions that it may impose.