

FEDERAL RESERVE SYSTEM

Wing Lung Bank Limited
Hong Kong SAR, People's Republic of China

Order Approving Establishment of Branches

Wing Lung Bank Limited (“Wing Lung”), Hong Kong SAR (“Hong Kong”), 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 IBA¹ to establish a federal branch in San Francisco, California, and to upgrade its existing limited federal branch in Alhambra, California, to a full-service branch.² 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.³

Notice of the application, affording interested persons an opportunity to comment, has been published in a newspaper of general circulation in both San Francisco (*The Recorder*, August 27, 2012) and Alhambra (*San Gabriel Valley*

¹ 12 U.S.C. § 3105(d).

² As a limited branch, the Alhambra branch is prohibited from accepting deposits from sources other than those permitted by section 25A of the Federal Reserve Act. Under section 25A of the Federal Reserve Act, an Edge corporation may receive deposits outside the United States and only such deposits within the United States that are incidental to or for the purpose of carrying out transactions in foreign countries. 12 U.S.C. § 615(a). Regulation K defines the extent of permissible deposit-taking activities of Edge corporations. 12 CFR 211.6(a)(1). Upgrading the limited branch to a full-service branch would permit the branch to accept wholesale domestic deposits.

³ Under the Board’s Regulation K, upgrading a limited branch to a full-service branch requires Board approval. 12 CFR 211.21(l)(4) and (f).

Tribune, August 23, 2012). The time for filing comments has expired, and the Board has considered all comments received.

Wing Lung, with total consolidated assets of approximately \$27.2 billion, is the 10th largest bank in Hong Kong.⁴ China Merchants Bank Co., Limited (“CMB”), Shenzhen, People’s Republic of China, owns all of the shares of Wing Lung.⁵

Wing Lung is a commercial bank and engages in retail and commercial banking. Outside Hong Kong, Wing Lung operates branches in Shenzhen and Shanghai, People’s Republic of China, and a branch in the Cayman Islands. In the United States, Wing Lung operates a limited federal branch in Alhambra, California, as noted. Wing Lung is a qualifying foreign banking organization under Regulation K.⁶

Under the IBA and Regulation K, in acting on an application by a foreign bank to establish a branch, the Board must consider whether (1) the foreign bank and any foreign bank parent engage directly in the business of banking

⁴ Asset and ranking data are as of June 30, 2013, and are based on the exchange rate as of that date.

⁵ CMB, with total consolidated assets of approximately \$620 billion, is the seventh largest bank in China. CMB is indirectly controlled by the government of China through a number of wholly-owned companies. One of these companies, China Merchants Group, Limited, Shenzhen, People’s Republic of China, indirectly owns approximately 18.6 percent of CMB’s total outstanding shares and is considered to control CMB for purposes of the Bank Holding Company Act. China Merchants Bank Co., Limited, 94 Federal Reserve Bulletin C24 (2008) (“CMB Order”), at n. 3. Another government-owned company, China Ocean Shipping (Group) Company, owns 6.2 percent of the shares of CMB. HKSCC Nominees Limited holds approximately 17.9 percent of the shares of CMB as the registered nominee of other shareholders. No other shareholder owns more than 5 percent of the shares of CMB. Shareholder data are as of June 30, 2013.

⁶ 12 CFR 211.23(a).

outside of the United States, (2) the foreign bank has furnished to the Board the information it needs to assess the application adequately, and (3) the foreign bank and any foreign bank parent are subject to comprehensive supervision on a consolidated basis by their home country supervisor.⁷ The Board also considers additional standards as set forth in the IBA and Regulation K.⁸

⁷ 12 U.S.C. § 3105(d)(2); 12 CFR 211.24. Regulation K provides that a foreign bank is subject to consolidated home country supervision if the foreign bank is supervised or regulated in such a manner that its home country supervisor receives sufficient information on the worldwide operations of the foreign bank (including the relationships of the bank to an affiliate) to assess the foreign bank's overall financial condition and compliance with law and regulation. 12 CFR 211.24(c)(1)(ii). In assessing this standard, the Board considers, among other indicia of comprehensive, consolidated supervision, 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; and (v) evaluate prudential standards, such as capital adequacy and risk asset exposure, on a worldwide basis. No single factor is essential, and other elements may inform the Board's determination.

⁸ 12 U.S.C. § 3105(d)(3)-(4); 12 CFR 211.24(c)(2)-(3). The additional standards set forth in section 7 of the IBA and Regulation K include the following: (i) whether the bank's home country supervisor has consented to the establishment of the office; (ii) the financial and managerial resources of the bank; (iii) whether the bank has procedures to combat money laundering, whether there is a legal regime in place in the home country to address money laundering, and whether the home country is participating in multilateral efforts to combat money laundering; (iv) whether the appropriate supervisors in the home country may share information on the bank's operations with the Board; (v) whether the bank has provided the Board with adequate assurances that it will make available to the Board such information on its operations and activities and those of its affiliates that the Board deems necessary to determine and enforce compliance with the IBA and other applicable federal banking statutes; (vi) whether the bank and its U.S.

The IBA includes a limited exception to the general standard relating to comprehensive, consolidated supervision.⁹ 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 provided that (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.¹⁰ As discussed below, this is the standard applied by the Board in this case. In deciding whether to exercise its discretion to approve an application under authority of this exception, the Board must also consider whether the foreign bank has adopted and implemented procedures to combat money laundering.¹¹ 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 money laundering.¹²

As noted above, Wing Lung engages directly in the business of banking outside the United States. CMB also engages directly in the business of

affiliates are in compliance with U.S. law; (vii) the needs of the community; and (viii) the bank's record of operation. The Board also considers, in the case of a foreign bank that presents a risk to the stability of the United States, whether the home country of the foreign bank has adopted, or is making demonstrable progress toward adopting, an appropriate system of financial regulation for the financial system of such home country to mitigate such risk. 12 U.S.C. § 3105(d)(3)(E).

⁹ 12 U.S.C. § 3105(d)(6).

¹⁰ 12 U.S.C. § 3105(d)(6)(A).

¹¹ 12 U.S.C. § 3105(d)(6)(B).

¹² Id.

banking outside the United States. Wing Lung 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 other banks in Hong Kong, that those banks were subject to comprehensive supervision on a consolidated basis by their home jurisdiction supervisor, the Hong Kong Monetary Authority (“HKMA”).¹³ Wing Lung is supervised by the HKMA on substantially the same terms and conditions as those other banks. In this case, however, Wing Lung is part of a large financial group headquartered outside of Hong Kong. As described above, Wing Lung is wholly owned by CMB, which is in turn controlled by China Merchants Group, Limited. In 2007, the Board approved an application by CMB to operate a branch in New York. In acting on that application, the Board determined that CMB’s home country supervisor was actively working to establish arrangements for the consolidated supervision of CMB, consistent with the discretionary standard in the IBA. Consequently, the Board has determined to apply the same standard in acting on this application by CMB’s subsidiary bank.

Hong Kong is a member of the Financial Action Task Force (“FATF”) and subscribes to the FATF’s recommendations on measures to combat money laundering and terrorist financing. In accordance with these recommendations, Hong Kong has enacted laws and developed regulatory

¹³ See letter, dated May 14, 2007, from the Federal Reserve Bank of New York to The Hongkong and Shanghai Banking Corporation Limited; Citic Ka Wah Bank Limited, 89 Federal Reserve Bulletin 435 (2003); The Bank of East Asia, Limited, 84 Federal Reserve Bulletin 886 (1998); Liu Chong Hing Bank, 81 Federal Reserve Bulletin 905 (1995); Hong Kong and Shanghai Banking Company, 81 Federal Reserve Bulletin 902 (1995); and Dah Sing Bank, Ltd., 80 Federal Reserve Bulletin 182 (1994).

standards to deter money laundering and terrorist financing. Money laundering is a criminal offense in Hong Kong, and Hong Kong financial institutions are required to establish internal policies, procedures, and systems for the detection and prevention of money laundering and terrorist financing throughout their worldwide operations. Wing Lung has policies and procedures in place to comply with these laws and regulations, and these policies and procedures are monitored by governmental entities responsible for anti-money laundering compliance. Based on all the facts of record, it has been determined that Wing Lung's home jurisdiction supervisor is actively working, in conjunction with the relevant supervisory authorities of the People's Republic of China, to establish arrangements for the consolidated supervision of Wing Lung, and that considerations relating to the steps taken by Wing Lung and its home jurisdiction to combat money laundering are consistent with approval under this standard.

The Board previously has determined that CMB's home country supervisor is actively working to establish arrangements for the consolidated supervision of CMB and that considerations relating to the steps taken by CMB and its home country to combat money laundering are consistent with approval under this standard.¹⁴ Based on this finding and all the facts of record, the Board has concluded that CMB's home country supervisor remains actively working to establish arrangements for the consolidated supervision of CMB and that considerations relating to the steps taken by CMB and its home country to combat money laundering are consistent with approval under this standard.

The additional standards set forth in section 7 of the IBA and Regulation K have also been taken into account. The HKMA has no objection to the establishment of the proposed branches.

¹⁴ CMB Order, at C24.

The Board has also considered the financial and managerial factors in this case. Hong Kong's risk-based capital standards are consistent with those established by the Basel Capital Accord ("Accord"). Wing Lung'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 Wing Lung are considered consistent with approval, and Wing Lung appears to have the experience and capacity to support the proposed branches. In addition, Wing Lung has established controls and procedures for the proposed branches to ensure compliance with U.S. law and for its operations in general.

With respect to access to information on Wing Lung's operations, the restrictions on disclosure in relevant jurisdictions in which Wing Lung operates have been reviewed, and relevant government authorities have been contacted regarding access to information. Wing Lung has committed to make available to the Board such information on its operations and on those of 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, Wing Lung has 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.¹⁵ In addition, subject to certain conditions, the HKMA may share information on Wing Lung'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 Wing Lung

¹⁵ CMB previously also made these commitments. CMB Order, at C26.

has provided adequate assurances of access to any necessary information that the Board may request.

Section 173 of the Dodd-Frank Wall Street Reform and Consumer Protection Act amended the IBA to provide that the Board may consider, for a foreign bank that presents a risk to the stability of the United States financial system, whether the home country of the foreign bank has adopted, or is making demonstrable progress toward adopting, an appropriate system of financial regulation for the financial system of such home country to mitigate such risk.¹⁶ Information relevant to the standard regarding risk to the stability of the United States financial system has also been reviewed. In particular, consideration has been given to the absolute and relative size of Wing Lung in its home jurisdiction; the scope of Wing Lung's activities, including the type of activities it proposes to conduct in the United States and the potential for those activities to increase or transmit financial instability; and the framework in place for supervising Wing Lung in its home jurisdiction. Based on these and other factors, financial stability considerations in this proposal are consistent with approval.

On the basis of all the facts of record, and subject to the commitments made by Wing Lung and CMB, as well as the terms and conditions set forth in this order, Wing Lung's application to establish a branch in San Francisco and to upgrade its limited branch in Alhambra to a full-service branch is hereby 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.¹⁷ Should any restrictions on access to information on the operations or activities of Wing Lung and its affiliates subsequently interfere with the Board's

¹⁶ 12 U.S.C. § 3105(d)(3)(E).

¹⁷ 12 CFR 265.7(d)(12).

ability to obtain information to determine and enforce compliance by Wing Lung or its affiliates with applicable federal statutes, the Board may require termination of any of Wing Lung's direct or indirect activities in the United States, or in the case of any such operations licensed by the Office of the Comptroller of the Currency ("OCC"), recommend termination of such operations. Approval of this application also is specifically conditioned on compliance by Wing Lung and CMB with the commitments made in connection with this application and with the conditions in this order.¹⁸ The commitments and conditions referred to above are conditions imposed in writing by the Board in connection with this decision and may be enforced in proceedings under applicable law.

By order, approved pursuant to authority delegated by the Board,
effective January 13, 2014.

Margaret McCloskey Shanks (signed)

Margaret McCloskey Shanks
Deputy Secretary of the Board

¹⁸ The Board's authority to approve the establishment of the branches parallels the continuing authority of the OCC to license offices of a foreign bank. The Board's approval of this application does not supplant the authority of the OCC to license the proposed offices of Wing Lung in accordance with any terms or conditions that the OCC may impose.