

# Agreement (Memorandum of Understanding) between the Central Bank of the Russian Federation and the China Banking Regulatory Commission

The Central Bank of the Russian Federation (Bank of Russia) and the China Banking Regulatory Commission (CBRC), hereinafter referred to as the „banking supervisory authorities”, have reached an understanding on the need to exchange information for the effective fulfillment of their functions and assist the reliability and stability of banking systems in their countries. This understanding also meets the Basel Committee recommendations on the principles of conducting consolidated and comprehensive supervision and co-operation between banking supervisory authorities.

## 1. The Powers of the Banking Supervisory Authorities

### 1.1. The Russian Federation

Under the legislation of the Russian Federation, the Central Bank of the Russian Federation (Bank of Russia) is a body of banking regulation and banking supervision. It constantly monitors the compliance by credit institutions and banking groups (banking holdings) with banking legislation, Bank of Russia's regulations and mandatory standards. To fulfil its regulatory and supervisory functions, the Central Bank of the Russian Federation conducts on-site examinations of credit institutions and their branches, sends them compulsory prescriptions to eliminate the shortcomings discovered in their work and takes measures to credit institutions established by the Federal Law on the Central Bank of the Russian Federation (Bank of Russia).

A credit institution is a legal entity which, for the purpose of deriving profit as the principal objective of its activity, has the right on the basis of a special permission (licence) of the Central Bank of the Russian Federation (Bank of Russia) to conduct banking operations stipulated by the Federal Law on Banks and Banking Activities. A credit institution is established on the basis of any form of ownership as a business entity.

A bank is a credit institution that has the exclusive right to conduct the following banking operations in their entirety: to take funds on deposit from private individuals and legal entities, lend such funds on its own behalf and at its own expense on the condition that they are returned after a specified period of time with an interest, open and keep individual and corporate bank accounts.

A non-bank credit institution is a credit institution that has the right to conduct individual banking operations stipulated by the Federal Law on Banks and Banking Activities. The permissible combinations of banking operations are established for non-bank credit institutions by the Bank of Russia.

### 1.2. The People's Republic of China

Under the Law of the People's Republic of China (PRC) on Banking Regulation and Supervision adopted in December 2003, the China Banking Regulatory Commission (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 by the Standing Committee of the National People's Congress.

A banking organization in the PRC refers to 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.

2. For the Purposes of this Agreement (Memorandum):

2.1. A parent credit institution /banking organization is a legal entity, which has a cross-border establishment (subsidiary credit institution/banking organization, branch, representative office).

2.2. Cross-border establishment is a branch, a representative office or a subsidiary established by the parent credit institution/banking organization in the territory of the other state.

2.2.1. The Russian Federation.

In the Russian Federation, foreign banks may participate in the authorised capital of credit institutions and establish subsidiaries, whose activities are subject to licensing under the Russian Federation federal laws, and also open representative offices.

Under the Russian Federation legislation:

A subsidiary credit institution is a legal entity in which another credit institution has majority interest and in accordance with an agreement concluded between them or otherwise can determine the decisions taken by the subsidiary credit institution.

A representative office of a credit institution is a separate division thereof, situated outside the seat of the credit institution that represents and protects its interests. A representative office of a credit institution has no right to conduct banking operations. A representative office of a credit institution is not a legal entity and conducts its activities on the basis of the regulations established by the credit institution that created it.

2.2.2. The People's Republic of China.

In the PRC, foreign banks may participate in the authorised capital of banking organization and establish branches, subsidiaries, whose activities are subject to licensing under the People's Republic of China laws, and also open representative offices.

Under the PRC legislation:

A branch means an organizational unit of a banking organization that has been granted a banking license or authorisation in the PRC.

A subsidiary means a separate legal entity that has been granted a banking license or authorisation in the PRC that is controlled by a financial institution incorporated in the other country.

A representative office of a banking organization is not a legal entity and can only conduct non-operational activities such as business advice, liaison service and market research etc.

2.3. The home country is the country where a parent credit institution/banking organization is registered.

2.4. The host country is the country where a cross-border establishment is registered.

### **3. Exchange of Information**

3.1. To ensure and enhance the efficiency of supervision over credit institutions/\_banking organizations and their cross-border establishments, the banking supervisory authorities express

their wish to co-operate and exchange information in the following areas: licensing, supervision of the current activities of cross-border establishments and on-site examinations.

The banking supervisory authorities shall exchange information on the state and development of the national banking sector, the principal banking supervision standards and requirements and significant changes therein.

3.2. In the Russian Federation the exchange of information with the banking supervisory authorities of foreign states is regulated by the Federal Law on the Central Bank of the Russian Federation (Bank of Russia), which entitles the Bank of Russia to provide information to the banking supervisory authority of a foreign state or documents it has received from credit institutions in the process of fulfilling its supervisory functions, which should not contain information on the operations conducted by credit institutions and their clients, on condition that the foreign banking supervisory authority guarantees the regime for the keeping of information that corresponds to the requirements of the legislation of the Russian Federation to the Bank of Russia concerning the security of information.

3.3. In the PRC the exchange of information with the banking supervisory authorities of foreign states is regulated by the Law of the People's Republic of China on Banking Regulation and Supervision, which entitles the CBRC to provide information to the banking supervisory authority of a foreign state or documents it has received from banking organizations in the process of fulfilling its supervisory functions, which should not contain information on the operations conducted by banking organizations and their clients, on condition that the foreign banking supervisory authority guarantees the regime for the keeping of information that corresponds to the requirements of the legislation of the PRC to the CBRC concerning the security of information.

3.4. Co-operation within the framework of this Agreement (Memorandum) shall be conducted at the initiative of banking supervisory authority on the basis of a request for assistance.

3.5. A request for assistance shall be made in writing. Any type of communication facilities may be used to transmit a request.

3.6. Assistance within the framework of this Agreement (Memorandum) may be refused wholly or in part if the requested banking supervisory authority believes that the fulfillment of the request contravenes its national legislation or runs counter to the interests of the state. In this case, the requesting banking supervisory authority shall be notified in writing and given the reasons for the refusal.

3.7. Each banking supervisory authority shall do everything to ensure a prompt and fullest possible reply to the request of the other banking supervisory authority or it shall notify the latter about the circumstances that prevent or delay the fulfillment of the request.

3.8. Each banking supervisory authority shall bear the expenses that may arise in implementing this Agreement (Memorandum) unless a different procedure is agreed upon.

#### **4. Ensuring the Confidentiality of Information**

4.1. The banking supervisory authorities shall take appropriate measures to ensure the confidentiality of information or documents in keeping, using and passing it to each other, including the transmission of information by any type of communication facilities.

4.2. Confidential information provided within the framework of this Agreement (Memorandum) may not be used without the consent of the banking supervisory authority that provided it for purposes other than those for which it was requested and provided.

4.3. Confidential information or documents may be passed to a third party in each particular case if there is written permission to do so from the banking supervisory authority that has provided

confidential information, except for the cases, when obligation to provide information is stipulated by law.

4.4. Should this Agreement (Memorandum) be terminated, the supervisory information received within the framework of this Agreement (Memorandum) shall remain confidential.

## **5. Licensing**

In the process of licensing of banking activities:

5.1. Application of a parent credit institution/banking organization from the home country to the banking supervisory authority of the host country regarding issuing of licence (permission) on opening of cross-border establishment is considered within the time periods and in compliance with the requirements set by the national legislation.

5.2. Upon the receipt of an application indicated in paragraph 5.1., the banking supervisory authority shall inform the other banking supervisory authority about its contents, and after consideration of the application informs in writing about its results.

5.3. At the request of the host country banking supervisory authority, the home country banking supervisory authority shall provide the following information about the parent credit institution/banking organization for making a decision with regard to an application, indicated in paragraph 5.1.:

— the date of state registration;

— the operations conducted by this credit institution/banking organization in accordance with its banking licence;

— on the members of the management bodies of the credit institution/banking organization and its shareholders (members), branches, representative offices and affiliated entities;

— other information necessary for making a decision concerning establishment of a cross-border establishment.

5.4. The banking supervisory authorities of the host country shall inform in writing the banking supervisory authority of the home country on setting up of a cross-border establishment by a credit institution/ banking organization.

## **6. Co-operation in the Process of Decision-making with regard to Acquisition of Shares (Stakes) of a Credit Institution/Banking Organization**

6.1. The banking supervisory authorities shall co-operate in the process of decision-making with regard to the approval of acquisition of shares (stakes) by a legal entity or private individual or a group of legal entities and (or) private individuals in a credit institution/banking organization registered in the other country.

6.2. For the purposes of this Agreement (Memorandum), an acquisition signifies the purchase of a stake in the capital of a credit institution/banking organization registered in the Russian Federation or in the PRC, of a size that will require, under the national legislation, preliminary agreement with the banking supervisory authority.

## **7. Co-operation in Supervising Current Activities of Cross-Border Establishments of Parent Credit Institutions/Banking Organizations**

7.1. The host country banking supervisory authority shall supervise the activities of cross-border establishments in compliance with the national legislation.

7.2. The host country banking supervisory authority shall not prevent the provision by cross-border establishments of information and reports to the parent credit institution/banking organization, necessary for supervision on a consolidated basis and for consolidated reports according to standards established by the home country legislation.

7.3. The home country banking supervisory authority shall inform the host country banking supervisory authority about standards of reports and other data that should be provided by cross-border establishments to a parent credit institution/banking organization, necessary for compiling consolidated reports.

7.4. The home country banking supervisory authority with regard to parent credit institutions/banking organization and the host country banking supervisory authority with regard to cross-border establishments shall exchange the following information on request:

— on violations of banking legislation committed by parent credit institutions/banking organizations and their cross-border establishments;

— on fines and other penalties used against a parent credit institution/banking organization by the home country supervisory authority and by the host country supervisory authority against a cross-border establishment.

## **8. Co-operation in Conducting On-site Examinations**

8.1. Should it be necessary to conduct an on-site examination, the home country banking supervisory authority shall notify the host country banking supervisory authority at least 25 working days before the projected on — site examination date:

— about the intention of conducting an on — site examination of a cross-border establishment, indicating its title;

— about the subject matter of the on — site examination;

— about the receipt by the home country banking supervisory authority of the cross-border establishment's consent in writing for being inspected by home country supervisors.

8.2. The procedure for presenting information on the examination results to the host country banking supervisory authority shall be agreed upon by the banking supervisory authorities in each particular case.

8.3. On — site examinations shall be conducted by authorised representatives of the home country banking supervisory authority on their own. Authorised representatives of the host country banking supervisory authority may be present when an examination is being conducted by authorised representatives of the home country banking supervisory authority.

8.4. Authorised representatives of the banking supervisory authorities shall hold meetings, if necessary.

## **9. Other Provisions**

9.1. If necessary, the banking supervisory authorities shall meet to discuss and settle matters relating to supervision of cross-border establishments. The issues relating to the implementation of this Agreement (Memorandum) may also be discussed at such meetings.

9.2. To ensure the practical implementation of co-operation after this Agreement (Memorandum) comes into force, the banking supervisory authorities shall exchange lists of contact persons (with full names, job titles, telephone and fax numbers and email addresses).

9.3. Information on the Bank of Russia, banking system, laws and regulations of the Russian Federation may be found on the Bank of Russia website at [www.cbr.ru](http://www.cbr.ru).

Information on the CBRC, banking system, laws and regulations of the PRC may be found on the CBRC website at [www.cbrc.gov.cn](http://www.cbrc.gov.cn).

The Bank of Russia and the CBRC shall not object to placing this Agreement (Memorandum) on their websites.

9.4. This Agreement (Memorandum) shall come into force as of its signing and it will remain effective until one of the banking supervisory parties notifies in advance the other in writing about its decision to terminate it. In this case, this Agreement (Memorandum) shall remain in effect for 30 days after the notification date. Requests for assistance made before that date shall be fulfilled by the banking supervisory authorities in compliance with the terms and conditions of this Agreement (Memorandum).

9.5. This Agreement (Memorandum) is done in two copies, in the English language.

For the Central Bank of the Russian Federation	For the China Banking Regulatory Commission
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