

UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
COMPTROLLER OF THE CURRENCY

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In the Matter of:)	
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Bank of China, New York Branch)	AA-EC-2018-19
New York, New York)	
)	
A Federal Branch of)	
)	
Bank of China Limited)	
Beijing, People’s Republic of China)	
_____)	

CONSENT ORDER FOR A CIVIL MONEY PENALTY

The Comptroller of the Currency of the United States of America (“Comptroller”) through his national bank examiners and other staff of the Office of the Comptroller of the Currency (“OCC”), has supervisory authority over and has conducted examinations of the Bank of China, New York Branch, New York, New York (“Branch”), a Federal branch of Bank of China Limited, Beijing, China (“Home Office”). The OCC has identified deficiencies in the Branch’s Bank Secrecy Act/anti-money laundering (“BSA/AML”) compliance program, that resulted in violations of 12 C.F.R. § 21.21 (BSA/AML compliance program), and 12 C.F.R. § 21.11 (suspicious activity report filings), and deficiencies in the Branch’s compliance with the requirements of the Office of Foreign Asset Control (“OFAC”), and has informed the Branch of the findings resulting from the examinations. These findings were the subject of a Consent Order, dated April 24, 2018 (“2018 Consent Order”).

The Branch, by and through its General Manager (“GM”) duly authorized by the Home Office, has executed a Stipulation and Consent to the Issuance of an Order for a Civil Money Penalty, dated April 18, 2018, that is accepted by the Comptroller (“Stipulation”). By this Stipulation, which is incorporated herein by reference, the Branch has consented to the issuance of this Consent Order for a Civil Money Penalty (“Order”) by the Comptroller. The Branch has begun corrective action, and has committed to taking all necessary and appropriate steps to remedy the deficiencies identified by the OCC, and to enhance the Branch’s BSA/AML and OFAC compliance programs.

ARTICLE I

COMPTROLLER’S FINDINGS

The Comptroller finds, and the Branch neither admits nor denies, the following:

(1) The Branch violated 12 C.F.R. § 21.21 and 12 C.F.R. § 21.11. Specifically, the Branch failed to adopt and implement a compliance program that adequately covered the required BSA/AML program elements, and the requirements of OFAC, and the Branch failed to timely file Suspicious Activity Reports (“SARs”) related to suspicious customer activity.

(2) Some of the critical deficiencies in the elements of the Branch’s BSA/AML compliance program that resulted in a violation of 12 C.F.R. § 21.21, included the following:

- The Branch had an inadequate system of internal controls, ineffective independent testing, a weak BSA Officer function, and insufficient training.
- The Branch had systemic deficiencies in its transaction monitoring systems, which resulted in monitoring gaps. These systemic deficiencies resulted in alert and investigation backlogs, and led to a failure to file SARs in a timely manner.

- The Branch had systemic deficiencies in its customer due diligence (“CDD”), enhanced due diligence (“EDD”), and customer risk rating processes.

(3) The Branch failed to file the necessary SARs concerning suspicious customer activity in a timely manner, in violation of 12 C.F.R. § 21.11.

(4) Pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. §1818, the Comptroller hereby ORDERS that:

ARTICLE II

ORDER FOR A CIVIL MONEY PENALTY

Pursuant to the authority vested in him by the Federal Deposit Insurance Act, 12 U.S.C. § 1818(i), the Comptroller orders, and the Branch consents to the following:

(1) The Branch shall make payment of a civil money penalty in the total amount of twelve million five hundred thousand dollars (\$12,500,000), which shall be paid upon the execution of this Order:

(2) Such payment shall be made by a wire transfer sent in accordance with instructions provided by the Comptroller and the docket number of this case (AA-EC-2018-19) shall be entered on the wire confirmation. A photocopy of the wire confirmation shall be sent immediately, by overnight delivery, to the Director of Enforcement and Compliance, Office of the Comptroller of the Currency, 400 7th Street, S.W., Washington, D.C. 20219.

(3) This Order shall be enforceable to the same extent and in the same manner as an effective and outstanding order that has been issued and has become final pursuant to 12 U.S.C. § 1818(h) and (i).

ARTICLE III

OTHER PROVISIONS

(1) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818(i)(2), and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States.

(2) This Order constitutes a settlement of the civil money penalty proceeding against the Branch contemplated by the Comptroller, based on the practices and violations described in the Comptroller's Findings set forth in Article I of this Order. The Comptroller releases and discharges the Branch from all potential liability for a civil money penalty that has been or might have been asserted by the Comptroller based on the practices and violations described in Article I of this Order, to the extent known to the Comptroller as of the effective date of this Order.

Nothing in the Stipulation or this Order, however, shall prevent the Comptroller from:

- (a) instituting enforcement actions other than a civil money penalty against the Branch based on the findings set forth in Article I of this Order;
- (b) instituting enforcement actions against the Branch based on any other findings;
- (c) instituting enforcement actions against the Branch's institution-affiliated parties based on the findings set forth in Article I of this Order, or any other findings; or
- (d) utilizing the findings set forth in Article I of this Order in future enforcement actions against the Branch or its institution-affiliated parties to establish a pattern or the continuation of a pattern.

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**STIPULATION AND CONSENT TO THE ISSUANCE
OF AN ORDER FOR A CIVIL MONEY PENALTY**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”), based upon information derived from the exercise of his regulatory and supervisory responsibilities, intends to initiate a civil money penalty proceeding against Bank of China, New York Branch, New York, New York (“Branch”), a Federal branch of Bank of China Limited, Beijing, China (“Home Office”), pursuant to 12 U.S.C. § 1818(i), for the Branch’s violations of 12 C.F.R. § 21.21 and 12 C.F.R. § 21.11;

WHEREAS, in the interest of cooperation and to avoid additional costs associated with administrative and judicial proceedings with respect to the above matter, the Branch, through its General Manager (“GM”) duly authorized by the Home Office, has agreed to execute this Stipulation and Consent to the Issuance of a Civil Money Penalty (“Stipulation”), that is accepted by the Comptroller, through his duly authorized representative;

NOW, THEREFORE, in consideration of the above premises, it is stipulated by the Branch that:

ARTICLE I

JURISDICTION

(1) The Branch is a Federal branch licensed and examined by the Comptroller pursuant to the International Banking Act of 1978, as amended, 12 U.S.C. § 3101 et seq.

(2) The Comptroller is “the appropriate Federal banking agency” regarding the Branch pursuant to 12 U.S.C. §§ 1813(c)(3), 1813(q), 1818(b), and 3108(b).

ARTICLE II

CONSENT

(1) The Branch, without admitting or denying any wrongdoing, consents and agrees to issuance of the accompanying Consent Order for a Civil Money Penalty (“Consent Order”) by the Comptroller.

(2) The Branch consents and agrees that the Consent Order shall be deemed an “order issued with the consent of the depository institution” pursuant to 12 U.S.C. § 1818(h)(2), and consents and agrees that the Consent Order shall become effective upon its execution by the Comptroller through his authorized representative, and shall be fully enforceable by the Comptroller pursuant to 12 U.S.C. §§ 1818(i) and 3101 *et seq.*

(3) Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Branch under his supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. The Branch expressly acknowledges that neither the Branch nor the Comptroller has any intention to enter into a contract.

(4) The Branch declares that no separate promise or inducement of any kind has been made by the Comptroller, or by his agents or employees, to cause or induce the Branch to consent to the issuance of the Consent Order and/or execute this Stipulation.

(5) The Branch expressly acknowledges that no officer or employee of the Comptroller has statutory or other authority to bind the United States, the United States Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller's exercise of his supervisory responsibilities.

(6) The Consent Order constitutes a settlement of the civil money penalty proceeding against the Branch contemplated by the Comptroller, based on the practices and violations described in the Comptroller's Findings set forth in Article I of the Consent Order. The Comptroller releases and discharges the Branch from all potential liability for a civil money penalty that has been or might have been asserted by the Comptroller based on the practices and violations described in Article I of the Consent Order, to the extent known to the Comptroller as of the effective date of the Consent Order. Nothing in this Stipulation or the Consent Order, however, shall prevent the Comptroller from:

- (a) instituting enforcement actions other than a civil money penalty against the Branch based on the findings set forth in Article I of the Consent Order;
- (b) instituting enforcement actions against the Branch based on any other findings;

- (c) instituting enforcement actions against the Branch's institution-affiliated parties based on the findings set forth in Article I of the Consent Order, or any other findings; or
- (d) utilizing the findings set forth in Article I of the Consent Order in future enforcement actions against the Branch or its institution-affiliated parties to establish a pattern or the continuation of a pattern.

Further, nothing in this Stipulation or the Consent Order shall affect any right of the Comptroller to determine and ensure compliance with the terms and provisions of this Stipulation or the Consent Order.

ARTICLE III

WAIVERS

- (1) The Branch, by executing this Stipulation and consenting to the Consent Order, waives:
 - (a) Any and all rights to the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(i);
 - (b) Any and all procedural rights available in connection with the issuance of the Consent Order;
 - (c) Any and all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(i), 12 C.F.R. Part 19;
 - (d) Any and all rights to seek any type of administrative or judicial review of the Consent Order;
 - (e) Any and all claims for fees, costs or expenses against the Comptroller, or any of his agents or employees, related in any way to this enforcement

matter or the Consent Order, whether arising under common law or under the terms of any statute, including, but not limited to, the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412;

- (f) Any and all rights to assert this proceeding, this Stipulation, consent to the issuance of the Consent Order, and/or the issuance of the Consent Order, as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity; and
- (g) Any and all rights to challenge or contest the validity of the Consent Order.

ARTICLE IV

CLOSING

(1) The provisions of this Stipulation and the Consent Order shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Branch if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

(2) Nothing in this Stipulation or the Consent Order shall preclude any proceedings brought by the Comptroller to enforce the terms of the Consent Order, and nothing in this Stipulation or the Consent Order constitutes, nor shall the Branch contend that it constitutes, a release, discharge, compromise, settlement, dismissal, or resolution of any actions, or in any way affects any actions that may be or have been brought by any other representative of the United States or an agency thereof, including, without limitation, the United States Department of Justice.

