THE INFLUENCE OF HONG KONG BANKING LAW ON BANKING REFORM IN THE PRC*

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After the hand-over of Hong Kong by the United Kingdom to the People's Republic of China ("PRC") on June 30, 1997, some analysts were concerned that the PRC would slowly but steadily restrict the economic freedom that Hong Kong residents had enjoyed under British rule. There was concern that the PRC would not follow the dictates of the Basic Law,[1] the treaty between the PRC and the United Kingdom that is viewed as serving as Hong Kong's constitution. Some commentators predicted that China would interfere with Hong Kong's economy and its legal system despite the protections of the Basic Law,[2] which requires the maintenance of the capitalist system in Hong Kong until at least 2047.[3]

While the PRC has influenced policy in Hong Kong in several ways,[4] this Article argues that in the area of financial supervision, particularly bank supervision, the smaller Hong Kong Special Administrative Region ("SAR") has significantly influenced banking reform in the PRC rather than the reverse. The PRC's implementation and development of bank supervisory standards that approach compliance with international

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[1] *See* The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, *reprinted in* 29 INT'L LEGAL MATERIALS 1519 (1990) [hereinafter Basic Law].

[2] *See* Owen Fiss, *Hong Kong Democracy*, 36 COLUM. J. TRANSNAT'L L. 493 (1998); Daniel R. Fung, *Hong Kong—China Legal Synergy in the Run-up To and Beyond*, 18 U. PA. J. INT'L ECON. L. 41 (1997); Edward A. Gargan, *Hong Kong Fears Unraveling of Rule of Law*, N.Y. TIMES, May 7, 1997, at A1.

[3] *See* Basic Law, *supra* note 1, art. 5.

[4] In 2003, the PRC government advocated for the passage of a sedition law and later forced the resignation of the first Chief Executive of Hong Kong, Tung Chee Hwa. *See Bad Luck and Bad Judgment*, SOUTH CHINA MORNING POST, Mar. 11, 2005, at 22. *Contra* Jimmy Cheung, *I Can't Take the Strain Says Tung*, SOUTH CHINA MORNING POST, Mar. 11, 2005, at 3 (suggesting that Tung's resignation was due to his "ailing health").

financial standards has been significantly influenced by the Hong Kong Monetary Authority ("HKMA"), Hong Kong's central bank, through both informal and formal contacts between HKMA officials and PRC bank supervisory officials.

Anne-Marie Slaughter has commented in several articles on the development of "transgovernmental regulatory networks,"[5] defined as a series of ongoing contacts between government subunits that are not controlled by the policies set by the chief executive and his cabinet of advisors.[6] Slaughter notes that financial regulators were among the first to create these networks.[7] The interaction among the HKMA, the China Banking Regulatory Commission, and the People's Bank of China is an example of these regulatory networks at work and constitutes an important vehicle for introducing international financial standards into the developing financial system of the second largest economy in the world.[8]

This Article is divided into four parts: (1) a brief analysis and description of the PRC banking system, (2) a short history of banking reform in the PRC, (3) an analysis and description of the influence of the HKMA and the Hong Kong financial sector generally on the PRC banking reform efforts, and finally, (4) an examination of the prospects of the continuation of the Hong Kong influence on PRC banking reform.

I. PRC BANKING SECTOR

The PRC is heavily dependent on its banking sector for the provision of credit as bank loans are the primary source of credit in China. The banking industry in China is a government dominated system that controls 80% of all financial assets of China.[9] The remaining 20% of

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[5] *See* Anne-Marie Slaughter, *Global Government Networks, Global Information Agencies, and Disaggregated Democracy,* 24 MICH. J. INT'L L. 1041, 1043 (2003) [hereinafter Slaughter, *Global Government Networks*]; *See also* Anne-Marie Slaughter, *A Global Community of Courts*, 44 HARV. INT'L L.J. 191 (2003); Anne-Marie Slaughter, *The Accountability of Government Networks*, 8 IND. J. GLOBAL LEGAL STUD. 347 (2001).

[6] *See* Slaughter, *Global Government Networks*, *supra* note 5, at 1045.

[7] *Id.*

[8] Central Intelligence Agency, The World Factbook: China (Oct. 9, 2008), https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html (last visited Oct. 20, 2008) ("Measured on a purchasing power parity (PPP) basis, China in 2007 stood as the second-largest economy in the world after the US . . . .").

[9] *See* Fitch Ratings, The Chinese Banking System, at 3 (June 6, 2006),

financial assets consists of stocks and bonds, though principally stocks.

The institutions comprising the PRC banking system can be divided into five separate tiers:[10]

(1) the Big Four state-operated commercial banks,
(2) the policy banks,
(3) joint stock commercial banks,
(4) city commercial banks, and
(5) credit cooperatives.

The Big Four state-operated commercial banks–the Bank of China, the Industrial and Commercial Bank of China, the China Construction Bank and the Agricultural Bank of China–controlled 55% of all banking assets within China in 2005.[11] The next tier consists of three policy banks, which are financial institutions designed to meet the policy objectives of the national government and the Chinese Communist Party. The three policy banks controlled approximately 8% of banking assets in China. Twelve joint commercial banks in China comprise the third tier and control 16% of banking assets. The more prominent commercial banks include the Bank of Communications[12] and the Shenzhen Development Bank. The 112 city commercial banks control 6% of China's banking assets. The final tier consists of the credit cooperatives similar in function to credit unions in the United States. The credit cooperatives include thousands of small operations located mainly in rural areas of China. The cooperatives control approximately 9% of the banking assets in China. Foreign-funded banks and the Postal Savings Bank control the remaining 6% of banking assets.[13] Foreign banks have only recently been allowed to operate in China and then only pursuant to stringent regulations.[14]

In contrast, the Hong Kong banking system consists of three tiers–licensed banks, restricted licensed banks, and deposit taking companies.[15]

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http://www.fitchratings.com/ (last visited Oct. 20, 2008) [hereinafter Fitch Ratings].

[10] *Id.* at 3-4.

[11] Banking assets in China are primarily unsecured and secured loans with varying maturities. In contrast, financial assets include both banking assets as well as equity and credit instruments outside the banking system.

[12] HSBC, the international bank with its main business office in Hong Kong, owns an equity interest in the Bank of Communications.

[13] *See* Fitch Ratings, *supra* note 9, at 4.

[14] *See generally* TONG XIAOHU, FINANCIAL SERVICES IN CHINA (2005).

[15] *See* BERRY F.C. HSU, LAWS OF BANKING AND FINANCE IN THE HONG KONG SAR

The Hong Kong banking system is dominated by three major financial institutions: the Hong Kong and Shanghai Banking Corporation ("HSBC"), Standard Chartered Bank, and the Bank of China (Hong Kong). The Hong Kong banking system is open to foreign banks that can comply with the banking regulatory standards of the HKMA.

II. A SHORT HISTORY OF BANKING IN THE PEOPLE'S REPUBLIC OF CHINA

In 1949 after the Communist Revolution in China, the Communist Party created the People's Bank of China ("PBOC").[16] From 1949 until 1979, China had a monolithic banking system with the PBOC serving as the sole depository institution and lender.[17] In 1979, Deng Xiaoping began his reform of the economy, which included reform of the banking industry.[18] In that same year the commercial operations, lending and deposit-taking functions, were separated into a division distinct from the central bank and supervisory operations of the PBOC. With the creation of the three policy banks and the Big Four state-operated commercial banks in 1994, a new series of major reforms of the Chinese banking system began. In 1995, the National People's Congress enacted the Law on the People's Bank of China[19] which made the PBOC a true central bank and bank regulator. During the same year, the Commercial Banking Law was enacted to set prudential supervisory standards for banks.[20]

(1998).

[16] *See* James R. Barth, Rob Koepp & Zhong Fei Zhou, *Banking Reform in China: Cataloging the Nation's Financial Future* (Feb. 2004), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=548405 (last visited Oct. 20, 2008) (providing a timeline at the end of the article succinctly describing key events in bank reform in the PRC).

[17] *Id*. at 16-17.

[18] *See* XIAOHU, *supra* note 14, at 15. *See also* William I. Friedman, *China's One Nation, Two-System Paradigm Extends Itself Beyond the Mainland's Borders to the Southern Provincial Government of Hong Kong*, 11 TRANS. L. & POL. 1 (2001); Lawrence C. Wolken, *The Restructuring of China's Banking System under the Economic Reforms 1979-1989*, COLUMBIA J. WORLD BUS. 53 (Spring/Summer 1990); Y.C. Richard Wong & M.L. Sonia Wong, *Competition in China's Domestic Banking Industry*, 21 CATO J. 19 (2001).

[19] Law of the People's Republic of China on the People's Bank of China (promulgated by the Standing Comm. Nat'l People's Cong., effective Mar. 18, 1995), *translated in* LAWINFOCHINA (last visited Oct. 20, 2008) (P.R.C.).

[20] Law of the People's Republic of China on Commercial Banks (promulgated by the

In 1997, a financial crisis began in Thailand which then spread to other Asian nations.[21] While China was insulated from the financial crisis to a certain degree because of the inconvertibility of its currency, the national government nevertheless became concerned about the performance of Chinese banks and began to focus on the large amount of nonperforming loans held by Chinese banks. In 1998, due to the large amount of nonperforming loans, the PRC recapitalized the Big Four banks in the amount of U.S. $33 billion.[22] In that same year the securities, insurance, and banking supervisory structures were separated within the PBOC.[23] To assist in the disposal of the large amount of non-performing loans of the Big Four banks, four asset management companies were created, one for each of the Big Four banks.[24] The nonperforming loans of the banks—in total valued at U.S. $170 billion—were transferred to the respective asset management companies.[25]

In 2001, the PRC acceded to the Marrakesh Agreement Establishing the World Trade Organization ("WTO").[26] Under this treaty, the PRC agreed to allow foreign banks to open branches in major Chinese cities in stages, and foreign investment in Chinese financial institutions began in earnest.[27] In 2003, the China Banking Regulatory Commission ("CBRC")

Standing Comm. Nat'l People's Cong., May 10, 1995, effective July 1, 1995), *translated in* LAWINFOCHINA (last visited Oct. 20, 2008) (P.R.C.). *See also* Barth, *supra* note 16, at 16.

[21] *See generally* MORRIS GOLDSTEIN, THE ASIAN FINANCIAL CRISIS: CAUSES, CURES AND SYSTEMIC IMPLICATIONS (1998).

[22] *See* Barth, *supra* note 16, at 10.

[23] *Id.*

[24] *See infra* EXHIBIT A, which describes the asset management companies. *See generally* ALAN TANG, INSOLVENCY IN CHINA AND HONG KONG: A PRACTITIONER'S PERSPECTIVE 241-262 (2005).

[25] Fitch Ratings, *supra* note 9.

[26] Accession of China to WTO Agreement, Protocol on the Accession of the People's Republic of China of Nov. 10, 2001, World Trade Organization, Ministerial Decision on the Accession of the People's Republic of China, Annex, WT/L/432 (Nov. 23, 2001), completed at the Ministerial Conference of the WTO in Doha, Qatar, on Nov. 10, 2001.

[27] KPMG, MAINLAND CHINA BANKING SURVEY 17 (2006). It was not until December 11, 2006, however, that most restrictions on foreign bank operations within the PRC were lifted. *See* Rules for Implementing the Regulations of the People's Republic of China on Administration of Foreign-Funded Banks, CBRC Chairman's Decree No. 6, Art. 12 (2006). The major limitation is the high capital requirement for opening a branch. *See also* Sundeep Tucker, *Foreign Banks Line Up to Expand in China*, FINANCIAL TIMES, Nov. 28, 2006, at 20.

was created.[28] In that same year, there was additional recapitalization of the Bank of China and the China Construction Bank in the amount of U.S. $45 billion—U.S. $22.5 billion per bank—in preparation for these banks to be listed on the Hong Kong Stock Exchange.[29]

With the entry of foreign-owned banks into the PRC as a result of accession to the WTO and the resulting relaxation of restrictions on foreign bank operations, Chinese banks would face increased competition. The recapitalization of the Big Four state-owned banks was part of a long term strategy developed by the PRC government to strengthen the finances of these banks in preparation for this increased competition.[30] With a stronger balance sheet, the Big Four could list equity shares and attract foreign investment. Foreign investment would further strengthen the banks' balance sheets and attract needed bank management expertise from foreign bank investors.

Another part of this long-term strategy was the relaxation of bank regulations to allow for more flexible management of banks and to make Chinese banks more attractive to foreign investors.[31] In 2004, the National People's Congress amended the *Law on the People's Bank of China* and the *Commercial Banking Law* and liberalized interest rates charged on loans while maintaining regulated interest rates earned on deposit accounts.[32] Also in 2004, the HSBC invested in the Bank of Communications, which was the largest equity investment in a Chinese bank since 1949.[33]

In 2005, the Bank of Communications and the China Construction Bank completed initial public offerings of their stock on the Hong Kong

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[28] Banking Supervision Law of the People's Republic of China (promulgated by the Standing Comm. Nat'l People's Cong., Dec. 27, 2003, effective Feb. 1, 2004), *translated in* LAWINFOCHINA (last visited Oct. 20, 2008) (P.R.C.).

[29] Barth, *supra* note 16, at 11.

[30] *Id. See also* Chi Lo, *Chinese Bank Report Card: The Reform Road is Still Bumpy, so Forget Full RMB Convertibility Anytime Soon*, 20 INT'L ECON. 52, 54 (2006).

[31] *Id.*

[32] Law of the People's Republic of China on the People's Bank of China (promulgated by the Standing Comm. Nat'l People's Cong., Mar. 18, 1995, amended Dec. 27, 2003) LAWINFOCHINA (last visited Oct. 20, 2008) (P.R.C.); Law of the People's Republic of China on Commercial Banks (promulgated by the Standing Comm. Nat'l People's Cong., May 10, 1995, amended Dec. 27, 2003) LAWINFOCHINA (last visited Oct. 20, 2008) (P.R.C.). *See also* Barth, *supra* note 16, at 17.

[33] *HSBC to Pay $1.75 Billion for Stake in Chinese Bank*, N.Y. TIMES, Aug. 7, 2004, at C4 [hearinafter *HSBC to Pay*].

Stock Exchange. In that same year, the Industrial and Commercial Bank of China was recapitalized by the national government in the amount of U.S. $50 billion. In June 2006, the Bank of China completed its initial public offering on the Hong Kong Stock Exchange. Four months later in October 2006, the Industrial and Commercial Bank of China completed its initial public offering on the Hong Kong and Shanghai stock exchanges in the largest single stock offering ever in the world.[34] Thus, by the end of 2006, three of the Big Four state-owned banks had implemented the long-term strategy of recapitalization and subsequent initial public offerings to attract foreign capital and foreign bank management expertise to enhance their competitiveness in the financial services market within China and internationally.

Currently, the PBOC and the CBRC regulate the banking industry in the PRC.[35] The PBOC, led by Zhou Xiaochuan,[36] regulates interest rates and sets monetary policy. The CBRC, led by Liu Mingcheng, serves as the bank regulator and examiner and sets prudential supervisory standards.[37] The CBRC, organized into 15 different departments, maintains offices at the provincial, prefectural and county levels throughout the PRC.[38] At the end of 2006, the CBRC employed 23,269 people[39] and, therefore, training employees in new supervisory laws and procedures is a complicated, time-consuming task.[40]

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[34] INDUS. & COMMERCIAL BANK OF CHINA LTD., ANNUAL REPORT 6 (2006); Keri Greiger, *ICBC Makes Strong Debut in Hong Kong*, *Shanghai*, WALL ST. J., Oct. 28, 2006, at B5.

[35] ECONOMIC INTELLIGENCE UNIT, CHINA: COUNTRY REPORT 25 (2006). The State Administration of Foreign Exchange (SAFE) monitors and regulates the holdings of foreign currency within the People's Bank of China.

[36] Brian Bremner, *Banking on Reform in China*, BUS. WK., Dec. 12, 2005.

[37] *See* China Banking Regulatory Comm'n, About the CBRC, *available at* http://www.cbrc.gov.cn/english/info/yjhjj/index.jsp (last visited Oct. 20, 2008) (enumerating areas of the CBRC's supervisory focus and maintaining a list of the CBRC's management).

[38] *See Id. See also China Banking Regulatory Commission Opens Up New Milestone*, THE ASIAN BANKER, Dec. 15, 2003 (providing an overview of the CBRC at an early stage in its development).

[39] CHINA BANKING REGULATORY COMM'N, ANNUAL REPORT 104 (2006). *See also* James T. Areddy, *China Updates Financial Sector for Global Rivalry*, WALL ST. J., June 2, 2005, at A11.

[40] *See generally* Victor Shih, *China's Uphill Battle for Stronger Banks*, FAR E. ECON. REV. 37 (Nov. 2005).

III. HONG KONG INFLUENCE ON BANKING SUPERVISION IN THE PRC

Given the increasing integration of the economies of the People's Republic of China and Hong Kong,[41] this Article investigates the relationship between Hong Kong banking law and Chinese banking law. In particular, it explores the question of whether the more developed banking law of Hong Kong has influenced changes in Chinese banking law. Based on my research,[42] Hong Kong banking law has had minimal direct influence on the statutory law governing the PRC banking system. However, Hong Kong law and supervisory practice has significantly affected the implementation of banking law in China, through training programs held by the HKMA for PRC officials and the exchange of bank and official personnel between Hong Kong financial institutions and financial regulators with their counterparts in the PRC.

The Hong Kong influence on the People's Republic of China statutory banking law is not significant. The PRC looked to several sources in reforming its banking law, including the United States, the United Kingdom and Australia. Research for this Article involved examining and comparing selected banking laws in both the PRC and Hong Kong and found few textual similarities.[43] Rather, the international financial standards developed by the Basel Committee on Banking Supervision and other informal networks of financial supervisors were significant influences on the implementation of PRC statutory law.[44]

In contrast to the limited influence on the PRC statutory banking law, the influence of Hong Kong banking law on the implementation of banking law and regulation in the PRC is significant. There is a

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[41] The Closer Economic Partnership Agreement between the PRC and Hong Kong SAR has increased investment and trade between both countries. *See An Agreement in Numbers*, CHINA DAILY, June 29, 2007. The recent approval of Hong Kong as a place of investment for PRC investors under the Qualified Domestic Institutional Investor (QDII) program will further increase investment by mainland Chinese investors in Hong Kong. *See CICC Strategy Report for the Two Quarters*, CHINA KNOWLEDGE NEWSWIRE, June 27, 2007.

[42] In addition to my documentary research, I conducted field interviews in Hong Kong SAR during May and June 2006.

[43] *See infra* EXHIBIT B, which lists the laws of the PRC and the Hong Kong SAR that were examined and compared.

[44] Liu Mingkang, Chairman, China Banking Regulatory Comm'n, Luncheon remarks at the American Chambers of Commerce; CBRC's Approach to Banking Sector Reform and Opening to the Outside World, (Oct. 15, 2004) *republished in* PRICEWATERHOUSECOOPERS, FOREIGN BANKS IN CHINA (Sept. 2005).

significant exchange of official personnel between Hong Kong financial regulators and their counterparts in the PRC. For example, Laura Cha, who was the deputy chair of the Hong Kong Securities and Futures Commission from 1998 until 2001, became the Vice-Chair of the China Securities Regulatory Commission from 2001 through 2004.[45] Anthony Neoh, a former chairman of the Hong Kong Securities and Futures Commission, became a chief adviser to the China Securities Regulatory Commission for several years beginning in 1998.[46] He is now an independent director on the board of the Bank of China. Anthony Leung, a former financial Secretary of the Hong Kong SAR, served as a consultant to the CBRC and as an independent director of the Industrial and Commercial Bank of China.[47] Both the Securities and Futures Commission, Hong Kong's securities regulator, and the HKMA provide secondment opportunities for PRC regulators.[48] Andrew Sheng, former Chairman of the Hong Kong Securities and Futures Commission from 1998-2005 and former Deputy Chief Executive of the HKMA from 1993-1998, serves as the Chief Advisor to the China Banking Regulatory Commission.[49]

Financial institutions in China are also exchanging bank personnel with foreign bank investors. In 2004, HSBC purchased 19.9% of the equity of the Bank of Communications for U.S. $1.75 billion.[50] HSBC and Bank of Communications regularly exchange personnel at all levels.[51] Dickey Peter Yip, a former HSBC bank official, is now the

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[45] Enoch Yiu, *Cha Breaks New Ground at CSRC*, SOUTH CHINA MORNING POST, Feb. 14, 2001, at Business 1.

[46] Enoch Yiu, *CSRC Framework to Keep Mainland Nuances in Mind*, SOUTH CHINA MORNING POST, Apr. 23, 1999, at Business 2.

[47] Ben Kwok, *Lai See—Global Giant WPP Set to Pounce on Enfant Terrible of Local PR Scene*, SOUTH CHINA MORNING POST, Sept. 3, 2005, at Business 12; INDUS. & COMMERCIAL BANK OF CHINA LTD., ANNUAL REPORT 26 (2006).

[48] Memorandum of Understanding ("MOU") from Joseph Yam, Chief Executive, Hong Kong Monetary Authority, with the China Banking Regulatory Commission (Aug. 28, 2003) at 3. This document is Chief Executive Yam's explanation of the MOU, not the actual text. The text of MOU's among central banks and financial regulators are generally kept confidential. *SFC Appoints China Affairs Senior VP*, CHINA KNOWLEDGE PRESS, May 21, 2007.

[49] Enoch Yiu, *SFC Chief Gets a New Hat but No Takers Yet for Non-Exec Chairman*, SOUTH CHINA MORNING POST, June 13, 2006, at Business 4; CHINA BANKING REGULATORY COMM'N, ANNUAL REPORT 18 (2006).

[50] *See HSBC to Pay*, *supra* note 33.

[51] *See HSBC Puts Partnership into Practice*, EUROMONEY, Apr. 1, 2006, at Banking

Vice-Governor of the Bank of Communications in China.[52] Additionally, HSBC is sending 80 to 100 Bank of Communications officers to its training program at HSBC's training center in the United Kingdom.[53] China Construction Bank officials have attended training programs conducted by the Bank of America, which invested U.S. $2.5 billion in the China Construction Bank in 2004.[54] Likewise, other foreign bank investors are offering training opportunities for nationals from Chinese banks.[55]

While personnel exchanges are increasing, the ownership limits on foreign banks under Chinese banking law hinder extensive personnel exchanges. A foreign financial institution is limited to owning a maximum of 20% of the equity of a Chinese financial institution. The maximum limit of all foreign equity ownership of a Chinese financial institution is 25%.[56] Under current PRC law, foreign banks will always remain a minority owner, which thus significantly limits the foreign bank's influence on operations of the Chinese bank, including exchanges of personnel with the investor bank.[57]

Contacts and interaction among Hong Kong and PRC bank supervisory personnel have intensified since the 2003 creation of the CBRC, a separate PRC government agency focusing solely on bank supervision, and these contacts have been the main vehicle for the positive influence of Hong Kong banking law on PRC bank

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1 (explaining how the banks have been exchanging staff at all levels).

[52] Karina Robinson, *Hong Kong: Stepping Stone into China—Karina Robinson Reports From Hong Kong On The Incorporated Banks' Mainland China Strategies*, THE BANKER, Nov. 1, 2005.

[53] Kevin Hamlin, *Connected at the Chip: HSBC and BoCom*, INSTITUTIONAL INVESTOR, Feb. 8, 2007, at 7.

[54] *See* KPMG, *supra* note 27, at 17.

[55] *Staff Turnover Hinders Foreign Banks in China*, INT'L HERALD TRIBUNE, May 12, 2007, at 15.

[56] ECONOMIST INTELLIGENCE UNIT, CHINA: COUNTRY FINANCE 13-14 (2005).

[57] While limiting foreign bank ownership of Chinese banks, the CBRC wishes to encourage foreign bank influence on Chinese banks in particular areas: foreign banks bring banking expertise that does not otherwise exist in Chinese banks. In particular, foreign bank personnel are expected to create a credit culture in the bank and to improve internal risk management systems. The CBRC also expects foreign banks to improve corporate governance of Chinese banks, to encourage further investments in technology, and to gain international market approval of Chinese banks by their presence. *See* PRICEWATERHOUSECOOPERS, FOREIGN BANKS IN CHINA 85-86 (2007).

supervision.[58] The CBRC wants to continue to cooperate with the HKMA and has made improving and deepening cooperation with the HKMA a policy priority,[59] with the ultimate goal of improving the professionalism and international standing of the CBRC.[60] Similarly, the HKMA and the Chief Executive of Hong Kong view cooperation with the CBRC and other financial regulators in the PRC as a way to improve financial stability in the PRC and indirectly in Hong Kong.[61] The HKMA created a China Division in late 2004 in recognition of the PRC's importance to the financial sector in Hong Kong.[62] One objective of the China Division is to coordinate with the PRC on bank supervisory matters. In addition, in 2006, the HKMA announced a "1-3-5 strategy" to consolidate Hong Kong's position as the international financial center in China.[63] The 1-3-5 strategy or "1-3-5 financial development blueprint" is a proposal for closer financial cooperation between Hong Kong and the PRC.[64] A prerequisite for this strategy is continuing cooperation between regulatory authorities in Hong Kong and the PRC.[65]

Prior to 2003 when the CBRC was created, the HKMA provided training to officials of the PBOC. Currently, the HKMA provides

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[58] *See infra* EXHIBIT C.

[59] Press Release, China Banking Regulatory Comm'n, The CBRC Chairman Liu Mingkang held a meeting with Donald Tsang, the Chief Executive of the H.K. Special Admin. Region (Dec. 28, 2006).

[60] CHINA BANKING REGULATORY COMM'N, REPORT ON THE OPENING-UP OF THE CHINESE BANKING SECTOR (Jan. 25, 2007), *republished in* PRICEWATERHOUSECOOPERS, FOREIGN BANKS IN CHINA 77 (2007).

[61] China Banking Regulatory Comm'n Press Release, *supra*, note 59.

[62] William Ryback, *Issues of Risk-based Supervision in Hong Kong* 213 (Bank of Int'l Settlements, BIS Papers No. 28, 2006).

[63] H.K. MONETARY AUTH., ANNUAL REPORT 87 (2006); *see also* Joseph Yam, Chief Executive of H.K. Monetary Authority, A Financial Development Strategy for Hong Kong (Mar. 23 2006), *translated in* H.K. MONETARY AUTH., H.K. MONETARY AUTH. Q. BULL. 27, 30 (June 2006) (proposing a "five-pronged strategy" he described as a "win-win" strategy for both Hong Kong and the Mainland).

[64] H.K. MONETARY AUTH., ANNUAL REPORT 89 (2006). This blueprint aims to position Hong Kong as a globally significant "international financial centre" by establishing "a complementary, cooperative and interactive relationship between the financial systems of Hong Kong and the Mainland," and articulates five areas that can act as a catalyst. *Id.* at 89-90.

[65] *Id.* at 87; CENT. POL'Y UNIT, SUMMARY OF VIEWS EXPRESSED AT FOCUS GROUP DISCUSSION ON FINANCIAL SERVICES, at 4 (Sept. 11, 2006), *available at* http://www.info.gov.hk/info/econ_summit/eng/pdf/summary_financial_e.pdf (last visited Oct. 20, 2008) (proceedings of the Economic Summit on China's 11th Five Year Plan and the Development of Hong Kong).

extensive training opportunities for regulatory officials from the PBOC and the CBRC.[66] The number of Chinese officials attending training conducted by the HKMA has increased from 272 in eight programs in 2002,[67] to 1,401 in sixteen programs in 2007.[68]

Two types of training programs are offered to participating PRC officials: (1) structured programs that typically last two weeks with a separate topic covered each day, and (2) specialized programs which last two to three days. The topics covered in the structured training include risk-based supervision, corporate governance, general bank management, loan classification, electronic banking, anti-money laundering laws and procedures, connected lending, and an overview of Basel II capital regulation.[69] The topics of the specialized programs include vehicle finance and real estate lending, among others.

Hong Kong has a number of cultural advantages in providing this training to PRC officials. First, training can be conducted in Mandarin Chinese, the language used by PRC government officials. Second, Hong Kong is seen as a bridge between international financial standards and PRC banking law.[70] Third, training conducted by HKMA officials is viewed as more culturally similar to the PRC than training at other central banks, such as the Federal Reserve in the United States. Because of China's experience with foreign powers in the 19th and 20th centuries, the PRC government is very sensitive to any perceived foreign influence over its policies. In contrast to training conducted by the Federal Reserve or the Bank of England, since the PRC has always viewed Hong Kong as part of Mainland China, training by the HKMA does not raise an issue of foreign influence. And finally, after the Hong Kong SAR became a part of the PRC, training programs could be held in Beijing or Shenzhen, allowing Chinese officials to attend lengthy training programs

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[66] Secondment of PRC officials to HKMA does occur occasionally. The secondments do not exceed six months in duration and are typically three to six months. *See* George Chen, *China Central Bank, Bank Regulator Plan Staff Exchanges with HKMA*, DOW JONES CHINESE FINANCIAL WIRE, Sept. 22, 2004.

[67] H.K. MONETARY AUTH., ANNUAL REPORT 76 (2002).

[68] H.K. MONETARY AUTH., ANNUAL REPORT 94 (2007). While many senior PRC officials have participated in the HKMA training program, mid-level and junior officials have participated infrequently thus far.

[69] H.K. MONETARY AUTHORITY, ANNUAL REPORT 90-91 (2006).

[70] *See* Joseph C.K. Yam, *The WTO: China's Future and Hong Kong's Opportunity*, 21 CATO J. 4 (2001) (discussing Hong Kong's role as a financial intermediary).

without obtaining a visa for travel.

Hong Kong is not the only source of training for Chinese bank regulatory officials, though it is the most prevalent. Chinese officials also participate in supervisory training programs at the Federal Reserve Board in the United States, the Reserve Bank of Australia, and the Bank of England. *Exhibit C* shows the attendance by PRC supervisory officials at a representative sample of training programs sponsored by bank supervisory agencies, including the HKMA. This chart illustrates that the HKMA training programs reach a greater number of PRC officials than training conducted by other central banks and bank regulators.

The training conducted by the HKMA has led to ongoing informal discussions among supervisory officials at the HKMA and the CBRC. The HKMA has provided advice on workflow at the CBRC and the creation of the CBRC's offsite surveillance information system.[71] A technical dialogue between the agencies is also developing. Under the terms of the Memorandum of Understanding between the CBRC and the HKMA, the Chairman of the CBRC and the Chief Executive of the HKMA meet formally twice each year.[72] A recent consultation was held in September 2007 in Beijing.[73] The Division Heads within the HKMA similarly talk with their counterparts at the CBRC, usually on a weekly basis. The Executive Directors of the HKMA talk with their CBRC counterparts approximately twice per month.[74]

The CBRC has acknowledged the significance of the HKMA training for its staff. In its 2006 Annual Report, the CBRC explains its enhancement of employee training illustrated by "[a] senior management training program in partnership with the [HKMA] . . . ."[75] Again, in its 2007 Annual Report, the CBRC acknowledged that "more than 600

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[71] China Banking Regulatory Comm'n Press Release, *supra* note 59.

[72] Yam, *supra* note 48.

[73] *See* China Banking Regulatory Comm'n Press Release, The Eighth Consultation of the CBRC and the HKMA Was Held in Beijing (Sept. 20, 2007), *available at* http://www.cbrc.gov.cn/chinese/home/jsp/docView.jsp?docID=20070920F149D79D1D1 D1A0BFF815B60F7CC7E00 (last visited Oct. 20, 2008) (providing an account of a recent consultation between the CBRC and HKMA).

[74] *See generally* Hong Kong Monetary Authority, Organisation Structure, *available at* http://www.info.gov.hk/hkma/eng/hkma/org_chart/org_chart.pdf (last visited Oct. 20, 2008) (showing executive directors two levels below the chief executive; division heads three levels below).

[75] CHINA BANKING REGULATORY COMM'N, ANNUAL REPORT 106 (2006).

persons participated in training jointly organized by the CBRC and overseas organizations, such as the HKMA, the FED [Federal Reserve], and the World Bank."[76]

As with the training of its officials, the CBRC also seeks high level advice from other bank regulators in the world; the HKMA officials are by no means their only source of advice. The CBRC created its Council of International Advisors in order to gather advice on banking law and regulation, and on the reform of the PRC financial system.[77] The Council held its first meeting in November 2003, and held its latest meeting in June 2008.[78]

The PRC government is encouraging continued cooperation between PRC financial supervisory authorities and regulators outside the PRC, particularly those in Hong Kong.[79] In a January 2007 speech before the National Financial Work Conference,[80] Wen Jiabao, Chinese Communist Party Central Committee Member and Premier of the State Council, stated that the PRC should "actively and steadily open up financial circles to the outside world."[81] In addition, Premier Wen stated that the priorities for financial reform include working "to continue to advance financial co-operation between the Mainland and Hong Kong, . . . to further develop a mutual-assisting, complimentary and inter-active

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[76] CHINA BANKING REGULATORY COMM'N, ANNUAL REPORT 88 (2007).

[77] *See* James Kynge, *Beijing Calls in Foreign Bank Team*, FINANCIAL TIMES, Nov. 21, 2003, at 13 (discussing the formation of the Council of International Advisers, which included Sir Edward George, Gerry Corrigan, Andrew Crockett, David Carse, and Howard Davies – former heads of banks, financial services, and financial organizations in the US, UK, and internationally).

[78] *See* Press Release, China Banking Regulatory Comm'n, The CBRC Council of International Advisors Concluded its Sixth Meeting (June 18, 2008), *available at* http://www.cbrc.gov.cn/english/home/jsp/docView.jsp?docID=20080618096A4ABD02B32781FFA3B1937346FE00 (last visited Oct. 20, 2008).

[79] The International Monetary Fund supports HKMA's discussion with the CBRC and its positive influence on banking law reform in the PRC. *See* Nathan Porter et. al., *People's Republic of China – Hong Kong Special Administrative Region: Selected Issues*, Int'l Monetary Fund Country Report No. 07/4, at 38 (Nov. 30, 2006), *available at* http://www.imf.org/external/pubs/ft/scr/2007/cr0704.pdf (last visited Oct. 20, 2008) (analyzing the importance of cooperation between the HKMA and financial regulators in mainland China).

[80] The National Financial Work Committee meets every five years. Xinhua, *China Begins Third National Finance Work Conference,* BBC Monitoring International Insights, Jan. 19, 2007.

[81] *China's Wen Jiabao on Need to Strengthen Financial Reform*, BBC Monitoring Asia Pacific, Jan. 21, 2007.

relationship between the two financial systems of the Mainland and Hong Kong . . . [and] to strengthen and promote the status and utility of Hong Kong as an international financial centre."[82] Joseph Yam, Chief Executive of the HKMA, pointed out:

> [T]his is the first time the Central People's Government has been so specific about the relationship between the two financial systems. And those are unambiguous words, at least in what they say about the spirit of the co-operative relationship. Mutual assistance means that where the need arises to address shortcomings in the financial system, whether in supervision, regulation, standards, technology, or whatever, there should be a readiness on both sides to provide assistance.[83]

He went on to say, "[W]e in the Hong Kong Monetary Authority spend a considerable amount of time providing assistance, in training and in technical support, to our counterpart regulators on the Mainland."[84]

The Chinese government has agreed that the Hong Kong banking industry provides valuable guidance to its PRC counterpart. In a speech celebrating the tenth anniversary of the return of Hong Kong to the PRC, President Hu Jintao stated, "Hong Kong serves as an important window and bridge for China's economic, scientific, technological and cultural exchanges with the rest of the world."[85] While the cooperation between the HKMA and the CBRC may have started through the initiative of agency officials, the leadership of the PRC, the Hong Kong SAR and the financial services industry in Hong Kong are all encouraging the cooperation to continue.

In response to the Eleventh Five-Year Plan approved by the Tenth National People's Congress in early 2006 and in preparation for the January 2007 National Financial Work Conference meeting described above, the Hong Kong SAR government held an economic summit in the fall of 2006 inviting prominent leaders from business, academia, and the

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[82] *See* Joseph Yam, Chief Executive of the HKMA, Hong Kong – New Opportunities as an International Financial Centre, Address at a Hong Kong Economic and Trade Office Seminar, Tokyo (May 8, 2007), *available at* http://www.info.gov.hk/hkma/eng/speeches/speechs/joseph/20070508e1.htm (last visited Oct. 20, 2008) (setting out goals for the Hong Kong financial sector).

[83] *Id.*

[84] *Id.*

[85] *Hu Hails Hong Kong as 'Window and Bridge'*, CHINA DAILY, July 2, 2007, at 4 (transcribing a speech in which President Hu praises Hong Kong's development)

legal profession to advise the government on an economic strategy for Hong Kong.[86] The Eleventh Five-Year Plan specifically called for improving financial sector supervision.[87] One of the working groups, led by David Li, Chairman of the Bank of East Asia, focused on the financial sector. This group recommended that "the Government should seek to work closely with the Mainland authority regarding the country's financial reform and reflect views on how Hong Kong can contribute to the country's financial reform and development as appropriate."[88] The panel recommended a five-pronged strategy with the overall objective of making Hong Kong the global financial center within China on par with New York and London. The panel "agreed that strengthening the cooperation between the regulatory bodies in Hong Kong and the Mainland was a prerequisite for the implementation of the . . . five-pronged strategy."[89]

IV. PROSPECTS FOR CONTINUED COOPERATION

Anne-Marie Slaughter focused on the democratic accountability of the global regulatory networks of which the HKMA-CBRC dialogue is, it is suggested here, an example.[90] As part of her analysis, Slaughter created a useful typology of transnational regulatory networks, dividing them into three categories: (1) networks formed within international organizations;[91] (2) networks outside an international organization but "within a framework agreed on at least by the heads of their respective

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[86] Press Release, Hong Kong SAR, Report by the Convenor of the Focus Group on Financial Services after the Economic Summit, (Sept. 11, 2006), *available at* http://www.info.gov.hk/gia/general/200609/11/P200609110266.htm (last visited Oct. 20, 2008).

[87] The Outline of the Eleventh Five-Year Plan: for National Economic & Social Development of the People's Republic of China, *available at* http://en.ndrc.gov.cn/hot/t20060529_71334.htm (last visited Oct. 20, 2008). *See also* Abstract of the Eleventh Five-Year Plan Outline (Draft), People's Daily Online (Mar. 8 2006), *available at* http://english.peopledaily.com.cn/200603/09/eng20060309_249320.html (last visited Oct. 20, 2008).

[88] Report by the Convenor, *supra* note 86.

[89] CENT. POL'Y UNIT, *supra* note 65, at 4.

[90] *See* Slaughter, *Global Government Networks*, *supra* note 5, at 1042-43 (proposing a "transgovernmental regulatory network" where officials from different governments cooperate to address shared problems).

[91] *Id.* at 1049-50. The Organization for Economic Cooperation and Development is an example.

governments",[92] and (3) spontaneous government networks.[93] This third category is further divided into two subgroups: (a) networks that become transgovernmental regulatory organizations and (b) networks formed by agreements (typically memoranda of agreements) between two domestic regulatory organizations.[94] The relationship between the HKMA and the CBRC originally began within this third category–a spontaneous governmental network formed by a memorandum of agreement. The statements by PRC leaders President Hu and Premier Wen and by the Chief Executive of Hong Kong SAR Donald Tsang indicate that the heads of state have approved this relationship and this network has moved to the second category in Slaughter's typology–a network outside an international organization but approved by heads of state.

While Slaughter's concern regarding the democratic accountability regarding these networks is important, an analysis of the lack of democracy in the PRC and Hong Kong is beyond the scope of this Article.[95] Rather, the pertinent question is how or whether this transnational regulatory network developing between financial supervisory officials in the PRC and Hong Kong, particularly the CBRC and the HKMA, will continue in the future. The growth in the number of HKMA training programs cannot continue at its current rate without additional resources. The HKMA is approaching its capacity to provide this training. As of January 1, 2008, the HKMA had 638 total staff.[96] The CBRC had 23, 269 employees at the end of 2006,[97] and the PBOC as of December 31, 2007 employed 137,375 staff.[98] The number of employees in the CBRC and the PBOC dwarfs the number of the HKMA

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[92] *Id.* at 1051.

[93] *Id.* at 1051-52. The Basel Committee on Banking Supervision is an example.

[94] *Id.*

[95] The PRC is a one party system controlled by the Chinese Communist Party. The Hong Kong Legislative Council is not elected by universal suffrage. A majority of the council is elected by particular constituencies (such as business and the professions). Basic Law, *supra* note 1, Art. 68 and Annex II. The Chief Executive is not elected by universal suffrage, but rather by a committee of approximately 800 electors. Basic Law, *supra* note 1, Art. 45 and Annex I. Even if these interactions between the CBRC and the HKMA were approved by the respective governments, the approval would not address the democratic accountability concerns highlighted by Slaughter because the governments are not democratic.

[96] H.K. MONETARY AUTH., ANNUAL REPORT 108 (2007).

[97] *See* CHINA BANKING REGULATORY COMM'N, *supra* note 39, at 104.

[98] PEOPLE'S BANK OF CHINA, ANNUAL REPORT 80 (2007). This figure includes 22,076 employees of China Banknote Printing and Minting Co. Ltd. and its subsidiaries.

employees, many of whom are not involved in these training programs. Without additional resources, the HKMA will likely not be able to train more than the approximately 1,400 PRC officials who have participated in the last two years. To maintain its influence through training, the HKMA will need to locate additional resources, partner with another institution in Hong Kong, or seek collaboration with a bank supervisor in another country.

As a policy matter, the PRC and Hong Kong governments clearly support continued cooperation between these officials, or at least their public statements support this cooperation. The PRC wishes to reform its inefficient banking system and limit the future growth of non-performing loans. Hong Kong desires to become the international financial center in China, on par with New York and London, and has determined that becoming even more integrated with the Chinese economy is necessary to reach that goal. Continued regulatory cooperation between the HKMA and the CBRC would appear to aid each agency in accomplishing its respective policy objectives. After five years of training PRC bank regulators (and since 2005, having had over 1,100 PRC officials participate each year), further research is needed to determine the actual effect of this training on the implementation of banking law in the PRC. The regulatory exchange and cooperation described in this Article yields the somewhat surprising conclusion that small Hong Kong could potentially have a significant influence on the implementation of bank reform in China.

EXHIBIT A

ASSET MANAGEMENT CORPORATIONS: PEOPLE'S REPUBLIC OF CHINA

Big Four Banks	**Asset Management Corporation**
Bank of China	Orient Asset Management
Agricultural Bank of China	Great Wall Asset Management
China Construction Bank	Cinda Asset Management
Industrial and Commercial Bank of China	Huarong Asset Management

Source: Guonon Ma & Ben S.C. Fung, *China's Asset Management Corporations* 1 (Bank for Int'l Settlements, Working Paper No. 115, 2002).

EXHIBIT B

HONG KONG SAR AND PEOPLE'S REPUBLIC OF CHINA BANKING LAWS COMPARED

Topic	Hong Kong SAR	PRC
Anti-money laundering	HKMA Guideline 3.3 Supplement to the Guideline on Prevention of Money Laundering	Measures on the Administration of Large Transactions and Suspicious Transaction Reports of Financial Institutions, Order No. 2 of PBOC, promulgated Nov. 14, 2006; Provisions on Anti-money Laundering in Financial Institutions, promulgated Jan. 3, 2003, PBOC
Corporate Governance	Corporate Governance of Locally Incorporated Authorized Institutions, HKMA Supervisory Policy Manual, CG-1	Guidance on Independent Directors and External Supervisors of Joint-Stock Commercial Banks, promulgated Apr. 6, 2006; Guidance on Corporate Governance of Joint Stock Commercial Banks; Guidelines on Corporate Governance Reforms and Supervision of Bank of China and Construction Bank of China, CBRC
Regulation of Derivatives	Credit Derivatives, HKMA Supervisory Policy Manual, CR-G-12	Notice of the CBRC on Issuing Risk Reminder for the Derivatives Trading of Chinese-Invested Banks, promulgated Mar. 22, 2005; Provisional Administrative Rules Governing Derivatives Activities of Financial Institutions, Order No. 1 of CBRC, 2004
Credit Bureau Database[99]	Personal Data (Privacy) Ordinance, Cap. 486; The Sharing and Use of Consumer Credit Data through a Credit Reference Agency, HKMA Supervisory Policy Manual, IC-6	Provisional Rules on Management of Individual Credit Information Database, promulgated Aug. 18, 2005

[99] The Hong Kong Monetary Authority created a commercial credit reference agency in 2004. In the prior year the credit reference agency for consumers was enhanced to protect consumer confidentiality. One significant limitation in the development of retail financial markets in China is the lack of a reliable source of individual credit histories. The People's Bank of China in 2005 began to create a credit bureau for consumers. This pilot project has been limited to selected major cities in China thus far.

Topic	Hong Kong SAR	PRC
Foreign Bank Subsidiaries	Establishment of Overseas Banking Subsidiaries: §51A, HKMA Supervisory Manual, CG-4	Guidance on Supervision of Overseas Institutions of Commercial Banks, promulgated Aug. 20, 2001 by PBOC; Rules Governing the Consolidated Supervision of Foreign Banking Operations, CBRC, eff. Apr. 1, 2004
Loan Classification[100]	Guideline 5.7 Loan Classification System; Guideline 5.7.1 Loan Classification system (loans to be reported as "Special Mention");	CBRC Guidelines on Risk-Based Loan Classification, promulgated Dec. 24, 2000; CBRC Provisional Measures on Monitoring and Examination of Bad Assets of Commercial Banks, promulgated Mar. 25, 2004
Capital Adequacy[101]	Banking Ordinance Chap. 155, Capital Adequacy Ratio (superseded); Maintenance of Adequate Capital against Market Risk, HKMA Supervisory Manual, CA-G-2	Regulation Governing Capital Adequacy of Commercial Banks, CBRC, Feb. 27, 2004
Connected Lending	Connected Lending, HKMA Supervisory Manual, CR-G-9; Large Exposures and Risk Concentrations, CR-G-8	Guidelines of Risk Management of Granting Credits to Group Clients by Commercial Banks, promulgated Oct. 23, 2003, CBRC

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[100] China traditionally used four categories to classify loans in banks. The four categories included "normal", "overdue", "doubtful", and "bad". More developed banking systems have moved to a five category system of classifying loans. These five categories are normal, special mention, substandard, doubtful, and loss. Loans classified as substandard, doubtful, or loss are considered non-performing loans. Hong Kong adopted the five category classification standard in 1994 and stated one reason for the adoption was that the United States, Australia and other nations had adopted the five category classification which was thus becoming the international standard. H.K. Monetary Auth., Loan Classification System Policy Paper, ¶ 2.3 (Sept. 1994), *available at* http://www.info.gov.hk/hkma/eng/guide/doc/word/g05_7_a.doc (last visited Oct. 20, 2008).

[101] Hong Kong was an early adopter of the 1988 Basel Capital Accord. Under the 1988 Accord, banks must maintain capital equal to 8% of the risk-weighted value of the bank's assets. In March 2004, the China Banking Regulatory Commission adopted regulations implementing the 1988 Basel Accord. The Hong Kong Monetary Authority began implementing the Basel II capital adequacy accord in 2007. The CBRC has concluded that the Basel II Accord is not appropriate for the People's Republic of China until 2010 at the earliest. *Chinese Banks Overhauled*, BANGKOK POST, Dec. 20, 2005.

Topic	Hong Kong SAR	PRC
Electronic Banking	Supervision of E-banking, HKMA Supervisory Manual TM-E-1; Regulation of Advertising Material for Deposits Issued Over the Internet, HKMA Supervisory Manual TM-E-2; HKMA Guideline No. 15.1 Electronic Banking; Security of Banking Transactions Over the Internet, Circular, Nov. 25, 1997; Management of Security Risks in Electronic Banking Services, Circular 2000; Independent Assessment of Security Aspects of Transactional E-Banking Services, HKMA Guidance Note,	Notification of the PBOC on Carrying Out the Relevant Provisions of the Interim Measures on the Administration of Online Banking Businesses, promulgated Apr. 23, 2003; Directives to E-bank Safety Assessment, Jan. 26, 2006, CBRC
Deposit Insurance[102]	Deposit Protection Scheme Ordinance, (2004) Cap. 581. (H.K.)	Under consideration
Interest Rates[103]	Unregulated	Law of the People's Bank of China on Banking Regulation and Supervision, adopted Dec. 27, 2003; Decree of CBRC, Decree of National Development and Reform Commission (No. 3, 2003), Oct. 1, 2003

[102] The Hong Kong SAR did not provide a deposit protection scheme for consumers until 2006. In May 2004, the Hong Kong Legislative Council adopted the Deposit Protection Ordinance. Under this legislation, depositors are protected up to HK$ 100,000.00 per depositor per bank in the event of a bank failure. This scheme was implemented in 2006. In contrast, the PRC does not yet offer a deposit insurance program. In 2006, internal drafts of regulations creating a deposit insurance scheme in the PRC were being circulated. *Deposit Insurance System Planned*, CHINA DAILY, Jan. 13, 2005. The proposed Chinese regulations were inspired by the deposit protection schemes in other nations, including the United States and, to a lesser degree, Hong Kong.

[103] Prior to 1994 interest rates charged by Hong Kong banks were regulated by a cartel, the Hong Kong Association of Banks. From the late 1990's until 2004, the range of interest rates charged by banks was broadened by this cartel. Beginning in January 2004, no interest rate regulations were applicable to banks in Hong Kong. In contrast, the People's Bank of China continues to regulate interest rates for deposits and loans. The interest rates allowed on loans are artificially low resulting in negative real interest rates. In 2004 the People's Bank of China liberalized interest rates by setting a minimum floor for interest rates on loans but no upper limit. The interest rates paid on deposit accounts cannot exceed the benchmark rate set by the People's Bank of China, but there is no minimum floor.

EXHIBIT C

BANKING SUPERVISORY TRAINING FOR THE PEOPLE'S REPUBLIC OF CHINA

	2003	**2004**	**2005**	**2006**	**2007**
Hong Kong Monetary Authority	272 officials	258 officials	1129 officials	1389 officials	1401 officials
Bank of England		47 attendees	120 attendees	32 attendees	44 attendees
Reserve Bank of Australia		PRC officials attended (no numerical count)	PRC officials attended (no numerical count)	PRC officials attended (no numerical count)	PRC officials attended (no numerical count)
International Monetary Fund* Joint China-IMF training center est. Dalian, PRC in 2000	6.8 person years in FSAP training	9.9 person years	15.4 person years	19.8 person years	
Federal Reserve Board*	283 foreign bank officials	293 foreign bank officials	266 foreign bank officials	312 foreign bank officials	Not reported

Sources: Hong Kong Monetary Authority Annual Report; Reserve Bank of Australia Annual Report; International Monetary Fund Annual Report; Bank of England Centre for Central Banking Studies Annual Report.

* The IMF and the Federal Reserve do not report the nationality of trainees in their annual reports.