



**NATIONWIDE  
FOREIGN BANKING ORGANIZATION  
SUPERVISION AND EXAMINATION COORDINATION  
AGREEMENT**

**The “STATE COORDINATION AGREEMENT”**

**November 20, 1998**

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**ARTICLE 1. DEFINITIONS**

For the purposes of this Agreement:

1. An “emergency” shall include, but not be limited to, the existence of conditions or circumstances which, if allowed to continue, can be reasonably expected to result in harm to the public.
2. An “Entry Letter,” also known as an “First Day Letter,” is a pre-examination request for information.
3. The “FBO Desktop” is a groupware system administered by the Federal Reserve on which information relating to the supervision of Foreign Banking Organizations operating in the U.S. may be posted and shared among the participants.
4. “Federal bank supervisory agency” means the Federal Reserve System, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation.
5. “ Foreign Banking Organization” or “FBO” means a bank chartered or organized in a foreign country with banking operations in the United States.

6. "Foreign Banking Organization (or 'FBO') with multi-state operations" means a bank chartered or organized in a foreign country with banking operations in more than one state in the United States
7. "Originating authority" means the state bank supervisory agency that originally compiles or drafts an item of supervisory information.
8. "Primary Contact Person" means the individual designated by a State Coordinator responsible for the coordination of the supervision and examination of the state licensed or chartered U.S. operations of a Foreign Banking Organization
9. "Responsible Reserve Bank" means the Federal Reserve District Bank designated by the Board of Governors of the Federal Reserve System as being responsible for the coordination of supervision of a Foreign Banking Organization in the United States.
10. "State Coordinator" means the state bank supervisory agency primarily responsible for coordination of the supervision and examination strategy of the state-licensed and chartered operations of a Foreign Banking Organization in the United States, and to the extent applicable, for coordination of the release of supervisory information and, as specified in Section 8.1 of this Agreement, for resolution of consumer complaints related to the Foreign Banking Organization.
11. The "State/Federal Agreement" means the Nationwide State/Federal Foreign Banking Organization Supervision and Examination Coordination Agreement, dated September 15, 1998.
12. "State Supervisor" means the state bank supervisory agency that licenses or charters a foreign bank office or subsidiary bank or trust company in that state.
13. "Supervisory action" means any action, whether civil, criminal, administrative, or equivalent action, to enforce federal or state banking, or any other applicable laws or regulations including those for the correction of unsafe or unsound conditions or practices.
14. "Supervisory information" means all information and reports compiled or drafted by a state supervisor in the ordinary course of supervising and examining an office or subsidiary of a foreign bank, including supervision memoranda, reports of examination and information relating to applications, complaints, and supervisory actions, or copies thereof.

15. "U.S. operations of Foreign Banking Organizations" means all financial entities owned or controlled by a foreign bank operating in the United States. These operations may include, but are not limited to, branches, agencies, representative offices, commercial bank subsidiaries, non-bank subsidiaries, and Edge Act and Agreement corporations.

## **ARTICLE 2. STATEMENT OF PURPOSE**

### **Section 2.1. Intent**

On October 8, 1997, the CSBS Board of Directors unanimously created the International Working Group, patterned after the State-Federal Working Group, which focused on improving coordination among state and federal regulators for the supervision of domestic state-chartered banks operating interstate branches. The State-Federal Working Group produced, among other items, the supervision guidelines and agreements for state banking departments in an interstate banking and branching environment. The objective of the International Working Group is to address issues raised in a CSBS survey of international banks regarding supervision of their multi-state operations. The evidence demonstrates that foreign banks are generally pleased with the supervision they receive from state banking departments, the Federal Reserve and, where applicable, the FDIC. However, some bankers indicated that cooperation and coordination among supervisors remains an issue in which further improvement is needed.

This Agreement is designed to assist states in their efforts to maintain competitive, safe and sound banking services for the citizens of their states. It calls for the states to enter into cooperative agreements tailored to the unique corporate structure and business strategy of the international banks.

### **Section 2.2. Goals.**

The parties to this Agreement are committed to promoting an enhanced level of cooperation in the supervision of the multi-state operations of Foreign Banking Organizations which operate under state license or charter. Toward this end, the parties to this Agreement agree to use their best efforts to: (1) provide for a seamless supervisory process; (2) ensure that supervision is flexible and commensurate with the organization's structure and risk profile; and, (3) minimize regulatory burden and cost.

In conjunction with other state supervisors and in consultation with affected FBOs, the State Coordinators shall work together to promote rationalization of policies and regulations governing Foreign Banking Organizations with the intent of

achieving maximum certainty, consistency and efficiency in the supervision of FBOs with multi-state operations.

### **Section 2.3. Responsibilities.**

The parties agree to adopt and implement the procedures for the supervision and examination of state-licensed branches, agencies, representative offices and, to the extent agreed to by the State Coordinator and the chartering state supervisor, state-chartered bank and trust company subsidiaries of Foreign Banking Organizations with multi-state operations as set forth in the State/Federal Agreement and, at a minimum, to take the following steps:

- A. All Foreign Banking Organizations with multi-state operations will be subject to a supervision and examination process directed by a State Coordinator. The state supervisors sharing responsibility for an FBO will choose one among their number to be the State Coordinator for the U.S. operations of each Foreign Banking Organization with multi-state operations. In selecting the State Coordinator, the state supervisors will factor into their decision (i) the location of a centralized management or regional office in the U.S., (ii) the relative size and complexity of the offices in each state, (iii) the designation of the Responsible Reserve Bank and (iv) any preferences of bank management. Such designation may be changed by agreement among the state supervisors if a material change occurs in the above factors.
- B. The State Coordinator for a Foreign Banking Organization with multi-state operations will act as the single point of contact for coordination of the supervision and examination of the state-licensed and chartered operations of the Foreign Banking Organization, and to the extent applicable, for coordination of release of supervisory information and resolution of multi-state consumer complaints related to the Foreign Banking Organization. Each state supervisor remains primarily responsible for supervising its own state-licensed or chartered foreign bank operations, and for informing the State Coordinator of any information received from the Foreign Banking Organization or a locally licensed office.
- C. Overall, the parties will cooperate to assure that each of their material interests, authorities and responsibilities is fulfilled.

## **ARTICLE 3. INFORMATION SHARING**

### **Section 3.1. Information Sharing Systems**

There will be a high degree of continual information sharing between all bank supervisory agencies engaged in the supervision of a Foreign Banking Organization. To facilitate the level of communication required and the sharing of information between state supervisors and federal bank supervisory agencies, state supervisors involved in the supervision and examination of Foreign Banking Organizations with multi-state operations, except those with only representative offices, agree to become participants in the Federal Reserve's "FBO Desktop System" or any successor system, as soon as practicable, and in any event, before becoming a State Coordinator.

### **Section 3.2. Request for Information.**

The State Coordinator will receive copies, via the FBO Desktop or by other means, of all FBO supervision products, including examination findings prepared by other state and federal bank supervisors participating in the supervision of a Foreign Banking Organization with multi-state operations.

A state supervisor may at any time request from another state supervisor supervisory information regarding a Foreign Banking Organization operating foreign bank offices in both states. Where time permits, the request will be made in writing by the state supervisor or the supervisor's designee. Requests for information made in any other manner will be followed up by a written request.

A request by a state supervisor should be reasonably specific as to the documents or information sought. The state supervisor may request items relating to a particular event, such as specific examination findings, or may make a standing request for all items of a particular nature relating to the operations of a Foreign Banking Organization.

The state supervisor shall limit its use of information obtained under this Agreement to purposes directly related to its supervisory authority.

### **Section 3.3. Providing Information.**

The state supervisor will comply with a request for supervisory information within a reasonable time to the fullest extent permitted by state law. Supervisory information protected by federal law shall not be provided until the permission of the appropriate federal bank supervisory agency is obtained.

### **Section 3.4. Confidentiality.**

Supervisory information shared under this Agreement shall be presumed to be confidential unless otherwise specified by the originating authority. To the fullest extent permitted by law, the parties will treat information obtained under this Agreement with the same degree of confidentiality that applies to the information in the hands of the originating authority.

Supervisory information shared under this Agreement remains the property of the originating authority and shall not be further disclosed by the recipient without the written permission of the originating authority, except as otherwise required by applicable law or order of a court of competent jurisdiction. Supervisory information obtained under this Agreement should be returned or destroyed.

### **Section 3.5. Subpoenas and Other Requests for Information.**

Whenever a Party receives an access request from another Federal or State administrative agency, or a subpoena, discovery request or other legal process that would require the disclosure of confidential information obtained from the other Party, that Party will promptly notify the providing agency. All notices under this provision shall be made to the person(s) designated by the providing party to receive such notices.

No Party shall disclose information of a providing party, except with the consent of the providing party communicated through its authorized representative, or in accordance with applicable regulations of the providing party and any other applicable law.

It is understood, in this connection, that applicable regulations of the FDIC, the Board of Governors and other Federal supervisory agencies requires requestors to exhaust administrative remedies before such agencies and to seek to compel such disclosure, if at all, through process directed to such agencies rather than to examined institutions or other bank supervisors lawfully in possession of the information.

It is understood further that many state laws prohibit or regulate the disclosure of confidential supervisory information that is the property of State bank supervisors. Supervisors shall cooperate in the preparation of any memoranda, request for protective order or pleadings deemed desirable by the originating authority in order to protect the confidentiality of supervisory information.



It is also understood that in any State court action in which information belonging to a Federal bank supervisory agency is sought, the appropriate Federal agency reserves its right to intervene in any state court action and remove the matter to Federal court in order to preserve the confidentiality of its information.

## **ARTICLE 4. RESPONSIBILITY FOR SUPERVISION AND EXAMINATION**

### **Section 4.1. Examination Planning and Scheduling.**

The state supervisors will designate a Primary Contact Person for each Foreign Banking Organization with multi-state operations for which they act as the State Coordinator. These individuals jointly will coordinate the supervisory and examination responsibilities of their respective agencies with other state and federal bank supervisory agencies according to the principles of this Agreement. The State Coordinators and their designated Primary Contact Person will take the necessary steps to ensure that the goals of this Agreement, including a risk-focused, seamless supervisory process, are achieved.

The designated Primary Contact Persons from the State Coordinator and the Responsible Reserve Bank will be responsible, in coordination with the other state supervisors and other participating Federal bank supervisory agencies, for the development of a written comprehensive supervisory plan that is tailored to the Foreign Banking Organization's structure and risk profile in the United States. The plan will be prepared annually and updated as needed. The comprehensive supervisory plan may include, but is not limited to the following:

1. A risk assessment and risk matrix of the Foreign Banking Organization's U.S. operations<sup>1(1)</sup>;
2. An examination plan described in this Agreement;
3. Review and assessment of pending issues, such as the status of applications and compliance with supervisory actions;
4. Off-site monitoring plans; and,
5. Such other matters as are necessary to promote the safety and soundness of the Foreign Banking Organization's U.S. operations.

The State Coordinator and its designated Primary Contact Person, in cooperation with the Responsible Reserve Bank, other state supervisors and other participating

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<sup>1(1)</sup> Such assessments will be based significantly on written assessments performed on each entity by state supervisors or local offices of applicable Federal bank supervisory agencies.

Federal bank supervisory agencies, will ensure that a written examination plan is developed that details the type, timing and location of on-site safety and soundness and specialty<sup>2[2]</sup> examinations. It also will detail how each participating agency will convey its findings to management of the Foreign Banking Organization, to the State Coordinator and to any participating federal bank supervisory agencies. The planning process will focus on ensuring that examinations are risk-focused and that functions or activities affecting more than one US office are not covered repeatedly.

The written examination plan will reflect conclusions derived from the risk assessment of the Foreign Banking Organization's U.S. operations, together with the structure of its U.S. operations, management's preferences concerning certain aspects of the examination process<sup>3[3]</sup>, each bank supervisory agency's on-site examination cycle mandates, and the Foreign Banking Organization's internal control/compliance and external audit functions for its U.S. operations, as appropriate.

The plan also will include: (a) schedules for examination planning meetings; (b) the scope of on-site examinations to be conducted for each office to be examined; (c) the estimated resource requirements for conducting on-site examinations for each office scheduled for examination; (d) an entry letter(s)<sup>4[4]</sup> covering all the Foreign Banking Organization's U.S. offices subject to the current cycle of examinations<sup>5[5]</sup>; (e) the schedule of on-site examinations and, (f) the type and format for the reporting of examination findings, recommendations and conclusions.

Each State Coordinator, in cooperation with the Responsible Reserve Bank, will furnish a copy of the proposed written examination plan to other participating state and federal bank supervisory agencies for their review and comment. Each participating bank supervisory agency will designate an examiner-in-charge or other appropriate contact person for the examination of the office of the Foreign Banking Organization within its supervisory jurisdiction.

Nothing in this Agreement is intended to affect the right of each state supervisor to add additional items to a scope of examination that is particular to a foreign bank office located in that state.

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<sup>2[2]</sup> For example, Trust, Information Systems, and Consumer Affairs/CRA Examinations as applicable.

<sup>3[3]</sup> *i.e.*, a preference for a series of separately timed targeted examinations versus a preference for all on-site examinations to be conducted simultaneously

<sup>4[4]</sup> Also known as an "first day letter."

<sup>5[5]</sup> Where practicable a single entry letter covering all the offices being examined will be prepared.

## **Section 4.2. Examination Findings, Recommendations and Conclusions**

Results of all examinations of any office of the U.S. operations of a Foreign Banking Organization must be supported by a written analysis documenting the findings, recommendations and conclusions derived from the examination process. The format for the written analysis will reflect the risk profile for a particular office of the Foreign Banking Organization, as indicated in the risk assessment prepared for its U.S. operations, and in the supervisory plan. It will also be prepared in accordance with the description contained in Section 4.1 of this Agreement. In addition, a supervisory rating must be assigned at each examination, utilizing the components of the ROC-A, CAMELS or other appropriate or successor rating system.

The State Coordinator will receive copies of all examination reports or examination memoranda reflecting the findings, recommendations and conclusions derived from the on-site examination of each office subject to examination. The State Coordinator and the Responsible Reserve Bank, in cooperation with other participating federal and state supervisors, will use this information, together with other supervisory information deemed appropriate, in preparing an assessment of the U.S. operations of the Foreign Banking Organization.

In order to minimize regulatory burden and maximize efficiency, examinations may be conducted on a joint basis or on an alternate year basis between participating state and federal bank supervisory agencies to the extent permitted under applicable law and regulation.

Nothing in this protocol will interfere with any state supervisor's right or responsibility to conduct examinations in that state or to transmit examination findings, recommendations and conclusions to any supervised institution.

## **Section 4.3. Development of a Single Report of Examination.**

The state supervisors agree to work towards the development a single report of examination. Such report would be produced by the State Coordinator jointly or in cooperation with the Responsible Reserve Bank and other participating federal and state supervisors and would be used in situations where it is possible under law and regulation and practicable to do so.

## **Section 4.4. Efficient Use of State Resources.**

As necessary, the state supervisors may enter into separate bilateral agreements governing the sharing of resources and compensation for services rendered to the extent permitted by the laws of their respective jurisdictions. State supervisors, either independently or in conjunction with examiners from participating federal bank supervisory agencies, generally will be responsible for providing sufficient examiner resources for the conduct of the portion of the examination plan for which they are responsible.

## **ARTICLE 5. SUPERVISORY ACTIONS**

### **Section 5.1. Notification and Action.**

The parties will, in all cases to the greatest extent practicable, consult one another regarding investigations and supervisory actions involving the U.S. operations of a Foreign Banking Organization.

The State Coordinator, in consultation with other state supervisors, the Responsible Reserve Bank and any other participating federal bank supervisory agency, will coordinate supervisory actions that are to be taken jointly by involved state supervisors against all offices of a Foreign Banking Organization operating in the United States. Actions affecting offices in only one state will continue to be the responsibility of the supervisor in that state. In all cases a state supervisor will notify the State Coordinator, which in turn will notify all other state supervisors, of any type of supervisory action taken against an office of a Foreign Banking Organization in that state. If possible, notification by the state supervisor will be given in advance of the supervisory action. Where possible, supervisory actions addressing violations of laws by all or some of the Foreign Banking Organization's U.S. operations will be taken jointly by the State Coordinator and state supervisors in the affected states.

### **Section 5.2. Emergency Actions by State.**

Notwithstanding Section 5.1., any state supervisor may in an emergency take any supervisory action against an office of a Foreign Banking Organization permitted under that state's law. Any state supervisor doing so will notify the State Coordinator as soon as practicable. The State Coordinator will communicate notice of such action to all other appropriate state supervisors.

Nothing in this Agreement is meant to interfere with a state's enforcement authority or ability to make a referral to a law enforcement or prosecutorial authority without having to notify or coordinate with other state supervisors.

## **ARTICLE 6. APPLICABLE LAWS**

### **Section 6.1. State Law.**

This Agreement recognizes that a state's law governs the operations of a foreign bank office within that state's borders.

## **ARTICLE 7. APPLICATIONS**

### **Section 7.1. Coordination of Application Process.**

Each state supervisor has the responsibility for the processing of applications regarding the offices of a Foreign Banking Organization in its state. An FBO with multi-state offices filing an application relating to more than one office will file an application with its State Coordinator indicating activities applied for and locations at which these activities are to be conducted. The State Coordinator will copy the application to the affected state supervisors for their action and will coordinate responses to the FBO.

The state supervisors agree to work towards the development of common application forms.

### **Section 7.2. Notification to State Coordinator.**

If an application affects only offices in a single state, the State Coordinator will receive from that state supervisor a copy of the application/notification relating to the offices of the Foreign Banking Organization. The State Coordinator also will be notified of all decisions made by a state supervisor relative to the application. Copies of any such applications or notifications will be provided to other state supervisors upon request.

## **ARTICLE 8. CONSUMER COMPLAINTS**

### **Section 8.1. Responsibilities.**

Each state supervisor will process and resolve consumer complaints against offices of a Foreign Banking Organization located in its state. To the extent that the complaint concerns the offices of a Foreign Banking Organization in more than one state, the State Coordinator will coordinate resolution of the complaint upon consultation and agreement with all other involved state and federal bank

supervisory agencies. Information summarizing the volume, nature and resolution of consumer complaints will be provided by each supervisor to the State Coordinator on at least a quarterly basis, and the State Coordinator shall furnish a complete list of all such consumer complaints to each supervisor. Instances of serious consumer abuse, violations of law and/or patterns of practice which cause serious supervisory concerns should be promptly reported to the State Coordinator in order for the states jointly to determine whether supervisory action should be taken against the offices of a Foreign Banking Organization.

**Section 8.2. Supervisory Actions.**

To the greatest extent practicable, any supervisory action resulting from a complaint against an office of a Foreign Banking Organization will be taken as provided in Article 5 of this Agreement.

**ARTICLE 9. PARTIES**

**Section 9.1. Representations and Warranties.**

Each signatory state supervisor represents and warrants that he or she has all requisite power and authority to enter into and perform this Agreement and to the extent consistent with state law, any party acting within the scope of this Agreement shall be deemed to be acting within the scope of the signatory state supervisor's statutory authority.

**Section 9.2 Change in Power or Authority.**

In case there is any material change in the power or authority of any signatory state supervisor to perform this Agreement, such state supervisor shall promptly give notice of the change to the other state supervisors.

**ARTICLE 10. EXECUTION, ENFORCEABILITY, OTHER AGREEMENTS AND TERMINATION**

**Section 10.1. Execution.**

The terms of this Agreement shall become effective when a state supervisor has executed the original or a counterpart signature page. Also, this Agreement is not

intended to be limited to the original signatories, and other parties may sign after the initial execution of this document.

**Section 10.2. Binding and Enforceable.**

This Agreement shall be binding and enforceable on the parties to the extent allowed by state law.

**Section 10.3. Other Agreements.**

This Agreement is not intended to prevent the parties from entering into other agreements with individual parties, other bank supervisors, or individual banks regarding the subject matter of this Agreement.

**Section 10.4. Amendment and Termination.**

Any party to this Agreement may propose an amendment at any time, but only a written instrument signed by each of the signatory state supervisors may amend this Agreement.

Notwithstanding the preceding paragraph, technical changes to this Agreement that are necessary and appropriate in light of changes in federal law shall take effect 30 days after the CSBS Board of Directors has approved such changes and provided written notice thereof to all signatory state supervisors, in the absence of objection from any signatory state supervisor.

Any party to this Agreement may withdraw from the Agreement at any time by giving written notice of withdrawal or termination to all other parties. The withdrawal of any party shall terminate the participation of the respective signatory state supervisor 90 days after the date of withdrawal unless the remaining parties waive the 90 day notice period.

**ARTICLE 11. MISCELLANEOUS**

**Section 11.1. Captions.**

The captions in this Agreement are for convenience of reference only, do not constitute a part of this Agreement, and shall not affect the meaning or construction of any provision of this Agreement.

**Section 11.2. Waiver.**

The waiver by any state supervisor of the performance of any provision of this Agreement shall not invalidate this Agreement, nor shall it be considered a waiver of any other provision. The waiver by any state supervisor of the time for performing any act required by this Agreement shall not be considered a waiver of the time for performing any other act or an identical act required to be performed at a later time.

**Section 11.3. Survival.**

In the absence of state law to the contrary, this Agreement shall survive any change in the identity of the executive in charge of any state supervisor.

**Section 11.4. Severability.**

If any provision of this Agreement or the application thereof to any person or circumstances is held invalid or illegal, such invalidity or illegality shall not affect other provisions or applications of this Agreement which can be given effect without the invalid or illegal provision or application, and to this end, the provisions of this Agreement are declared to be severable.