

FEDERAL RESERVE SYSTEM

Banco Davivienda, S.A.
Bogotá, Colombia

Order Approving Establishment of a Branch

Banco Davivienda, S.A. (“Bank”), Bogotá, Colombia, a foreign bank within the meaning of the International Banking Act (“IBA”), has applied under section 7(d) of the IBA¹ to establish a branch in Miami, Florida, through the conversion of its wholly owned subsidiary, Bancafé International (“Bancafé”), a corporation organized under section 25A of the Federal Reserve Act (Edge Act corporation).² The Foreign Bank Supervision Enhancement Act of 1991, which amended the IBA, provides that a foreign bank must obtain the approval of the Board to establish a branch in the United States.

Notice of the application, affording interested persons an opportunity to comment, has been published in a newspaper of general circulation in Miami (*The Miami Herald*, February 10, 2010). The time for filing comments has expired, and the Board has considered all comments received.

Bank, with total consolidated assets of approximately \$12.8 billion,³ is the third largest bank in Colombia by asset size. Sociedades Bolivar S.A. (“Bolivar”), a company whose shares are publicly traded in Colombia, effectively controls Bank through the direct or indirect ownership of more than 62 percent of Bank’s outstanding voting shares.⁴ Another group of Colombian companies, collectively known as the

¹ 12 U.S.C. § 3105(d).

² 12 U.S.C. § 611 *et seq.*

³ Unless otherwise indicated, data are as of December 31, 2009.

⁴ Bolivar owns 9.94 percent of Bank’s outstanding shares directly and is the parent company of the bank’s largest direct shareholders, Inversiones Financieras Bolivar, S.A.S. and Inversora Anagrama, S.A.S., each of which owns 17.29 percent of Bank’s

“Cusezar Group,” owns directly and indirectly approximately 19.1 percent of Bank’s total voting shares outstanding. No other shareholder or group of shareholders controls more than 10 percent of Bank’s outstanding shares. Bank engages in commercial and retail banking services, and it engages in fund administration, trust, and securities brokerage services through its subsidiaries. In addition, Bank has operations in the United States through Bancafé and in Panama through a wholly owned bank, Bancafé Panama S.A., Panama City.⁵ Bank and its parent companies are qualifying foreign banking organizations under Regulation K.⁶

Bank proposes to establish the branch as a means of continuing and expanding the international banking business currently conducted by Bancafé. Bank intends to use the branch to provide products and services currently offered by Bancafé to a larger customer base. In particular, Bank believes that the proposed branch will enhance its ability to serve the banking needs of the Colombian community in the Miami area and to service international business associated with Colombia. After the establishment of the branch and the transfer of the existing business of Bancafé to the branch, Bancafé would voluntarily liquidate.⁷

Under the IBA and Regulation K, in acting on an application by a foreign bank to establish a branch, the Board must consider whether the foreign bank (1) engages directly in the business of banking outside of the United States; (2) has furnished to the Board the information it needs to assess the application adequately; and (3) is subject to

outstanding shares, as well as other direct and indirect shareholders within the Bolivar group of companies. The Fundación Universidad Externado de Colombia, a nonprofit foundation that operates the Universidad Externado de Colombia, an institution of higher education located in Bogotá, is the ultimate parent company of Bolivar, owning 26 percent of Bolivar’s shares.

⁵ Bank acquired both Bancafé and Bancafé Panama S.A. as part of its acquisition of Granbanco S.A., Bogotá, in 2007.

⁶ 12 CFR 211.23(a).

⁷ 12 CFR 211.7.

comprehensive supervision on a consolidated basis by its home country supervisor.⁸

The Board may also take into account additional standards as set forth in the IBA and Regulation K.⁹

The IBA includes a limited exception to the general requirement relating to comprehensive, consolidated supervision.¹⁰ This exception provides that, if the Board is unable to find that a foreign bank seeking to establish a branch, agency, or commercial lending company is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country, the Board may nevertheless approve an application by such foreign bank, provided (i) the appropriate authorities in the home country of the foreign bank are actively working to establish arrangements for the consolidated supervision of such bank and (ii) all other factors are consistent with approval. In deciding whether to exercise its discretion to approve an application under this exception, the Board shall also consider whether the foreign bank has adopted and implemented procedures to combat money laundering.¹¹ The Board also may take into account whether the home country of the foreign bank is developing a legal regime to

⁸ 12 U.S.C. § 3105(d)(2); 12 CFR 211.24(c)(1). In assessing this standard, the Board considers, among other factors, the extent to which the home country supervisors (i) ensure the bank has adequate procedures for monitoring and controlling its activities worldwide; (ii) obtain information on the condition of the bank and its subsidiaries and offices through regular examination reports, audit reports, or otherwise; (iii) obtain information on the dealings with and relationship between the bank and its affiliates, both foreign and domestic; (iv) receive from the bank financial reports that are consolidated on a worldwide basis or comparable information that permits analysis of the bank's financial condition on a worldwide, consolidated basis; (v) evaluate prudential standards, such as capital adequacy and risk asset exposure, on a worldwide basis. These are indicia of comprehensive, consolidated supervision. No single factor is essential, and other elements may inform the Board's determination.

⁹ 12 U.S.C. § 3105(d)(3)-(4); 12 CFR 211.24(c)(2)-(3).

¹⁰ 12 U.S.C. § 3105(d)(6).

¹¹ 12 U.S.C. § 3105(d)(6)(B).

address money laundering or is participating in multilateral efforts to combat money laundering.¹²

As noted above, Bank engages directly in the business of banking outside the United States. Bank also has provided the Board with information necessary to assess the application through submissions that address the relevant issues.

With respect to supervision by home country authorities, the Board previously has determined, in connection with applications involving other banks in Colombia, that those banks' home country authorities were working to establish arrangements for the consolidated supervision of the banks.¹³ Bank is supervised by the Colombian Superintendency of Finance ("Superintendency") on substantially the same terms and conditions as those other banks.

The Colombian government has taken a number of significant steps to combat money laundering. Colombia has enacted legislation to prevent money laundering and has established a regulatory infrastructure to assist in this effort. Colombia has established a Financial Information and Analysis Unit in the Ministry of Finance, which is responsible for gathering and centralizing information from public and private entities in Colombia, as well as analyzing such information. In addition, the Superintendency has issued circulars that require financial institutions to establish systems for the prevention of money laundering.

Colombia participates in international fora that address the issues of asset forfeiture and the prevention of money laundering. Colombia is a party to the 1988 U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the "Convention"), and the United States has certified that Colombia has taken adequate measures to achieve full compliance with the goals and objectives of the Convention. Colombia also has signed the U.N. Convention against Transnational Organized Crime and is a member of the Organization of American States Inter-American Drug Abuse

¹² *Id.*

¹³ Bancolombia S.A., 89 Federal Reserve Bulletin 234 (2003); Banco de Bogotá, S.A., 87 Federal Reserve Bulletin 552 (2001).

Control Commission Experts Group to Control Money Laundering. Colombia is not a member of the Financial Action Task Force (“FATF”), although Bank has taken into account FATF’s recommendations in developing manuals, internal procedures, and training courses.

Bank has taken measures to ensure compliance with Colombian law and regulations, including implementing policies and procedures related to “know-your-customer” practices, suspicious transaction reporting, record keeping, and employee training.¹⁴ An internal central compliance unit monitors Bank’s adherence to these policies and procedures. In addition, Colombia enacted laws in 2000 and 2006 that provide for the detection, prevention, investigation, and punishment of terrorist financing activities. Further, the Superintendency’s predecessor organization issued regulations in 2002 that emphasized financial institutions’ obligation to adopt all necessary and effective control mechanisms to avoid being used as a conduit for financing terrorism.

Based on all the facts of record, the Board has determined that Bank’s home country authorities are actively working to establish arrangements for the consolidated supervision of Bank and that considerations relating to the steps taken by Bank and its home country to combat money laundering are consistent with approval under this exemption.

The Board has also taken into account the additional standards set forth in section 7 of the IBA and Regulation K.¹⁵ The Superintendency has no objection to the establishment of the proposed branch.

¹⁴ Compliance is mandatory for all offices of the bank, its affiliates, and representative offices.

¹⁵ See 12 U.S.C. § 3105(d)(3)-(4); 12 CFR 211.24(c)(2). These standards include (i) whether the bank’s home country supervisor has consented to the establishment of the office; (ii) the financial and managerial resources of the bank; (iii) whether the bank has procedures to combat money laundering, whether there is a legal regime in place in the home country to address money laundering, and whether the home country is participating in multilateral efforts to combat money laundering; (iv) whether the appropriate supervisors in the home country may share information on the bank’s

Bank must comply with the minimum capital standards of the Basel Capital Accord (“Accord”), as implemented by Colombia. Bank’s capital is in excess of the minimum levels that would be required by the Accord and is considered equivalent to the capital levels that would be required of a U.S. banking organization. Managerial and other financial resources of Bank also are consistent with approval, and Bank appears to have the experience and capacity to support the proposed branch. Bank has established controls and procedures for the proposed branch to ensure compliance with U.S. law and for its operations in general.

With respect to access to information about Bank’s operations, the Board has reviewed the restrictions on disclosure in relevant jurisdictions in which Bank operates and has communicated with relevant government authorities regarding access to information. Bank and its parent companies have committed to make available to the Board such information on the operations of Bank and any of its affiliates that the Board deems necessary to determine and enforce compliance with the IBA, the Bank Holding Company Act, and other applicable federal law. To the extent that the provision of such information to the Board may be prohibited by law or otherwise, Bank and its parent companies have committed to cooperate with the Board to obtain any necessary consents or waivers that might be required from third parties for disclosure of such information. In addition, subject to certain conditions, the Superintendency may share information on Bank’s operations with other supervisors, including the Board. In light of these commitments and other facts of record, and subject to the conditions described below, the Board has determined that Bank has provided adequate assurances of access to any necessary information that the Board may request.

On the basis of the foregoing and all the facts of record, Bank’s application to establish a branch is hereby approved. Should any restrictions on access to information on the operations or activities of Bank and its affiliates subsequently interfere

operations with the Board; (v) whether the bank and its U.S. affiliates are in compliance with U.S. law; (vi) the needs of the community; and (vii) the bank’s record of operation.

with the Board's ability to obtain information to determine and enforce compliance by Bank or its affiliates with applicable federal statutes, the Board may require Bank to terminate any of its direct or indirect activities in the United States. Approval of this application also is specifically conditioned on Bank's compliance with the conditions imposed in this order and the commitments made to the Board in connection with this application.¹⁶

By order of the Board of Governors,¹⁷ effective September 7, 2010.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

¹⁶ The Board's authority to approve the branch parallels the continuing authority of the State of Florida to license offices of a foreign bank. The Board's approval of this application does not supplant the authority of the State of Florida or its agent, the Florida Office of Financial Regulation, to license Bank's Florida office in accordance with any terms or conditions that it may impose.

¹⁷ Voting for this action: Chairman Bernanke and Governors Warsh, Duke, and Tarullo.