

Republic of Panama

Superintendency of Banks of Panama

RESOLUTION SBP-BAN-R-2024-00114

March 13, 2024

THE SUPERINTENDENT OF BANKS

in use of his legal powers, and

WHEREAS:

By means of Resolution SBP-0053-2015 dated March 10, 2015, this Superintendency ordered the process of Administrative and Operational Control of BANCA PRIVADA D'ANDORRA (PANAMA), S.A., in accordance with the provisions of Article 131 and subsequent articles of the Banking Law.

Through Resolution SBP-0077-2015 dated May 7, 2015, this Superintendency ordered the reorganization process of BANCA PRIVADA D'ANDORRA (PANAMA), S.A., in accordance with the provisions of Article 141 and subsequent articles of the Banking Law.

By means of Resolution SBP-0015-2017 dated January 27, 2017, this Superintendency ordered the forced liquidation of BANCA PRIVADA D'ANDORRA (PANAMA), S.A., and appointed Rafael Moscarella as liquidator, in accordance with the provisions of Article 154 and subsequent articles of the Banking Law.

Following the various stages of the forced liquidation process of BANCA PRIVADA D'ANDORRA (PANAMA), S.A., in December 2020, it was possible to recover the necessary funds for the full repayment of the bank's customer deposits.

Beginning from the aforementioned period, payments to clients were processed. According to the data from the liquidation process, out of the 230 customers who, at the time of ordering the administrative and operational control and subsequent forced liquidation process of BANCA PRIVADA D'ANDORRA (PANAMA), S.A., held deposits totalling the equivalent of one hundred and four million three hundred ninety-eight thousand one hundred eighty dollars and 10/100 (USD 104,398,180.10), a total of 100% of the claims has been refunded to 192 customers who came forward to the entity, amounting to one hundred two million eight hundred one thousand three hundred forty dollars and 58/100 (USD 102,801,340.58).

Since the initiation of the Administrative and Operational Control process of BANCA PRIVADA D'ANDORRA (PANAMA), S.A., and as of the date hereof, in accordance with the Liquidator's Report dated October 27, 2023, more than five (5) years have passed since the determination of the balances in the various client accounts. As of this date, there remains an inactive and unreturned fund balance of one million five hundred seventy-four thousand one hundred sixty-eight dollars and 48/100 (USD 1,574,168.48), net of transfer fees charged by the originating bank. This balance corresponds to 40 creditors whose whereabouts are unknown or who have not participated in the process and/or failed to submit the required documentation to effectuate the return of their funds, despite repeated efforts by the Liquidator, which have been documented and reported to this Superintendency.

The rules on voluntary liquidation established in the Banking Law provide that, in the case of unclaimed credits, the Liquidator must transfer them to the Banco Nacional de Panamá, which will hold them until their rightful owners claim them within the period stipulated in Article 123 of the cited legal provision (i.e., 10 years). If no claim is made within that period, the funds will be transferred to the National Treasury.

In line with the previous consideration, Article 215 of the Banking Law provides that if assets or funds deposited in a bank remain inactive for five years and belong to persons whose

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whereabouts are unknown, the Superintendency, upon notification from the bank, shall verify the facts and order the transfer of such funds to the Banco Nacional de Panamá. The Banco Nacional de Panamá will handle the restitution of the funds in accordance with Article 216 of the cited legal provision, without interest. If no claim is made, the funds will be transferred to the National Treasury.

Given the existence of an administrative process of Forced Liquidation, in which the provisions outlined in Articles 123 and 215 of the Banking Law regarding the allocation of unclaimed funds in voluntary liquidation or inactive funds to the Banco Nacional de Panamá are deemed applicable, and considering the absence of an express provision in the Banking Law for unclaimed funds in Forced Liquidation processes, it is appropriate to apply the provisions of Article 37 of Law 38 of 2000, in conjunction with Article 202 of the same, on General Administrative Procedure. These provisions establish that, in the absence of a specific administrative procedure for a particular situation, the authority shall apply the rules most similar to the circumstances, provided they are compatible with the nature of the administrative procedures, as is the case here and as outlined in the Banking Law.

The Liquidator appointed in the Forced Liquidation process of BANCA PRIVADA D'ANDORRA (PANAMA), S.A., through Resolution No. 15.2023 dated September 30, 2023, identified all unclaimed funds in accounts whose holders remain untraceable, have not appeared in the process, or have not submitted the required documentation. The Liquidator communicated that the transfer of funds to the Banco Nacional de Panamá would proceed.

The Consolidated Text of Executive Decree No. 4 of January 18, 2006, which governs the organization of the Banco Nacional de Panamá, identifies it as the State's premier financial institution, subject to the Banking Law with respect to its operations and banking activities.

It should be noted that, as a result of the Forced Liquidation process, 100% of the funds corresponding to the creditors of the estate (including depositors and other creditors) were successfully recovered, leaving only the funds corresponding to clients who have not been located, have not appeared, or have not presented the necessary documentation outstanding.

In light of the above, the Superintendent of Banks

RESOLVES:

FIRST: To authorize the Liquidator of BANCA PRIVADA D'ANDORRA (PANAMA), S.A., to proceed with the transfer to the Banco Nacional de Panamá of the amount of one million five hundred seventy-four thousand one hundred sixty-eight dollars and 48/100 (USD 1,574,168.48), remaining from the Forced Liquidation, by means of a cashier's check.

SECOND: To notify the Banco Nacional de Panamá of the foregoing directive, indicating that it will be compelled to restate the funds to the accredited and duly identified holders as determined by the Liquidator. For this purpose, the Liquidator must provide BANCO NACIONAL DE PANAMÁ with the documentation verifying the ownership of said funds. The restitution will be made without interest.

THIRD: An appeal may be filed against this Resolution, as provided for in Article 180 of the Banking Law. The appeal must be submitted within five business days after the posting of the corresponding edict, in accordance with Articles 90 and 171 of Law 38 of 2000.

Legal Grounds: Article 16 (I, 27, 123, 180, 216) and other related provisions of the Banking

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TRANSLATION

Law; Article 1 and other related provisions of the Consolidated Text of Executive Decree Law No. 4 of 2006; Articles 37, 202, and other related provisions of Law 38 of 2000 on General Administrative Procedure.

Issued in Panama City on the thirteenth (13th) day of March of the year two thousand twenty-four (2024).

FOR COMMUNICATION, PUBLICATION, AND ENFORCEMENT,

THE SUPERINTENDENT OF BANKS,

(Signed)
Amauri A. Castillo



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