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Republic of Panama Superintendency of Banks

RESOLUTION SBP-0116-2016
(dated 1 July 2016)

THE SUPERINTENDENT OF BANKS
in use of his legal powers, and

WHEREAS:

BALBOA BANK & TRUST, CORP. is a corporation established and existing according to the Laws of the Republic of Panama, filed on Page 427208 (S) in the Mercantile Section of the Public Registry and the holder of a General License granted by the Superintendency by means of Resolution SB 33-2005 dated 1 April 2005;

By means of Resolution SBP-0087-2016 dated 5 May 2016 and based on the provisions of Articles 131 and 132 of the Banking Law, the Superintendency of Banks resolved to seize Administrative and Operating Control of **BALBOA BANK & TRUST, CORP.** effective on 5 May 2016;

This decision was made as a legitimate means of safeguarding the interests of the Bank's depositors once the United States Department of the Treasury's Office of Foreign Assets Control (OFAC) had included **BALBOA BANK & TRUST, CORP.** and its holding company in the well-known Specially Designated Nationals and Blocked Persons List, the OFAC List, because of administrative investigations related to the alleged commission of the illegal activities of drug trafficking and money laundering. The direct effects of this measure were: (i) the prohibition of any financial or business relationship with the Bank by United States individuals and legal entities; and (ii) the freezing of assets located in the United States of America (USA), including interbank deposits and investments made by the Bank, significantly compromising **BALBOA BANK & TRUST, CORP.**'s liquidity and preventing the bank continuing with its operations without jeopardizing depositor interests;

On 2 June 2016, the Interim Administrator submitted a Report establishing the main consequences of the measures taken by the United States' Department of the Treasury: (i) the Bank's inability to receive correspondent banking services; (ii) the withholding of funds amounting to over 25 million US dollars in the United States of America and over 11 million US dollars in other jurisdictions beyond the reach of the Bank, in addition to securities subject to restrictions within the United States and other jurisdictions that could reach approximately 30 million US dollars after executing the pledged securities; (iii) the prohibition of United States companies providing services to the Bank, affecting, among others, data processing, auditing, consultancy, armored transportation and securities custody services; (iv) direct effects on the Bank's reputation;

Given computer problems and operational difficulties arising from foreign actions, the Interim Administrator indicated that it was necessary to request an extension to the period of Seizure of Control in order to finish the valuation of the Bank's assets and minimize any loss of value to the entity, which would permit safeguarding the interests of depositors to the maximum extent possible and defining a roadmap of the potential options that might be considered by the Superintendency of Banks under the banking legal framework;

Additionally and especially taking into consideration that the Bank is still on the OFAC List, the Superintendency deemed it responsible and prudent to provide the Bank with more time to conclude the valuation of its portfolio and financial situation, for the benefit and best interests of the Bank's depositors;

To that end, by means of Resolution SBP-0098-2016 dated 2 June 2016, the Superintendency resolved to extend the Seizure of Administrative and Operating Control of **BALBOA BANK & TRUST, CORP.** for an additional period of thirty (30) days from the expiration of the term provided in Resolution SBP-0087-2016 dated 5 May 2016;

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Before the extended period of the Seizure of Administrative and Operating Control of **BALBOA BANK & TRUST, CORP.** expired, the Interim Administrator submitted a report on his management which, after a financial and realistic analysis of the Bank, fundamentally assessed the options provided in the Banking Law for this purpose;

The conclusion was that returning the bank to its shareholders would not be a choice to be considered, because it would be practically impossible for the Bank to operate under the OFAC administrative sanctions. A reorganization to sell the Bank as an operating business would be feasible under the process to be proposed, as long as its equity is positive, its components and attributes are attractive enough for another group to want to run its operations and there is a willingness to provide a greater level of capital adequacy;

To formalize the sale, the Interim Administrator adds that it would be necessary for the new operators to obtain a guarantee from the United States' Department of the Treasury that the restriction on the funds withheld in that jurisdiction would be lifted. It would also require the consent and cooperation of the current shareholders of the Bank;

Summarizing, the Interim Administrator of **BALBOA BANK & TRUST, CORP.** recommends ordering the Reorganization. For the sake of obtaining the greatest value possible for the Bank's depositors and creditors, the Interim Administrator recommends, within this phase, to sell the Bank as an operating business, with OFAC's commitment to releasing the funds at a given moment within the Reorganization process;

The Superintendent considers that following the Interim Administrator's recommendation and based on Subparagraph 4, Paragraph I of Article 16 of the Banking Law, the best action is to order the Reorganization of **BALBOA BANK & TRUST, CORP.** guiding this process, as far as possible, towards rescuing the Bank through suitable means proposed in the Banking Law, as long as there are marketable assets whose value, depending on the process to be used, can sustain the Bank;

Moreover, it must be taken into consideration that, especially during this process and until permanent solutions are reached, the Superintendency of Banks is authorized to take the measures necessary to preserve the equity of the Bank and each of its subsidiaries in the exercise of consolidated supervision of the banking group and its nonfinancial and nonbanking affiliates,

BALBOA BANK & TRUST, CORP. is the sole owner of the following corporations filed with the Public Registry: **Balboa Funds 1513, Inc.**, filed on Page 155621466; **Pershore Investments, S.A.**, filed on Page 631797; and **Balboa Securities, Corp.**, filed on Page 528815 and all of them have the Bank as common "holder," which makes them a Banking Economic Group under the provisions of Subparagraph 8, Article 2 of Rule 3-99 dated 11 May 1999;

In connection with the above, and pursuant to the provisions of Article 141 and following articles of the Banking Law, the Superintendent of Banks;

RESOLVES:

ONE: **TO ORDER** the **REORGANIZATION** of **BALBOA BANK & TRUST, CORP.**, a corporation filed on Page 427208 (S) in the Mercantile Section of the Public Registry, to be concluded within a period of one hundred and twenty (120) days. This period can be shortened or extended by the Superintendency based on a justified request by the person responsible for the Reorganization, as provided for in Paragraph 3 of Article 142 of the Banking Law.

TWO: In accordance with the provisions of Article 149 of the Banking Law and during the period of Reorganization of the bank, **TO ORDER** the disqualification of the Board of Shareholders, directors, administrators and agents of **BALBOA BANK & TRUST, CORP.** from making decisions for the Bank.

THREE: **TO APPOINT** **ENG. ARIEL ANTONIO SANMARTIN MENDEZ**, a Panamanian married male, holder of personal identification card N° PE-4-778, and domiciled in the city of Panama, as **REORGANIZER** of **BALBOA BANK & TRUST, CORP.** **Mr. Sanmartin** meets the requirements set by Law to discharge these duties and will have exclusive responsibility for the

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administration and control of the Bank, as well as its Legal Representation, with the powers and duties the Superintendency may determine while the Reorganization lasts.

FOUR: To instruct the Reorganizer, at the appropriate time and depending on to the circumstances, to dismiss any director, dignitary, general manager or any other senior executive of **BALBOA BANK & TRUST, CORP.** that should be dismissed.

FIVE: **TO ORDER** that the Reorganizer have the following powers in addition to those indicated in Article 145 of the Banking Law:

1. To continue the suspension of all **BALBOA BANK & TRUST, CORP.**'s operations;
2. To continue the suspension of all payments of commissions, wages, *per diem*, and other stipends to the executives of the company, except for the basic wages and benefits of the employees of the Bank, with prior authorization from the Superintendent of Banks;
3. To send the Public Ministry all of the data on potential criminal conduct for consideration, classification and prosecution by the Investigating Agency;
4. To inform the Financial Analysis Unit of any operations suspected of being involved in money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction;
5. To authorize the request for the transfer and availability of funds held in any bank account or jurisdiction on behalf of **BALBOA BANK & TRUST, CORP.**, with the exception of those pledged as collateral, in order to protect the interests of the depositors and creditors.

SIX: In accordance with the provisions of Article 146 of the Banking Law, **TO REQUIRE** the Reorganizer to prepare a Reorganization Plan pursuant to Article 145 of the cited Law, to be submitted for the consideration of the Superintendent of Banks. The Reorganizer will recommend a suitable and transparent mechanism for enabling and realizing the sale of **BALBOA BANK & TRUST, CORP.** to third parties, or partially or fully transferring its own and its depositors' assets to a Bank, safeguarding, in all cases, the best interests of the depositors and following the required parameters for due diligence, transparency and verification of the final beneficiaries of the proponents.

SEVEN: **TO APPOINT ENGINEER ARIEL ANTONIO SANMARTIN MENDEZ**, with the previously described data and being the Reorganizer of **BALBOA BANK & TRUST, CORP.**, to act also as the Legal Representative of each one of the wholly-owned subsidiaries of the Bank listed below:

- a. **Balboa Fund 1513, Inc.** filed on Page 155621466 of the Public Registry
- b. **Pershore Investments, S.A.** filed on Page 631797 of the Public Registry

Balboa Securities, Corp. filed on Page 528815 of the Public Registry will be maintained in accordance with the parameters established by the Superintendency of the Securities Market of Panama.

EIGHT: For the purposes of this act, **TO PROVIDE** that the appointments of members of the Board of Directors and all powers granted them until now to act by and on behalf of the described corporations wholly-owned by **BALBOA BANK & TRUST, CORP.** are temporarily revoked until new provisions are adopted.

NINE: **TO ORDER** the posting of a Notice in a visible and public place in the Bank's main and branch offices along with a copy of the present Resolution communicating the measures and indicating the date and time that the Reorganization of **BALBOA BANK & TRUST, CORP.** entered into effect.

TEN: **TO ORDER** the publication of this Resolution in a newspaper with broad national circulation for five (5) business days.

ELEVEN: **TO ORDER** the Public Registry to make the relevant marginal notations to register the following: (i) the Reorganization of **BALBOA BANK & TRUST, CORP.**, a corporation filed on Folio 427208 (S) in the Mercantile Section of the Public Registry; (ii) the appointment of Engineer **ARIEL ANTONIO SANMARTIN MENDEZ**, a Panamanian married male, holder of personal identification card N° PE-4-778, and domiciled in the city of Panama, as

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REORGANIZER of BALBOA BANK & TRUST, CORP.; (iii) the Legal Representation of **BALBOA BANK & TRUST, CORP.** will be executed by the Reorganizer, as well as (iv) the disqualification of the shareholders, directors, dignitaries and agents of **BALBOA BANK & TRUST, CORP.** from making any decisions for the Bank.

TWELVE: TO also **ORDER** the Public Registry to make the relevant marginal notation to register the following:

- i. The appointment of **Engineer ARIEL ANTONIO SANMARTIN MENDEZ**, a Panamanian married male, holder of personal identification card N° PE-4-778, and with domicile in the city of Panama, as the Legal Representative of each one of the corporations previously mentioned herein, to wit:
 - a. **Balboa Funds 1513, Inc.** filed on Page 155621466 of the Public Registry;
 - b. **Pershore Investments, S.A.** filed on Page 631797 of the Public Registry.
- ii. The temporary revocation of the appointment of the members of the Board of Directors of these Corporations and the powers granted until now to act by and on behalf of the corporations wholly-owned by **BALBOA BANK & TRUST, CORP.**

This Resolution shall become effective at two thirty (2:30 p.m.) on the fourth (4th) day of July, two thousand sixteen (2016).

As provided in Article 151 of the Banking Law, this Resolution may be appealed to the Third Chamber of the Supreme Court of Justice, which has full jurisdiction over administrative litigation.

The filing of an appeal against this Resolution does not suspend the Administrative Act because the seizure protects a social interest.

LEGAL GROUNDS: Article 16, Paragraph I, Subparagraph 4; and Article 141 and following articles of Decree Law 9 of 1998, whose Consolidated Text was adopted by Executive Decree 52 of 2008 (Banking Law).

Given in the city of Panama on the first (1st) day of July, two thousand sixteen (2016).

FOR COMMUNICATION, PUBLICATION, AND ENFORCEMENT,

THE SUPERINTENDENT OF BANKS,

(original signed)
Ricardo G. Fernandez D.

/jca