

FIRST PUBLIC BANKRUPTCY REPORT OF  
BANCO DEL ORINOCO N.V.

Date: 7 November 2019

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Company name:	:	Banco del Orinoco N.V. (“ <b>BDO</b> ”)
Incorporation date	:	17 July 1987 (establishment date 27 September 1993)
Business address	:	Windstraat 3, 1 <sup>st</sup> floor, Handelskade, Curacao
Bankruptcy reference	:	Cur201903648
Bankruptcy date	:	4 October 2019
Trustees	:	mr. C.M. van Liere and mr. M.R.B. Gorsira
Supervisory judge	:	mr. P.E. de Kort
Activities company:		Banking activities as international credit institution
Turnover data	:	unknown
Employees on date bankruptcy	:	25 persons
Reporting period	:	4 October 2019 to 25 October 2019
Hours spent 4 October – 24 October:		175,7
Total hours spent to date	:	175,7

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### Summary of key issues

This is the first public bankruptcy report of the Trustees of BDO. On 18 October 2019 the shareholders, as well as (the majority of) the employees, have objected (on time) to the adjudication of bankruptcy on 4 October 2019. In that context the Court of First Instance of Curaçao (“**Court**”) has requested the Trustees to (briefly) report on the state of affairs of the bankruptcy estate and to advise regarding the submitted objection. The court hearing took place on October 30<sup>th</sup> 2019. The Court scheduled the judgement to be given on November 13<sup>th</sup> 2019. The Trustees will inform the general public about the outcome of the procedure once the judgement has been rendered.

The Trustees emphasize that the information provided in this report is still subject to further investigation. Please be advised that information may have to be substantially amended following such further investigation. At this time no statements can be given concerning the completeness and correctness of the data as provided in this report. No rights can be derived from this bankruptcy report and/or following reports. Nothing in this report can be interpreted as a recognition of liability nor as a waiver of any rights. With this report, the Trustees present, in a simplified manner, the current state of the bankruptcy estate according to the in Curaçao applicable guidelines for bankruptcy reports and suspension of payment reports.

The report shall be published on [www.ekvandoorne.com](http://www.ekvandoorne.com). In case the English translation of the bankruptcy report differs from the (original) Dutch version, the latter prevails.

Willemstad, 7 November 2019

The Trustees of Banco del Orinoco N.V.

## 1. Inventory

### 1.1 Board and organization:

BDO was managed by:

- Joel Santos Tobio;
- Luis Alfonso de Borbon Martinez Bordiu;
- Santos Alonso Ramos;
- René Philippe Römer.

On 5 September 2019 the Court implemented the emergency regulation in accordance with article 28 National Ordinance on the Supervision of Banking and Credit Institutions 1994<sup>1</sup> (*Landsverordening toezicht bank- en kredietwezen 1994*) (hereafter: "LTBK"), as a result of which the management of BDO was taken over by the Central Bank of Curacao and Sint Maarten (hereafter: "**CBCS**") as of that date.

On 3 September 2019 (immediately after the court hearing regarding the request to implement the emergency regulation) the shareholders of BDO, being Cartera de Inversiones Venezolanas, C.A. ("CIV") (81.375 % shareholder) and Banco Occidental de Descuento, Banco Universal C.A. ("BOD") (18.625 % shareholder), decided on liquidating BDO, with appointment of mister E. Tromp as liquidator. This decision was – briefly stated – prompted by a lack of *corresponding banks* and the current situation in Venezuela, as a result of which BDO could no longer perform banking activities in Curaçao in a normal way.

CBCS has objected against the decision to liquidate.

BDO is under (final) control of mister Victor Vargas Irausquin (the Ultimate Beneficial Owner, "**UBO**").

### 1.2 Gain and loss, Balance sheet:

Result 2016:	USD 94,136,345.-- (ANG 171,329,239.90)
Result 2017 (concept):	USD 89,083,083.-- (ANG 162,131,211.06)

Balance sheet total 2016:	USD 1,193,048,670.-- (ANG 2,171,348,464.74)
Balance sheet total 2017: (concept):	USD 1,323,768,362.-- (ANG 2,409,258,418.84)

Total assets of BDO according to the (not verified figures) July 2019:  
 ANG 2,460,757,000.

### 1.3 Pending proceedings:

- Two opposing proceedings have been filed against the adjudication of bankruptcy, submitted by BDO and her shareholders and the majority of the employees of BDO;
- A conditional appeal (*Hoger Beroep*) has been submitted by BDO against the adjudication of bankruptcy;
- There is a Lar-appeal (National Ordinance Administrative Law) at the Court of Curacao

<sup>1</sup> Last modified B. 2015, nr. 67 and 2016,79.

against the withdrawal of the banking license of BDO;

- The last (intern) report of BDO, which is dated 14 August 2019, shows that there are several proceedings pending between BDO and her creditors/deposit holders, including three proceedings at the Joint Court of Justice and one proceeding at the Supreme Court. The Trustees shall – depending on the outcome of these opposing proceedings – (let) suspend these proceedings.

1.4 Insurances : Under investigation.

1.5 Lease:

BDO leases the first floor of the building situated on the Windstraat #3, Handelskade, Curaçao from the Stichting Directie pensioenfonds Freeport. The lease amounts to ANG 3,000.-- (exclusive turnover tax) per month.

Furthermore, BDO rents the first and second floor of the building situated on the Herenstraat #13, Handelskade, Curaçao from the public corporation The Old Freeport Shop N.V. The lease amounts to ANG 4,500.-- per floor (ANG 9,000.-- total, exclusive transfer tax) per month.

The Trustees have – in consultation with the lessor – made an inventory of the leased properties and the present (inventory) assets.

1.6 Cause of bankruptcy : Under investigation

## 2. **Employees**

2.1 Number at the time of bankruptcy : 25 people

2.2 Number in year before bankruptcy : Under investigation

2.3 Date notice of dismissal : 4 October 2019

2.4 Work activities:

The Trustees, together with CBCS, have informed the employees about the bankruptcy and the consequences thereof. At the request of the Trustees, the Supervisory judge has given them on 4 October 2019, authority to lay off all employees, in accordance with article 36 Bankruptcy Decree (*Faillissementsbesluit*). The employees have been informed by letter of 4 October 2019 of the termination of their employment contracts and about the possibility of claims in pursuance of severance pay settlement (*Cessantieregeling*).

Furthermore, the Trustees have registered the former employees of BDO at the Ministry of Social Development, Labor and Welfare (*Ministerie van Sociale Ontwikkeling, Arbeid en Welzijn*) (hereafter: "SOAW"). The Ministry of SOAW shall make efforts to assign the laid-off employees elsewhere.

Finally, the employees have been given the opportunity to pick up their personal belongings in the office building of BDO.

### 3. Assets

#### *Real estate*

3.1	<u>Description</u>	:	Not applicable
3.2	<u>Sales proceeds</u>	:	Not applicable
3.3	<u>Amount mortgage</u>	:	Not applicable
3.4	<u>Contribution of assets</u>	:	Not applicable
	Activities	:	Not applicable

#### *Inventory*

3.5	<u>Description:</u> BDO holds office equipment in the leased properties. There is a possibility that Mr. Römer has an entitlement, under property law, to the office equipment, as he allegedly bought the items in a public auction (and before the bankruptcy). The Trustees are investigating this matter.		
3.6	<u>Sales proceeds</u>	:	Not applicable
3.7	<u>Contribution of assets</u>	:	Not applicable
3.8	<u>Priority right of tax authority</u>	:	Not applicable

#### *Work in progress*

3.9	<u>Description</u>	:	In investigation
3.10	<u>Sales proceeds</u>	:	Not applicable
3.11	<u>Contribution of assets</u>	:	Not applicable
	Activities	:	Not applicable

#### *Other assets*

3.12	<u>Description:</u> It is at this time unclear whether BDO actually has liquid assets/bonds as security for her obligations towards the depositors and other creditors. The majority of that security, namely more than ANG 2,4 billion, is said to exist of securities and bonds which, according to BDO, are held by the custodians Farrington from Singapore, Vistra International S.A. from Panama and Welden Securities from Uruguay. In the anticipation of and during the emergency regulations an investigation has been conducted by or for the Central Bank and BDO's former accountant KPMG in Curacao, into these custodians and the securities portfolios that they managed,		
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according to BDO. Also, the Trustees have approached the involved custodians and requested clarification.

- 3.13 Sales proceeds : Not applicable
- 3.14 Activities : Depending on the outcome of the opposing procedures, the Trustees will hand over the file to CBCS or will continue with the verification and securisation of the securities.

**4. Debtors**

- 4.1 Scope debtors : Total amount debtors on date of bankruptcy (in investigation): BDO has a claim on Plus Capital Markets in Panama, which is also controlled by the UBO, (term loan) of USD 12,903,000-- (as of 30 April 2019). The Panamanian supervisory authority has also taken measures against Plus Capital Markets.

It is possible that BDO has security rights on assets of Plus Capital Markets as security for those claims. The Trustees are investigating these matters.

Cipresco Company Group: USD 620,000.--. Also, in this case securities were allegedly be provided to BDO.

Agricola Agrocao C.A.: USD 190,000.--. It is unlikely that there are securities.

Gavides Omar: USD 160,800.--.

- 4.2 Sales proceeds : Not applicable
- 4.3 Contribution of assets : Not applicable
- Activities : The Trustees have secured the administration of BDO and will get access to this information. Then they will be able to gather more information about the position(s) of the debtors of BDO.

**5. Banks / securities**

- 5.1 Claims of/on bank(s) : According to information of CBCS, the Trustees still assume the following position regarding the (foreign) banks within the group of BDO:

BOI Bank:

Claims: 2 savings accounts per September 2019: USD 25,000.--.

Debts: 2 savings accounts per September 2019: USD 35,960,000.--.

Allbank:

Claims: Account per Augustus 2019: USD 85,000.--.

Debts: Saving and time deposits per August 2019 (total) USD 6,017,000.--.

Allbank has requested the Trustees to pay out US Treasury Bills and related 'coupon payments', which have expired ('matured') with a (nominal) value of USD 5,000,000--. The Trustees have placed this claim on the list of provisionally allowed creditors.

Banco Multiple de Las Americas:

Claims:: multiple accounts per 29 August 2019: USD 778,000.--.

Debts: saving accounts per August 2019: USD 800,000.—

Local banks:

MCB Bank (local): in investigation (approximately USD 70,000.--)

5.2	<u>Lease contracts</u>	:	Not applicable
5.3	<u>Description securities</u>	:	See under debtors
5.4	<u>Position as secured creditor</u>	:	Under investigation
5.5	<u>Contribution of assets</u>	:	Not applicable
5.6	<u>Reservation of title</u>	:	Under investigation
5.7	<u>Fiduciary title</u>	:	Under investigation
5.8	<u>Right of recovery</u>	:	Under investigation
5.9	<u>Possessory lien</u>	:	Under investigation

**6. Relaunch / continuing**

*Continuing*

- 6.1 Exploitation : Not applicable
- 6.2 Financial reporting : Not applicable

*Relaunch*

- 6.3 Description : Not applicable
- 6.4 Responsibility : Not applicable
- 6.5 Sales proceeds : Not applicable
- 6.6 Contribution of assets : Not applicable
- Activities : Not applicable

**7. Legitimacy**

- 7.1 Accounting obligation : Immediately after the ruling of the emergency, regulations,  
 CBCS secured the (digital) administration of BDO with the assistance of a specialized third party and a transfer of the books and records (in so far as available) has taken place. The Trustees expect to gain further insight shortly and to be able to access the (digital) administration of BDO.
- 7.2 Payment obligation : Considering the incorporation date of BDO, a (possible) claim shall be expired.
- 7.3 Mismanagement : Under investigation
- 7.4 Fraudulently act : Under investigation



**8. Creditors**

Immediately after the issued bankruptcy order, BDO and the Trustees gave notice of the bankruptcy to the general public and requested the deposit holders and other creditors of BDO to present their claims for verification. The bankruptcy was published in the (local) newspapers and a (Spanish) notification has been placed on the website of BDO. The trustees have set up an email address ([creditors.bdo@ekvandoorne.com](mailto:creditors.bdo@ekvandoorne.com)) which can be used for submitting claims and other inquiries about the bankruptcy.

According to the last (unverified) interim accounts of BDO, the total outstanding amount of deposit holders accumulates to NAF 1,574,322.000 (April 2019) .

- 8.1 Estate claims : Costs of bankruptcy proceedings: TBD  
 Lease amount outstanding after bankruptcy date:  
 ANG 12,000.-- (for the month October 2019)  
 Salaries employees outstanding after bankruptcy date:  
 ANG 177,297.06 (for the month September and notice period).
- 8.2 Claims SVB : TBD
- 8.3 Other preferred claims : Claim Tax Authorities: TBD
- 8.4 Number of presented unsecured creditors: 126
- 8.5 Amount of presented unsecured creditors: USD 58,234,937.65

**9. Other**

- 9.1 Time frame of liquidation : Unknown
- 9.2 Plan of action : The Trustees shall – depending on the outcome of the opposing procedures (and the conditional appeal) against the adjudication of bankruptcy - hand over the case back to CBCS (in case of withdrawal of the bankruptcy) or continue with tracing the assets and liquidating the assets of BDO in the interest of the joint creditors of BDO. This shall become clear once the judgement of the Court is rendered on November 13<sup>th</sup> 2019.

Submitting next report : The second official bankruptcy report shall be published in three (3) months.

Activities : See the aforementioned.

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