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TENTH REPORT  
ON THE BANKRUPTCY OF  
BANCO DEL ORINOCO N.V.

Date: 6 July 2022

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Company data	: Banco del Orinoco N.V. ("BDO")
Date of incorporation	: July 17, 1987 (date of establishment: September 27, 1993)
Business address	: Windstraat 3, 1 <sup>st</sup> floor, Handelskade, Curaçao
Bankruptcy number	: Cur201903648
Date adjudication of bankruptcy	: October 4, 2019
Bankruptcy receivers	: <i>mr. M.R.B. Gorsira</i> (until November 2, 2020 together with <i>mr. C.M. van Liere</i> )
Supervisory judge	: <i>mr. P.E. de Kort</i>
Balance liquidation account	: ANG 43,246.39
Activities company	: banking activities as an international credit institution
Turnover data	: unknown
Employees on date bankruptcy	: 25 persons
Reporting period	: 14 March 2022 through 6 July 2022
Hours spent reporting period	: 162,60 hours
Total hours spent	: 2.246,9 hours

## **Preliminary remarks:**

This is the tenth report of the bankruptcy receiver of BDO. For a brief explanation of the (procedural) background of BDO's bankruptcy, reference is made to the first four public bankruptcy reports.

The provisional creditors' committee currently consists of *mr.* M. Murray, Mr. R. Moscarella and (from 20 December 2021) Mr. H.A. Nieto Pedegral, who together represent large part of the creditors. *mr.* Braam resigned as a member of the provisional creditors' committee on 21 August 2021.

Partly due to COVID-19, the negotiations between the bankruptcy receiver and (the attorney of) the principals of BDO on a composition with creditors have been delayed. Parties are still discussing a final MOU. A draft MOU was presented to the receiver by the principals of BDO. Both the bankruptcy receiver of BDO and the members of the provisional creditors' committee have provided the principals of BDO with their comments on this draft. Subsequently, the principals of BDO processed the comments of the bankruptcy receiver and the provisional creditors' committee and offered a new draft MOU. The bankruptcy receiver commented on this new concept, adapted it and sent a clean version to the principals of BDO. The bankruptcy receiver hopes to receive confirmation from BDO's principals that the MOU is in agreed form soon so that the MOU can be signed by the parties.

From the discussions between the bankruptcy receiver and the principals of BDO the following has emerged, among other things: according to the principals of BDO, 80% of the account holders of BDO have agreed to a transfer of their claim to BOI Bank in Antigua (a bank that belongs to the same group of companies as BDO). This would imply that, instead of being a creditor of BDO, this group of account holders would agree to become an account holder and creditor of BOI Bank for the same amount while discharging BDO, and that BOI Bank would agree to take over these debts from BDO while discharging BDO.

The remaining 20% of the BDO account holders who do not wish to exchange their claim for a claim on BOI Bank would then be paid 100% through the bankruptcy receiver, just like the other BDO creditors who are not account holders, as well as all the bankruptcy costs.

At this moment, the discussions mainly concern the way in which the verification process, the management of the bond portfolio and the further financing of the estate settlement should take place. The verification process has not been completed (it involves more than 10.000 bank accounts). This process is expected to be completed in the coming reporting period. To date, the bankruptcy receiver has not yet received an up-to-date overview of (the size and development of) the BDO securities portfolio from the shareholder of BDO. The bankruptcy receiver expects to receive this information in the coming reporting period. The discussions with the shareholder also include the further financing of the settlement of the bankruptcy of BDO.

The approach of the conversations with the principals of BDO is that the principals of BDO will file a draft creditors agreement with the Court of First Instance of Curaçao on a date to be determined. The aim is to file a draft creditors agreement to be drawn up by the principals of BDO, if possible before Christmas this year. The bankruptcy trustee will continue to keep the creditors informed of further developments.'

The bankruptcy receiver emphasizes that the information contained in this report is still subject to further



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investigation. At a later stage, it may become apparent that this information needs to be adjusted. At this time, no statement can be made concerning the completeness and accuracy of the data contained in this report. No rights can be derived from this bankruptcy report and/or any subsequent reports. Nothing in this report should be interpreted as an acknowledgement of liability or as a waiver of any rights. In this report, the bankruptcy receivers give a simplified account of the current state of affairs in accordance with the bankruptcy and moratorium reporting guidelines applicable in Curaçao.

The report will be published on [www.vaneps.com/bankruptcy-reports-aruba-bonaire-curacao-st-maarten/](http://www.vaneps.com/bankruptcy-reports-aruba-bonaire-curacao-st-maarten/).

## 1. Inventory

- 1.1. Board and organization : Please refer to the first bankruptcy report.
- 1.2. Profit and loss : Please refer to the first bankruptcy report.
- 1.3. Pending proceedings : Please refer to the previous bankruptcy reports. The cassation proceedings instituted by BDO against Andrade Gutierrez Engenharia (AGE) S.A. before the Supreme Court of the Netherlands have been suspended in view of the bankruptcy of BDO.
- 1.4. Insurance : Under investigation.
- 1.5. Lease : Finalized, please refer to the third bankruptcy report.
- 1.6. Causes of bankruptcy : Under investigation.

## 2. Staff

- 2.1. Number at the time of bankruptcy : 25 employees.
- 2.2. Number in year before bankruptcy : 31 employees.
- 2.3. Date notice of dismissal : October 4, 2019.
- 2.4. Activities : Finalized, please refer to the first bankruptcy report.

## 3. Assets

### *Real estate*

- 3.1. Description : Not applicable
- 3.2. Sales proceeds : Not applicable
- 3.3. Mortgage amount : Not applicable
- 3.4. Contribution to the estate : Not applicable
- Activities : Not applicable

## *Business assets*

- 3.5. Description : Finalized, please refer to the third bankruptcy report.
- 3.6. Sales proceeds : Finalized, please refer to the third bankruptcy report.
- 3.7. Contribution to the estate : Not applicable
- 3.8. Priority right tax authorities : Not applicable

## *Work in progress*

- 3.9. Description : Not applicable
- 3.10. Sales proceeds : Not applicable
- 3.11. Contribution to the estate : Not applicable
- Activities : Not applicable

## *Other assets*

### 3.12. Description:

At present, it is unclear whether BDO actually has liquid funds and securities/bonds to cover its obligations. The majority of that coverage, namely more than ANG 2.4 billion, would exist of securities and bonds that, according to BDO, are held by the custodians Farrington from Singapore, Vistra International S.A. from Panama and Welden Securities from Uruguay. In the run-up to and during the emergency regulations, an investigation was conducted by or on behalf of the Central Bank and BDO's former accountant KPMG in Curaçao into these custodians and the securities portfolios held by them according to BDO. Also, the bankruptcy receivers approached the custodians concerned and requested clarification.

After BDO's bankruptcy, the bankruptcy receiver found four bank accounts held by BDO at MCB and two accounts held by BDO at Novo Banco, S.A. The balances found at these banks amount to USD 77,232.17 and USD 244,634.18, respectively. At the request of the bankruptcy receiver, these amounts have been transferred to BDO's estate account, meanwhile.

For the rest, BDO's bankruptcy has no assets other than the bond portfolios held by the custodians.

In the past reporting period, the bankruptcy receivers were not able to obtain a definite answer about the existence, the scope and the control of the securities portfolios. As regards the ongoing negotiations and the MOU, please refer to the preliminary remarks in this report.

The attorney of BDO's shareholders has informed the bankruptcy receiver that his clients have now requested aforementioned custodians to send an overview of the portfolio held and managed by the custodians on behalf of BDO and the developments in that portfolio from September 2019 to date. The bankruptcy receiver has still not received this information, but will continue to insist for this information to be provided.

- 3.13. Sales proceeds : Not applicable
- Activities : See above.

#### 4. Debtors

- Scope debtors :

BDO has claims on the following parties:

- the company affiliated to BDO, Plus Capital Markets (“**PCM**”) in Panama, (term loan) of USD 12,903,000 (as of April 30, 2019); the Panamanian supervisor has also taken measures against Plus Capital by appointing a liquidator; for BDO’s position vis-à-vis PCM, please refer to paragraph 5 “Banks / securities”. BDO possibly has security rights on assets of Plus Capital Markets to cover this/these claim(s).

- Cipresco Company Group: a credit of USD 620,000. Again, securities would have been provided to BDO.

- Agricola Agrocao C.A.: a credit of USD 190,000.

- Gavides Omar: a credit of USD 160,800.

The bankruptcy receivers still need to further assess the realism and collectability of BDO’s claims on these third parties, including any security rights and set-off positions. The last three debtors are domiciled in Venezuela, which will make collectability very difficult.

- 4.1. Proceeds : TBD.
- 4.2. Contribution to the estate : Not applicable

## 5. Banks / securities

### Claims from/on bank(s)

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The bankruptcy receivers still need to further assess the possible claims from/on BDO on/from banks, affiliated or not, including any security rights and set-off positions. For the time being, it concerns the following banks:

#### Novo Banco S.A.

Novo Banco S.A. in Portugal has confirmed that, on September 5, 2019, BDO maintained two accounts with credit balances of USD 60,592.33 and EUR 154.296,15, respectively. Meanwhile, Novo Banco has transferred these balances to the estate accounts. Meanwhile, these amounts have been used to pay the bankruptcy costs.

#### Allbank Corp

As of November 8, 2019, the company affiliated to BDO and based in Panama, Allbank, is being wound up. Allbank's liquidator informed the bankruptcy receivers of several securities with a total nominal value of USD 30,605,000.00. A number of these securities have matured since the bankruptcy date.

#### Plus Capital Markets Ltd.

PCM is also an entity affiliated to BDO, which, on the one hand, independently maintained accounts with BDO and, on the other, maintained financial relationships ("brokerage clients") on behalf of its own clients. PCM reported (third-party) claims on BDO amounting to USD 1,617,590.00. Subsequently, the bankruptcy receivers requested clarification of certain aspects (also as regards the third-party claims). By mid-May 2020, the Panamanian supervisor ("*La Superintendencia del Mercado de Valores de Panamá*") ordered PCM's winding-up proceedings and appointed a liquidator. The bankruptcy receivers have notified the liquidator.

### 5.1. Lease contracts

: Not applicable

### 5.2. Description securities

: See paragraph "Debtors".

- 5.3. Position as a secured creditor : Under investigation
- 5.4. Contributions to the estate : Not applicable
- 5.5. Retention of title : Under investigation
- 5.6. Fiduciary ownership : Under investigation
- 5.7. Rights of recovery : Under investigation
- 5.8. Rights of retention : Under investigation

## 6. Relaunch / continuation

### *Continuation*

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

### *Relaunch*

- 6.3. Description : Not applicable
- 6.4. Accountability : Not applicable
- 6.5. Proceeds : Not applicable
- 6.6. Contribution to the estate : Not applicable
- Activities : Not applicable

## 7. Legitimacy

- 7.1. Accounting obligation : Immediately after the decision on the emergency regulations, the CBCS secured the (digital) records of BDO with the assistance of a specialized third party. Meanwhile, a transfer has taken place between the CBCS and the bankruptcy receivers, as well as this third party.

The bankruptcy receiver also obtained the relevant data of BDO's digital bank records (IBS Core Banking program) from Panama. It concerns information about accounts, account holders and contacts.



- 7.2. Payment obligation : In view of the date of incorporation of BDO, a (possible) claim based on this is prescribed.
- 7.3. Mismanagement : Under investigation.
- 7.4. Fraudulent acts : Under investigation.

## 8. Creditors

Immediately after BDO was declared bankrupt, the bankruptcy receivers gave publicity to the bankruptcy and requested the deposit holders and other creditors of BDO to present their claims for verification. For this purpose, advertisements were published in the (local) newspapers, and a (Spanish) notification was placed on the website of BDO, among other things. The specially created email address [creditors.bdo@vaneps.com](mailto:creditors.bdo@vaneps.com) is used for presenting claims.

- 8.1. Estate claims :  
Bankruptcy costs (determined until 31 May 2022): ANG 1,015,723.09 + TDB.  
  
Rent due after bankruptcy date: ANG 66,780 (in respect of the months of October 2019 through January 2020).  
  
Salaries employees due after bankruptcy date (September and notice period): ANG 177,297.06.
- 8.2. Claims 'SVB' [Social Insurance Bank] : TBD.
- 8.3. Other preferred claims : Tax claim: ANG 1,374.156.38 in respect of profit tax, wage tax and "BVZI". The bankruptcy receivers timely lodged a (pro forma) notice of objection to this.
- 8.4. Number of presented ordinary creditors : 2154  
  
The bankruptcy receiver intends to verify all claims of creditors of BDO who have not submitted their claim to him, but do have a claim against BDO according to the books and records of BDO for the amount that appears in the books and records of BDO.
- Provisionally contested claims : 312 creditors for a total amount of USD 21.638.995,99
- 8.5. Amount of presented ordinary creditors : USD 768,661,250.00

## 9. Miscellaneous

- 9.1. Period liquidation bankruptcy : Unknown.
- 9.2. Action plan : Promptly finalizing the negotiations on a blueprint for a composition of creditors in consultation with the creditors' committee, and, after a composition in principle, submit that composition to the creditors and the Court for approval.
- 9.3. Submission next report : In three months.
- Activities : See above.

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