UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
FINANCIAL CRIMES ENFORCEMENT NETWORK

IN THE MATTER OF:	)	
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	)	
THE NEW YORK BRANCH OF	)	
BANCO DE CHILE	)	**Number 2005-03**
NEW YORK, NEW YORK	)	
	)	
THE MIAMI BRANCH OF	)	
BANCO DE CHILE	)	
MIAMI, FLORIDA	)	

ASSESSMENT OF CIVIL MONEY PENALTY

I. INTRODUCTION

The Secretary of the United States Department of the Treasury has delegated to the Director of the Financial Crimes Enforcement Network the authority to determine whether a financial institution has violated the Bank Secrecy Act and the regulations issued pursuant to that Act,[1] and what, if any, sanction is appropriate.

In order to resolve this matter, and only for that purpose, Banco de Chile has entered into a CONSENT TO THE ASSESSMENT OF CIVIL MONEY PENALTY ("CONSENT") dated October 12, 2005, without admitting or denying the findings and determinations by the Financial Crimes Enforcement Network, as described in Sections III and IV below, except as to jurisdiction in Section II below, which is admitted.

The CONSENT is incorporated in this ASSESSMENT OF CIVIL MONEY PENALTY ("ASSESSMENT") by this reference.

II. JURISDICTION

Banco de Chile-New York and Banco de Chile-Miami are branches of Banco de Chile ("Banco de Chile"), a public shareholding company and banking institution, with headquarters in Santiago, the capital city of Chile. Banco de Chile has approximately 240 branches in Chile, as well as offices in Hong Kong, Brazil, Argentina and Mexico. Banco de Chile is principally engaged in commercial banking in Chile, providing general banking services to a broad customer base. As of September 30, 2004, Banco de Chile had total assets of $15.8 billion.

[1] 31 U.S.C. §§ 5311 et seq. and 31 C.F.R. Part 103.

Banco de Chile-New York is a federal branch of Banco de Chile located in the United States. Banco de Chile-New York was licensed in 1982 by the Office of the Comptroller of the Currency, which examines Banco de Chile-New York for compliance with the Bank Secrecy Act and its implementing regulations and for compliance with similar rules under Title 12 of the United States Code. Banco de Chile-Miami was initially established as a Florida licensed agency in 1994. The Federal Reserve Board and the Florida Office of Financial Regulation approved the agency's conversion to a branch in 2004. The Federal Reserve Bank of Atlanta examines Banco de Chile-Miami for compliance with the Bank Secrecy Act and its implementing regulations, as well as for compliance with similar rules under Title 12 of the United States Code.

At all relevant times, Banco de Chile-New York and Banco de Chile-Miami were each a "financial institution" and a "bank" within the meaning of the Bank Secrecy Act and the regulations issued pursuant to that Act.[2]

III. DETERMINATIONS

A. Summary

Banco de Chile is principally engaged in commercial banking in Chile, providing general banking services to a broad customer base. The bank provides, directly and indirectly through its subsidiaries and affiliates, credit and non-credit products and services to all segments of the Chilean financial markets. Its operations are organized in six commercial divisions including large corporations, middle market companies, retail banking, consumer banking, international banking, and treasury and money market. Banco de Chile has also established eight non-banking financial service subsidiaries that provide securities brokerage, investment and mutual funds, collections, retail sales, factoring, insurance, financial advisory, and securitization services. Banco de Chile's corporate banking services include commercial loans, foreign exchange, capital market services, cash management and non-credit services such as payroll and payment transactions. The current ownership group assumed control of Banco de Chile in March 2001.

Through Banco de Chile-New York and Banco de Chile-Miami, Banco de Chile provides its customer base with access to the United States financial system. Banco de Chile-New York and Banco de Chile-Miami provide trade financing for Banco de Chile's customers, extend credit to Banco de Chile's customers and their business operations, and provide deposit, transactional and other retail banking services to Banco de Chile's customers.

An investigation by the Financial Crimes Enforcement Network revealed that Banco de Chile-New York and Banco de Chile-Miami failed to establish and maintain an adequate system of internal controls and failed to designate a person, or persons, to adequately ensure compliance with the Bank Secrecy Act. The investigation also

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[2] 31 U.S.C. § 5312(a)(2) and 31 C.F.R. § 103.11.

determined that Banco de Chile-New York and Banco de Chile-Miami failed to conduct adequate independent testing for compliance with the Bank Secrecy Act.[3]

Internal control failures, an inappropriate level of due diligence and inadequate independent testing led to failures by both Banco de Chile-New York and Banco de Chile-Miami to identify, monitor and timely report suspicious activity related to a prominent Chilean politically exposed person and family members and associates of the politically exposed person. Suspicious activity related to this politically exposed person dates back to at least November 1997. This failure of Banco de Chile-New York and Banco de Chile-Miami to comply with the Bank Secrecy Act and the regulations issued pursuant to that Act was significant.

On February 1, 2005, the Office of the Comptroller of the Currency and Banco de Chile-New York entered into a Consent Order. The Consent Order addresses deficiencies in Banco de Chile-New York's Bank Secrecy Act anti-money laundering program, focusing particularly on its weak internal control environment. The Order also addresses Bank Secrecy Act recordkeeping requirements, audits for Bank Secrecy Act compliance, identifying/monitoring and reporting suspicious activity, and enhancements to the Compliance Department. Further, the Order prohibits Banco de Chile-New York from conducting any transactions related to the identified prominent Chilean politically exposed person, restricts opening any new accounts involving politically exposed persons, and requires retention of documentation related to the instant matter and the establishment of a Reporting Committee consisting of senior officers to ensure compliance with all parts of the Order.

On February 2, 2005, Banco de Chile-Miami consented to the issuance of a Cease and Desist Order by the Federal Reserve. The Cease and Desist Order addresses significant deficiencies in Banco de Chile-Miami's anti-money laundering program, focusing on its policies and procedures for customer due diligence, identification and reporting of suspicious activity, and risk management associated with customer accounts and transactions, as these relate to "Covered Persons," as the term is defined in interagency Guidance on Enhanced Scrutiny for Transactions that May Involve the Proceeds of Foreign Official Corruption, dated January 2001, which requires a review of accounts held for any "Covered Person."

B. Violations of the Requirement to Implement an Anti-Money Laundering Program

The Financial Crimes Enforcement Network has determined that Banco de Chile-New York and Banco de Chile-Miami violated the anti-money laundering program requirements of the Bank Secrecy Act and the regulations issued pursuant to the Act.[4] A

[3] The Financial Crimes Enforcement Network based the investigation, in part, on separate reviews by the Office of the Comptroller of the Currency and the Federal Reserve.

[4] 31 U.S.C. §5318(h)(1) and 31 C.F.R. § 103.120. These requirements became effective on April 24, 2002.

bank regulated by a Federal functional regulator is deemed to have satisfied the requirements of 31 U.S.C. §5318(h)(1) if it implements and maintains an anti-money laundering program that complies with the regulations of its Federal functional regulator governing such programs.[5] The Office of the Comptroller of the Currency is Banco de Chile-New York's primary Federal functional regulator. The Federal Reserve is Banco de Chile-Miami's primary Federal functional regulator.

Both the Office of the Comptroller of the Currency and the Federal Reserve require each bank under its supervision to establish and maintain an anti-money laundering compliance program that, at a minimum: (a) provides for a system of internal controls to ensure ongoing compliance; (b) provides for independent testing for compliance conducted by bank personnel or an outside party; (c) designates an individual or individuals responsible for coordinating and monitoring day-to-day compliance; and (d) provides for training for appropriate personnel.[6]

The Financial Crimes Enforcement Network has determined that the anti-money laundering programs at Banco de Chile-New York and Banco de Chile-Miami were deficient in three core elements of the anti-money laundering program requirements under the Bank Secrecy Act.

1. Internal Controls

Banco de Chile-New York failed to implement adequate internal controls to ensure compliance with the Bank Secrecy Act and manage the risk of money laundering. Internal controls and systems in place at the time were either insufficient or circumvented, and failed to ensure effective monitoring of suspicious transactions related to account opening requirements, financial capacity analysis, account activity profiling and transactional testing and reporting. The lack of effective monitoring for suspicious activity information hindered the ability of Banco de Chile-New York to identify accounts and transactions bearing indicia of suspicious activity.

Banco de Chile-New York personnel, including the General Manager at the time, authorized transactions by, for, or on behalf of at least one high profile Chilean politically exposed person that allowed such person to engage in apparent money laundering through the Branch. Senior New York Branch management was found to have circumvented established policies, violated laws and regulations, and obstructed examinations by intentionally misleading examiners in order to conceal the purpose, existence and true funding source of certain suspicious accounts and loans maintained by Banco de Chile-New York.

On April 14, 2005, the Office of the Comptroller of the Currency removed the General Manager of Banco de Chile-New York from the United States' banking industry and imposed a $200,000 civil money penalty against the individual for engaging in

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[5] 31 C.F.R. §103.120(b).

[6] 12 C.F.R. §§ 21.21(c) and 208.63.

unsafe banking practices, related to his involvement in accounts owned or controlled by the prominent politically exposed person and his associates. In addition, Banco de Chile-New York and Banco de Chile-Miami failed to timely respond to widely-publicized reports of alleged criminal activity by this high-profile Chilean politically exposed person and failed to gather and analyze information from applicable accounts in order to assess the potential for suspicious activity.

The Office of the Comptroller of the Currency's September 2004 targeted Bank Secrecy Act review of Banco de Chile-New York raised concerns about its account opening procedures. Although written account-opening procedures were found to be reasonable, they were not adequately implemented. A majority of accounts tested by examiners failed to contain key information regarding the occupational and financial profile of an associate of the prominent Chilean politically exposed person. Insufficient customer information and due diligence practices undermined Banco de Chile – New York's ability to adequately monitor these accounts for suspicious activity.

During the Office of the Comptroller of the Currency's follow-up examination in February 2005, Banco de Chile-New York's Customer Identification Program was also found to be deficient.[7] At a minimum, a written Customer Identification Program must adequately address a number of elements in order to be deemed compliant with the regulations. However, in its follow-up exam, the Office of the Comptroller of the Currency determined that Banco de Chile's Customer Identification Program did not address several of the required elements. Specifically, Banco de Chile-New York's Customer Identification Program did not require a customer's identification number, did not include procedures for providing customers with notice of the requirements of the regulation, did not provide for independent testing, did not describe when a suspicious activity report should be filed, and did not describe parameters for account closure in the absence of verification of a customer's identity.

Banco de Chile-Miami failed to have adequate internal controls in place to ensure compliance with the Bank Secrecy Act and to manage the risk of money laundering. During a targeted Bank Secrecy Act exam conducted in January 2005, the Federal Reserve deemed Banco de Chile-Miami's Bank Secrecy Act internal controls ineffective. Banco de Chile-Miami's compliance function had not kept up with the growth in its accounts, or the evolving Bank Secrecy Act/anti-money laundering regulatory environment. Significant deficiencies were noted in the identification and monitoring of politically exposed persons, customer account due diligence procedures, monitoring for potential suspicious activity, structure and staffing of the compliance function and the independent audit function.

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[7] As of June 9, 2003, the Bank Secrecy Act required banks to implement a written Customer Identification Program appropriate for its size and type of business. A bank required to have an anti-money laundering compliance program under the regulations implementing 31 U.S.C. §5318(h), 12 U.S.C. §1818(s), or 12 U.S.C. §1786(q)(1) was required to incorporate a written Customer Identification Program into its anti-money laundering compliance program. 31 C.F.R. §103.121(b)(1).

An insufficient compliance environment contributed to Banco de Chile-Miami's failure to identify and properly monitor the accounts of a prominent Chilean politically exposed person and his associates. Examiners determined that this politically exposed person and his associates used certain accounts to hide (or disguise) the beneficial ownership of the funds. A review of the applicable account files and transaction records determined that management at Banco de Chile-Miami was aware, or should have been aware, that accounts were opened by a nominee and associate of a politically exposed person and ultimately owned and controlled by the prominent politically exposed person. In view of the nature of the accounts, transactions and activity at both Banco de Chile-New York and Banco de Chile-Miami should have clearly been subjected to enhanced due diligence and more rigorously reviewed and monitored by management and compliance staff. Furthermore, although the definition of politically exposed persons, as described in Banco de Chile – Miami's anti-money laundering program, was in line with regulatory guidance provided by the Federal Reserve, in practice the definition was too narrowly applied. As a result of these deficiencies, the politically exposed person's account activity went unreported until September 2004.

Due diligence documentation for large accounts was considered insufficient and even minimal documentation for correspondent accounts was not required by Banco de Chile-Miami's written compliance program. Policies and procedures did not include guidance requiring sufficient detail on customer profiles for large, potentially riskier accounts. Customers with multiple accounts were not required to have all of their account relationships identified and reviewed on an aggregate, risk-graded basis. With respect to Customer Identification Program requirements, Banco de Chile-Miami failed to provide notice of the requirements of the Customer Identification Program to its customers in order to fulfill the "notice" requirement under the rules and its written Customer Identification Program. The Customer Identification Program also failed to describe circumstances under which a suspicious activity report should be filed.

Suspicious activity monitoring practices at Banco de Chile-Miami were ineffective. As a result, the Branch was unable to adequately detect and report suspicious activity on a timely basis. Banco de Chile-Miami's written suspicious activity reporting policy was outdated, limited in detail and scope, and not commensurate with the risk to ensure compliance with the Bank Secrecy Act. Controls and procedures for establishing account profiles were inadequate. Documentation for cleared exceptions was inadequate. The Federal Reserve determined that the monitoring program needed to be expanded to review concentration accounts and third-party activity with regard to the correspondent relationship between Banco de Chile and Banco de Chile-Miami. The Branch's log of investigations did not effectively track open investigations. Aggregate wire transfer activity was not monitored over a sufficiently broad time period to identify potentially suspicious activity.

2. Audit and Testing

Banco de Chile-New York failed to conduct adequate independent testing for compliance with the Bank Secrecy Act and its implementing regulations. Further,

deficiencies cited by the Office of the Comptroller of the Currency highlighted Banco de Chile-New York's inadequate processes for independent testing of compliance with the Bank Secrecy Act and anti-money laundering requirements in the United States. In particular, the management of Banco de Chile failed to ensure that auditor training, as well as the scope and procedures of audits, were sufficient to adequately ensure that Banco de Chile-New York could manage the risk of money laundering and comply with the Bank Secrecy.

Banco de Chile-Miami failed to implement an adequate system for independent testing for compliance with the Bank Secrecy Act. The Federal Reserve found deficiencies in Banco de Chile-Miami's independent testing and auditing function in the anti-money laundering compliance area. The audit scope did not include pertinent sections of the USA PATRIOT Act. The scope of the audits did not adequately test new account reviews, compliance with the Customer Identification Program requirements, wire transfer and cash activity, account monitoring and reviews of existing accounts (particularly for high-risk accounts) for adequate due diligence. Furthermore, Banco de Chile's compliance officer was, in part, responsible for both the audit and compliance functions for both branches in the United States, which compromised the independence of the audit function.

3. Designation of Person(s)

Banco de Chile-Miami failed to designate a person, or persons, to ensure adequate compliance with the Bank Secrecy Act and its implementing regulations. The Federal Reserve described the Bank Secrecy Act staffing structure at Banco de Chile-Miami as ambiguous, insufficiently segregated from the rest of the bank, and generally inadequate. Until October 2004, only one person was responsible for compliance for both branches in the United States. Also, as previously noted, the Office of the Comptroller of the Currency issued a prohibition order and civil money penalty, in the amount of $200,000, against the former General Manager of the New York Branch on April 14, 2005, due, in part, to his failure to ensure compliance with the Bank Secrecy Act in the United States. In view of the scope and geographical reach of Banco de Chile's business-lines, Banco de Chile-New York and Banco de Chile-Miami failed to designate adequate staff to properly manage the risk of money laundering and ensure compliance with the Bank Secrecy Act.

C. Violations of the Requirement to Report Suspicious Transactions

The Financial Crimes Enforcement Network has determined that both Banco de Chile-New York and Banco de Chile-Miami violated the suspicious activity reporting provisions of the Bank Secrecy Act and regulations issued pursuant to that Act.[8] Under the Bank Secrecy Act, financial institutions are obligated to report transactions that the institution "knows, suspects, or has reason to suspect" are suspicious. The financial institution must report the transactions if the transactions involve or aggregate to at least $5,000, and the transactions are "conducted or attempted by, at, or through" the financial

[8] 31 U.S.C. § 5318(g) and 31 C.F.R. § 103.18.

institution. A transaction is "suspicious" if the transaction: (1) involves funds derived from illegal activities, or is conducted to disguise funds derived from illegal activities; (2) is designed to evade the reporting or recordkeeping requirements of the Bank Secrecy Act or regulations under the Bank Secrecy Act; or (3) has no business or apparent lawful purpose or is not the sort in which the customer would normally be expected to engage, and the financial institution knows of no reasonable explanation for the transaction after examining the available facts, including background and possible purpose of the transaction.[9]

Financial institutions must report suspicious transactions by filing suspicious activity reports.[10] In general, financial institutions must file a suspicious activity report no later than thirty (30) calendar days after detecting facts that may constitute a basis for filing a suspicious activity report. If no suspect is identified within thirty (30) days of the date of detection, a financial institution may delay the filing for an additional thirty (30) calendar days, in order to identify a suspect. However, in no event may the financial institution file a suspicious activity report more than sixty (60) calendar days after the date of detection.[11]

Due to failures in their anti-money laundering compliance programs, neither Banco de Chile-New York nor Banco de Chile-Miami identified, reviewed or evaluated numerous large dollar value transactions by, for or on behalf of, a prominent politically exposed person and a family member and associate of the prominent politically exposed person. As a result, in the aggregate, both Banco de Chile-New York and Banco de Chile-Miami failed to timely report suspicious activity involving millions of dollars.

IV. CIVIL MONEY PENALTY

Under the authority of the Bank Secrecy Act and the regulations issued pursuant to that Act,[12] the Financial Crimes Enforcement Network has determined that a civil money penalty is due for the violations of the Bank Secrecy Act and the regulations issued pursuant to that Act described in this Assessment.

Based on the seriousness of the violations at issue in this matter, and the financial resources available to Banco de Chile, the Financial Crimes Enforcement Network has determined that the appropriate penalty in this matter is $3,000,000.00.

V. CONSENT TO ASSESSMENT

To resolve this matter, and only for that purpose, Banco de Chile, without admitting or denying either the facts or determinations described in Sections III and IV

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[9] 31 C.F.R. § 103.18(a)(2)(i) through (iii).

[10] 31 C.F.R. § 103.18(b)(2).

[11] 31 C.F.R. § 103.18(b)(3).

[12] 31 U.S.C. § 5321 and 31 C.F.R. § 103.57.

above, except as to jurisdiction in Section II, which is admitted, consents to the assessment of a civil money penalty against it in the sum of $3,000,000.00. The assessment shall be concurrent with the assessment of a civil money penalty, in the amount of $3,000,000.00, by the Office of the Comptroller of the Currency, and shall be satisfied by one payment of $3,000,000.00 to the Department of the Treasury.

Banco de Chile agrees to pay the amount of $3,000,000.00 within five (5) business days of this ASSESSMENT. Such payment shall be:

a. Made by certified check, bank cashier's check, bank money order, or wire;

b. Made payable to the United States Department of the Treasury;

c. Hand-delivered or sent by overnight mail to the Financial Crimes Enforcement, Attention: Associate Director, Administration & Communications Division, 2070 Chain Bridge Road, Suite 200, Vienna, Virginia 22182; and

d. Submitted under a cover letter, which references the caption and file number in this matter.

Banco de Chile recognizes and states that it enters into the CONSENT freely and voluntarily and that no offers, promises, or inducements of any nature whatsoever have been made by the Financial Crimes Enforcement Network or any employee, agent, or representative of the Financial Crimes Enforcement Network, to induce Banco de Chile to enter into the CONSENT, except for those specified in the CONSENT.

Banco de Chile understands and agrees that the CONSENT embodies the entire agreement between Banco de Chile and the Financial Crimes Enforcement Network relating to this enforcement matter only, as described in Section III above. Banco de Chile further understands and agrees that there are no express or implied promises, representations, or agreements between Banco de Chile and the Financial Crimes Enforcement Network other than those expressly set forth or referred to in the CONSENT and that nothing in the CONSENT or in this ASSESSMENT is binding on any other agency or government, whether federal, state, or local.

VI. RELEASE

Banco de Chile understands that execution of the CONSENT, and compliance with the terms of this ASSESSMENT and the CONSENT, constitute a complete settlement of civil liability for the violations of the Bank Secrecy Act and regulations issued pursuant to that Act described in the CONSENT and this ASSESSMENT.

By: _____

William J. Fox, Director
Financial Crimes Enforcement Network
United States Department of the Treasury

Date: 12-OCT-2006