



Comptroller of the Currency
Administrator of National Banks and Federal Thrifts

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October 6, 2011

**Conditional Approval #1010
November 2011**

Brian D. Alprin
Duane Morris
505 9th Street, N.W., Suite 1000
Washington, D.C. 20004-2166

Re: Application by Banco do Estado do Rio Grande do Sul, S.A., Porto Alegre, Rio Grande do Sul, Brazil to establish a limited Federal branch in Miami, Florida

Control Number: 2010 IB 10 0001

Dear Mr. Alprin:

The Office of the Comptroller of the Currency (“OCC”) hereby grants preliminary conditional approval of the application by Banco do Estado do Rio Grande do Sul, S.A., Porto Alegre, Rio Grande do Sul, Brazil (“Banrisul” or “Applicant”), to establish a limited Federal Branch, with the title of “Banrisul, Miami Branch”, to be located at 1390 Brickell Avenue, Suite 210, Miami, Florida 33131 (hereinafter “Miami Branch”). This preliminary conditional approval is based on a thorough review of the application and its supporting documentation, and other information available to the OCC, including representations and commitments made in the application and by Applicant’s representatives during the application process.¹ This approval is also subject to the conditions set out herein.

Background

Banrisul is a banking company organized and existing under the laws of the Federative Republic of Brazil with its head office in Porto Alegre, Rio Grande do Sul, Brazil. The establishment of the Miami Branch is the first step in a multi-step process to transfer the New York Federal Branch (“NY Branch”) operations to Miami, Florida.² Following establishment of the Miami

¹ On October 6, 2011, 2011, Banrisul received approval from the Federal Reserve Board to establish the Miami Branch. The Board also made a determination that Banrisul is subject to comprehensive consolidated supervision. In addition, Banrisul has received approval from the Central Bank of Brazil to transfer its business and operations from New York to Miami.

² Public notice of the application to establish a limited Federal branch was published in the Miami Daily Business Review on March 12, 2010 and republished on August 1, 2011.

Branch, the Miami Branch will enter into a purchase and assumption agreement with Banrisul's NY Branch to transfer all the assets and liabilities of the NY Branch to the Miami Branch. Banrisul will also file a notice with the OCC to close the NY Branch pursuant to 12 U.S.C. § 1831r-1(a).³ The NY and Miami Branches will operate simultaneously for a brief period before the NY Branch will be closed.

Limited Federal Branch Establishment

Applicant applied to the OCC to establish a limited Federal branch in Florida. Section 5(a)(7) of the International Banking Act of 1978 ("IBA"), as amended by the Gramm-Leach-Bliley Act of 1999, permits a foreign bank to establish a Federal branch outside of its home state if "the establishment and operation of such branch or agency is permitted by the State in which the branch or agency is to be established" and "the branch receives only such deposits as would be permitted for a corporation organized under section 25A of the Federal Reserve Act [12 U.S.C.A. § 611 et seq.]." 12 U.S.C. § 3103(a)(7). Banrisul's home state is New York, and Florida is the host state.⁴

The proposed establishment does not raise any issues under Florida law. For purposes of the IBA, Florida law allows the establishment of branches and agencies.⁵ Moreover, a limited Federal branch under 12 C.F.R. § 28.11(s) may "receive only those deposits permissible for an Edge corporation to receive,"⁶ and the Miami Branch's deposit-taking activities will be limited to such deposits. In addition, the OCC has concluded that Florida agencies are equivalent to limited branches for purposes of the IBA because Florida agencies enjoy the same deposit-taking powers as do limited Federal branches.⁷ Accordingly, the proposed establishment satisfies the applicable requirements under the IBA and is legally permissible.

Conditions of Approval

This is only a preliminary conditional approval. Final approval will not be granted until all other pre-opening requirements have been met, and the OCC determines that the Miami Branch is

³ Banrisul will close the NY Branch in accordance with 12 C.F.R. § 28.23.

⁴ For purposes of section 3103, the home state of a foreign bank with operations in only one state is the state in which the foreign bank has a branch, agency, subsidiary commercial lending company, or subsidiary bank. 12 U.S.C. § 3103(c)(2). *See also* 12 C.F.R. § 211.22.

⁵ FLA. STAT. ANN § 663.064 (2011). Counsel has confirmed with the Florida Office of Financial Regulation that the establishment of the limited Federal branch in Miami does not raise any issues under Florida law.

⁶ *See* 12 C.F.R. § 211.6(a)(1) for definition of permissible Edge corporation deposits.

⁷ *See* FLA. STAT. ANN. §§ 663.01(5) & 663.061 (2011). *See also* OCC Interpretive Letter No. 857 (Dec. 4, 1998).

ready to commence operations. Until final approval is granted, the OCC has the right to alter, suspend, or revoke this preliminary conditional approval should the OCC deem any interim development to warrant such action.

This preliminary conditional approval is subject to the following conditions:

1. In addition to compliance with other applicable requirements under United States law, Banrisul and its Miami Branch shall make available to the OCC such information on the operations and activities of Banrisul, its Miami Branch, and any of Banrisul's affiliates that the OCC deems necessary to determine and enforce compliance by the Miami Branch with the IBA and other applicable federal laws. If the disclosure of any required information is prohibited by law or otherwise, Banrisul and its Miami Branch shall cooperate with the OCC, including seeking timely waivers for exemptions from any applicable confidentiality or secrecy restrictions or requirements, in order to enable Banrisul, its Miami Branch, and Banrisul's affiliates to make such information available to the OCC.
2. Banrisul and its Miami Branch consent to the jurisdiction of the federal courts of the United States and of all United States government agencies, departments and divisions for purposes of any and all claims made by, proceedings initiated by, or obligations to, the United States, the OCC and any other United States government agency, department or division, in any matter arising under the National Bank Act, the IBA, and other applicable federal laws.
3. During its first three (3) years of operation, the Miami Branch: (i) shall give the OCC's International Banking Supervision Office at least sixty (60) days prior written notice of its intent to significantly deviate or change from its business plan or operations and (ii) shall obtain the OCC's written determination of no objection before the Miami Branch either engages in any significant deviation or change from its business plan or operations. The OCC may impose additional conditions it deems appropriate in a written determination of no objection to the Miami Branch's notice.
4. Banrisul and its Miami Branch must comply with all understandings and commitments contained in any approval order or letter issued by the Federal Reserve Board in connection with the Miami Branch.

These conditions of approval are conditions imposed in writing by a Federal banking agency in connection with any action on any application, notice or other request within the meaning of 12 U.S.C. § 1818(b). As such, the conditions are enforceable under 12 U.S.C. § 1818(b).

Procedural Requirements

In connection with this preliminary conditional approval to establish the Miami Branch, final approval will not be granted until the Applicant has met the following procedural requirements and the OCC determines that the Miami Branch is ready to commence operations as a limited Federal branch.

- The Miami Branch must have adequate fidelity insurance coverage.
- The Miami Branch will maintain its accounts, books, and records as prescribed by 12 C.F.R. Part 28 and in such a manner as to facilitate the complete and accurate presentation of financial statements and other reports in form and content as required by the OCC.
- Management must ensure applicable policies and procedures are established and approved by the board of directors or parent foreign bank senior management before the Miami Branch commences business. *Please refer to the enclosed minimum policies and procedures for guidance.*
- Banrisul and its Miami Branch must have (i) filled all staff positions at the Miami Branch with qualified personnel and (ii) hired a qualified individual(s) to provide internal audits of the Miami Branch's activities to ensure that a safe and sound internal control system is maintained.
- Banrisul must initiate the notice process for closing the NY Branch prior to seeking final OCC approval for the opening of the Miami Branch.⁸

Also, enclosed are standard requirements that must be met, as applicable, before the Miami Branch will be allowed to commence business.

The Miami Branch must establish a Capital Equivalency Deposit which shall be maintained at an eligible depository bank located in Florida, as required by 12 U.S.C. § 3102(g) and 12 C.F.R. § 28.15, and pursuant to an agreement prescribed by the OCC.

The Miami Branch must open within eighteen (18) months of the date of this preliminary conditional approval; otherwise, the approval is withdrawn.

Please notify our office at least 45 days prior to the date the Miami Branch will open for business so that we may schedule a pre-opening examination and issue the license granting final approval for its establishment and operation.

⁸ The notice must be submitted in accordance with 12 U.S.C § 1831r-1(a).

The OCC poses no objection to Mr. Jorge Frank serving as the proposed General Manager of the Miami Branch as proposed in the application.⁹

You are reminded that for a period of two years after the Miami Branch is opened for business, the OCC must review and approve the appointment of any new executive officer *prior* to that person assuming such position.

Conclusion

For the reasons set forth above, including the commitments and representations made in the application and by representatives of Banrisul, and subject to the receipt by Banrisul of all applicable regulatory approvals, no objections and waivers, the OCC hereby grants preliminary conditional approval for the establishment of the limited Federal branch in Florida.

This approval and the activities and communications by OCC employees in connection with the filing do not constitute a contract, express or implied, or any other obligation binding upon the OCC, the United States, any agency or entity of the United States, or any officer or employee of the United States, and do not affect the ability of the OCC to exercise its supervisory, regulatory and examination authorities under applicable law and regulations. Our preliminary conditional approval is based on Banrisul's representations, submissions, and information available to the OCC as of this date. The OCC may modify, suspend or rescind this approval if a material change in the information on which the OCC relied occurs prior to the date of the transaction to which this decision pertains. The foregoing may not be waived or modified by any employee or agent of the OCC or the United States.

If you have questions regarding this letter, please contact Licensing Analyst Wai-Fan Chang at (212) 790-4055. Please reference the application control number in any correspondence.

Sincerely,

Steven Maggio

Steven Maggio
Director for District Licensing

Enclosures: Standard Requirements
Minimum Policies and Procedures

⁹ Mr. Frank is currently the General Manager at the NY Branch.