

Exhibit RWS-012

Expert Report of Mr. Brent C. Kaczmarek, CFA  
January 30, 2011

BEFORE THE  
INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

RENÉE ROSE LEVY DE LEVI

CLAIMANT

v.

REPUBLIC OF PERU

RESPONDENT

**EXPERT REPLY REPORT OF  
BRENT C. KACZMAREK, CFA**

NAVIGANT CONSULTING, INC.

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30 JANUARY 2012

## Table of Contents

<b>I.</b>	<b>Scope of Work and Qualifications .....</b>	<b>1</b>
<b>II.</b>	<b>Executive Summary .....</b>	<b>3</b>
<b>III.</b>	<b>Even Assuming Respondent Has Breached the BIT in Every Way Alleged by Claimant, Mr. Beaton’s Financial Model is Not an Economically Rational Measure of Claimant’s Loss .....</b>	<b>8</b>
<b>IV.</b>	<b>Even If Mr. Beaton’s Financial Model Could Properly Measure Claimant’s Loss, Mr. Beaton’s Approach Yields a Highly Speculative Valuation of BNM.....</b>	<b>10</b>
<b>V.</b>	<b>Mr. Beaton Grossly Misanalyses the Financial Situation of BNM in December 2000 ....</b>	<b>19</b>
	A. The Financial and Economic Crisis that Occurred in Peru in 1998 and its Effects on the Banking Sector.....	21
	B. Significant Weaknesses in BNM’s Banking Operations Were Identified by the SBS in 1999	32
	C. In spite of BNM’s Weaknesses, Peru Offered and BNM Accepted Significant Financial Aid from Peru to Assist the Bank in Remaining Solvent .....	39
	D. In Spite of the Significant Aid Peru Granted to BNM in 1999, the January 2000 SBS Limited Review Identified Serious Risk Management Issues at BNM .....	43
	E. In August 2000, When the SBS Initiated its Annual Review of BNM, the Bank Had Failed to Cure its Weaknesses and its Financial Situation Had Deteriorated Significantly .....	48
	F. BNM’s Risky Dependence on Deposits with State Owned Enterprises, the Political Crisis, and its Weak Financial Situation Led to a Bank Run .....	55
	G. After BNM Was Intervened by the SBS, the True, Far Worse Financial Condition of BNM Was Revealed.....	58
	H. BNM Was Not Only Illiquid in Late 2000, It Also Lacked Adequate Capital to be Considered a Solvent Bank .....	64
	I. Rather than Initiate Projections from BNM’s Actual Financial Position in November 2000, Mr. Beaton Initiates Projections from the False Financial Position BNM Had Reported to SBS .....	68
<b>VI.</b>	<b>Given the Flaws in Mr. Beaton’s Financial Model, His Speculative Projection Methodology, and BNM’s True Financial Situation in November 2000, the Model Does Not Yield a Rational Economic Calculation of Claimant’s Loss .....</b>	<b>69</b>
<b>VII.</b>	<b>The Inclusion of Goodwill as a Separate Element of Damages Constitutes Double Counting .....</b>	<b>70</b>

## **Listing of Tables**

Table 1 – Banks by Number of Branches as of 31 December 2000 .....	15
Table 2 – Banks by Deposits as a Percentage of Total Assets as of November 2000 .....	16
Table 3 – Comparison of Bank Growth in Total Assets .....	17
Table 4 – Price to Book Multiples Used by Mr. Beaton.....	18
Table 5 – The Financial System in Peru 1997 to 2001 .....	30
Table 6 – SBS Loan Provision Deficiencies from 1997, 1998 and 1999 Inspections .....	35
Table 7 – Calculation of BNM Capital Adequacy Ratio – November 1999 .....	43
Table 8 – SBS Loan Portfolio Review.....	49
Table 9 – SBS Sampled Loan Portfolio Reclassification .....	50
Table 10 – Loan Portfolio Reclassification .....	52
Table 11 – Funding Structure of Fondo Inversiones Multirenta Inmobiliaria.....	54
Table 12 – BNM Commercial Loan Portfolio as of 30 June 2000 and 31 December 2000 .....	59
Table 13 – BNM’s Net Loss for 2000 .....	64
Table 14 – Calculation of BNM Capital Adequacy Ratio – September 2000 .....	66
Table 15 – Calculation of BNM Capital Adequacy Ratio – June 2000.....	67
Table 16 – Mr. Beaton’s Calculation of BNM’s Brand Value .....	71

## **Listing of Figures**

Figure 1 - Mr. Beaton Valuation Scenarios .....	12
Figure 2 – Peru GDP from 1990 to 2003.....	21
Figure 3 – Capital Inflows to Peru from 1990 to 2003 .....	23
Figure 4 – Financial Dollarization in Peru from 1990 to 2003.....	24
Figure 5 – Devaluation of Selected Latin American Currencies from 1998 to 2001 .....	26
Figure 6 – Deposit Balances at BNM in 1999 and 2000 .....	56

## **I. Scope of Work and Qualifications**

1. Navigant Consulting, Inc. (“NCI”) has been asked by the Republic of Peru (“Respondent” or “Peru”) through its counsel Sidley Austin LLP (“Counsel”) to prepare this expert report in connection with the arbitration proceedings commenced by Mrs. Renée Rose Levy de Levi (“Claimant”). We understand that Claimant alleges that Peru has acted inconsistently with its obligations under the Agreement between the Government of the Republic of Peru and the Federal Republic of France for Promoting and Protecting Reciprocal Investments (the “BIT”) with regard to an alleged, indirect investment Claimant made in the share capital of Banco Nuevo Mundo (“BNM”) on 12 July 2005. We refer to the acts allegedly in breach of the BIT as the alleged “Measures.”
2. We have been asked to prepare this expert report to assist the tribunal with financial matters in this arbitration that may be relevant to the tribunal’s liability and possible damages determinations. Specifically, we have been asked by Respondent to offer our independent, expert opinions on three different matters.
3. First, we have been asked to review the expert report and financial model prepared by Mr. Neal Beaton from Grant Thornton and to comment on the suitability of the model in measuring Claimant’s alleged loss with respect to her indirect holding of BNM shares.
4. Second, we have been asked to comment on the suitability of Mr. Beaton’s financial model in measuring the value of BNM shares as of 31 December 2010 or September 2013.
5. Third, we were asked to examine the financial condition of BNM from 1997 through 2000 when BNM was intervened by the Superintendencia de Banca y Seguros (“SBS”), the banking regulator in Peru. In particular, we were asked to review BNM’s financial statements, SBS inspection reports of BNM prepared in 1999 and 2000, and several other financial documents and to explain BNM’s financial development and situation at the time it was intervened.
6. We understand that legal claims have been made by Claimant regarding alleged breaches of the BIT. Nothing in the conclusions or opinions stated herein is intended to address those legal arguments. This report does not contain any opinions on matters of law that would require legal expertise.

7. I, Brent C. Kaczmarek, am a Managing Director in the Washington, D.C. office of Navigant. I lead Navigant's International Arbitration practice and have served (or am serving) as a financial, valuation, and damages expert in approximately 70 international arbitrations, including more than 50 investor-state arbitrations in which I have been appointed by both investors and states in a balanced proportion. In 1998, I received the designation of Chartered Financial Analyst from the Association for Investment Management and Research (now CFA Institute). This globally recognized designation is held by professionals demonstrating competence in the investment valuation and decision-making process. My current curriculum vita is provided as Appendix 1 to this report.

8. Over the past 13 years, I have been involved in and have served as an expert in international arbitrations involving bank solvency, bank restructuring, and bank valuation issues. I have written expert opinions addressing the manner in which banks were restructured in Eastern Europe following the collapse of the Soviet Union. In particular, I have analyzed the bank restructuring programs implemented in the Czech Republic, Slovakia, and to a lesser degree Hungary and Poland. I have also written expert opinions dealing with bank failures and restructurings that occurred in the Czech Republic and Slovakia following the Russian crisis in early 1998. Finally, I have written expert opinions concerning the 2001 Argentine sovereign debt crisis, its effects on the banking sector, and the program adopted by Argentina to recapitalize the banking sector. Given this experience, I am knowledgeable about prudential banking rules, such as those set forth in the Basel Accords, and have routinely made calculations consistent with the prudential rules to assess bank solvency.

9. Some of the documents we have reviewed in this matter were originally prepared in Spanish. Although I have served as an expert witness in many arbitrations involving companies and countries in Latin America, I do not speak or write in Spanish. Accordingly, I have relied upon translations of these documents or translation services provided by Counsel or members of my team that are fluent in Spanish. The list of documents we relied upon in preparing this report is provided as Appendix 2.

10. If additional documents or facts come to our attention which might have a bearing on the quantum of any claim, we reserve the right to modify our independent calculations.

## **II. Executive Summary**

11. Our first instruction was to review the expert report and financial model prepared by Mr. Neal Beaton from Grant Thornton and to comment on the suitability of the model in measuring Claimant's alleged loss with respect to her indirect holding of BNM shares. Having performed the review, we summarize our comments as follows.

12. It is our opinion that the financial model developed by Mr. Beaton does not yield an economically rational calculation of Claimant's loss assuming Peru has breached the BIT as alleged. Mr. Beaton's model creates a counterfactual or "but-for" projection of BNM's financial performance beginning in December 2000, approximately 4.5 years before Claimant allegedly acquired an indirect interest in the shares of BNM. As a consequence of this significant flaw, Mr. Beaton's financial model inherently captures the losses other investors may have suffered who were investors in shares of BNM until July 2005 when Claimant allegedly acquired BNM shares. The flaw also creates a contradiction in the model between BNM's actual financial situation when Claimant acquired the shares (BNM was insolvent and the shares were worthless) and BNM's but-for financial situation. Had BNM's but-for situation existed when Claimant actually acquired BNM shares, then undoubtedly the terms of her acquisition would have been affected. Given these flaws, the model is not suitable for a calculation of Claimant's losses assuming Peru has breached the BIT as alleged by Claimant.

13. Our second instruction was to comment on the suitability of Mr. Beaton's financial model in measuring the value of the BNM shares as of 31 December 2010 or September 2013. Notwithstanding our opinion that the model fails to provide a rational economic calculation of Claimant's loss, we have six general comments on the suitability of the model in valuing BNM's share capital as of 31 December 2010 and September 2013.

14. First, the financial model is an ex-post model in that it purports to quantify the position the bank would have been in today and its value but for the alleged acts in violation of the BIT, rather than an ex-ante model which would value the bank immediately before the acts in question occurred. The main difference between the two models is that an ex-post model uses a current valuation date and incorporates all known, post-breach information between the date of breach and the current date in quantifying damages. From an economic perspective, the decision to employ an ex-ante or ex-post model will usually turn on the facts and specifics of each case. In

this case, an ex-post model is entirely speculative in our view. Over the past 11 years, we have learned nothing about BNM's development because it stopped operating 11 years ago. Thus, we have no known information to incorporate into the model that is specific to BNM. Mr. Beaton has attempted to rely upon information in the banking sector generally. This approach is overly simplistic as it does not consider the specific situations of BNM and other banks operating in the sector. When a dearth of ex-post information is present, the preferable approach is an ex-ante approach.

15. Second, Mr. Beaton's projection of BNM's development exemplifies the speculative nature of his ex-post approach. He assigns random probabilities of various events occurring between 2001 and 2010 such as one or two initial public offerings of BNM stock, BNM raising additional capital through the issuance of subordinated bonds, and BNM acquiring two Peruvian banks. This approach is not based upon known information that occurred between 2001 and 2010. It is based upon hoped-for plans developed by BNM management in 1999/2000. It is not known whether any of these events would have occurred and Mr. Beaton's assignment of random probabilities to each event demonstrates that he has little if any confidence in the probability of these events occurring. Indeed, the range of potential outcomes from Mr. Beaton's model proves the model is highly speculative.

16. Third, Mr. Beaton's model neither accounts for Claimant's initial ownership interest in BNM shares (the model wrongly assumes Claimant held 100 percent of the BNM shares) nor the dilution of her ownership interest that would have occurred after the two hypothetical initial public offerings and the hypothetical acquisition of two banks.

17. Fourth, the underlying growth that Mr. Beaton projects in BNM's deposits and assets would make BNM the fastest growing bank in Peru during the last 11 years. There is no basis for this inherent assumption. Moreover, this growth is projected without any consideration of BNM's very small branch network in 2000. If such fantastic growth were to occur, it must be accompanied by significant investments in the expansion of the branch network. However, no meaningful branch network investments are modeled into Mr. Beaton's projections.

18. Fifth, in valuing the hypothetical BNM as of 31 December 2010, Mr. Beaton applies price-to-book valuation multiples derived from other Peruvian banks that he deems to be comparable to the hypothetical BNM. However, he does not perform any actual comparability analysis. The



valuation as of September 2013 is also the product of a crude and unreliable forecasting assumption that BNM's value will grow at a rate equivalent to its cost of capital.

19. Sixth, we note that Mr. Beaton quantifies the goodwill value of BNM as the difference between its market value and book value. Claimant claims both the market value and the goodwill value. Since goodwill value is a portion of market value, the claim for goodwill value represents double counting.

20. Our third instruction was to examine the financial condition of BNM from 1997 through 2000. In particular, we were asked to review BNM's financial statements, SBS inspection reports of BNM prepared in 1999 and 2000, and several other financial documents and to explain BNM's financial development and situation at the time it was intervened. This instruction reflected the fact that Mr. Beaton constructed his entire model on the assumption that BNM was healthy as of November 2000. Our review led to the following five overall conclusions (more detailed conclusions are contained in Section V of this report).

21. First, our evaluation of BNM's historical financial statements and the annual SBS inspection reports reveals that BNM had a history of: 1) very weak credit risk management, 2) trouble complying with various SBS regulations, 3) accounting practices that were designed to avoid the recognition of losses, and 4) excessive risk taking which violated prudential banking rules such as high concentrations of deposits and credits extended to a single economic conglomerate that exceeded 10 percent of capital. These issues were not cured over time. Instead, they not only persisted, but grew in scale.

22. Second, BNM enjoyed several forms of government support that were provided to the entire banking system. Overall, Peru provided the banking system with significant liquidity, defended the value of the Sol, and granted banks time to recognize loan loss provisions by easing provisioning requirements and establishing a temporary loan transfer program that enabled banks to defer the recognition of provisions.

23. Third, in spite of BNM's significant weaknesses and excessive risk taking, BNM was given specific help by the Peruvian authorities to assist it in meeting required solvency ratios. Specifically, BNM was allowed to use accounting maneuvers as a means to increase capital rather than being required to raise new cash as capital. For example, BNM was allowed to

recognize S/. 45.7 million in goodwill associated with its merger with Banco del País and to count the corresponding goodwill in equity as capital in its prudential returns.<sup>1</sup> The recognition of goodwill in equity was an exception to SBS guidelines and contrary to international banking standards. The goodwill was also recognized despite clear evidence that the basis for its existence was highly questionable. The SBS also allowed BNM to revalue its head office building by S/. 42.8 million and to count this revalued amount as capital in its prudential returns. This accounting treatment was also granted by the SBS on an exceptional basis.<sup>2</sup> Since the capital associated with the revalued head office building could only be accessed in an event of liquidation, this capital was not accessible by the bank and could not be utilized to improve the bank's operations. Finally, as part of the loan transfer program, BNM was allowed to transfer S/. 117.3 million in loans to avoid the recognition of additional losses in 1999.<sup>3</sup>

24. Fourth, despite the assistance described in the two previous paragraphs, BNM did not cure its weaknesses and its financial situation deteriorated dramatically in 2000. This deterioration was partly exacerbated by BNM's late discovery that Banco del País had similar problems to BNM. Thus, the merger of the two banks only created a larger, weak bank. The 2000 annual inspection of BNM also revealed that BNM's loan portfolio had continued to decline and that BNM had continued to avoid the recognition of losses in other areas of the bank's asset portfolio. Given that the inspection relied upon a sample of evaluated loans and transactions, it was patently evident that the problems at BNM were far greater than those quantified within the sample.

25. Fifth, a private run on deposits triggered a liquidity crisis for BNM. Despite the fact that the Central Reserve Bank of Peru ("BCRP") was operating in its capacity as a lender of last resort, BNM could not survive the bank run and closed its doors. After BNM was intervened, a more comprehensive review of BNM's accounting records and financial statements was performed. As expected, the review led to the recognition of significant losses exceeding those identified by the SBS in its sample review. Losses exceeding S/. 100 million had to be recognized because: 1)

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<sup>1</sup> PricewaterhouseCoopers' Audit of BNM's December 31, 1999 Financial Statements, February 4, 2000, Note 8a, **(R-155)**

<sup>2</sup> PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Note 7, **(R-080)**

<sup>3</sup> PricewaterhouseCoopers' Audit of BNM's December 31, 1999 Financial Statements, February 4, 2000, Note 6, **(R-155)**

BNM's financial performance did not support the basis of the existence of goodwill associated with the Banco del País transaction, and 2) BNM had to record provisions on loans transferred under the program with COFIDE due to BNM's non-compliance with the terms of the loan transfer program.<sup>4</sup> The other losses BNM was required to recognize relate to: 1) a more comprehensive review of the loan portfolio which identified additional loan misclassifications, 2) the recognition of losses that BNM had to tried to avoid with accounting entries or restructuring activities, and 3) a worsening of BNM's loan portfolio after 30 June 2000 (the date upon which the SBS evaluated BNM's loan portfolio).

26. Due to issues uncovered in the 2000 SBS annual inspection and the subsequent review of BNM's accounting records and financial statements by the SBS and PricewaterhouseCoopers ("PwC"), it is clear that BNM's financial reporting throughout 2000 materially misstated the true financial position of the bank. According to our analysis, if BNM had followed SBS guidelines by recording the losses it was required to record throughout 2000, BNM was likely insolvent as of 30 June 2000 or even earlier.<sup>5</sup> Without a doubt, BNM was insolvent as of 31 December 2000 as the bank not only did not meet the minimum capital adequacy ratio of 10 percent, the bank had negative capital.<sup>6</sup>

27. Given BNM's true financial condition as of 30 November 2000, Mr. Beaton's financial model cannot be relied upon as a tool to quantify Claimant's alleged losses because his model uses the 30 November 2000 financial statements, as reported by BNM, without regard to any of the errors and omissions in those statements that were identified by the SBS and PwC, as the base period for his projections. In other words, Mr. Beaton's financial model ignores BNM's real financial situation as of 30 November 2000. Instead, he uses false financial statements to project growth in BNM's operations. In reality, BNM was deeply insolvent and incapable of achieving Mr. Beaton's projections. Instead, BNM would have to be wound up. Thus, the whole model is a significant departure from reality.

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<sup>4</sup> General Law of the Financial and Insurance Systems, Organic Law of the Superintendency of Banking and Insurance, Law No. 26702, December 6, 1996, Article 199, **(R-021)**. The loss associated with the goodwill was S./ 43,699 thousand and S./ 64,994 thousand for the recognition for the provisions on loans transferred under the program with COFIDE.

<sup>5</sup> General Law of the Financial and Insurance Systems, Organic Law of the Superintendency of Banking and Insurance, Law No. 26702, December 6, 1996, Article 199, **(R-021)**; See Section V.H

<sup>6</sup> General Law of the Financial and Insurance Systems, Organic Law of the Superintendency of Banking and Insurance, Law No. 26702, December 6, 1996, Article 199, **(R-021)**; See Section V.H

### **III. Even Assuming Respondent Has Breached the BIT in Every Way Alleged by Claimant, Mr. Beaton's Financial Model is Not an Economically Rational Measure of Claimant's Loss**

28. Claimant claims that Peru has acted inconsistently with its obligations under the BIT with respect to Claimant's indirect investment in the share capital of BNM. Claimant allegedly acquired the share capital of BNM on 12 July 2005 when Claimant's father, David Levy Pessa, endorsed his shares in Nuevo Mundo Holding ("NMH") to Claimant.<sup>7</sup> NMH held 99.9 percent of the share capital of BNM.<sup>8</sup> BNM closed its doors and was intervened by the SBS in December 2000 when the bank's liquidity was depleted to the point that it could not cover its obligations.<sup>9</sup> Ultimately, the SBS liquidated BNM.<sup>10</sup> Claimant claims BNM was financially solvent and that the bank was wrongfully liquidated.<sup>11</sup>

29. Although Mr. Beaton appears to have served as a damages expert in a number of different proceedings, Claimant apparently did not ask Mr. Beaton to quantify her losses. Instead, Claimant has asked Mr. Beaton to simply value BNM as of 31 December 2010 and September 2013.

"Grant Thornton LLP was engaged to perform a valuation of the capital of the Ex – BANCO NUEVO MUNDO, hereinafter "the Bank", in relation to the claim of its shareholder Renée Levy against the Peruvian Government."<sup>12</sup>

30. Claimant then claims the value of BNM in September 2013 as the measure of her loss.<sup>13</sup> Mr. Beaton's financial model, however, is not a logical economic model upon which Claimant can derive a calculation of her losses for three reasons.

31. First, Mr. Beaton's financial model creates a counterfactual or "but for" scenario of the development for BNM that begins in December 2000, approximately 4.5 years before Claimant allegedly acquired shares of BNM.<sup>14</sup> Since Claimant could neither benefit from an increase in

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<sup>7</sup> Claimant's Memorial, 25 August 2011, para. 115

<sup>8</sup> Claimant's Memorial, 25 August 2011, para. 114 and Footnote 30

<sup>9</sup> Respondent's Memorial on Jurisdiction, 25 August 2011, para.68

<sup>10</sup> Respondent's Memorial on Jurisdiction, 25 August 2011, para.68

<sup>11</sup> Respondent's Memorial on Jurisdiction, 25 August 2011, para. 202

<sup>12</sup> Grant Thornton, BNM Valuation, 23 August 2011, p. 2

<sup>13</sup> Grant Thornton, BNM Valuation, p. 8 and Table 18

<sup>14</sup> Grant Thornton, BNM Valuation, Tables 2-4

the value of the BNM shares nor suffer a loss from a decrease in the BNM shares between December 2000 and July 2005, it does not make economic sense to initiate a “but for” scenario before Claimant acquired the BNM shares. In essence, by initiating a “but for” scenario before Claimant acquired the BNM shares, Mr. Beaton is essentially incorporating the losses that former owners of the BNM shares, rather than Claimant, suffered into his model.

32. Additionally, by initiating the “but for” scenario before Claimant acquired the BNM shares, Mr. Beaton creates a contradictory series of events. Claimant acquired the BNM shares in the actual (real) world, not the counterfactual or “but for” world. By initiating a “but for” scenario before Claimant acquired the BNM shares, Mr. Beaton is essentially creating conditions that did not exist at the time Claimant acquired the BNM shares. For example, if shares in a company decreased from US\$ 50 per share to US\$ 10 per share from December 2000 until July 2005, and an investor buys shares in that company at US\$10 per share, it is contradictory to model a “but for” world beginning in December 2000 which indicates that the shares would have been worth US\$ 75 per share in July 2005. Mr. Beaton’s financial model creates this contradiction, however.

33. Second, the BNM shares had no value when Claimant acquired them.<sup>15</sup> As such, Claimant had nothing to lose when she acquired the BNM shares. While it is possible that Claimant could hypothetically claim that the value of the shares of BNM would have increased after July 2005 but for alleged breaches of the BIT by Peru after that same date, that is not Claimant’s case. Claimant does not allege that Peru committed an act after July 2005 that prevented the shares of BNM from increasing in value. All of the acts alleged by Claimant occurred years before Claimant acquired the BNM shares.<sup>16</sup> As a consequence, the financial model constructed by Mr. Beaton does not yield an economically rational calculation of Claimant’s loss.

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<sup>15</sup> Respondent’s Memorial on Jurisdiction, 25 August 2011, paras. 3, 118, 120, 139, 145

<sup>16</sup> Respondent’s Memorial on Jurisdiction, 25 August 2011, para. 6

#### **IV. Even If Mr. Beaton's Financial Model Could Properly Measure Claimant's Loss, Mr. Beaton's Approach Yields a Highly Speculative Valuation of BNM**

34. Even if Mr. Beaton's financial model could yield an economically rational calculation of Claimant's loss, Mr. Beaton's approach to quantifying Claimant's alleged loss is highly speculative and significantly flawed.

35. Mr. Beaton has attempted to implement an ex-post cash flow analysis and valuation of the share capital of BNM in order to calculate Claimant's alleged loss. An ex-post cash flow analysis attempts to use hindsight to calculate how BNM would have performed (e.g., a quantification of the profits the bank would have otherwise generated) from the date of the alleged wrongdoing to today assuming the wrongdoing had not taken place. Thus, the valuation date in an ex-post cash flow analysis is today rather than the date of alleged wrongdoing. The ex-post cash flow analysis differs from an ex-ante cash flow analysis in three respects.

36. First, an ex-ante cash flow analysis uses the date immediately before the alleged wrongdoing as the valuation date.

37. Second, an ex-ante cash flow analysis does not rely on hindsight. Instead, an ex-ante cash flow analysis attempts to forecast future cash flows using only what was known, or what was reasonably expected based on information available at that time, by persons in the market at or immediately before the date of the alleged wrongdoing.

38. Third, in an ex-ante cash flow analysis, the cash flows between the date of the alleged wrongdoing and today are discounted at the appropriate cost of capital back to the date immediately before the alleged wrongdoing. In an ex-post cash flow analysis, these cash flows are not discounted. Rather, the cash flows are brought forward (i.e., increased) by a rate of interest to today. In essence, an ex-post cash flow analysis assumes that the cash flows between the date of alleged wrongdoing and today are quantified with greater certainty such that they do not need to be discounted.

39. We understand that there may be legal constraints on whether an ex-ante or ex-post analysis is employed. We are advised that Respondent takes the position that an ex-ante approach is required under the BIT. Separately from such legal constraints, there are also economic considerations which, in this case, favor an ex-ante approach. Whether one implements an ex-

ante or ex-post cash flow analysis to calculate a claimant's loss depends upon the specific facts and circumstances in each case.

“The time lag between the date of the unlawful act and the date of restitution will always foster debate as to the merits of using *ex ante* and *ex post* analyses in calculating damages. No single approach will be appropriate for all situations; the decision to apply any particular approach will depend on case specifics.”<sup>17</sup>

40. From an economic perspective, a decision to employ an ex-ante or ex-post cash flow analysis should turn on the level of information and data that is available to more reliably quantify the profits or cash flows that would have been generated between the date of alleged wrongdoing and today. In some cases, the information is readily available. For example, if a claimant was an investor in 20-year corporate bonds paying an interest rate of 5 percent per annum, and those bonds were expropriated 5 years ago, all of the information about the cash flows the bonds would have produced between the date of expropriation and today is known with certainty. Hence, an ex-post cash flow analysis would be appropriate in that hypothetical case.

41. In many cases, however, hindsight will not provide much if any aid to support a more certain calculation of cash flows between the date of alleged wrongdoing and today. In those cases, an ex-ante approach should be adopted.

42. The manner in which Mr. Beaton has implemented the ex-post cash flow approach reveals that the ex-post approach in this case is entirely speculative, and should not be employed. It introduces and exacerbates uncertainty rather than adding more certainty to the cash flow calculations. This is illustrated by a simple summary of the first steps of Mr. Beaton's methodology. In order to implement the ex-post cash flow approach, Mr. Beaton develops twelve different possible scenarios under which BNM might have operated absent the intervention.<sup>18</sup> He then assigns subjective probabilities to each scenario to estimate the possible financial situation of BNM at the end of 2010. As shown in Figure 1 below, the scenarios

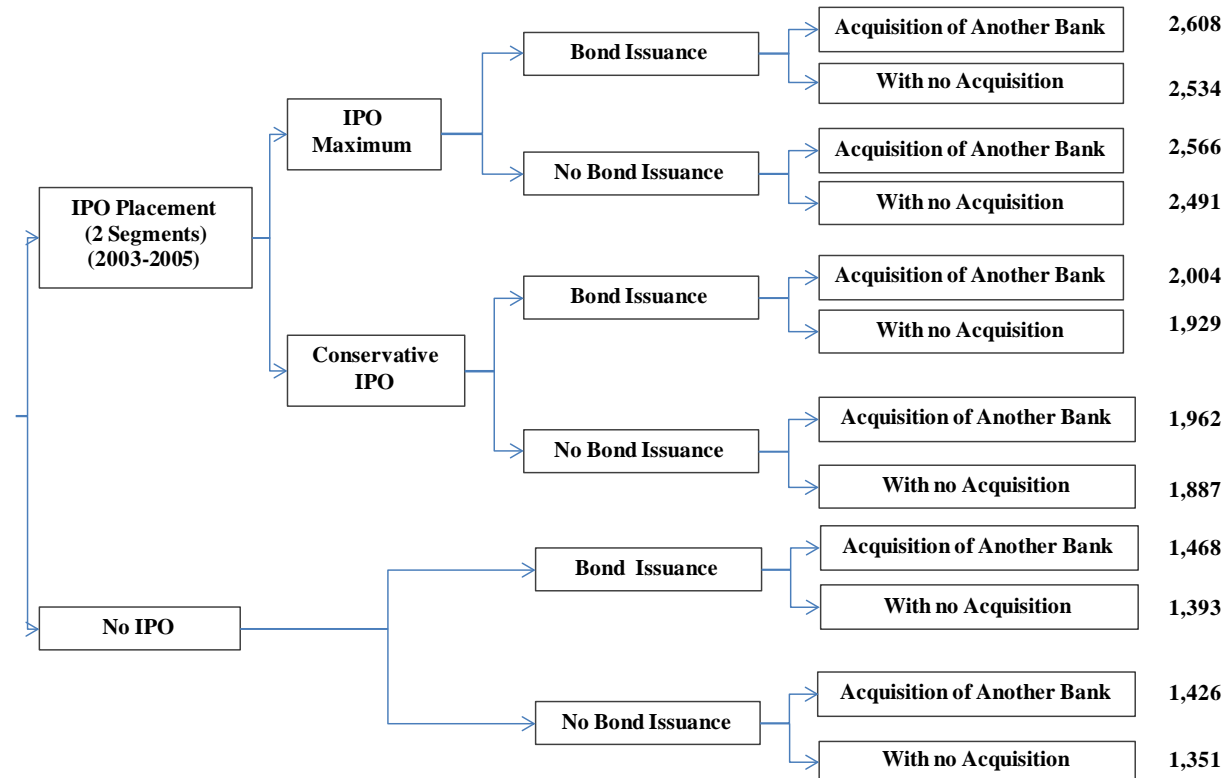
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<sup>17</sup> Frank, Hughes, Wagner, & Weil, LITIGATION SERVICES HANDBOOK: THE ROLE OF THE FINANCIAL EXPERT, Fourth Edition, Chapter 8, p. 22, (R-222)

<sup>18</sup> Grant Thornton, BNM Valuation, 23 August 2011, p. 50

developed by Mr. Beaton forecast a range of net book values for BNM from as low as S/. 1,351 million to as much as S/. 2,608 million, a variation of nearly 100 percent.

**Figure 1 - Mr. Beaton Valuation Scenarios<sup>19</sup>**



43. This wide range in potential book values is a clear indication that “hindsight” does not help in quantifying the cash flows that BNM might have generated absent the alleged wrongdoing. In fact, the wide range of potential book values is an indication that hindsight is of no value. Indeed, Mr. Beaton acknowledges that the use of the discounted cash flow method should not be used to value the share capital of BNM because it has not been operating for the past 11 years.

“According to our experience, in the case of financial enterprises, the Dividend Discount Model is used for operating companies, which is not the case of Banco Nuevo Mundo, since it was intervened by the Superintendence of Banking and Insurance on

<sup>19</sup> Grant Thornton, BNM Valuation, 23 August 2011, Tables 11 and 12



December 2000, therefore the Dividend Discount Model or profits distributions do not apply.”<sup>20</sup>

44. Nevertheless, Mr. Beaton contradicts his own view by implementing a “non-discounted” cash flow analysis to value BNM as of 2013. If a discounted cash flow analysis as of December 2000 cannot be reliably implemented to value the share capital of BNM, then logically a non-discounted ex-post cash flow analysis to establish the ex-post financial position cannot be reliably implemented to value BNM in 2013 either.

45. Mr. Beaton’s cash flow analysis also reveals five additional flaws in quantifying Claimant’s alleged loss under a cash flow model.

46. First, Mr. Beaton’s valuation of BNM’s share capital is not adjusted to correspond to the percentage of shares that Claimant indirectly acquired. According to Claimant’s own statement of facts, she only acquired 15.86 percent of BNM’s share capital in July 2005.<sup>21</sup> As such, Claimant cannot logically claim 100 percent of the hypothetical value of BNM’s share capital. However, Mr. Beaton does not adjust his valuation to correspond to the percentage of BNM’s share capital that Claimant acquired.

47. Second, Mr. Beaton’s multipath development of BNM includes several scenarios that contemplate either one or two initial public offerings (“IPOs”) of BNM stock.<sup>22</sup> It is entirely speculative in our view to assume that BNM would have successfully executed an IPO, let alone two IPOs. Modeling each hypothetical IPO, which is an issuance of new shares of stock at a market price, requires knowledge of the valuation of BNM at the moment of the IPO. Moreover, the issuance of new share capital through an IPO would have further diluted Claimant’s ownership interest in BNM. As such, Claimant cannot logically claim even 15.86 percent of the value of BNM’s share capital if the valuation incorporates an assumption of one or two IPOs. Neither Mr. Beaton’s valuation model nor Claimant’s damages claim accounts for the dilution that would have occurred with the issuance of one or two IPOs.

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<sup>20</sup> Grant Thornton, BNM Valuation, 23 August 2011, para. 72

<sup>21</sup> David Levy Peso endorsed to Claimant his shares for 33.3 percent of Holding XXI, which owned 52 percent of NMB Limited, which owned 91.4% of NMH, which in turn owned 99 percent of Banco Nuevo Mundo. Therefore, Claimant indirectly owns 15.86 percent of BNM, calculated as 33.4% x 52% x 91.4% x 99.9%. Claimant’s Memorial, 25 August 2011, paras. 61, 111, 1151 114, Footnote 30

<sup>22</sup> Grant Thornton, BNM Valuation, 23 August 2011, Tables 8-9, and 11

48. Third, Mr. Beaton's analysis includes two hypothetical subordinated bond issuances by BNM. The first issuance is assumed to occur in 2002 for S/. 50 million and the second issuance is assumed to occur in 2007 for S/. 200 million.<sup>23</sup> Like the assumptions regarding the two IPOs, the subordinated bond assumptions are also speculative. Moreover, the terms under which BNM might have issued bonds are speculative as well.

49. Fourth, Mr. Beaton's ex-post cash flow analysis assumes that BNM would have not only acquired Banco Financiero in 2000, but also in 2008 would have acquired an imaginary bank in Peru with a net asset value of S/. 58 million. He arrives at a net asset value of S/. 58 million by averaging the net asset value of five different Peruvian banks in July 2008 – Banco de Trabajo, Financiera Edyficar, CRAC Caja Sur, CRAC Nor Peru, and CREAR Tacna.<sup>24</sup> Mr. Beaton does not explain how BNM would have acquired a hypothetical bank that is the average of five banks, nor does he explain the financial terms under which the transaction would take place.<sup>25</sup>

50. Fifth, underneath the four assumptions to raise capital and the two hypothetical bank acquisitions assumption, Mr. Beaton assumes that BNM would have otherwise grown at a rate 20 percent greater than the overall Peruvian banking sector growth rate.<sup>26</sup> In other words, Mr. Beaton projects that BNM would have, at a minimum, grown at an average rate 20 percent greater than the overall Peruvian banking sector, and then he even adds the other capital raising scenarios (IPOs) and bank acquisitions on top of this growth.<sup>27</sup> Thus, he projects that BNM would have been the fastest growing bank in Peru. Yet, Mr. Beaton provides absolutely no basis for his growth rate assumptions.

51. Mr. Beaton does not provide any basis for his underlying assumption that BNM could have developed at the average growth rate in the sector let alone one of the fastest growth rates in the sector. In contrast, even a basic review of BNM's banking operation reveals that it would have had limited growth prospects in comparison to other banks that continued operating in Peru. For

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<sup>23</sup> Grant Thornton, BNM Valuation, 23 August 2011, Table 5

<sup>24</sup> Grant Thornton, BNM Valuation, 23 August 2011, Table 10

<sup>25</sup> For example, we do not know how the acquisition would have taken place. If BNM would have used cash or shares to buy the imaginary bank, then claimant's interest would have been further diluted.

<sup>26</sup> See Grant Thornton, BNM Valuation, 23 August 2011, Tables 2-4 and Tab "Crecimiento Financiero" of Grant Thornton's Excel model.

<sup>27</sup> Grant Thornton, BNM Valuation, 23 August 2011, Tables 2-4, Tab "Crecimiento Financiero" of Grant Thornton's Excel model, and Annex 2

example, BNM had significantly fewer branches than other Peruvian banks. As Table 1 below shows, the top four banks in Peru had significantly larger branch networks. The top four banks, thus, had a competitive advantage in growing deposits and, correspondingly, in growing their assets.

**Table 1 – Banks by Number of Branches as of 31 December 2000<sup>28</sup>**

<b>Bank</b>	<b># of Branches</b>	<b>% of all Banks</b>
De Crédito	200	24%
Continental	173	20%
Wiese Sudameris	118	14%
Interbank	83	10%
Del Trabajo	53	6%
Latino	47	6%
Santander Central Hispano	27	3%
Mibanco	25	3%
<b>Nuevo Mundo</b>	<b>23</b>	<b>3%</b>
Sudamericano	23	3%
Financiero	21	2%
NBK Bank	16	2%
Citibank	15	2%
De Comercio	15	2%
Interamericano de Finanzas	7	1%
Standard Chartered	3	0%
BankBoston	1	0%
BNP Paribas - Andes	1	0%

52. Due to BNM's limited branch network, BNM historically relied upon higher cost funding sources, such as loans from foreign banks, (compared with deposits which tend to be the lowest cost funding source) to facilitate its operations. As shown in Table 2 below, the ratio of BNM's deposits as a percent of the bank's total assets is one of the lowest ratios in the banking sector.

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<sup>28</sup> SBS Compilation of Number of Offices at All Banks as of December 2000, (R-175)

**Table 2 – Banks by Deposits as a Percentage of Total Assets as of November 2000<sup>29</sup>**

Bank	Deposits as a %		Bank	Deposits as a %	
	Total Assets			Total Assets	
Continental	79.27%		Citibank	49.34%	
De Crédito	75.98%		Sudamericano	49.33%	
De Comercio	68.30%		NBK Bank	41.15%	
Del Trabajo	63.18%		BankBoston	39.09%	
Standard Chartered	58.58%		Financiero	38.78%	
Interbank	58.27%		<b>Nuevo Mundo</b>	<b>35.73%</b>	
Wiese Sudameris	56.81%		Interamericano de Finanzas	30.94%	
Santander Central Hispano	51.62%		Mibanco	21.45%	
Latino	49.48%		BNP Paribas - Andes	6.93%	

53. BNM's low deposit-to-total-asset ratio indicates that it was likely to develop much more slowly than the large Peruvian banks which dominated the banking sector, or at the very least, that the cost of growth would have been far greater for BNM. For example, Mr. Beaton's high growth projection would have to include the cost of expanding the network of branches. In Mr. Beaton's unrealistic assumptions for the development of BNM, he projects that BNM would have grown significantly in size without any investment in opening new branches. Table 3 below shows the significant growth projected by Mr. Beaton for BNM vis-à-vis the growth of other Peruvian banks.

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<sup>29</sup> SBS Balance Sheets for All Banks as of November 2000, (R-170)

**Table 3 – Comparison of Bank Growth in Total Assets<sup>30</sup>**

<i>(Amounts in S./Thousand)</i>	Book Value as of 30 November 2000			Book Value as of 31 December 2010					
				Beaton Lowest Estimate			Beaton Highest Estimate		
Bank	Amount	Share	Rank	Amount	Share	Rank	Amount	Share	Rank
B. de Crédito del Perú	1,721,557	25%	1	5,546,929	30%	1	5,546,929	28%	1
Scotiabank Perú	1,696,718	24%	2	3,441,032	19%	2	3,441,032	17%	2
B. Continental	937,964	13%	3	3,383,915	18%	3	3,383,915	17%	3
Interbank	648,791	9%	4	1,692,727	9%	4	1,692,727	9%	5
B. Santander Perú	515,216	7%	5	139,342	1%	13	139,342	1%	13
Citibank	401,157	6%	6	705,732	4%	6	705,732	4%	6
B. Financiero	342,227	5%	7	344,989	2%	9	344,989	2%	9
<b>Nuevo Mundo</b>	255,147	4%	8	1,351,061	7%	5	2,608,490	13%	4
Standard Chartered	103,594	1%	9		0%				
B. de Comercio	98,969	1%	10	126,896	1%	15	126,896	1%	15
B. Interamericano de Finanzas	97,217	1%	11	330,855	2%	10	330,855	2%	10
BankBoston	91,175	1%	12		0%				
Mibanco	52,717	1%	13	390,131	2%	7	390,131	2%	7
BNP Paribas - Andes	35,112	1%	14		0%				
B. Falabella Perú				384,316	2%	8	384,316	2%	8
HSBC Bank Perú				271,448	1%	11	271,448	1%	11
B. Ripley				225,488	1%	12	225,488	1%	12
Deutsche Bank Perú				132,593	1%	14	132,593	1%	14
B. Azteca Perú				54,852	0%	16	54,852	0%	16
<b>Total Book Value</b>	<b>6,997,561</b>	<b>100%</b>		<b>18,522,306</b>	<b>100%</b>		<b>19,779,736</b>	<b>100%</b>	

54. Sixth, and most significantly, Mr. Beaton’s assessment of BNM’s financial condition in November 2000, which is set forth in Section III of his report, is divorced from reality. Since the financial position of BNM as of November 2000 is the starting point for all of Mr. Beaton’s projections of BNM’s “but-for” performance and, ultimately, for his valuation of BNM as of 31 December 2010, the financial condition of BNM as of November 2000 is the foundation of his analysis. As we will discuss in Section V, which follows, Mr. Beaton’s cursory examination of BNM’s financial statements does not support his contention that the bank enjoyed a “healthy financial position.”<sup>31</sup>

<sup>30</sup> See SBS Balance Sheets for All Banks as of November 2000 (**R-170**) and 31 December 2010, (**R-241**). Scotiabank Peru was the result of the merger of Wiese Sudameris and Banco Sudamericano. Furthermore, on May 2008, Scotiabank Peru announced its plans to purchase Banco del Trabajo. As such, book value as of 30 November 2000 is a combination of these three banks. In 2001, Interbank acquired Banco Latino. As such, book value as of 30 November is a combination of these two banks. Banco Financiero acquired NBK on October 2001. As such, book value as of 30 November 2000 is a combination of these two banks. As of 19 August 2005, Standard Charter Bank chose to liquidate its assets in Peru. BankBoston chose to do the same on 28 October 2005. On 18 October 2006, BNP Paribas also liquidated. BNM book values as of 31 December 2010 are hypothetical based on the most aggressive and least aggressive of Grant Thornton's twelve scenarios. See Grant Thornton, BNM Valuation, 23 August 2011, Table 12.

<sup>31</sup> Grant Thornton, BNM Valuation, 23 August 2011, para. 42

55. To complete his damages/valuation analysis, Mr. Beaton took his 12 possible development paths for BNM up to 31 December 2010 and apparently ran 1,000 iterations of possible net book value results using randomly assigned probabilities to each path.<sup>32</sup> Analyzing the results of his 1,000 randomly assigned iterations, Mr. Beaton ends up identifying the net book value for BNM to be US\$ 810 million as of 31 December 2010.<sup>33</sup> Mr. Beaton then applied a price-to-book valuation multiple obtained from allegedly “comparable” publicly traded banks in order to establish a hypothetical market value for the share capital of BNM as of 31 December 2011. The allegedly comparable banks and price-to-book multiples relied upon by Mr. Beaton are shown in Table 4 below.

**Table 4 – Price to Book Multiples Used by Mr. Beaton<sup>34</sup>**

<b>Company</b>	<b>2009</b>	<b>2010</b>
Banco de Credito	3.74	3.72
Banco Continental	4.61	4.19
Interbank	2.37	3.56
Scotiabank	6.92	3.49
<b>Median</b>	<b>4.17</b>	<b>3.64</b>
<b>Median (both years)</b>		<b>3.73</b>

56. Using the median price-to-book multiple for 2009 and 2010 of 3.73, Mr. Beaton arrives at a market value for the share capital of BNM of US\$ 3.019 billion as of 31 December 2010.<sup>35</sup> He then makes a very crude adjustment to the alleged market value as of 31 December 2010 to estimate a market value as of 18 September 2013. Essentially, Mr. Beaton inflates US\$ 3.019 billion by the cost of capital for BNM, which he determined was 11.11 percent.<sup>36</sup> As such, Mr. Beaton forecasts that BNM would have had a market value of US\$ 4.036 billion as of 18 September 2013.<sup>37</sup>

57. While we would agree that price-to-book multiples are potentially valid multiples to apply to banks for valuation purposes, Mr. Beaton’s implementation of this approach is highly flawed.

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<sup>32</sup> Grant Thornton, BNM Valuation, 23 August 2011, Annex 12

<sup>33</sup> Grant Thornton, BNM Valuation, 23 August 2011, Table 17

<sup>34</sup> Grant Thornton, BNM Valuation, 23 August 2011, Table 13

<sup>35</sup> Grant Thornton, BNM Valuation, 23 August 2011, Tables 14, 17

<sup>36</sup> Grant Thornton, BNM Valuation, 23 August 2011, Table 1

<sup>37</sup> Grant Thornton, BNM Valuation, 23 August 2011, Table 18

Aside from the fact that the US\$ 810 million BNM book value is the result of his highly speculative projection, Mr. Beaton does no analysis to ascertain which allegedly “comparable” banks are truly comparable to BNM. For example, Banco de Credito was the largest bank in Peru with over 8 times the number of branches that BNM had in 2000.<sup>38</sup> Mr. Beaton makes no attempt to profile each bank and determine attributes in common with BNM such as the funding sources and portfolio of assets held by each bank. He simply takes a median of the price-to-book multiples for four Peruvian banks which may or may not be comparable to the hypothetical BNM. One of the most widely used valuation texts in the field identifies this approach as a bad practice at best and a highly flawed approach at worst.

“Simple Reliance on Average of Guideline Company Multiples without Comparative Analysis: Unless the guideline and subject companies are extremely homogenous in their financial characteristics, the mean or median of the guideline company pricing multiples may not be the most appropriate pricing multiples for the subject company. Yet analysts often use the mean or median guideline company pricing multiple with no explanation to justify the implied notion that the subject company’s characteristics indicate that it should be valued right at the average of the guideline companies.”<sup>39</sup>

58. As such, even if we could agree with Mr. Beaton that his ex-post cash flow analysis is useful in determining BNM’s hypothetical book value as of 31 December 2010 (which it is not), his application of the price-to-book multiples of other publicly traded Peruvian banks is highly flawed. However, as we shall discuss in the next section, all of the analysis conducted by Mr. Beaton is of no evidentiary value because it originates from financial statements prepared by BNM management as of November 2000 that did not accurately reflect BNM’s true financial situation.

## **V. Mr. Beaton Grossly Misanalyses the Financial Situation of BNM in December 2000**

59. In Section II of his expert report, Mr. Beaton sets forth a series of charts claiming to depict the situation of the Peruvian banking sector in the context of the years leading up to the

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<sup>38</sup> See Tables 1 through 3 above.

<sup>39</sup> Sharon P. Pratt, Robert F. Reilly, and Robert P. Schweihs, *VALUING A BUSINESS: THE ANALYSIS OF CLOSELY HELD COMPANIES* (2002), pp. 255-256, (R-233)

intervention of BNM and the financial and political crisis that unfolded. In Section III of his expert report, Mr. Beaton sets forth an additional series of charts which purport to show that BNM was a financially sound and stable bank in late 2000 before the intervention. Indeed, Mr. Beaton concludes:

“These indicators reflect a healthy financial position of Banco Nuevo Mundo, despite the crisis that the system suffered due to the crisis and the public withdrawals from some banks, which in turn caused the withdrawal of private funds.”<sup>40</sup>

60. Mr. Beaton’s financial assessment of BNM in November 2000 is highly flawed, however, because his analysis focuses on basic financial statement ratios that were calculated from financial statements that did not reflect the true financial condition of BNM. Indeed, Mr. Beaton does not even consider or mention, *inter alia*, the SBS Inspection Report issued in November 2000, the subsequent PwC preliminary inspection, or the 2000 year-end financial statements audited by PwC, which all indicate that the unaudited financial statements of November 2000 did not reflect the true financial situation of the bank.<sup>41</sup>

61. Because the entirety of Mr. Beaton’s modeling analysis starts from the unexamined premise that the bank was healthy, and that its financial records were reliable in November 2000, in this section of our report, we set forth a more comprehensive assessment of the bank’s true financial situation. We first discuss the financial and economic crisis that gripped Peru from 1998 to 2000. We then explain the detailed policy responses implemented by the Peruvian authorities to contain the crisis, including the policies that directly benefited BNM. We then perform a comprehensive review of the development of BNM during this period. Finally, we explain the true financial condition of BNM in 2000 before the intervention.

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<sup>40</sup> Grant Thornton, BNM Valuation, 23 August 2011, para. 42

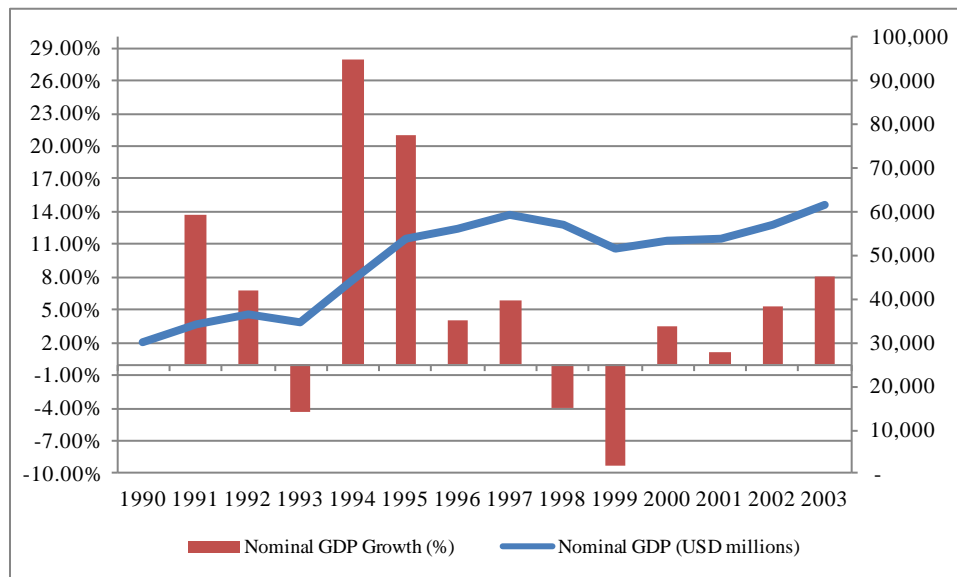
<sup>41</sup> SBS’s Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF “A”-168-VI/2000, (R-065); PricewaterhouseCoopers’ Progress Report on Audit of BNM in Intervention’s Financial Statements of December 31, 2000, December 27, 2000, (R-173); PricewaterhouseCoopers’ Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, (R-080)



## A. The Financial and Economic Crisis that Occurred in Peru in 1998 and its Effects on the Banking Sector

62. From 1998 to 2000 Peru experienced a severe economic and political crisis that threatened the country's banking system. After several years of significant growth (approximately 70 percent from 1993 through 1997) the Peruvian economy dramatically deteriorated. This deterioration was largely triggered by two external shocks: 1) the El Niño weather pattern and 2) the Asian-Russian economic crises.<sup>42</sup> As shown in Figure 2 below, GDP growth in US dollar terms fell from approximately 6 percent in 1997 to negative 9 percent in 1999 and did not recover until after 2002.

**Figure 2 – Peru GDP from 1990 to 2003<sup>43</sup>**



63. The El Niño weather pattern in 1997 and 1998 caused severe flooding, which damaged Peru's infrastructure and agricultural production, and a dramatic reduction in Peru's large

<sup>42</sup> Central Bank of Peru, 1998 Annual Report, p. 9, 17, Graph 2, (R-137)

<sup>43</sup> Figures are per quarterly statistics provided by the Central Bank of Peru. Central Bank of Peru, Quarterly GDP Figures, 1990 through 2003, (R-198)

fishmeal industry.<sup>44</sup> These effects hurt commercial entities operating in these sectors, thus straining their financial situation.

64. Also, beginning in the second half of 1997, the Asian and Russian financial crises caused a sharp deterioration of Peru's terms of trade due to falling prices of commodities and a sudden stop of foreign capital flows.<sup>45</sup> The Peruvian economy's heavy reliance on commodity exports (mainly copper, gold, silver, and fishmeal) resulted in the country's terms of trade falling by 13 percent in 1998, one of its largest declines since 1950.<sup>46</sup> Thus, the mining and fishing industries were severely strained during this period of time.

65. As a consequence of these external shocks, Peru's banking sector was impacted both indirectly and directly. The banking sector was impacted indirectly through its loan portfolio. Past due loans in the agricultural and commercial sector increased from 7.6 percent to 10.4 percent and from 5.8 percent to 9 percent, respectively, between 1997 and 1998.<sup>47</sup> These effects threatened the solvency of the system.

66. The banking sector was impacted directly through the curtailment of international credit. The Asian and Russian financial crises triggered decreased foreign investment and withdrawals of capital from emerging markets, including Peru.<sup>48</sup> As shown in Figure 3 below, capital inflows to Peru decreased from US\$ 5.8 billion in 1997 to US\$ 1.8 billion in 1998 and US\$ 0.6 billion in 1999.

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<sup>44</sup> Central Bank of Peru, 1998 Annual Report, pp. 9, 22. **(R-137)** The two most important commercial fishing species (sardine and anchovy) practically disappeared due to an increase in the water temperature. HISTORIA DE LA SUPERVISIÓN Y REGULACIÓN FINANCIERA EN EL PERU, May 2006, p. 148, **(R-103)**

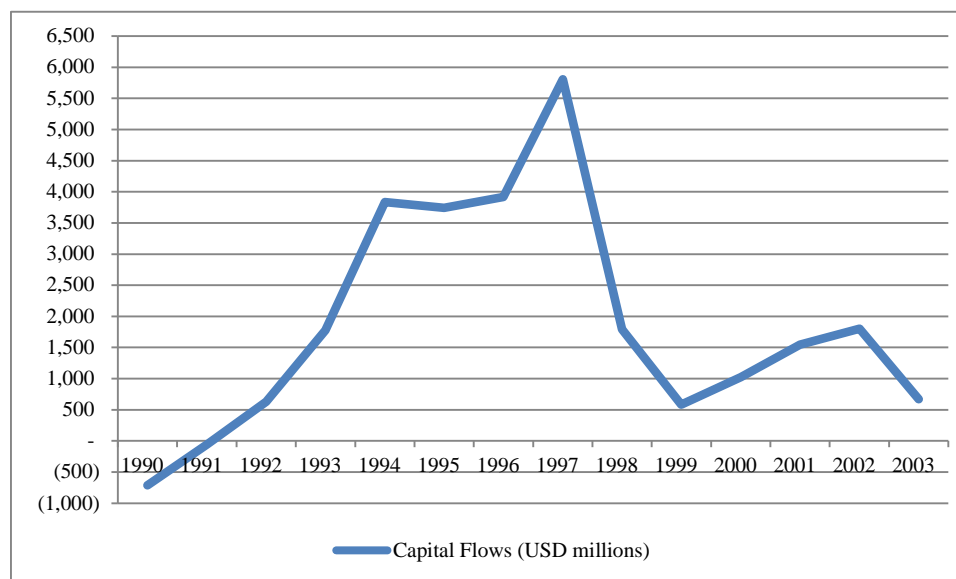
<sup>45</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), p. 144, **(R-208)**

<sup>46</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), p. 144, **(R-208)**

<sup>47</sup> HISTORIA DE LA SUPERVISIÓN Y REGULACIÓN FINANCIERA EN EL PERU, May 2006, p. 148 **(R-103)**

<sup>48</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), pp. 145-146, **(R-208)**

**Figure 3 – Capital Inflows to Peru from 1990 to 2003<sup>49</sup>**



67. The impact of these withdrawals was particularly severe for highly dollarized economies like Peru. In 1997, just before the external shocks, financial dollarization accounted for 65 percent of total deposits and 75 percent of total bank loans.<sup>50</sup>

68. The curtailment of international credit to Peru's banking system caused Peru's country risk premium (as measured by JP Morgan's Emerging Market Bond Index spread) to increase by more than 240 percent between May and August 1998.<sup>51</sup> Short-term interest rates spiked and the Sol depreciated vis-à-vis the US dollar as investors sold their riskier Sol denominated assets to acquire US Dollars. These effects threatened both the liquidity and solvency of the Peruvian banking sector.<sup>52</sup>

69. Although banks can reduce their foreign currency exposure by hedging (i.e., having an equal amount of assets and liabilities in the same currency), banks in highly dollarized economies remain significantly exposed to foreign currency risk via their borrowers. For example, although

<sup>49</sup> Figures per the Central Bank of Peru. Central Bank of Peru, Balance of Payments Statistics, 1990 through 2003, (R-197)

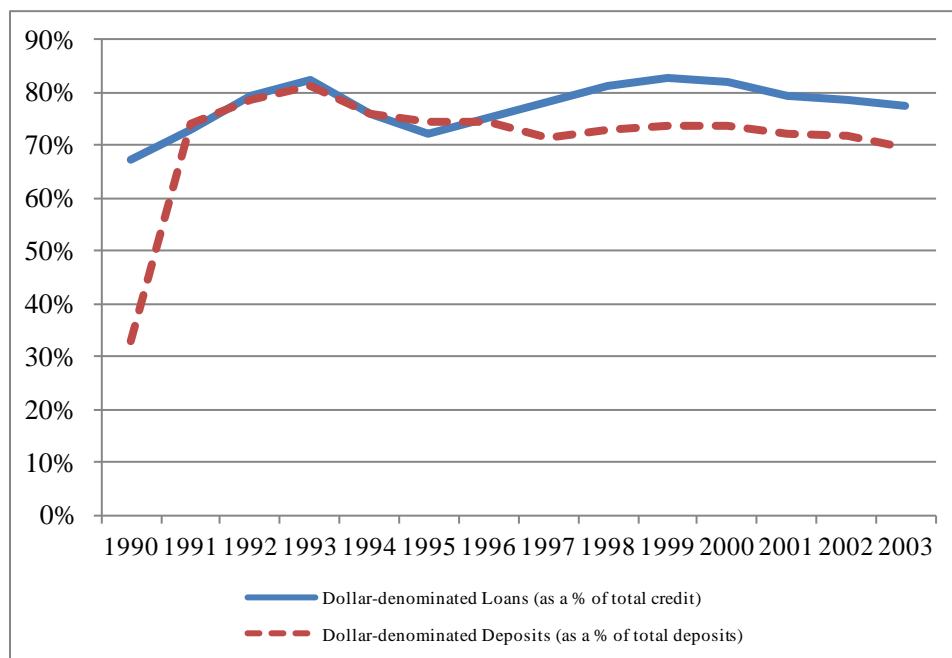
<sup>50</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), pp. 163, (R-208)

<sup>51</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), p. 148, (R-208)

<sup>52</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), pp. 151-152, (R-208)

a bank may use US dollar deposits to lend US dollars to a Peruvian citizen to purchase a house, the Peruvian citizen ultimately repays that loan from his Sol based salary. Therefore, if the Sol depreciates against the US Dollar, the borrower has to use a greater percentage of his salary to repay the loan. Thus, banks, and by extension the banking system, remain indirectly exposed to foreign currency fluctuations through their clients in dollarized economies. Although Peru had taken steps to reduce its financial dollarization in the 1990s, Figure 4 below indicates that it remained highly dollarized.

**Figure 4 – Financial Dollarization in Peru from 1990 to 2003<sup>53</sup>**



70. In addition to the two external shocks, Peru also faced an internal shock in late 2000 which further aggravated the banking crisis. In November 2000, President Fujimori resigned and left the country.<sup>54</sup> The uncertainty surrounding the direction of the new government led to a further deterioration in the confidence of the banking system.<sup>55</sup>

<sup>53</sup> See SBS, Financial Indicators, 1980 through 2000, (R-228); SBS Financial Statements for All Banks as of 31 December 2001, (R-188); SBS Financial Statements for All Banks as of 31 December 2002, (R-196); SBS Financial Statements for All Banks as of 31 December 2003, (R-201)

<sup>54</sup> Respondent’s Memorial on Jurisdiction, 25 August 2011, para. 38

<sup>55</sup> HISTORIA DE LA SUPERVISIÓN Y REGULACIÓN FINANCIERA EN EL PERU, May 2006, p. 155, (R-103)

71. Peru responded to the crisis by taking several measures to mitigate both the depreciation of the Sol and the scarcity of US Dollars. As a consequence of these measures, the financial system did not experience significant bank runs or systemic failure during this period of economic and financial distress.<sup>56</sup> We briefly discuss the measures Peru adopted to defend the banking system.

72. First, the BCRP allowed interest rates on the Sol to rise from 18.6 percent to 38.3 percent in less than a month. Allowing interest rates on the Sol to rise increased the demand for the Sol (and decreased the demand for US dollar) thereby containing the depreciation of the Sol.<sup>57</sup>

73. Second, the BCRP added US dollar liquidity to the banking system. Due to the unusually high foreign currency reserve requirements for banks that took in US dollar deposits (45 percent marginal rate), as well as the foreign currency reserves accumulated from privatizations, the BCRP had a large pool of US dollars to lend to the banking sector when US dollar credit from private entities was curtailed. To make these US dollar reserves available to the banking sector, the BCRP adopted three temporary policies.

74. The first policy adopted by the BCRP was to make short term credits in foreign currency available to banks through the BCRP discount window. Through these credit facilities, the BCRP provided a daily average of US\$ 135 million in September, US\$ 116 million in October, and US\$ 39 million in November 1998.<sup>58</sup>

75. The second policy adopted by the BCRP occurred from October to December of 1998 when the BCRP reduced the marginal and average reserve requirements for foreign currency deposits by 5.0 percent and 4.5 percent, respectively.<sup>59</sup> These measures amounted to an injection of US\$ 420 million into the banking sector.<sup>60</sup>

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<sup>56</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), p. 163, **(R-208)**

<sup>57</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), p. 153, **(R-208)**

<sup>58</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), p. 153, **(R-208)**

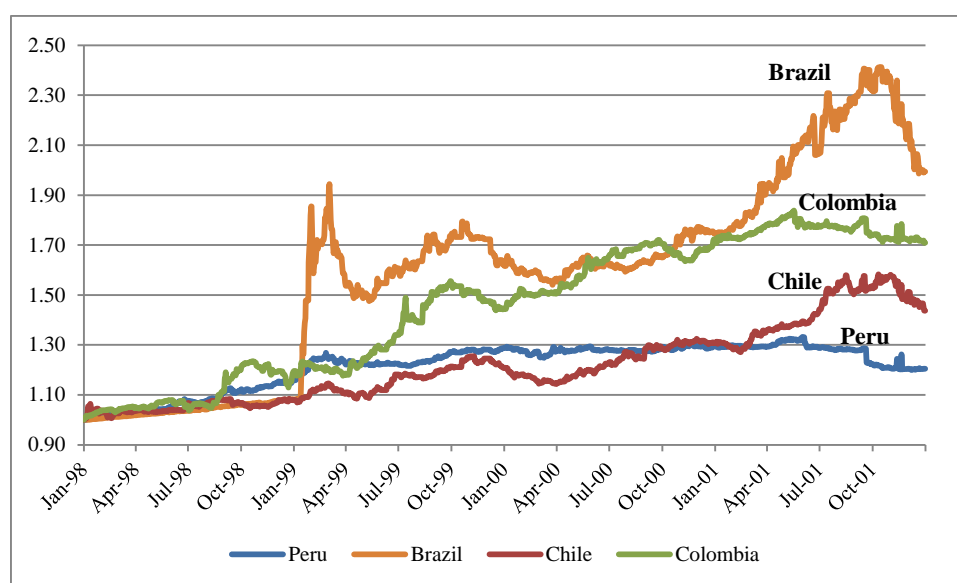
<sup>59</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), p. 154, **(R-208)**

<sup>60</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), p. 154, **(R-208)**

76. The third policy adopted by the BCRP was the sale of foreign currency reserves. From June 1998 to March 1999, the BCRP sold US\$ 404 million in foreign currency to the private sector.<sup>61</sup>

77. As a consequence of these measures, the BCRP provided US dollar liquidity to the banking system to fill the void in US dollar capital withdrawals and curtailed the depreciation of the Sol. The effectiveness of the BCRP's measures is demonstrated in Figure 5 below which shows that the Sol depreciated significantly less than other currencies in Latin American during the crisis.<sup>62</sup>

**Figure 5 – Devaluation of Selected Latin American Currencies from 1998 to 2001<sup>63</sup>**



78. The BCRP's ability to support the real exchange rate of the Sol vis-à-vis the US dollar was critical to the solvency of the banking system. If the Sol had depreciated significantly against the US dollar, the quality of US dollar loans in the banking system would have deteriorated significantly due to the borrowers' decreased ability to repay them with a devalued Sol. Nonetheless, the BCRP's measures could not prevent already weak banks from potentially failing. In order to minimize the risk of weak bank failures, the Peruvian government, primarily through the SBS and the Ministry of Economy of Peru ("MEP"), also took various measures to

<sup>61</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), p. 154, (R-208)

<sup>62</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), pp. 160 (Table 4.4), 164-165, (R-208)

<sup>63</sup> Figures represent the change in currency relative to 1 January 1998. Currencies are daily exchange rates per Oanda. Oanda, Daily Exchange Rates for Brazil, Chile, Colombia, and Peru, 1998 through 2001, (R-223)

increase the solvency and liquidity of the banking system. The Peruvian government implemented at least seven significant measures. We discuss each measure in turn.

79. First, in June 1999, the MEP requested state owned enterprises (“SOEs”) to convert their short-term foreign currency deposits, which accounted for more than 50 percent of the banking system’s total deposits, into medium-term deposits denominated in Soles.<sup>64</sup> This measure increased the banks’ ability to make Soles funds available and decreased the bank’s dependence on US dollar deposits.

80. Second, in June 1999 the Peruvian Financial Development Corporation (“COFIDE”) made S/. 385 million in deposits held at the Central Bank and Banco de la Nación available to private banks through new credit lines.<sup>65</sup> This measure further increased the liquidity of Peruvian banks.

81. Third, the MEP and SBS implemented a program to acquire loans from commercial banks in order to increase the liquidity of banks and allow them to meet their short term obligations.<sup>66</sup> Under the program, between December 1998 and June 1999 banks were allowed to transfer a portion of their loan portfolios to the government in exchange for marketable government bonds with a five year maturity.<sup>67</sup> The banks had to repurchase 20 percent of the transferred loan portfolio each year.<sup>68</sup> Ultimately, 7 banks participated in the program and acquired bonds totaling US\$ 136 million.<sup>69</sup>

82. Fourth, between June 1999 and December 1999, the MEP and the SBS implemented a second loan portfolio exchange program.<sup>70</sup> This time the intention of the program was for banks to postpone provisioning requirements that they would have otherwise have had to recognize. Under this program, banks were allowed to transfer a portion of their loan portfolios to the

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<sup>64</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), p. 154, **(R-208)**

<sup>65</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), p. 154, **(R-208)**

<sup>66</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), pp. 154-155, **(R-208)**

<sup>67</sup> HISTORIA DE LA SUPERVISIÓN Y REGULACIÓN FINANCIERA EN EL PERU, May 2006, p. 160-161 **(R-103)**

<sup>68</sup> Central Bank of Peru, 1998 Annual Report, p. 61, **(R-137)**; Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), p. 154, **(R-208)**

<sup>69</sup> Decree Instituting the Loan Portfolio and Treasury Bond Exchange Program, Decreto Supremo No. 099-99-EF, 18 June 1999, **(R-30)**

<sup>70</sup> Decree Instituting the Loan Portfolio and Treasury Bond Exchange Program, Decreto Supremo No. 099-99-EF, 18 June 1999, **(R-30)**

government in exchange for non-marketable government bonds of an equal value. The banks had to repurchase 25 percent of the transferred loan portfolio each year starting in 2001.<sup>71</sup> Unlike in the first loan portfolio exchange program, banks would not need to maintain the provisions for the transferred loans and could instead reassign them to other loans.<sup>72</sup> The banks would have to recognize the provisions required for the transferred loans at the time of repurchase.<sup>73</sup> In effect, this second program allowed banks to spread the provisions required for the transferred portfolio over five years. This program was established in part to counter the effects of a 1997 regulation that required banks to increase their loan provisioning requirements in accordance with international standards in stages.<sup>74</sup> The program was intended only to provide short-term relief. Banks had to qualify for the program by submitting a plan to the SBS outlining the steps they would take over the long term to be able to repurchase the transferred portfolio and recognize the required provisions.<sup>75</sup> In total eleven banks, including BNM, participated in this program which involved US\$ 291 million in asset exchanges.<sup>76</sup>

83. Fifth, in August 2000 the MEP implemented a program for the financial rescue of agricultural enterprises.<sup>77</sup> Under the program, the government was able to issue up to US\$ 500 million in bonds to allow companies in this sector to refinance their loans with commercial banks. The program essentially allowed agricultural enterprises to extend the maturity of their loans to a maximum period of 15 years at preferential interest rates.<sup>78</sup>

84. Sixth, the SBS eased the provisioning requirements for refinanced loans. Previously, Peruvian banking regulations had required banks to reclassify refinanced loans to a risk classification of “deficient.” Loans classified as deficient required a provision equivalent to 25 percent of the net exposure of the loan. This new measure allowed banks instead to reclassify

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<sup>71</sup> HISTORIA DE LA SUPERVISIÓN Y REGULACIÓN FINANCIERA EN EL PERU, May 2006, p. 161, **(R-103)**

<sup>72</sup> SBS Circular for Loan Exchange Program No. B-2050-99, 10 August 1999, **(R-154)**

<sup>73</sup> Starting in 2001, the banks would need to recognize no less than 25 percent of the provisions required in accordance with an evaluation of the financial situation of each debtor at the time of the analysis. By 2004, the participating banks would have to reacquire the transferred portfolio recognizing 100 percent of the provisions required. Decree Instituting the Loan Portfolio and Treasury Bond Exchange Program, Decreto Supremo No. 099-99-EF, 18 June 1999, **(R-30)**

<sup>74</sup> HISTORIA DE LA SUPERVISIÓN Y REGULACIÓN FINANCIERA EN EL PERU, May 2006, p. 160-161, **(R-103)**

<sup>75</sup> SBS, 1999 Annual Report, p. 7, **(R-230)**

<sup>76</sup> HISTORIA DE LA SUPERVISIÓN Y REGULACIÓN FINANCIERA EN EL PERU, May 2006, p. 161, **(R-103)**

<sup>77</sup> HISTORIA DE LA SUPERVISIÓN Y REGULACIÓN FINANCIERA EN EL PERU, May 2006, p. 162, **(R-103)**

<sup>78</sup> HISTORIA DE LA SUPERVISIÓN Y REGULACIÓN FINANCIERA EN EL PERU, May 2006, p. 162, **(R-103)**



refinanced loans as “potential problems,” which only required a provision equivalent to 5 percent of the net exposure of the loan.<sup>79</sup>

85. Seventh, between 1999 and 2000, Peru instituted two main programs to facilitate the reorganization of insolvent banks. The first program was identified as the “Net Worth Consolidation Program.” Under this program, a fund was created to subscribe shares in those institutions in need of capital in order to promote capitalization and participation in share offerings by institutions that were undergoing reorganization.<sup>80</sup> The second program was identified as the “Financial System Consolidation Program” (PCSF, in its Spanish acronym). This program provided up to US\$ 200 million to solvent banks that were interested in acquiring banks with a negative capital.<sup>81</sup> One institution ultimately participated in the Net Worth Consolidation Program while two institutions participated in the Financial System Consolidation Program.<sup>82</sup>

86. In spite of the numerous measures implemented by Peru, a number of banking enterprises failed in Peru or were consolidated with solvent banks. As shown in Table 5 below, the number of banks in Peru decreased from 26 in 1997 to 15 in 2001 as a result of mergers or interventions by SBS. In total seven banks were intervened and five banks were acquired by stronger banks.

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<sup>79</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), p. 155, (R-208); PricewaterhouseCoopers’ Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, p. 19, (R-080)

<sup>80</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), p. 156, (R-208)

<sup>81</sup> SBS, 2000 Annual Report, pp. 5-6, (R-231)

<sup>82</sup> Eduardo Cavallo and Alejandro Izquierdo, *Dealing with an International Credit Crunch*, Inter-American Development Bank (2009), p. 156, (R-208)

**Table 5 – The Financial System in Peru 1997 to 2001<sup>83</sup>**

Bank Name	1997	1998	1999	2000	2001
B. de Crédito del Perú					
B. Wiese Sudameris					
B. Continental					
Interbank					
B. Santander Central Hispano					
Citibank					
B. Sudamericano					
B. Financiero					
B. Interamericano de Finanzas					
B. Standard Chartered					
B. de Comercio					
B. del Trabajo					
BankBoston					
Mibanco					
BNP-Andes *					
Nuevo Mundo				Intervened**	
Norbank				Intervened**	
Orion				Intervened**	
Serbanco				Intervened**	
Banco Sur			Acquired		
Lima			Acquired		
Del Progreso			Acquired		
Del Pais			Acquired		
Banex			Intervened**		
Solventa***			Acquired		
Latino****		Intervened**			
Republica		Intervened**			
<b>Total Number of Banks</b>	<b>26</b>	<b>24</b>	<b>18</b>	<b>15</b>	<b>15</b>

\* BNP started operations in 2000

\*\* Banks Intervened by SBS were later liquidated

\*\*\* Part of the bank was acquired by Norbank and part become Financiera Cordillera

\*\*\*\*Banco Latino was Intervened in 1998 and later acquired by Interbank in 2001

87. Peru was not the only country in Latin America affected by external shocks. Other Latin American countries faced the same crises including, inter alia, Ecuador, Argentina, and Brazil.

<sup>83</sup> See SBS Financial Statements for All Banks as of 31 December 1998 through 31 December 2001, (R-141, R-152, R-176, R-188); HISTORIA DE LA SUPERVISIÓN Y REGULACIÓN FINANCIERA EN EL PERU, May 2006, p. 162, (R-103); SBS, 1998 Annual Report, pp. 32-33 (R-229); SBS, 1999 Annual Report, p. 7, (R-230); SBS, 2000 Annual Report, p. 6, (231); SBS, 2001 Annual Report, (R-232)

Although the causes of these crises were similar, each of these countries responded to it differently.

88. In Ecuador, the economy experienced hyperinflation and the Sucre plummeted against the US dollar. Ultimately, Ecuador decided to abandon the Sucre altogether in favor of the US dollar in January 2000.<sup>84</sup>

89. In Argentina, the capital flight caused the government to default on its international bond obligations and remove the 1:1 peg that had been established for the peso vis-à-vis the US dollar. However, rather than dollarizing the economy, Argentina “pesified” it by converting all obligations in US dollars to pesos. Argentine banks saw their assets converted at one exchange rate and their liabilities converted at another such that their capital was wiped out. However, the authorities restored solvency to the system by placing new government bonds in the bank’s portfolios.<sup>85</sup>

90. In Brazil, where investors were withdrawing as much as US\$ 350 million in capital a day in December 1998, the authorities initially attempted to encourage domestic investment by raising interest rates. When this measure proved unsuccessful, the authorities decided to remove its currency peg and devalue the Real.<sup>86</sup>

91. Thus, a wide variety of measures were used by various countries to address the external shocks at this time. The differences in the measures applied reflect both the different circumstances of each country as well as the different opinions held by policy makers regarding the most appropriate measure.

92. Having set forth a more comprehensive background of the macroeconomic situation facing Peru, its banking sector during this three year period, and having identified the systemic measures Peru adopted to combat it, we now turn to an assessment of the specific situation of BNM and its development during this same period of time.

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<sup>84</sup> Paul Beckerman, *Dollarization and Semi-Dollarization in Ecuador*, The World Bank, May 19, 2000, p. 1, **(R-159)**

<sup>85</sup> Standard & Poors, *The Argentine Crisis: A Chronology of Events After The Sovereign Default*, April 12, 2002, pp. 4, 6-7, **(R-190)**

<sup>86</sup> William C. Gruben and Sherry Kiser, *Why Brazil Devalued the Real*, Federal Reserve Bank of Dallas, (1999), available at <http://www.dallasfed.org/eyi/global/9907real.html> (last visited January 25, 2012), **(R-218)**

## **B. Significant Weaknesses in BNM's Banking Operations Were Identified by the SBS in 1999**

93. Between 7 July 1999 and 20 August 1999 the SBS conducted its annual inspection of BNM for the year.<sup>87</sup> The general purpose of such an annual review is to ensure that a bank is compliant with the regulator's prudential banking rules. The scope of the 1999 review is summarized in the 1999 SBS inspection report:

... the evaluation of the risk assets affecting the loan portfolio of the bank and the adequacy of provisions for the loan portfolio; verification of the classification of loans; evaluation of the accounting treatment of the past-due loans, refinanced loans, and assets in guarantee; verification of the compliance level to implement the Regulations for the Supervision of Market Risks; evaluation for the measures taken to handle the year 2000 risk; evaluation of the duties of the internal audit unit of the bank, and verification of the legal procedures, regulations and current norms...<sup>88</sup>

94. One of the core tasks conducted by a banking regulator in a routine inspection is an evaluation of a bank's loan portfolio and other risk assets. This evaluation involves an assessment of the quality of the loans in the portfolio (i.e., the likelihood of repayment) and the market price of risk assets. When the likelihood that a borrower will repay a loan decreases, the bank must make a downward adjustment of the carrying value of the loan in its accounting books. This downward adjustment is referred to as a "provision." Although the borrower is still obligated to repay the entire loan, a provision is required to account for the risk that the borrower will be unable to repay the full amount of the loan. In Peru, as in other countries, there are five loan categories utilized to classify loans by quality: 1) Normal, 2) With Potential Problems, 3) Deficient, 4) Doubtful, and 5) Loss ("Perdida").<sup>89</sup> An increasing amount of provisions are required on each classification from Normal to Loss. For Loss Loans, a provision must be made for 100 percent of the exposed portion of the loan (i.e., the unpaid loan balance less the value of any collateral).<sup>90</sup> In the late 1990s and early 2000s, Peru was gradually increasing the provision

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<sup>87</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, p. 1, **(R-143)**

<sup>88</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, p. 1, **(R-143)**

<sup>89</sup> Loan and Borrower Risk Classification Regulation, Resolución SBS No. 572-97, August 20, 1997, p. 7, **(R-023)**

<sup>90</sup> Loan and Borrower Risk Classification Regulation, Resolución SBS No. 572-97, August 20, 1997, p. 10, **(R-023)**

requirements banks must make in order to conform to the international banking standards in place at that time.<sup>91</sup>

95. Given the requirement for a bank to create provisions for its loans when repayment becomes questionable, a bank must constantly monitor its loan portfolio to assess the quality of its loans. Likewise, a bank must also monitor the value of its other assets such as real estate and equity securities and make the appropriate adjustments (often termed “adjusting items”) when the value of these assets decreases. These monitoring functions are typically handled by a risk management division.<sup>92</sup>

96. In order to evaluate the effectiveness of BNM’s risk management and BNM’s compliance with the classification of loans and the corresponding recognition of provisions, the SBS selected a sample of 238 borrowers with loans totaling S/. 602 million. This sample represented 36 percent of BNM’s total loan portfolio.<sup>93</sup> The SBS’s evaluation of BNM’s classification of these loans revealed that the loans associated with 127 of the debtors (S/. 207 million) in the sample needed to be downgraded to a lower quality classification. These loans represented 34 percent of the sample population and 12 percent of the bank’s total loan portfolio. Thus, more than half of the debtors evaluated and more than one third of the loan value examined were improperly classified.<sup>94</sup> Findings of this nature indicate systemic shortcomings in the bank’s risk management function.

97. As a result of the reclassification of the loans in the sample, BNM was required to increase loan loss provisions by S/. 21,536,000, a 39 percent increase in the provisions that it had already recognized. BNM accepted the SBS’s findings and recognized the S/. 21.54 million in provisions by of 31 August 1999.<sup>95</sup>

“The bank classified the debtors in accordance with the SBS observations, and instructed to perform an inspection following the same criteria of the remaining loan portfolio.

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<sup>91</sup> Loan and Borrower Risk Classification Regulation, Resolución SBS No. 572-97, August 20, 1997, p. 10, **(R-023)**

<sup>92</sup> SBS’s Inspection Visit Report for BNM, Informe SBS No. ASIF “A”-034-VI-97, March 4, 1997, p. 13, **(R-135)**

<sup>93</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF “A”172-VI/99, September 27, 1999, Section 2.1.2.a, **(R-143)**

<sup>94</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF “A”172-VI/99, September 27, 1999, Section 2.2.1.3.b, **(R-143)**

<sup>95</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF “A”172-VI/99, September 27, 1999, Section 2.2.1.3.d, **(R-143)**

As instructed by notification 10148-99 the bank constituted the new provisions required by the new loan classification...

The loans classified as refinanced by the SBS during the inspections of 1997 and 1998 were regularized from an accounting perspective. Similarly, it was instructed to take the necessary actions to do the same with the loans identified by the SBS in the last inspection visit...

The bank instructed to monitor closely at various levels the deposit accounts of the bank in order to avoid the situations as the ones identified by the inspections.

The bank instructed to speed up the process of transferring guarantees, as well as monitoring the classification of clients with factoring operations.”<sup>96</sup>

98. The SBS’s findings regarding BNM’s loan classifications in 1999 established a worrying trend. Our evaluation of the SBS’s inspections reports of BNM in 1998 and 1999 indicates that the bank’s risk management was deteriorating significantly. As shown in Table 6 below, the SBS found an increasing rate of misclassification from 1997 to 1999. In all instances, we understand BNM accepted and made the additional provisions found by the SBS in full.<sup>97</sup>

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<sup>96</sup> Letter from BNM to SBS regarding SBS’s 1999 Inspection Visit Report, October 26, 1999, p. 2, **(R-147)**

<sup>97</sup> SBS’s Inspection Visit Report for BNM, Informe SBS No. ASIF “A”-034-VI-97, March 4, 1997, Section 1.4, p. 2, **(R-135)**; SBS’s Inspection Visit Report for BNM, Informe SBS No. ASIF “A” 164-VI/98, November 17, 1998, p. 6, **(R-139)**; SBS Inspection Visit Report for BNM, Informe SBS No. ASIF “A”172-VI/99, September 27, 1999, p. 3, **(R-143)**; Letter from BNM to SBS regarding SBS’s 1999 Inspection Visit Report, October 26, 1999, p. 1, **(R-147)**

**Table 6 – SBS Loan Provision Deficiencies from 1997, 1998 and 1999 Inspections<sup>98</sup>**

Calc.		1997	1998	1999
[A]	Number of Debtors in Inspection Sample	79	80	238
[B]	Number of Debtors Reclassified by SBS	14	38	127
[C]=B/A	Percentage of Number of Debtors Reclassified by SBS	18%	48%	53%
[D]	Loan Portfolio (in S/. '000)	862,188	1,480,408	1,661,165
[E]	Evaluated Portfolio Sample (in S/. '000)	234,421	316,755	601,944
[F]=E/D	Percentage of Total Loan Portfolio Sampled	27.19%	21%	36%
[G]	Portfolio Sample Reclassified by SBS	29,725	138,576	206,880
[H]=G/E	Percentage of Sample Loan Portfolio	13%	44%	34%
[I]=G/D	Percentage of Total Loan Portfolio	3%	9%	12%
[J]	Total Additional Provisions Required by SBS	1,743	11,094	21,536
[K]	Total Provisions	14,587	27,229	46,877
[L]=K/J	Percentage Increase Required in Provisions	12%	41%	46%

99. The facts underlying BNM’s misclassification of its loans in 1999 reveal not only that its risk management function was weak, but also that many of the misclassifications were purposefully made in order to avoid the recognition of provision expenses that would erode BNM’s income. We summarize the nature of the additional provisioning requirements identified by the SBS. In total, the SBS identified four issues that led to the misclassification of BNM’s loans.

100. First, the SBS identified loans totaling S/. 19 million that were classified as Normal when in fact they were refinanced or restructured loans (i.e., the bank had restructured the loan because the client had difficulties in repaying the loan).<sup>99</sup> Refinanced and restructured loans require a higher risk classification, and hence higher provisioning requirements.<sup>100</sup> Additionally, interest income on refinanced or restructured loans cannot be recorded as income until the interest is actually paid (cash basis) by the client rather than due (accrual basis).<sup>101</sup> However, BNM was recording the interest income on an accrual basis rather than a cash basis. It is interesting to note

SBS’s Inspection Visit Report for BNM, Informe SBS No. ASIF “A”-034-VI-97, March 4, 1997, pp. 5-6, (R-135); SBS’s Inspection Visit Report for BNM, Informe SBS No. ASIF “A” 164-VI/98, November 17, 1998, p. 5, (R-139); SBS Inspection Visit Report for BNM, Informe SBS No. ASIF “A”172-VI/99, September 27, 1999, Sections 2.1.2.a and 2.2.1.3.b, (R-143)

<sup>99</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF “A”172-VI/99, September 27, 1999, Section 2.2.2, (R-143)

<sup>100</sup> Loan and Borrower Risk Classification Regulation, Resolución SBS No. 572-97, August 20, 1997, p. 13, (R-023)

<sup>101</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF “A”172-VI/99, September 27, 1999, Section 2.1.2.b, (R-143)

that the SBS had found this same accounting problem in its 1997 and 1998 inspections of BNM.<sup>102</sup> Due to the repeated nature of this offense, the SBS fined BNM S/. 56,000 in 1999.<sup>103</sup>

101. Second, the SBS found that BNM had charged the current accounts of several clients into overdraft (i.e., a negative balance) in order to establish an appearance that the clients were making timely payments on their loans.<sup>104</sup> SBS found 30 clients with current accounts totaling negative S/. 0.531 million (i.e., overdraft status) where no other activity had occurred within the current account for 500 days.<sup>105</sup> BNM had classified the loans associated with these clients as either Normal or With Potential Problems when it was clear that the clients' ability to repay the loan was highly in doubt. In addition, BNM recorded fees on the current accounts as a revenue item rather than revenue in suspense.<sup>106</sup> The SBS had also identified this issue in the 1998 annual inspection, but BNM had failed to stop this practice.<sup>107</sup>

102. Third, the SBS identified consumer loans that were classified by BNM as Normal, when in fact they past due or in foreclosure.<sup>108</sup> The (incorrect) assignment of a lower risk classification had allowed BNM to record fewer provisions and hence increase the bank's apparent income and capital.

103. Fourth, the SBS found that the bank's factoring assets,<sup>109</sup> rated as Normal, had overdue payments and/or were being foreclosed.<sup>110</sup> The SBS also found that factoring operations lacked the required documentation underlying BNM's acquisition of the receivables and/or rights to associated guarantees.<sup>111</sup> Additionally, factoring operations exceeded the limit of 15 percent of

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<sup>102</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 2.2.2.b, **(R-143)**

<sup>103</sup> SBS Resolution Sanctioning BNM for Violation of Loan Classification Regulation, Resolución SBS No. 950-99, October 22, 1999, **(R-145)**; Superintendencia Nacional de Administración Tributaria ("SUNAT"), Table of Penalty Tax Units, *available at* <http://www.sunat.gob.pe/indicestajas/uit.html> (last visited January 18, 2012), **(R-214)**

<sup>104</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 2.2.3.3, **(R-143)**

<sup>105</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 2.2.3.3 and Annex 9, **(R-143)**

<sup>106</sup> Interest earned on an account which has been classified as non-performing shall only be recognized as income when the interest has been collected by the bank. In other words, suspended interest is recognized as income on a cash basis. SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 2.2.3.3, **(R-143)**

<sup>107</sup> SBS's Inspection Visit Report for BNM, Informe SBS No. ASIF "A" 164-VI/98, November 17, 1998, Annex 8, **(R-139)**

<sup>108</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 2.2.1.4.g, **(R-143)**

<sup>109</sup> Factoring refers to a transaction where a business sells its accounts receivable to the banks at a discount. Factoring is different from a bank loan in that the emphasis is on the value of the receivables that are purchased.

<sup>110</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 1.4.2.1 h, **(R-143)**

<sup>111</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 1.4.2.1 h, **(R-143)**



BNM's effective equity (S/. 24.136 million) established by regulation.<sup>112</sup> The SBS noted that over 99 percent of the factoring operations of the bank were with a related entity (Gremco).<sup>113</sup> In essence, the bank's shareholders had BNM acquire excessive amounts of accounts receivable from Gremco, a company owned by those same shareholders, in order to provide cash to Gremco.

104. Besides these loan misclassification and provisioning deficiencies, the SBS identified a number of additional problems within BNM that called into question the reliability of the bank's financial reporting. Several of these deficiencies had also been identified in the 1997 and 1998 inspections.

105. First, the SBS identified thirty-four debtors that lacked or had outdated credit reports, cash flow records, and/or financial documentation. This lack of documentation limited BNM's ability to properly evaluate and classify the debtors' loans.<sup>114</sup>

106. Second, the SBS identified that a number of BNM employees lacked the appropriate knowledge and experience to evaluate loans.<sup>115</sup>

107. Third, the SBS noted that the executive committee often approved loans without a complete understanding of a customer's financial situation.<sup>116</sup>

108. Fourth, the SBS noted that BNM did not maintain appropriate records of decisions adopted by the general management committee.<sup>117</sup> This weakness limited the bank's ability to implement the decisions of the management committee.

109. Fifth, the SBS noted that the Market Risk Unit and the Accounting Unit both reported to the same management group.<sup>118</sup> As a consequence, the management group faced a conflict of interest with respect to the information that it was provided.

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<sup>112</sup> The SBS granted BNM until 30 September 1999 to resolve the breach. SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 2.2.4.a, **(R-143)**

<sup>113</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 2.2.4.b, **(R-143)**

<sup>114</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 2.2.1.3 f, **(R-143)**

<sup>115</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 1.4.2.1.e, **(R-143)**

<sup>116</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 2.2.1.4.b, **(R-143)**

<sup>117</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 2.2.1.4.c, **(R-143)**

<sup>118</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 2.7, **(R-143)**

110. Sixth, BNM directors had approved loans in favor of companies in which they had an economic interest.<sup>119</sup> As such, BNM was used to issue loans that it might not have ordinarily issued due the dual role (i.e. conflict of interest) of some of its directors.

111. In relation to these deficiencies, BNM told the SBS on 26 October 1999 that they had taken the following actions to remedy these weaknesses.

“In order to improve and strengthened the management of the loan portfolio, the bank restructured the Risk Committee, increasing the number of members in the committee, formalizing its operation and hiring a risk manager with great experience; modified the procedures to grant loans creating a department of risk analysis; created a committee of loan classification; and started a program to train the personnel in the responsible units...

The bank modified the process of the constitution of the Executive Committee in order to avoid situations that present conflict of interest...

The bank modified its organization structure creating a Comptroller position. Moreover, the bank recognized that it cannot increase its operations with market risk, unless the bank improves the corresponding monitoring and evaluation systems.”<sup>120</sup>

112. Finally, the SBS also identified three other areas of significant concern.

113. First, the SBS found that BNM had extended loans to companies within a single economic conglomerate exceeding the legal limit of 10 percent of the bank’s effective equity capital. As of 30 June 1999, the Miyasato Group had received S/. 25 million in financing which amounted to approximately 17 percent of the effective equity capital of BNM.<sup>121</sup> The SBS instructed BNM to either reduce the amount of loans to the Miyasato Group or increase the guarantees backing the loans.<sup>122</sup> On 26 October 1999 BNM told the SBS that the bank’s loans to the Miyasato Group no longer exceeded the legal limit.<sup>123</sup>

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<sup>119</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF “A”172-VI/99, September 27, 1999, Section 1.4.1.3, **(R-143)**

<sup>120</sup> Letter from BNM to SBS regarding SBS’s 1999 Inspection Visit Report, October 26, 1999, pp. 2-3, **(R-147)**

<sup>121</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF “A”172-VI/99, September 27, 1999, Section 2.1.1 and Annex 1, **(R-143)**

<sup>122</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF “A”172-VI/99, September 27, 1999, Section 1.4.1.1, **(R-143)**

<sup>123</sup> Letter from BNM to SBS regarding SBS’s 1999 Inspection Visit Report, October 26, 1999, p. 2, **(R-147)**

114. Second, the SBS found that BNM had recorded income from the sale (and in some cases the repurchase) of various properties for S/. 4.980 million to related parties (or parties that subsequently became related via merger). Since the properties were sold to related parties, BNM was required to de-recognize the income that the bank had recorded on those sales.<sup>124</sup> On 26 October 1999, BNM told the SBS that they would de-recognize the income in accordance with the SBS's instructions.<sup>125</sup>

115. Third, the SBS noted several high risk activities that did not necessarily violate the applicable banking regulations, but that did expose the bank to unnecessary risks. For example, the SBS noted that BNM's deposits were overly concentrated in a few clients. Specifically, the SBS found that 22 clients, who were all essentially state-owned enterprises (SOEs), made up 37 percent of the bank's deposits.<sup>126</sup> The SBS also noted that BNM did not have limits on the use of credit lines from foreign banks, which could lead to a high concentration of borrowings from a limited number of lenders.<sup>127</sup> Finally, the SBS also identified a high concentration of loans in foreign currency. As of 20 June 1999, 87 percent of BNM's loans were denominated in foreign currency.<sup>128</sup> All of these issues were also noted by the SBS in the 1997 and 1998 inspections.<sup>129</sup> However, BNM had failed to cure these excessive risks. On 26 October 1999, BNM told the SBS that they would continue the process of acquiring deposits from sources other than state owned enterprises and set limits on BNM's credit lines from foreign banks.<sup>130</sup>

### **C. In spite of BNM's Weaknesses, Peru Offered and BNM Accepted Significant Financial Aid from Peru to Assist the Bank in Remaining Solvent**

116. We have already discussed the various general measures that were undertaken by the Peruvian authorities to combat the external shocks that were affecting the Peruvian economy and the banking system specifically. In this section, we discuss how specific measures implemented by the Peruvian authorities to benefit BNM assisted the bank in the crisis. We believe an

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<sup>124</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 2.2.6, (R-143)

<sup>125</sup> Letter from BNM to SBS regarding SBS's 1999 Inspection Visit Report, October 26, 1999, p. 11, (R-147)

<sup>126</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 2.3.1, (R-143)

<sup>127</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 2.3.2, (R-143)

<sup>128</sup> SBS Inspection Visit Report for BNM, Informe SBS No. ASIF "A"172-VI/99, September 27, 1999, Section 2.2.1, (R-143)

<sup>129</sup> SBS's Inspection Visit Report for BNM, Informe SBS No. ASIF "A"-034-VI-97, March 4, 1997, p. 5, (R-135); SBS's

Inspection Visit Report for BNM, Informe SBS No. ASIF "A" 164-VI/98, November 17, 1998, p. 7, (R-139)

<sup>130</sup> Letter from BNM to SBS regarding SBS's 1999 Inspection Visit Report, October 26, 1999, p. 2, (R-147)

understanding of these measures is important to understand the financial situation of BNM before and after the intervention, since these measures significantly impacted the bank's balance sheet and capital position. In total, BNM was the beneficiary of at least five forms of specific aid granted by the Peruvian authorities.

117. First, the SBS supported BNM's request to merge with other financial groups in order to make full use of any excess capital. Specifically, in August 1999 the SBS authorized BNM to acquire and subsequently merge with Banco del País, Coordinadora Primavera S.A., and Nuevo Mundo Leasing S.A.<sup>131</sup> The merger was structured such that BNM absorbed the assets and liabilities of each entity without paying a cash purchase price.<sup>132</sup> Instead, new shares of BNM were issued to the shareholders of the acquired institutions.

118. Second, as part of the merger, the SBS allowed BNM to recognize S/. 45.7 million in goodwill and to count that goodwill as capital.<sup>133</sup> Goodwill is typically defined as the difference between the purchase price of a company (i.e., the market price) and the net accounting book value of the company. Given the manner in which the merger was carried out, BNM did not pay for any goodwill in the in transaction. Nevertheless, the SBS authorized BNM to record S/. 45.7 million in goodwill<sup>134</sup> and allowed BNM to count the goodwill as capital even though the Basel Accords advise against the inclusion of goodwill as capital.<sup>135</sup> In essence, the SBS allowed BNM to create capital through accounting entries. Although the SBS authorized BNM to include goodwill in its capital calculations, they required BNM to amortize the goodwill (i.e., reduce it or expense it) over five years.<sup>136</sup> Thus, the recognition of the goodwill was merely temporary and it would have to be replaced with real capital over the following five years.

119. Third, as part of the merger the SBS authorized BNM to revalue BNM's main headquarters building and to count the revaluation amount as capital. The revaluation of the headquarters

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<sup>131</sup> SBS Resolution Approving the Merger between BNM, Banco del País, Nuevo Mundo Leasing, and the Coordinadora Primavera, Resolución SBS No. 0718-99, 6 August 1999, p. 1-2, **(R-036)**

<sup>132</sup> PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, p. 3, **(R-080)**

<sup>133</sup> PricewaterhouseCoopers' Audit of BNM's December 31, 1999 Financial Statements, February 4, 2000, Note 8.a, **(R-155)**

<sup>134</sup> SBS Resolution Authorizing Goodwill Credit From Merger for BNM, Resolución SBS No. 0715-99, 6 August 1999, **(R-035)**

<sup>135</sup> Basel Committee on Banking Supervision, *International Convergence of Capital Measurement and Capital Standards: A Revised Framework*, November 2005, paras. 38-39, Table 2, **(R-205)**

<sup>136</sup> SBS Resolution Authorizing Goodwill Credit From Merger for BNM, Resolución SBS No. 0715-99, 6 August 1999, p. 2, **(R-035)**

allowed the bank to increase its regulatory capital by a further S/. 42.8 million.<sup>137</sup> While the revaluation of the headquarters had some economic basis, the SBS's authorization to include the revaluation in the capital calculation was exceptionally generous. The main headquarters clearly was not a tradable asset. Hence, it was unlikely that BNM would ever realize the benefit of the value of its main headquarters. This approval is yet another example of BNM capital that was created from accounting entries rather than cash.

120. Fourth, following the approval of the merger, it became apparent that Banco del País (like BNM) had not properly accounted for loan loss provisions in its balance sheet. To address this problem, BNM requested and the SBS authorized Banco del País and BNM to recognize certain loan losses in the 1999 financial statements as a direct reduction in equity rather than running the losses through the income statement.<sup>138</sup> This request was authorized in spite of the fact that it deviates from International Accounting Standards.<sup>139</sup> Accordingly, Banco del País's shareholder equity was reduced by a total of S/. 10 million (US \$2.9 million) and BNM's shareholder equity was reduced by a total of S/. 23.6 million (US \$6.7 million).<sup>140</sup> The only purpose we can see of a request to deviate from basic accounting principles was to give the casual observer of BNM's financial statements an impression that BNM was performing better than it really was performing. Indeed, an informed observer of BNM's financial statements would see this accounting as a tell-tale sign of a troubled financial institution.

121. Fifth, on 24 November 1999, the SBS approved a plan submitted by BNM to participate in the Loan Portfolio Exchange Program.<sup>141</sup> Through this program, BNM was able to transfer to

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<sup>137</sup> PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Note 7, **(R-080)**

<sup>138</sup> SBS Resolution Authorizing Banco del País's Reduction in Shareholder Equity, Resolución SBS No. 0895-99, September 29, 1999, p. 1, **(R-039)**; SBS Resolution Authorizing BNM to Reduce Shareholder Equity, Resolución SBS No. 0894-99, September 29, 1999, p. 1, **(R-038)**

<sup>139</sup> Report on The Observance of Standards and Codes Peru, June 10, 2004, para. 38, **(R-221)**

<sup>140</sup> SBS Resolution Authorizing Banco del País's Reduction in Shareholder Equity, Resolución SBS No. 0895-99, September 29, 1999, p. 1, **(R-039)**; SBS Resolution Authorizing BNM to Reduce Shareholder Equity, Resolución SBS No. 0894-99, September 29, 1999, p. 1, **(R-038)**

<sup>141</sup> The plan submitted included the following: BNM had to adjust its assets and liabilities in order to have an appropriate match of maturities. BM also had to reduce the concentration of liabilities. Profitable assets could not be less than 75% of the adjusted assets. The overdue portfolio and coverage levels could not be less than the system average. BNM had to keep operating expenses below the system average. Additionally, BNM had to reinforce internal controls, ensure effective independence of Internal Auditing and Risks, and periodically report to the SBS regarding compliance with the Development Plan. BNM's Development Plan for 1999-2004, November 24, 1999, **(R-041)**; Contract between Corporación Financiera de

COFIDE the rights of a selected group of BNM loans totaling S/. 117.3 million in exchange for public treasury bonds totaling S/. 117.3 million.<sup>142</sup> The treasury bonds did not pay interest, however, and were not marketable. Moreover, BNM, like all other banks participating in the program, was required to repurchase the transferred loans over a five year period.<sup>143</sup> Thus, the purpose of the program was to give banks time to increase their capital in order to absorb the losses that would ultimately have to be recognized when the loans were repurchased. As a consequence of this transaction, BNM was able to delay the recognition of the losses and to free up provisions of S/. 30.6 million that had been previously recognized.<sup>144</sup>

122. Through these five measures, BNM was able to report a substantially higher capital position in 1999 than it otherwise would have been able to report. Indeed, but for these measures, it is highly likely that BNM would have failed in 1999 or shortly thereafter. As shown in Table 7, removing even just two of these benefits has the effect of driving BNM's capital down below the minimum legal capital adequacy ratio as of 31 December 1999.

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Desarrollo and BNM for the Temporary Transfer of Bonds in Exchange for Loans and their Collection and Guarantees in Trust, December 15, 1999, **(R-045)**

<sup>142</sup> S/. 47.7 million (40.66%) of the BNM loans transferred originated from the consumer loan portfolio of Banco del País. Letter from SBS to BNM regarding the Inspection Visit Report, Oficio No. 12187-2000, November 27, 2000, p. 16, **(R-067)**

<sup>143</sup> BNM was required to continue to evaluate the provisions required for the transferred portfolio. Starting in 2001, BNM had to constitute 25 percent of the provisions required in accordance to the evaluation performed as of the date of the analysis. First Witness Statement of Jorge Mogrovejo, para. 26

<sup>144</sup> PricewaterhouseCoopers' Audit of BNM's December 31, 1999 Financial Statements, February 4, 2000, Note 6c, **(R-155)**

**Table 7 – Calculation of BNM Capital Adequacy Ratio – November 1999<sup>145</sup>**

<i>Amounts in S./Thousand</i>		<b>30-Nov-99</b>
A	Reported Risk Weighted Assets	2,399,945
B	Reversal of Goodwill Credit	(45,138)
C	Reversal of Headquarters Revaluation	(40,420)
D=A+B+C	Actual Risk Weighted Assets	2,314,387
E	Reported Effective Capital	247,503
F=E+B+C	Actual Effective Capital	161,945
G	Capital Assigned to Market Risk	71
H=F-G	Capital Assigned to Credit Risk	161,874
I=H/D	Capital Adequacy Ratio for Credit Risk	6.99%
J=F/(D+(11.5*G))	Capital Adequacy Ratio for Market Risk and Credit Risk	6.99%
Legally Required Capital Adequacy Ratio		10%

123. Importantly, these government measures were only temporary and did not alleviate BNM's real underlying capital shortfall. BNM fundamentally needed to improve its capital position with real capital (i.e., cash) in order to avoid failure. Indeed, none of the government's capital-supporting measures involved cash. As a consequence, the capital artificially created on BNM's books through these measures could not be accessed by BNM to expand or improve its operations.

#### **D. In Spite of the Significant Aid Peru Granted to BNM in 1999, the January 2000 SBS Limited Review Identified Serious Risk Management Issues at BNM**

124. Shortly before BNM's acquisition of Banco del País, BNM's management discovered that the financial statements of Banco del País' did not reflect the true situation of the bank.<sup>146</sup> In early October 1999, BNM's management stated their concerns to the board and the SBS.

“Mr. Jorge Armando Hopkins Larrea communicated to the Board that the gentlemen from Empresas Conosur S.A., on 05 and 13 October 1999, and the SBS, on 13 October 1999, were informed that the accounting and financial information of Banco País,

<sup>145</sup> BNM Capital Adequacy Report Submitted to SBS, 30 November 1999, (R-153); SBS Resolution Authorizing Goodwill Credit From Merger for BNM, Resolución SBS No. 0715-99, 6 August 1999, (R-035)

<sup>146</sup> Minutes of BNM Board of Directors Meeting, October 25, 1999, p. 62, (R-146)

especially its figures about the credit portfolio, have not been reasonably reflecting the financial and economic situation of the bank.”

“At the same time, he reminded the Board that in accordance to the Intention Letter signed by Conosur and Burley dated 25 May 1999 it was established that in the case losses arise from false or incorrect information, each part should assume its respective loss or in its absence reduce its shareholder’s stake.”<sup>147</sup>

125. After a further examination of the accounts of Banco del País accounts, BNM identified serious risk management issues.

“The evaluation of Banco del País indicates that the financial statements, do not reasonably reflect the economic and financial situation of Banco del País, in particular as it relates to the loan portfolio.

The evaluation has found the following observations:

- The accounting system of Banco del País has limited reliability, a situation that was evidenced through the results of the assessment to the balances of the main ledger accounts that comprise the Balance Sheet of the Bank of País 31 Aug 99 and Interim Balance as of 20 Sep 99.
- There are discrepancies generated due to the inadequate application of accounting principles and International Accounting Standards.
- Risk in tax contingencies.
- Deficits in provisions from corporate regulations
- Weaknesses in the internal control and administration of the accounts evaluated.<sup>148</sup>

...

The internal auditors identified the trajectory of the products that make up the Deposits at Banco del País as of 24 Sep 1999, and determined that said deposits expire in the short term, (last quarter

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<sup>147</sup> Minutes of BNM Board of Directors Meeting, October 25, 1999, p. 62, (R-146)

<sup>148</sup> Minutes of BNM Board of Directors Meeting, November 23, 1999, pp. 75-76, (R-149)



of 1999), are concentrated in 3 to 6 clients, have high interest rates on deposits, among others; which will impact Nuevo Mundo.”<sup>149</sup>

126. Initially, BNM reportedly believed they were acquiring a bank with equity of S/. 22.902 million and a loan portfolio consisting mostly of commercial loans worth S/. 111.283 million.<sup>150</sup> However, shortly before the effective date of the merger, BNM’s internal evaluation of Banco del País portfolio revealed that that many of the loans needed to be reclassified and that significantly higher provisions were required. BNM’s management dealt with this in two ways.

127. First, BNM requested and the SBS approved an increase in provisions of S/. 10.08 million and a direct reduction in the equity of Banco del País (rather than reflecting the provision expense in the income statement) just prior to the merger.<sup>151</sup> Second, BNM sought and the SBS allowed BNM to transfer S/. 47.7 million of Banco del País’s loan portfolio as part of the Loan Portfolio Exchange Program in order to delay the recognition of additional provisions.<sup>152</sup>

128. As a result, the equity in Banco del País was reduced by 44 percent to S/. 12.8 million and the loan portfolio was reduced by 53 percent to S/. 51.801 million.<sup>153</sup>

129. The significant adjustments required in the financial statements of Banco del País caused BNM to request that Conosur, the prior owner of Banco del País, contribute S/. 10.08 million in capital to BNM to cover the reduction in capital.<sup>154</sup> We understand that Conosur did not have the money to make this capital contribution. As a consequence, Conosur’s ownership of BNM shares was reduced from 8 percent to 0 percent.<sup>155</sup>

130. The significant adjustments required in the financial statements of Banco del País should have caused BNM to eliminate the S/. 45.7 million goodwill adjustment they requested from the

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<sup>149</sup> Minutes of BNM Board of Directors Meeting, December 21, 1999, p. 86, **(R-151)**

<sup>150</sup> SBS Resolution Authorizing Banco del País’s Reduction in Shareholder Equity, Resolución SBS No. 0895-99, September 29, 1999, **(R-039)**; SBS’s Report on the Special Examination of BNM’s Consumer Loan Portfolio, Informe SBS No. ASIF “A”-028-VI/2000, March 8, 2000, Section 2.2.2, **(R-156)**

<sup>151</sup> Banco del País’s shareholder equity was reduced by a total of S/. 10 million, or US \$2.9 million. BNM’s shareholder equity was reduced by a total of S/. 23.6 million, or US \$6.7 million. First Witness Statement of Jorge Mogrovejo, para. 23

<sup>152</sup> PricewaterhouseCoopers’ Audit of BNM’s December 31, 1999 Financial Statements, February 4, 2000, Note 6c, **(R-155)**

<sup>153</sup> SBS Resolution Authorizing Banco del País’s Reduction in Shareholder Equity, Resolución SBS No. 0895-99, September 29, 1999, **(R-039)**; SBS’s Report on the Special Examination of BNM’s Consumer Loan Portfolio, Informe SBS No. ASIF “A”-028-VI/2000, March 8, 2000, Section 2.2.2, **(R-156)**

<sup>154</sup> Minutes of BNM Board of Directors Meeting, November 29, 1999, **(R-150)**; Minutes of BNM Board of Directors Meeting, October 29, 1999, p. 65, **(R-148)**

<sup>155</sup> PricewaterhouseCoopers’ Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Note 7a, **(R-080)**

SBS, because the real financial situation of Banco del País certainly did not support the existence of any goodwill. However, BNM did not recognize any impairment to the goodwill that it was claiming as capital on its books.

131. As a consequence of all the accounting issues identified in the merger of Banco del País with BNM, we understand that BNM requested the SBS to conduct a review of BNM's consumer loan portfolio.<sup>156</sup> Claimant now claims the SBS initiated this inspection.<sup>157</sup> In either case, it would appear that a subject-specific inspection was warranted given the significant deficiencies identified in Banco del País's loan portfolio. The inspection occurred between 17 January 2000 and 18 February 2000.<sup>158</sup> In the inspection, the SBS reviewed 70 consumer loans totaling S/. 1.4 million or approximately 2.8 percent of the consumer loan portfolio. The SBS confirmed that, by reducing BNM's shareholder equity by S/. 10 million and exchanging a large portion of the consumer loans acquired from Banco del País in the Loan Portfolio Exchange Program, BNM had covered the provision deficiencies in Banco del País' loan portfolio.<sup>159</sup> However, the SBS inspection also identified four weaknesses in the consumer loan portfolio.

132. First, the SBS noted that the bank was incorrectly accounting for all fees associated with consumer loans as revenue upfront rather than recording them as income as they were earned over the term of the loans. Thus, Banco del País was overstating its income. Second, the SBS noted that the commercial unit lacked an operations manual. Third, the SBS indicated that loans had been refinanced without verification of the debtor's ability to pay back the loan or proper documentation of the debtor's income stream. Fourth, the SBS found discrepancies of S/. 3.35 million in the balances of the consumer loans accounting system.<sup>160</sup> Thus, the SBS review indicated that BNM had just merged with a very weak bank.

133. Besides reviewing a sample of Banco del País's consumer loan portfolio, the SBS also evaluated BNM's procedures to account for foreclosed and recoverable assets, risk

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<sup>156</sup> Second Witness Statement of Jorge Mogrovejo, para. 14

<sup>157</sup> Claimant's Memorial, 25 August 2011, para. 284

<sup>158</sup> SBS's Report on the Special Examination of BNM's Consumer Loan Portfolio, Informe SBS No. ASIF "A"-028-VI/2000, March 8, 2000, Section 1.1, **(R-156)**

<sup>159</sup> SBS's Report on the Special Examination of BNM's Consumer Loan Portfolio, Informe SBS No. ASIF "A"-028-VI/2000, March 8, 2000, Sections 2.2.2-2.2.3, **(R-156)**

<sup>160</sup> SBS's Report on the Special Examination of BNM's Consumer Loan Portfolio, Informe SBS No. ASIF "A"-028-VI/2000, March 8, 2000, Section 1.2.2, **(R-156)**

concentration, and BNM's implementation of the recommendations from the 1999 inspection.<sup>161</sup> From these evaluations, the SBS identified the following issues.<sup>162</sup>

134. First, the SBS noted that BNM was not recording properly the required provisions for foreclosed and recovered assets. Foreclosed and recovered assets are assets received in lieu of payment for loans that were subject to legal actions for collection. As of 31 December 1999, the SBS indicated that BNM had a deficit in provisions for these assets of S/. 3.947 million. The SBS indicated that BNM had not been provisioning for foreclosed assets following the SBS rule of provisioning 20 percent of the asset's net book value at the time of adjudication of the asset.<sup>163</sup> BNM replied that they would constitute the provisions for 1999 in March of 2000 and change their accounting procedures going forward.<sup>164</sup>

135. Second, the SBS noted that BNM had to increase its provision for assets not recovered for terminated leases by S/. 1.071 million.<sup>165</sup>

136. Third, the SBS reiterated its view that BNM had a dangerously high concentration of deposits with state owned enterprises that posed a potential liquidity risk. In addition, the SBS noted that even though BNM's network had grown to 26 branches following the merger with Banco del País, its main branch still accounted for 70 percent of deposits.<sup>166</sup>

“For several years it has been observed a high concentration of deposits in the bank that were initially oriented to deposits from international entities and foreign banks, that were subsequently replaced by institutional deposits, government owned and private companies, but essentially government owned. A situation that was accentuated by the deposits' auction process that was implemented by the State in 1998. As of February 28, 2000 the deposits of public enterprises as well as credit lines from COFIDE accounted

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<sup>161</sup> SBS's Report on the Special Examination of BNM's Consumer Loan Portfolio, Informe SBS No. ASIF "A"-028-VI/2000, March 8, 2000, Section 1.1, **(R-156)**

<sup>162</sup> SBS's Report on the Special Examination of BNM's Consumer Loan Portfolio, Informe SBS No. ASIF "A"-028-VI/2000, March 8, 2000, Section 1.1, **(R-156)**

<sup>163</sup> SBS's Report on the Special Examination of BNM's Consumer Loan Portfolio, Informe SBS No. ASIF "A"-028-VI/2000, March 8, 2000, Section 2.6, **(R-156)**

<sup>164</sup> SBS's Report on the Special Examination of BNM's Consumer Loan Portfolio, Informe SBS No. ASIF "A"-028-VI/2000, March 8, 2000, Section 2.6, **(R-156)**

<sup>165</sup> SBS's Report on the Special Examination of BNM's Consumer Loan Portfolio, Informe SBS No. ASIF "A"-028-VI/2000, March 8, 2000, Section 2.3, **(R-156)**

<sup>166</sup> SBS's Report on the Special Examination of BNM's Consumer Loan Portfolio, Informe SBS No. ASIF "A"-028-VI/2000, March 8, 2000, Section 1.2.2.10, **(R-156)**

for 38.9% of the total deposits, a situation representing a potential liquidity risk.

Even though the Bank has an infrastructure of twenty-six (26) branches, many of them opened in highly populated areas, it has not achieved a dispersion of deposits. The deposits are concentrated in the central office, which has 70 percent of the total deposits of the bank.”<sup>167</sup>

137. Fourth, the SBS indicated that BNM had only implemented less than half of the recommendations from the 1999 annual inspection. Specifically, the SBS noted that BNM’s loans to the Miyasato economic conglomerate continued to exceed the legal limit of 10 percent of effective equity.<sup>168</sup> On 26 October 1999, BNM had told the SBS that the bank’s loans to the Miyasato Group no longer exceeded the legal limit.<sup>169</sup> However, this was not true as of February 2000.<sup>170</sup> The SBS also noted that BNM still had not implemented the recommendations they outlined to strengthen the credit risk unit of the bank.<sup>171</sup>

138. Thus, in spite of the aid BNM had received from Peru to maintain or increase its capital, the merger with Banco del País and the January 2000 SBS inspection report revealed that BNM was a larger troubled bank rather than a smaller troubled bank. Accordingly, BNM should have taken significant steps to strengthen its capital following the January 2000 inspection.

**E. In August 2000, When the SBS Initiated its Annual Review of BNM, the Bank Had Failed to Cure its Weaknesses and its Financial Situation Had Deteriorated Significantly**

139. In August 2000, the SBS returned to BNM to perform its routine annual inspection. Consistent with its prior inspections, the SBS reviewed a sample of BNM’s commercial loan

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<sup>167</sup> SBS’s Report on the Special Examination of BNM’s Consumer Loan Portfolio, Informe SBS No. ASIF “A”-028-VI/2000, March 8, 2000, Section 1.2.2.10, **(R-156)**

<sup>168</sup> SBS’s Report on the Special Examination of BNM’s Consumer Loan Portfolio, Informe SBS No. ASIF “A”-028-VI/2000, March 8, 2000, Sections 1.2.2.9 and 2.1, **(R-156)**

<sup>169</sup> Letter from BNM to SBS regarding SBS’s 1999 Inspection Visit Report, October 26, 1999, p. 2, **(R-147)**

<sup>170</sup> SBS’s Report on the Special Examination of BNM’s Consumer Loan Portfolio, Informe SBS No. ASIF “A”-028-VI/2000, March 8, 2000, Section 2.1, **(R-156)**

<sup>171</sup> SBS’s Report on the Special Examination of BNM’s Consumer Loan Portfolio, Informe SBS No. ASIF “A”-028-VI/2000, March 8, 2000, Section 1.2.2.7, **(R-156)**

portfolio in order to ascertain whether or not BNM was in compliance with loan classification and provisioning requirements.<sup>172</sup>

140. The SBS selected a sample of 295 borrowers with S/. 1,288 million in loans as of 30 June 2000. This sample represented 58 percent of the total BNM loan portfolio.<sup>173</sup> After its review, the SBS found that the risk category BNM had assigned to 141 of the borrowers in the sample was too low. These borrowers had loans totaling S/. 587.4 million - equivalent to 46 percent of the borrowers and 48 percent loan portfolio sampled, respectively.<sup>174</sup> Table 8 below summarizes the pervasiveness of BNM's failure to properly classify its loan portfolio.

**Table 8 – SBS Loan Portfolio Review<sup>175</sup>**

<b>Calc.</b>	<b>2000</b>
[A] Number of Debtors in Inspection Sample	295
[B] Number of Debtors Reclassified by SBS	141
<b>[C]=B/A</b> Percentage of Number of Debtors Reclassified by SBS	<b>48%</b>
[D] Loan Portfolio as of 30-Jun-2000 (in S/. 000)	2,221,412
[E] Evaluated Portfolio Sample as of 30-Jun-2000 (in S/. 000)	1,288,386
<b>[F]=E/D</b> Percentage of Total Loan Portfolio Sampled	<b>58%</b>
[G] Portfolio Sample Reclassified by SBS	587,406
<b>[H]=G/E</b> Percentage of Sample Loan Portfolio	<b>46%</b>
<b>[I]=G/D</b> Percentage of Total Loan Portfolio	<b>26%</b>

141. Furthermore, the SBS highlighted that the discrepancies in the ratings was significant. Overall, the SBS found that 32 percent of the debtors evaluated required at least an increase of

<sup>172</sup> SBS's Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF "A"-168-VI/2000, November 22, 2000, Section 2, (R-065)

<sup>173</sup> SBS's Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF "A"-168-VI/2000, November 22, 2000, Section 2, (R-065)

<sup>174</sup> SBS's Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF "A"-168-VI/2000, November 22, 2000, Section 2, (R-065)

<sup>175</sup> SBS's Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF "A"-168-VI/2000, November 22, 2000, Annex 9, (R-065)

two or more risk category levels.<sup>176</sup> Table 9 below shows the significant reclassifications the SBS identified in the sampled loan portfolio.

**Table 9 – SBS Sampled Loan Portfolio Reclassification<sup>177</sup>**

<b>Loan Risk Category</b> <i>(Amounts in S./ 000)</i>	<b>BNM</b> <b>Classification</b>	<b>% of Total</b> <b>Sample</b>	<b>SBS</b> <b>Classification</b>	<b>% of Total</b> <b>Portfolio</b>
Normal	971,771	75.43%	559,892	43.46%
W.P.P.	211,075	16.38%	401,968	31.20%
Deficient	85,400	6.63%	222,600	17.28%
Doubtful	13,084	1.02%	86,521	6.72%
Loss	7,057	0.55%	17,406	1.35%
<b>Portfolio Sample Inspected</b>	<b>1,288,386</b>	<b>100.00%</b>	<b>1,288,386</b>	<b>100.00%</b>

142. Additionally, the SBS found that BNM had transferred S/. 13.038 million of loans under the Loan Portfolio Exchange Program that should have been classified as loss loans.<sup>178</sup> The Loan Portfolio Exchange Program did not allow banks to transfer loss loans.<sup>179</sup> Consequently, these transfers had to be reversed. Furthermore, the SBS also found that loans that had been validly included in the Loan Portfolio Exchange Program had significantly deteriorated in the interim. Consequently, BNM would have to be prepared to recognize at least S/. 30.337 million of additional provisions when these loans had to be repurchased.<sup>180</sup>

143. As a result of the reclassification of the sampled loans, BNM was required to increase loan loss provisions by S/. 79.182 million, a 72 percent increase in BNM's provision balance as of 30 June 2000.<sup>181</sup> However, because the SBS had only looked at a sample of BNM's portfolio and not the entire portfolio, it is obviously logical to presume that the provisioning requirement would have been far greater if every loan in BNM's portfolio was reviewed. Consequently, the

<sup>176</sup> SBS's Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF "A"-168-VI/2000, November 22, 2000, Section 2, (R-065)

<sup>177</sup> SBS's Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF "A"-168-VI/2000, November 22, 2000, Annex 9, (R-065)

<sup>178</sup> SBS's Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF "A"-168-VI/2000, November 22, 2000, Section 6, (R-065)

<sup>179</sup> Decree Instituting the Loan Portfolio and Treasury Bond Exchange Program, Decreto Supremo No. 099-99-EF, Article 2, (R-030)

<sup>180</sup> SBS's Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF "A"-168-VI/2000, November 22, 2000, Section 6, (R-065)

<sup>181</sup> SBS's Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF "A"-168-VI/2000, November 22, 2000, p. 7, (R-065)

SBS instructed BNM to re-evaluate the entire portfolio in order to determine the additional provisions required.<sup>182</sup>

144. Besides the weaknesses identified by the SBS in BNM's loan classifications, the SBS inspection also revealed that BNM was using accounting schemes designed to hide the true financial condition of the bank. Most of these issues were recurring problems that the SBS had also found in previous inspections. However, the severity of the issues had significantly increased. We discuss the four issues identified by the SBS in the following four paragraphs.

145. First, the SBS found deposit accounts with overdraft balances totaling negative S/. 0.943 million and negative US\$ 1.019 million that had been inactive for more than 60 days. These accounts were being used by BNM to make loans appear to be performing.<sup>183</sup> The SBS had identified this poor practice in its 1998 and 1999 annual inspections.<sup>184</sup>

146. Second, the SBS found that BNM had once again misclassified loans as current loans instead of restructured/refinanced loans.

“A large number of past-due, refinanced and restructured loans were identified as being recorded as “Current Portfolio”, totaling S/.141.7 million (US\$40.6 million), thereby contravening the stipulations of the Chart of Accounts for Financial Institutions. The high number of debtors with refinanced operations not identified by the Bank should also be noted. These include leaseback operations that have provided for the payment of past-due obligations. In other cases, the original payment schedule has been amended, transforming the first past-due payments into a grace period.”<sup>185</sup>

147. Because restructured and refinanced loans require higher provisions than current loans, BNM was clearly avoiding the recognition of losses. One example of BNM's failure to comply

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<sup>182</sup> SBS's Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF "A"-168-VI/2000, November 22, 2000, p. 2, **(R-065)**

<sup>183</sup> The SBS noted that in accordance with SBS resolution 572-97 deposits with overdraft balances inactive for over 60 days had to be classified as past due. SBS's Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF "A"-168-VI/2000, November 22, 2000, p. 3, **(R-065)**

<sup>184</sup> Letter from SBS to BNM regarding SBS's 1998 Inspection Visit Report, Oficio No. 9977-98, November 26, 1998, p. 2, **(R-140)**; Letter from SBS to BNM regarding SBS's 1999 Inspection Visit Report, Oficio No. 10148-99, October 13, 1999, p. 2, **(R-144)**

<sup>185</sup> SBS's Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF "A"-168-VI/2000, November 22, 2000, p. 3, **(R-065)**

with this classification requirement involves leaseback operations. BNM was using leaseback operations to cancel loans that would have otherwise been past due.<sup>186</sup> A leaseback is a transaction where a company sells an asset to a bank and the bank immediately leases the property back to the company on a long term basis. In BNM’s case, it was purchasing an asset from a borrower in order to “cancel” a past due loan, and then leasing the asset back to the borrower under similar terms to the original loan.<sup>187</sup>

148. These operations allowed BNM to underreport the overall riskiness of its loan portfolio and avoid recording higher provisions. The discovery of these misclassifications revealed that the percentage of loans identified as past due by BNM was at least 9.3 percent rather than 5.8 percent as reported, and the percentage of restructured and refinanced loans was at least 9.7 percent rather than 3.9 percent as reported.<sup>188</sup> These misclassifications are summarized in Table 10 below. Given that the SBS had only selected a sample of loans to review, it is obvious that this issue would have required BNM to recognize additional provisions if the entire portfolio had been reviewed.

**Table 10 – Loan Portfolio Reclassification<sup>189</sup>**

<b>Loan by Type</b> <i>(Amounts in S/. 000)</i>	<b>BNM</b>	<b>Percent of Total</b>	<b>SBS</b>	<b>Percent of Total</b>
	<b>Classification</b>	<b>Loans</b>	<b>Classification</b>	<b>Loans</b>
Current	1,708,726	90.30%	1,567,898	82.85%
Refinanced	64,820	3.43%	124,239	6.57%
Restructured	9,449	0.50%	24,722	1.31%
Past Due Loans under Legal Action for Collection	109,386	5.78%	175,522	9.28%
<b>Total</b>	<b>1,892,381</b>	<b>100.00%</b>	<b>1,892,381</b>	<b>100.00%</b>

149. Third, the SBS found that BNM had continued to record fees for deposit accounts with overdraft balances for more than 60 days as revenue, rather than as “revenue in suspense” (a

<sup>186</sup> SBS’s Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF “A”-168-VI/2000, November 22, 2000, p. 8, **(R-065)**

<sup>187</sup> Leaseback Operations Report, 2000, p. 1, **(R-185)**

<sup>188</sup> The high risk portfolio includes refinanced and restructured loans, non-performing loans, and loans subject to judicially-ordered collection. SBS’s Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF “A”-168-VI/2000, November 22, 2000, pp. 1-9, **(R-065)**

<sup>189</sup> SBS’s Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF “A”-168-VI/2000, November 22, 2000, Annex 5, **(R-065)**



non-revenue account).<sup>190</sup> The SBS also found that BNM was recording interest on past due loans as interest revenue rather than as “interest in suspense” (a non-revenue account). These two policies had allowed BNM to overstate its revenue as of 30 June 2000 by S/. 3.877 million, or 50 percent of BNM’s net income as of 30 June 2000.<sup>191</sup> In other words, on this basis alone, BNM’s actual income was 50 percent lower than it was claiming on its June 2000 financial statements.

150. Fourth, the SBS discovered that BNM was using transactions that were intentionally structured to hide the true amount that the bank was providing in financing to related parties. The SBS found that BNM’s net financing to the Levy Group, a related party, was 22 percent of the bank’s effective capital, substantially over the 10 percent legal limit.<sup>192</sup> Without taking into account the goodwill credit as part of the effective capital of the bank, BNM’s financing to the Levy Group was 45 percent of effective capital.<sup>193</sup> As shown in Table 11 below, BNM was directly and indirectly buying shares in the real estate investment fund “Fondo de Inversion Multirenta Inmobiliaria” (“the Fund”). The fund administered by Multifondos SAFI, a BNM related party, was then using the cash primarily to purchase seven real estate properties from the Levy Group.<sup>194</sup> The SBS instructed BNM to sell the shares of the fund within six months of the inspection visit.<sup>195</sup>

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<sup>190</sup> SBS’s Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF “A”-168-VI/2000, November 22, 2000, Annex 9, **(R-065)**

<sup>191</sup> SBS’s Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF “A”-168-VI/2000, November 22, 2000, Annex 9, **(R-065)**

<sup>192</sup> Gremco was formerly known as the Levy Group. Net financing takes into account any assets provided to guarantee the loan. SBS Report on Participation Shares in Fondo de Inversión Multirenta Inmobiliaria, Informe SBS No. 02-2002-VE/DESF “A”, May 9, 2002, para. 21, **(R-192)**

<sup>193</sup> SBS Report on Participation Shares in Fondo de Inversión Multirenta Inmobiliaria, Informe SBS No. 02-2002-VE/DESF “A”, May 9, 2002, para. 22, **(R-192)**

<sup>194</sup> SBS Report on Lifting of Liens on Land Owned by Gremco, Informe SBS No. 01-2002-DESF “A”, April 16, 2002, **(R-191)**

<sup>195</sup> SBS’s Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF “A”-168-VI/2000, November 22, 2000, p. 16, **(R-065)**

**Table 11 – Funding Structure of Fondo Inversiones Multirenta Inmobiliaria<sup>196</sup>**

Source of Funds	Amount (USD Thousands)	% of Total	Uses of Funds	Amount (USD Thousands)	% of Total
BNM Shares	11,034	31%	Real Estate Investments bought from LEVY Group	\$29,810	86%
Third Party Shares Financed with BNM Loans	4,666	13%	Real Estate bought from Third Parties	\$726	2%
Third Party Shares	12,700	35%	Mobile Investments	\$1,217	4%
BNM Owned Bonds	782	2%	Operating and Financing Expenses	\$2,457	7%
Third Party Owned Bonds	2,120	6%	Administration Commission for Multifondo SAFI	\$370	1%
Income from Real Estate and Other Investments	4,490	12%	<b>Total Uses of Funds</b>	<b>\$34,580</b>	<b>100%</b>
Construction financed through Leases	280	1%			
<b>Total Sources of Funds</b>	<b>\$36,072</b>	<b>100%</b>			

151. The SBS also identified other weaknesses. For example, the SBS noted that documents such as economic and financial information, commercial reports, and cash flow reports were still missing from loan files.<sup>197</sup> This prevented the bank from adequately assessing loan quality. Additionally, shortly after the inspection report was issued, the SBS informed BNM that they would need to account for S/. 23.094 million in expenses before the end of 2000. These expenses were mainly to account for deferred assets, asset write-offs, and a change in the accounting rules for intangible assets.<sup>198</sup>

152. Accordingly, the SBS's findings revealed that BNM had not only failed to cure the weaknesses found in the 1999 and January 2000 inspections, but that the financial situation of the bank had deteriorated significantly. Consequently, the SBS demanded that BNM develop a new plan to ensure the solvency of the bank moving forward.

“Considering the importance of the identified deficit in provisions, which must be recorded before the end of this year and the need to strengthen the assets of the bank within the same period in an amount sufficient to fulfill the requirement to maintain a financial leverage ratio less than ten times, and that there are provisions pending registration from the portfolio exchanged program under the Supreme Decree 099-99 NQ-EF, this Office requires the Bank to update its development plan for the next two years. This plan should include figures with the bank's projected results, a description of the measures and policies to be adopted as well as

<sup>196</sup> SBS Report on Participation Shares in Fondo de Inversión Multirenta Inmobiliaria, Informe SBS No. 02-2002-VE/DESF “A”, May 9, 2002, p. 9, (R-192)

<sup>197</sup> SBS Report on Expenses Recorded as Asset Accounts, Informe SBS No. DESF “A” 178-OT/2000, November 30, 2000, (R-171)

<sup>198</sup> SBS Report on Expenses Recorded as Asset Accounts, Informe SBS No. DESF “A” 178-OT/2000, November 30, 2000, (R-171)

the quarterly targets and commitments for the capitalization of the bank, that show the way in which the Bank will be able to maintain a financial leverage ratio of less than ten times and generate sufficient profits to make the necessary provisions required to repurchase the exchanged portfolio. Also, the plan must take into account the additional provisions that will result from the work described in the second paragraph of section 2 of this report, in reference to the work of assessing the classification of the portfolio not evaluated, as well as the adjustments resulting from the internal audit work required in the second paragraph of section 3 of this report. The above plan must be submitted to this Office before December 31, 2000.”<sup>199</sup>

153. Given the systemic and pervasive problems identified by the SBS at BNM, it was statistically certain that BNM had other unrecognized provisions and losses that would seriously challenge BNM’s solvency. Ultimately, as discussed in the following section, BNM’s weak financial position would lead to a run on deposits.

#### **F. BNM’s Risky Dependence on Deposits with State Owned Enterprises, the Political Crisis, and its Weak Financial Situation Led to a Bank Run**

154. Given BNM’s significant participation in state aid programs as well as the authorizations it received to create capital with accounting maneuvers it would not have been difficult for the financial markets, or even the media, to identify BNM as a weak bank. Additionally, BNM had created an excessively risky liquidity position by overly participating in the acquisition of SOE deposits. This excessive risk taking was identified by the SBS in the annual inspections of BNM.

155. In July 2000, the Minister of Economy directed state owned enterprises to begin transferring excess cash held at commercial banks to the Treasury which resulted in the SOEs not renewing their deposits with commercial banks when those deposits reached maturity.<sup>200</sup> We understand that this directive was prompted by Peru’s need for cash to meet its budgetary requirements for 2000.<sup>201</sup>

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<sup>199</sup> Letter from SBS to BNM regarding the Inspection Visit Report, Oficio No. 12187-2000, November 27, 2000, p. 4, (R-067)

<sup>200</sup> Second Witness Statement of Jorge Mogrovejo, para. 37

<sup>201</sup> Second Witness Statement of Jorge Mogrovejo, para. 51

156. According to Claimant's own data, the SOEs' withdrawals from BNM were not significant in July, August, or September 2000.<sup>202</sup> As shown in Figure 6 below, by the end of September the deposit balance of state owned enterprises in BNM accounts was US\$ 62 million – a balance in the same range of the balances observed throughout 1999. During this same period of time, deposits of private persons and enterprises did not decrease unusually either.

**Figure 6 – Deposit Balances at BNM in 1999 and 2000<sup>203</sup>**

BANCO DEL NUEVO MUNDO - EVOLUCION DEPOSITOS ESTATALES Y PRIVADOS EXPRESADOS EN US \$000			
FECHA	DEP-ESTADO	DEP-PRIVADOS	TOTAL DEPOSITOS DEL PUBLICO
Dec-98	\$59,920	\$197,584	\$257,504
Jan-99	\$50,465	\$196,412	\$246,876
Feb-99	\$44,128	\$194,843	\$238,970
Mar-99	\$46,484	\$183,381	\$229,865
Apr-99	\$51,409	\$205,520	\$257,928
May-99	\$48,341	\$180,836	\$229,177
Jun-99	\$60,224	\$179,187	\$239,411
Jul-99	\$54,877	\$181,601	\$236,478
Aug-99	\$64,886	\$195,344	\$260,230
Sep-99	\$68,402	\$220,174	\$288,576
Oct-99	\$64,190	\$210,685	\$274,875
Nov-99	\$67,893	\$214,683	\$282,576
Dec-99	\$64,008	\$200,670	\$264,678
Jan-00	\$67,873	\$198,338	\$266,211
Feb-00	\$68,215	\$206,439	\$274,655
Mar-00	\$86,827	\$222,514	\$309,341
Apr-00	\$74,717	\$248,387	\$323,105
May-00	\$63,275	\$261,579	\$324,854
Jun-00	\$71,921	\$265,838	\$337,759
Jul-00	\$68,118	\$272,743	\$340,861
Aug-00	\$65,217	\$272,337	\$337,554
Sep-00	\$61,948	\$250,364	\$312,311
Oct-00	\$44,596	\$256,037	\$300,633
Nov-00	\$52,277	\$201,899	\$254,176
Dec-00	\$59,319	\$127,729	\$187,048

157. However, in October 2000 the deposits of state owned enterprises decreased 27 percent to US\$ 45 million. In the same month, deposits held by private persons and enterprises *increased*

<sup>202</sup> Claimant's Memorial, 25 August 2011, para. 296

<sup>203</sup> Claimant's Memorial, 25 August 2011, para. 296

by nearly US\$ 6 million to US\$ 256 million.<sup>204</sup> Thus, the withdrawals by state owned enterprises do not coincide with a decrease in deposits placed by private parties.

158. In November 2000, deposits of state owned enterprises increased by almost US\$ 8 million. In December 2000, deposits of state owned enterprises increased a further US\$ 7 million.<sup>205</sup> We understand that these increases were the result of the Minister of Economy's decision to slow the movement of SOE funds out of commercial banks. On the other hand, notwithstanding this policy shift, deposits placed by private persons and enterprises decreased dramatically at BNM. From the end of October to the end of December, deposits placed by private persons and enterprises decreased by approximately 50 percent.<sup>206</sup>

159. Since the state owned enterprises' withdrawal of excess funds out of all of the commercial banks did not trigger an immediate private run on BNM's deposits by private persons and enterprises, it is difficult to conclude, as Claimant does, that the state caused the private run on deposits at BNM. Rather, it is far more plausible that the run on private deposits at BNM was triggered by speculation about BNM's solvency. Having resorted to creative accounting means to build paper capital rather than raising real capital through the issuance of new shares, BNM was undoubtedly a weak bank. Indeed, BNM's participation in all of the government programs designed to assist troubled banks as well as the unique assistance given to BNM (i.e., counting goodwill and the revaluation of the headquarters as capital), are tell-tale signs of a troubled bank. Thus, BNM was susceptible to a crisis of confidence. Based upon the data supplied by Claimant, private persons and enterprises, BNM clearly did not have a crisis of confidence immediately following the state's decision to move SOE funds to the Treasury – a decision that affected all commercial banks, not just BNM.<sup>207</sup> Instead, the crisis of confidence affecting BNM is evident more than two months later. Indeed, BNM did not need any external liquidity support until November 2000.

160. The Peruvian government continued to aid BNM even when it started experiencing liquidity shortfalls in November 2000 as BNM's private depositors withdrew their funds. Specifically,

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<sup>204</sup> Claimant's Memorial, 25 August 2011, para. 296

<sup>205</sup> Claimant's Memorial, 25 August 2011, para. 296

<sup>206</sup> Claimant's Memorial, 25 August 2011, para. 296

<sup>207</sup> Claimant's Memorial, 25 August 2011, para. 296

the BCRP provided BNM with two overnight loans of US\$ 67.3 million and S/. 97.5 million in November and one overnight loan for US\$ 73 million in December.<sup>208</sup> Ultimately, however, the support of the BCRP did not reverse the outflow of deposits at BNM and BNM faced a liquidity crisis. Consequently, on 5 December 2000, we understand the SBS went to BNM to officially intervene the bank.<sup>209</sup> We understand that when the SBS arrived at the main headquarters, BNM had already closed its doors due to the lack of funds it had on hand to satisfy withdrawal requests.<sup>210</sup>

161. Irrespective of one's view of the cause of the run on deposits that occurred with private persons and enterprises and brought about the intervention of BNM due to its lack of liquidity, the SBS's intervention and the subsequent independent audit conducted by PwC revealed that BNM was also an insolvent institution. In the following subsection, we discuss the issues uncovered by the SBS and PwC which revealed that BNM had been avoiding the recognition of losses in order to maintain an appearance of solvency.

#### **G. After BNM Was Intervened by the SBS, the True, Far Worse Financial Condition of BNM Was Revealed**

162. The SBS was forced to intervene BNM on 5 December 2000 when the bank could no longer fulfill its debt obligations.<sup>211</sup> Given the systemic and pervasive problems identified by the SBS at BNM in its 1999 and 2000 reviews, BNM should have undertaken a comprehensive review of its entire loan portfolio and accounting procedures in order to ensure that it was recognizing all of the required provisions and adjusting items under the regulations. While we understand that BNM agreed with the conclusions in the SBS inspection report, we also understand that BNM did not perform this comprehensive review of its loan portfolio and accounting procedures to identify and recognize the additional losses that clearly existed in its loan and asset portfolios. As a consequence, when the SBS intervened, it should not have been surprising that the SBS and BNM's outside auditors found that BNM had significant, unrecognized provisions and adjusting

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<sup>208</sup> Witness Statement of Juan Ramirez, 25 August 2011, para. 24

<sup>209</sup> First Witness Statement of Jorge Mogrovejo, 25 August 2011 para. 13

<sup>210</sup> First Witness Statement of Jorge Mogrovejo, 25 August 2011 para. 53

<sup>211</sup> Respondent's Memorial on Jurisdiction, 25 August 2011, para. 68

items. Overall, the SBS and PwC's Progress Report and Audit Report found nine additional sources of losses at BNM.

163. First, PWC performed a more comprehensive review of BNM's loan portfolio including a review of loans that the SBS had not reviewed in its 2000 inspection. As Table 12 below shows, after PwC's expanded review, nearly 90 percent of BNM's commercial loan portfolio had been evaluated. As a result of the expanded review of BNM's loan portfolio as well as PwC's consideration of the incremental provisioning requirements that were required by regulation to be recognized after 30 June 2000 and the updated financial status of each borrower, PwC identified that BNM would have to create provisions of S/. 167,393 thousand on 31 December 2000 rather than just S/. 65,690 thousand resulting from the sample reviewed by the SBS.<sup>212</sup>

**Table 12 – BNM Commercial Loan Portfolio as of 30 June 2000 and 31 December 2000<sup>213</sup>**

Calculation	<i>(All amounts are in S/. 000)</i>	Loan Gross Balances as of		Cumulative % of Portfolio Reviewed
		30-Jun-00	31-Dec-00	
[A]	Commercial Loans Reviewed by SBS only	457,061	424,917	25%
[B]=C+D+E	Commercial Loans Reviewed by SBS and PwC	835,801	766,065	
[C]	Loans where SBS and PwC have Equal Ratings	484,687	453,365	51%
[D]	Loans where PwC Increased the Rating	338,965	300,802	68%
[E]	Loans where PwC Lowered the Rating	12,149	11,898	69%
[F]=A+B	<b>Total Commercial Loans Reviewed by SBS</b>	<b>1,292,862</b>		
[G]	Commercial Loans Reviewed by PwC only		350,391	89%
[H]=B+G	<b>Total Commercial Loans Reviewed by PwC</b>		<b>1,116,456</b>	
[I]	Commercial Loans not Reviewed by SBS or PwC		187,670	100%
[J]=A+H+I	<b>Total Commercial Loans</b>		<b>1,729,043</b>	

164. Second, PWC found that BNM had either wrongly capitalized various expenses as assets on its balance sheet or had failed to recognize that certain assets had written down/off. These

<sup>212</sup> SBS Inspection Report DESF "A" 168-VI/2000, 22 November 2000, Annex 9, (R-065); PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Income Statement, (R-080); PricewaterhouseCoopers, Special Report on the Loan, Investments, and Other Portfolios Related to 31 December 2000, 5 March 2001, p. 4, (R-080). The S./ 167,393 thousand totals the S./ 220,154 in direct loan loss provisions plus the S./ 12,233 thousand in contingencies (indirect loan loss provisions) less the S./ 64,994 in loan loss provisions required from the loan portfolio transferred back from COFIDE.

<sup>213</sup> See Navigant Annex A. Consumer loans and mortgage credits were removed from the total loan portfolio of S./ 1,940 million to determine the total commercial loan portfolio. PricewaterhouseCoopers, Special Report on the Loan, Investments, and Other Portfolios Related to 31 December 2000, 5 March 2001, p. 4, (R-080); PricewaterhouseCoopers' Progress Report on Audit of BNM in Intervention's Financial Statements of December 31, 2000, December 27, 2000, Section 1.2, (R-173)

amounts totaled S/. 24.866 million.<sup>214</sup> The SBS had identified some of these issues during the November 2000 inspection.<sup>215</sup> Some of the adjusting items the SBS and PwC identified in this category include, for example, 1) BNM's failure to derecognize Banco del País branch assets that BNM had closed, 2) BNM's failure to write-off income tax credits that could not be utilized, 3) BNM's wrongful capitalization of promotional expenses as an asset rather than recording the expenses on the income statement.<sup>216</sup>

165. Third, during the January 2000 inspection the SBS had found that BNM was not provisioning for foreclosed assets in accordance with the SBS's rules.<sup>217</sup> The SBS requires the recognition of a provision equal to 20 percent of the asset's net book value at the time of the adjudication of the asset.<sup>218</sup> The SBS had noted BNM's noncompliance with this rule in the 1999 inspection as well. During the January 2000 SBS inspection visit, BNM informed the SBS that the issue was a result of a misinterpretation of an SBS ruling, and that the bank would fix the issue going forward.

“[BNM] indicated that the difference in the calculation of provisions for [foreclosed assets] was due to the interpretation of the Circular Number B2017-98 adopted in 1998 and maintained for the financial year 1999. However, the Bank will regularize outstanding provisions in the first half of this year.”<sup>219</sup>

[BNM] indicated that assets as of December 31, 1999 to be recovered and recovered to date, have moved in March 2000 to account Foreclosed Assets constituting a provision for 20% of the value of that asset and 1/18<sup>th</sup> each month, beginning the change in procedure.”<sup>220</sup>

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<sup>214</sup> PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Notes 7 and 8a, **(R-080)**

<sup>215</sup> SBS Report on Expenses Recorded as Asset Accounts, Informe SBS No. DESF "A" 178-OT/2000, November 30, 2000, **(R-171)**

<sup>216</sup> PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Notes 7 and 8a, **(R-080)**

<sup>217</sup> SBS's Report on the Special Examination of BNM's Consumer Loan Portfolio, Informe SBS No. ASIF "A"-028-VI/2000, March 8, 2000, Section 2.6, **(R-156)**

<sup>218</sup> PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Note 2i, **(R-080)**

<sup>219</sup> SBS's Report on the Special Examination of BNM's Consumer Loan Portfolio, Informe SBS No. ASIF "A"-028-VI/2000, March 8, 2000, Section 2.6, **(R-156)**

<sup>220</sup> SBS's Report on the Special Examination of BNM's Consumer Loan Portfolio, Informe SBS No. ASIF "A"-028-VI/2000, March 8, 2000, Section 2.6, **(R-156)**



166. However, BNM had not fully rectified this deficiency. As a consequence, BNM had to increase provisions by S/. 11.968 million for foreclosed assets.<sup>221</sup>

167. Fourth, BNM's leasing portfolio had also deteriorated significantly since the SBS inspection in November. As of 30 June 2000 the SBS found that BNM's unrecovered assets from rescinded leasing contracts totaled S/. 18.580 million. However, the SBS found that BNM had under-provisioned for these assets at the time.

“Rescinded leasing transactions, without recovery of the asset for S/. 18,580 thousand, which have provisions for S / . 5,213 thousand (28%). The bank's provisioning policy is a monthly amount equal to 1/12 of the book value of assets comprised of equipment, vehicles and machinery. However, real estate not subject to deterioration in the short and / or medium term are not subject to provision, except for the financial lease granted to Corporación de Gimnasios EIRL (whose main shareholder is involved in an alleged money laundering offense) in coordination with external auditors a provision of 25% of book value of this operation has been made.”<sup>222</sup>

168. As of year-end 2000, PWC determined that BNM's unrecovered assets from rescinded leasing contracts had increased to S/. 42.371 million. Due to this increase the provisions associated with these assets had to be increased to S/. 16.035 million or 38 percent of the gross value of the assets.<sup>223</sup>

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<sup>221</sup> PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Notes 8b and 8e, **(R-080)**

<sup>222</sup> SBS's Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF "A"-168-VI/2000, November 22, 2000, Section 1.1.1, **(R-065)**

<sup>223</sup> We understand that the increase in the overall provisioning percentage was a result of the SBS's requirement to increase the provisioning for Corporación de Gimnasios EIRL to 50 percent. “As of December 31, 1999 it is accounted for in the rescinded leasing transactions account without recovery of the asset 1816.28 both obligations of to Corporación de Gimnasios EIRL for S/4,283 thousand (U.S. \$ 1.231 thousand). These contracts were terminated following the seizure of the assets that were the subject of the lease, by the DINANDRO and Drug Criminal Court. Given the risk associated with these obligations, the Bank should make provisions for 25% of its obligations (S/.1,071 thousand) which must be increased if applicable, to 50% by the one year anniversary of the seizure, after such period a 100 % provision shall be made.” PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Note 8e, **(R-080)** and SBS's Report on the Special Examination of BNM's Consumer Loan Portfolio, Informe SBS No. ASIF "A"-028-VI/2000, March 8, 2000, Section 2.3, **(R-156)**

169. Fifth, PwC also identified that BNM had accounts receivable totaling S/. 2.152 million for value added tax related to financial leases that had been rescinded.<sup>224</sup> Consequently, PwC recognized that a reserve should be recognized for these receivables.<sup>225</sup>

170. Sixth, PwC also reviewed all of BNM's short term investments, which as of 31 December 2000, had a book value of S/. 49.200 million.<sup>226</sup> PwC's audit revealed that the market value of these investments had deteriorated. The total provision required as of 31 December 2000 was S/. 2.596 million.<sup>227</sup> Notably, over 70 percent of the provisions required related to the decrease in the market value of the bonds and shares of the fishing company "Pesquera Austral."<sup>228</sup>

171. Seventh, PwC required that BNM recognize additional provisions of by S/. 7.256 million for various accounts receivables.<sup>229</sup>

172. Eighth, BNM had to recognize the complete impairment of the goodwill that it had previously recorded as an asset and capital after the Banco del País merger.<sup>230</sup> Given the actual state of the loan portfolio of BNM and Banco del País, there was no economic or accounting basis to continue to recognize the goodwill asset.

"IAS 38 – This standard requires that an intangible asset be recognized only if it is probable that future economic benefits will

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<sup>224</sup> PricewaterhouseCoopers' Progress Report on Audit of BNM in Intervention's Financial Statements of December 31, 2000, December 27, 2000, Section 1.5, **(R-173)**

<sup>225</sup> PricewaterhouseCoopers' Progress Report on Audit of BNM in Intervention's Financial Statements of December 31, 2000, December 27, 2000, Section 1.5, **(R-173)**; PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Note 8e, **(R-080)**

<sup>226</sup> PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Note 5, **(R-080)**

<sup>227</sup> PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Note 5, **(R-080)**

<sup>228</sup> The SBS had already noted in the November 2000 inspection report that provisions were required to account for the decrease in the market value of BNM's short term investments. "On the other hand, the Bank has purchased bonds issued by Pesquera Austral SA for S/. 4,834 thousand. Due to the share price of this company in the market as of last August, the Bank has extended the coverage of the provision to S/. 346,000 at that date, reflect, in some way, the present value of such bonds. This provision conforms to the requirements of the rating assigned potential problem for their loan operations. The Bank also has private shares in the amount of S/. 1,528 thousand, belonging to publicly traded shares of several companies as Credicorp, Nuevo Mundo SAFI, Edegel, Buenaventura, Volean Cía. Mining, Telefónica among others, which has create provisions for their price fluctuation for S/. 73,000 as of the exam date." PricewaterhouseCoopers, Special Report on the Loan, Investments, and Other Portfolios Related to 31 December 2000, 5 March 2001, Annex D, **(R-080)**; SBS's Inspection Visit Report for BNM, Informe de Visita de Inspección No. DESF "A"-168-VI/2000, November 22, 2000, Section 2, **(R-065)**

<sup>229</sup> PricewaterhouseCoopers' Progress Report on Audit of BNM in Intervention's Financial Statements of December 31, 2000, December 27, 2000, Section 1.5, **(R-173)**; PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Note 8e, **(R-080)**; See Navigant Annex B

<sup>230</sup> PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Note 8a, **(R-080)**

be generated attributable to the asset and if it is possible to determine the cost reliably...

The amount of S/. 45.1 million did not constitute an identifiable asset because no value would be attributed to it in a process of merger or acquisition. Consequently, the amortization was accelerated with debit to results of the fiscal year, under authorization of the SBS.”<sup>231</sup>

173. Ninth, since there was no economic or accounting basis to continue to record the goodwill asset on BNM’s books, the associated capital that resulted from the recognition of the goodwill asset would also have to be written off as well. Thus, even though the SBS had previously allowed BNM to count the goodwill as capital in its prudential return, there was no longer any basis for the existence of the goodwill.

174. These nine categories of provisions and adjusting items alone would have rendered BNM insolvent (see Table 13 below). However, because of BNM’s financial position, we understand that BNM was not compliant with the terms of its contract with COFIDE regarding the transferred loan portfolio of S/. 117.3 million.<sup>232</sup> Consequently, on 5 December 2000 (one day after the intervention) COFIDE rescinded the contract.<sup>233</sup> As a consequence, of the contract termination, BNM was required to immediately recognize additional provisions of S/. 64.994 million, which further exacerbated BNM’s insolvency.

175. Table 13 below is a summary schedule prepared to show the impact of the adjustments just discussed to the net income and capital that BNM would have otherwise reported. As Table 13 reveals, BNM not only failed to meet the minimum capital adequacy requirement of 10 percent of risk-weighted assets, BNM failed to have any positive capital at all. Indeed, BNM would have had negative capital even if COFIDE had not returned the transferred loan portfolio.

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<sup>231</sup> PricewaterhouseCoopers’ Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Notes 2q and 8a, **(R-080)**

<sup>232</sup> PricewaterhouseCoopers’ Audit of BNM’s December 31, 1999 Financial Statements, February 4, 2000, Note 6c, **(R-155)**

<sup>233</sup> PricewaterhouseCoopers’ Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Note 6d, **(R-080)**

**Table 13 – BNM’s Net Loss for 2000<sup>234</sup>**

<i>Amounts in S./Thousand</i>	<b>Income for 2000</b>	<b>Capital</b>
<b>Capital as of 31 Dec 1999</b>		<b>235,625</b>
Net Capital Contributions (Reductions)		10,992
Financial Income and Other Revenue	158,118	
Selling, General and Administrative Expenses	(107,659)	
Depreciation and Amortization	(32,781)	
Inflation Adjustment	(2,922)	
<b>Net Income Recognized by BNM</b>	<b>14,756</b>	
<b>Capital as of 31 Dec 2000 after Net Income Recognized by BNM</b>		<b>261,373</b>
Provisions for Loan Portfolio (Excludes Transferred Loans)	(155,160)	
Contingencies	(12,233)	
Provision for Interest Receivable	(11,830)	
Deferred Expenses	(24,866)	
Foreclosed and Recovered Assets	(9,227)	
Value of Unrecovered Assets of Rescinded Leasing Contracts	(11,968)	
Short Term Financial Investments	(2,398)	
Other Accounts Receivable	(7,256)	
Goodwill Impairment	(43,699)	
<b>Other Expenses from Broader Inspection of BNM's Assets</b>	<b>(278,637)</b>	
<b>Capital as of 31 Dec 2000 before Provisions for COFIDE Loan Portfolio Transferred Back</b>		<b>(17,264)</b>
Provisions for Loan Portfolio Transferred Back	(64,994)	
<b>Total Net Income</b>	<b>(328,875)</b>	
<b>Capital as of 31-Dec-2000</b>		<b>(82,258)</b>

**H. BNM Was Not Only Illiquid in Late 2000, It Also Lacked Adequate Capital to be Considered a Solvent Bank**

176. A banking license grants a financial institution the privilege of seeking deposits from the public at low interest rates and investing those deposits back into the market at much higher rates. However, in order to prevent banks from taking excessive risks with the public’s money, banks are required to hold a minimum amount of positive equity capital. This positive equity capital represents the bank owner’s (i.e., shareholder’s) participation in the bank’s investment

<sup>234</sup> See Navigant Annex B

activities. The idea is that if the shareholders of banks have some of their own capital at risk, they will act more prudently and refrain from excessive risk taking.

177. Banking regulators set the required level of capital that a bank must maintain in order to be considered a solvent institution. Many regulators look to the Basel Accords for guidance in determining how capital should be calculated and the level of capital a bank should maintain to be considered solvent. The Basel Accords are internationally recommended standards promulgated by the Basel Committee on Banking Supervision.<sup>235</sup>

178. Because banks come in various sizes and have different types of assets in which they invest, the desired amount of capital in any given bank is measured by a ratio called the “capital adequacy ratio.” In basic terms, the capital adequacy ratio is the amount of capital maintained by the bank divided by the assets of the bank - after the assets are “risk weighted.” Different categories of assets are assigned a risk weight which corresponds to the riskiness of the asset. For example, loans to private persons or commercial entities usually carry a risk weight of 100 percent. US government bonds, on the other hand, usually have a risk weighting of 0 percent. Thus, banks with more risky assets will need to have more capital on hand to comply with the capital adequacy requirements. Conversely, banks with less risky assets will need to have less capital on hand to comply with the capital adequacy requirements.

179. In 2000, Peru required banks to maintain a capital adequacy ratio of 10 percent.<sup>236</sup> In other words, for every US\$ 10 of risk weighted assets in the bank’s asset portfolio, US\$ 1 of capital must be maintained in the bank.

180. Given the pervasive and systemic problems at BNM with respect to its accounting practices and risk management issues, the SBS inspection and the subsequent independent audit of BNM by PwC revealed that BNM was both an insolvent and illiquid financial institution in September 2000. As shown in Table 14 below, if BNM had properly classified its loans, recorded the corresponding provisions, and made the appropriate adjusting items, BNM would not have had

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<sup>235</sup> Bank for International Settlements, "About the Basel Committee" *available at* <http://www.bis.org/bcbs/about.htm> (last visited January 19, 2012) , **(R-215)**; Bank for International Settlements, "History of the Basel Committee" *available at* <http://www.bis.org/bcbs/history.htm> (last visited January 19, 2012) , **(R-216)**

<sup>236</sup> General Law of the Financial and Insurance Systems, Organic Law of the Superintendency of Banking and Insurance, Law No. 26702, December 6, 1996, Article 1999, **(R-021)**

sufficient capital under Peruvian regulations to be considered a solvent bank. Indeed, Table 14 shows that BNM had negative capital rather than capital equivalent to 10 percent of risk weighted assets.

**Table 14 – Calculation of BNM Capital Adequacy Ratio – September 2000<sup>237</sup>**

<i>Amounts in S./Thousand</i>		<b>30-Sep-00</b>
A	Reported Risk Weighted Assets	2,160,389
B	LESS: Total Provisions Required	(278,637)
C	PLUS: Additional Provisions already Recognized by BNM	25,496
D=A+B+C	Actual Risk Weighted Assets	1,907,248
E	Reported Effective Capital	273,782
F=E+B+C	Actual Effective Capital	20,641
G	Capital Assigned to Market Risk	7,361
H=G-F	Capital Assigned to Credit Risk	13,280
I=H/D	Capital Adequacy Ratio for Credit Risk	0.70%
J=F/(D+(11*G))	Capital Adequacy Ratio for Market Risk and Credit Risk	1.04%
Legally Required Capital Adequacy Ratio		10%

181. The accounting and risk management problems at BNM were not unique issues to BNM in 2000. As we have shown, BNM had a poor history of complying with the banking regulations. This compliance only deteriorated over time. Based upon our evaluation of BNM's financial statements, the SBS inspection reports, and PwC's 2000 audit of BNM, we are of the view that BNM would have been insolvent as of 30 June 2000 (and possibly earlier) if it had properly classified its loans and recognized its losses. In Table 15 below, we estimate BNM's capital adequacy ratio as of 30 June 2000 assuming BNM would have recognized its losses on its own rather than waiting for the SBS to require BNM to recognize them.

<sup>237</sup> BNM Capital Adequacy Report Submitted to SBS, September 30, 2000, Annex 2, (R-162); See Navigant Annex C

**Table 15 – Calculation of BNM Capital Adequacy Ratio – June 2000<sup>238</sup>**

<i>Amounts in S./ Thousand</i>		<b>30-Jun-00</b>
A	Reported Risk Weighted Assets	2,141,188
B	LESS: Total Provisions Required	(278,637)
C	PLUS: Additional Provisions already Recognized by BNM	16,148
D=A+B+C	Actual Risk Weighted Assets	1,878,699
E	Reported Effective Capital	249,873
F=E+B+C	Actual Effective Capital	(12,616)
G	Capital Assigned to Market Risk	10,726
H=G-F	Capital Assigned to Credit Risk	(23,342)
I=H/D	Capital Adequacy Ratio for Credit Risk	-1.24%
J=F/(D+(11*G))	Capital Adequacy Ratio for Market Risk and Credit Risk	-0.63%
Legally Required Capital Adequacy Ratio		10%

182. The analysis contained in Table 15 above further indicates that the SBS intervention did not cause BNM to become insolvent. Instead, the intervention simply revealed BNM's insolvency. Indeed, the intervention of a bank by its regulator does not cause loans to deteriorate. It is a borrower's financial position which determines the quality of the loan. A bank intervention does not change a borrower's financial position.

183. The deterioration of BNM's compliance with the banking regulations is also consistent with a troubled bank attempting to appear to be solvent by avoiding the recognition of losses. Moreover, as we noted earlier, BNM's efforts to persuade the SBS to recognize goodwill as capital and the revaluation of its headquarters as capital are tell-tale signs of a troubled bank seeking to find accounting solutions rather than finding tangible capital solutions to its solvency issues. Given the external shocks affecting the banking system, we are not surprised that the SBS approved some of these accounting solutions to give BNM time to address its capital adequacy struggles. It would have been in the banking regulator's interest to give time to troubled banks to truly strengthen their capital position. However, these accounting solutions

<sup>238</sup> BNM Capital Adequacy Report Submitted to SBS, June 30, 2000, (R-160); See Navigant Annex C

cannot persist. Banks must ultimately depend on real capital. Allowing a bank to continuously use accounting gimmicks rather than real capital to remain solvent only encourages excessive risk taking. In essence, a bank that is allowed to continuously rely on accounting capital rather than real capital will be encouraged to take significant risks in the hope that it can generate actual profits to count as capital. A bank in this situation is not risking its own capital. Instead, the bank is risking the public's deposits.

184. Thanks to the SBS's forbearance through multiple measures to boost BNM's capital, BNM was provided with sufficient time to raise real capital to strengthen its banking enterprise. Claimant and Mr. Beaton point out that BNM increased its capital by US\$ 7.5 million in September 2000. However, even this small capital increase was obtained by dubious means. We understand BNM raised this capital under the guise of a marketing campaign to encourage depositors to place money with foreign banks.<sup>239</sup> However, we understand these deposits were ultimately used to fund the US\$ 7.5 million capital increase in BNM in September 2000 rather than being placed as real deposits with foreign banks.<sup>240</sup> As such, the depositors had unknowingly taken greater risks with their money than they had understood. This is precisely the overly-risk-taking behavior a troubled bank will take to raise capital when it knows it has no real capital in play and could be shut down imminently.

#### **I. Rather than Initiate Projections from BNM's Actual Financial Position in November 2000, Mr. Beaton Initiates Projections from the False Financial Position BNM Had Reported to SBS**

185. Mr. Beaton attempts to project how BNM would have performed from November 2000 to December 2010 had the SBS not intervened. However, Mr. Beaton's entire analysis is dependent upon the accuracy of the November 2000 financial statements for BNM which he uses as the foundation and starting point for his analysis. Mr. Beaton conducts a cursory analysis of BNM's financial situation in November 2000 and altogether ignores the 2000 SBS Inspection Report and the reports produced by PwC (including the 2000 audited financial statements of

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<sup>239</sup> SBS Technical Legal Report on BNM and NMH's Raising of Funds from the Public, Memorandum S/N-2001-Comisión BNM, June 14, 2001, pp, 19-22, **(R-129)**

<sup>240</sup> SBS Technical Legal Report on BNM and NMH's Raising of Funds from the Public, Memorandum S/N-2001-Comisión BNM, June 14, 2001, pp, 19-22, **(R-129)**



BNM) in assessing BNM's true financial condition as of that date. As a consequence, Mr. Beaton wrongly concludes:

“These indicators reflect a healthy financial position of Banco Nuevo Mundo, despite the crisis that the system suffered due to the crisis...”<sup>241</sup>

186. Given the true financial position of BNM in late 2000, all of Mr. Beaton's financial projections are fatally flawed. Mr. Beaton's financial projections presume that BNM was a healthy bank as of November 2000. In reality, BNM was an insolvent institution. Because BNM was an insolvent bank (as well as an illiquid bank), there are no possible financial projections to consider. Thus, Mr. Beaton's financial model is divorced from reality.

187. The reality was that BNM had to be wound up. Consequently, there is no logical reason to imagine what BNM's financial position might have looked like in 2010 or 2013, or what its value may have been if it had continued to operate. In this sense, Mr. Beaton's financial model is imaginary and certainly not an appropriate approach to calculate Claimant's loss

**VI. Given the Flaws in Mr. Beaton's Financial Model, His Speculative Projection Methodology, and BNM's True Financial Situation in November 2000, the Model Does Not Yield a Rational Economic Calculation of Claimant's Loss**

188. In Section III of this report we explained that Mr. Beaton's financial model does not yield a rational economic quantification of Claimant's loss. Even if the model did yield a rational economic quantification of Claimant's loss, in Section IV we explained that Mr. Beaton's financial modeling yielded a highly speculative valuation for the BNM shares. Mr. Beaton attempted to project how BNM would have developed from December 2000 to December 2010 even though BNM never operated during that period of time. Mr. Beaton's implementation of this ex-post cash flow approach reveals the significant uncertainty in his projections. Finally, in Section V, we explained that even if Mr. Beaton's financial modeling was deemed appropriate, his projections start with financial statements as of November 2000 that do not reflect the real financial situation of BNM. As such, the projections are completely unreliable. In fact, when the actual financial condition of BNM in November 2000 is properly assessed, it is clear that

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<sup>241</sup> Grant Thornton, BNM Valuation, 23 August 2011, para. 42

BNM was insolvent. BNM's accounting practices and poor risk management division avoided the recognition of losses and overstated the bank's results and capital position. Had BNM kept its financial records in accordance with the regulations, BNM would have been insolvent no later than June 2000.

189. As such, whether one takes an ex-ante approach to determine the value of BNM shares (i.e., the value as of November 2000) or an ex-post approach (i.e., the value as of 31 December 2010), the BNM shares are worthless. Accordingly, even if Peru has violated the BIT in its approach to BNM, the investment at issue (BNM shares) was worthless before the alleged breach, was worthless at the time Claimant claims to have acquired it in 2005, and remains worthless to this day. As such, Claimant has not incurred any economic loss.

## **VII. The Inclusion of Goodwill as a Separate Element of Damages Constitutes Double Counting**

190. Claimant claims in her Memorial both the lost market value of BNM as damages as well as the alleged "brand value" of BNM as moral damages.

"Accordingly, the exceptional situations substantiated herein entail a recognition for moral damage, applying objective criteria for its assessment, in particular in the valuation of its Goodwill, the reputation or good standing of the "Levy" family name or brand value (destroyed by the Peruvian State) determined by the Damages Valuation Expert in the amount of US\$ 2,953 million (Two thousand nine hundred fifty-three million US dollars).

Claimant respectfully requests that the honourable Tribunal [to]... order that the Peruvian State pay Claimant a compensation for damages of US\$ 4,036 million (Four thousand thirty-six million US dollars) and a reparation for moral damage of US\$ 2,935 million (Two thousand nine hundred fifty-three million US dollars)."<sup>242</sup>

191. These claims represent an obvious double-counting. Mr. Beaton assigned BNM a "brand value" of US\$ 2.935 billion.<sup>243</sup> It is patently evident from Mr. Beaton's analysis that the so-called "Brand Value" of BNM or the Levy family name is simply the mathematical difference

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<sup>242</sup> Claimant's Memorial, para. 1076 - 1077

<sup>243</sup> Grant Thornton, BNM Valuation, 23 August 2011, pg. 71 and Tab "VALORIZACION DE DAÑOS" of Grant Thornton's Excel model

between Mr. Beaton's valuation of the BNM shares (i.e., the alleged market value) and the projected book value of BNM shares.<sup>244</sup> In Table 16 below we show Mr. Beaton's calculation of the "brand value" of BNM as of 31 December 2010 and September 2013.

**Table 16 – Mr. Beaton's Calculation of BNM's Brand Value<sup>245</sup>**

<i>(amounts in USD millions)</i>		<b>31-Dec-2010</b>	<b>18-Sep-2013</b>
a	BNM Market Value	3,019	4,036
b	BNM Book Value	810	1,083
<b>=a-b</b>	<b>"Brand Value"</b>	<b>2,209</b>	<b>2,953</b>

192. Setting aside the numerous disagreements we would have with determining "brand value" as the difference between the market value of a company and the book value of a company, it is clear from Mr. Beaton's analysis that the "brand value" of US\$ 2.953 billion is already a component of the market value of US\$ 4.036 billion – Claimant's primary damages claim.<sup>246</sup> Accordingly, claiming both the market value and the brand value, as Claimant does, is inherently double counting. As such, there is no economic logical basis to claim for both sums.



Brent C. Kaczmarek, CFA

30 January 2012

<sup>244</sup> Grant Thornton, BNM Valuation, 23 August 2011, pg. 69 and Tab "VALORIZACION DE DAÑOS" of Grant Thornton's Excel model

<sup>245</sup> Grant Thornton, BNM Valuation, 23 August 2011, pg. 69-71 and Tab "VALORIZACION DE DAÑOS" of Grant Thornton's Excel model

<sup>246</sup> Brand value is not equivalent to the difference between market value and book value. Brand value is equivalent to the present value of the incremental income (and/or expense decrement) a brand generates for a product. For example, a bank with a well-regarded brand may be able to attract more deposits at lower rates because the public views the bank positively. In this hypothetical example, the brand value is measured by the incremental value the additional deposits generate for the bank.

## Appendix 1

## Brent C. Kaczmarek, CFA

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### Education:

June 1993  
Bachelors of Science in Commerce  
Concentration in Finance  
University of Virginia

### Professional Credentials & Memberships:

September 1998 -Present  
Chartered Financial Analyst

April 1997 - Present  
CFA Institute, Member  
Washington Society of Investment  
Analysts, Member

March 2000  
National Association of Certified  
Valuation Analysts, Practitioner

April 2004 - Present  
American Bar Association  
International Dispute Section

### Employment:

Navigant Consulting, Inc.  
2002 to present

Arthur Andersen LLP  
1998 to 2002

LECG, Inc.  
1997-1998

Arthur Andersen LLP  
1993-1997

Mr. Kaczmarek is a Managing Director in the Dispute & Investigative Division and leads the firm's International Arbitration group. Mr. Kaczmarek serves as an expert and consultant on issues involving business and investment valuation, finance, accounting, and economics in industries such as financial services, manufacturing, energy, utilities, telecoms, mining, healthcare, and business services. Mr. Kaczmarek has served as a financial and valuation expert for private companies as well as sovereign states in more than 60 international arbitrations, including more than 50 investor-state arbitrations. He has been appointed as an expert in more than 20 cases where damages claimed exceeded US\$ 1 billion (including 3 matters where damages have exceeded US\$ 10 billion). The disputes Mr. Kaczmarek has helped clients and arbitral tribunals resolve have been in North, Central and South America, Western, Central, and Eastern Europe, the Commonwealth of Independent States, Russia, Southeast Asia, the Caribbean, and Africa. Mr. Kaczmarek received the internationally-recognized designation of Chartered Financial Analyst from the CFA Institute in 1998.

### International Arbitration and Consulting Projects

Mr. Kaczmarek has served as financial expert and consultant in the following international investment treaty and commercial arbitrations:

- Renee Rose Levy de Levi v Republic of Peru: (*Bilateral Investment Treaty Dispute, ICSID*): Prepared an expert report containing an analysis of the cause of a commercial bank failure in 2000 and rebuttal of the damages claimed by the investor from the bank's failure (Engaged by respondent, expert and consultant).
- ConocoPhillips Algeria Ltd. v Sonatrach S.P.A.: (*Breach of Contract, UNCITRAL*); Prepared an expert report quantifying the loss suffered by claimant due to respondents alleged failure to implement an equity determination in a unitized oil field in

Algeria. (Engaged by claimant, expert and consultant).

- Flughafen Zürich A.G. and Gestión e Ingeniería IDC S.A. v. Bolivarian Republic of Venezuela: (*Bilateral Investment Treaty Dispute, ICSID*): Prepared an expert report (October 2011) regarding the value of an airport project at the second largest airport in Venezuela that was allegedly subject to various treaty violations (Engaged by claimant, expert and consultant).
- TECO Guatemala Holdings, LLC v Republic of Guatemala: (*DR-CAFTA Dispute*): Prepared an expert report (September 2011) quantifying the impact of an altered regulatory framework on the value of the largest electricity in Guatemala. (Engaged by claimant, expert and consultant).
- Convia Callao S.A & CCI-Compania de Concesiones de Infraestructura S.A. v Republic of Peru: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared an expert report valuing a toll road project subject to alleged violations of a BIT (Engaged by respondent, expert and consultant).
- TSG5 L.P. v Beauty Care Professional Products, S.A.: (*Breach of Contract, ICC*); Prepared an expert report (June 2011) quantifying the value of a beauty care products company headquartered in Spain. (Engaged by claimant, expert and consultant).
- Italia Ukraina Gas S.p.a v NJSC Naftogaz of Ukraine: (*Breach of Contract, SCC*); Prepared an expert report (June 2011) concerning the gas trade between Russia and Europe and the appropriate methodology to determine the price of possible gas exports from Ukraine at the western border with Slovakia (Engaged by respondent, expert and consultant).
- SIMCO Consortium and Wood Group Engineering (North Sea) Limited v PDVSA Petroleo S.A.: (*Breach of Contract, ICC*): Prepared two expert reports (March 2011, September 2011) quantifying the losses claimed under a long-term contract involving water injection and treatment services in Lake Maracaibo (Engaged by claimant, expert and consultant).
- Yukos Universal Limited v Russian Federation: (*Energy Charter Treaty Dispute, UNCITRAL*); Prepared an expert report (September 2010) quantifying the loss claimant suffered from its investment in Yukos Oil Company OJSC and/or the merged YukosSibneft under various scenarios for alleged violations of the ECT by Russia. (Engaged by claimant, expert and consultant).
- Hulley Enterprises Limited v Russian Federation: (*Energy Charter Treaty Dispute, UNCITRAL*); Prepared an expert report (September 2010) quantifying the loss claimant suffered from its investment in Yukos Oil Company OJSC and/or the merged

YukosSibneft under various scenarios for alleged violations of the ECT by Russia. (Engaged by claimant, expert and consultant).

- Veteran Petroleum Limited v Russian Federation: (*Energy Charter Treaty Dispute, UNCITRAL*); Prepared an expert report (September 2010) quantifying the loss claimant suffered from its investment in Yukos Oil Company OJSC and/or the merged YukosSibneft under various scenarios for alleged violations of the ECT by Russia (Engaged by claimant, expert and consultant).
- Petrobras America Inc. v Larsen Oil & Gas Ltd: (*Breach of Contract Dispute, ICC*); Prepared three expert reports (December 2010, March 2011, and July 2011) quantifying claimant's losses as a result of the late delivery of an offshore drilling rig. Oral evidence given in August 2011 (Engaged by claimant, expert and consultant).
- Yemen Company for Mobile Telephony – Sabafon v Republic of Yemen: (*Investment Law Dispute, UNCITRAL*); Prepared an expert report (October 2010) assessing the performance of a CDMA operator owned by the government and the alleged damages claimant suffered due to alleged preferential treatment. (Engaged by respondent, expert and consultant).
- Gold Reserve Inc. v Bolivarian Republic of Venezuela: (*Bilateral Investment Treaty Dispute, ICSID AF*); Prepared two expert reports (September 2010 and July 2011) to determine the fair market value of two gold/copper mining properties in the Bolivar state of Venezuela. (Engaged by claimant, expert and consultant).
- Rozukrenergo AG v EMFESZ kft: (*Breach of Contract, SCC*); Prepared two expert reports (September 2010, December 2010) assessing the position respondent would have occupied in the Hungarian gas trade, but for claimant's alleged failure to fulfill its long-term supply agreement with respondent. Oral evidence provided in January 2011 (Engaged by respondent, expert and consultant).
- Chevron Corporation and Texaco Petroleum Company v. Republic of Ecuador: (*Bilateral Investment Treaty Dispute, UNCITRAL*); Prepared an expert report (September 2010) quantifying the changes made to the financial framework of a concession agreement signed in 1964 between Texaco, Gulf Oil, and Ecuador and the actual and but for economic benefits the parties received under the concession contract. (Engaged by claimant, expert and consultant).
- Marion Unglaube v Republic of Costa Rica: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (August and December 2010) calculating the losses Claimant incurred a consequence of the creation of a national park. Oral evidence given in February 2011 (Engaged by respondent, expert and consultant).

- Reinhard Hans Unglaube v Republic of Costa Rica: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared an expert report (August and December 2010) calculating the losses Claimant incurred as a consequence of the creation of a national park. Oral evidence given in February 2011 (Engaged by respondent, expert and consultant).
- Sojitz Corporation v Prithvi Information Systems Ltd: (*Breach of Contract, LCIA*); Prepared an expert report (June 2010) quantifying the claims of both parties for alleged breaches of a equipment procurement contract. Oral evidence given in September 2010 (Engaged by respondent, expert and consultant).
- Maersk Olie, Algeriet A/S v Peoples Republic of Algeria: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (June 2010, May 2011) on the valuation of hydrocarbon rights that were lost as a consequence of windfall tax legislation passed by the government. (Engaged by claimant, expert and consultant).
- Rozukrenergo AG v NJSC Naftogaz of Ukraine: (*Breach of Contract, SCC*); Finalized an expert report (April 2010) quantifying the value of 11 billion cubic meters of natural gas in underground storage facilities in Ukraine. (Engaged by respondent, expert and consultant).
- British Petroleum America Production Company v Repsol YPF S.A. (*Breach of Contract, AAA*); Prepared an expert report (March 2010) quantifying the losses claimant suffered due alleged breaches of a contract involving LNG supplies from Trinidad & Tobago to Spain. The case settled before an oral hearing (Engaged by claimant, expert and consultant).
- HICEE B.V. v Slovak Republic: (*Bilateral Investment Treaty Dispute, UNCITRAL*); Prepared an expert report (February 2010) on the valuation of two health insurance companies operating in the Slovak healthcare market following new legislation which rendered them not-for profit companies (Engaged by claimant, expert and consultant).
- Anadarko Algeria Company LLC & Maersk Olie, Algeriet AS v Sonatrach S.P.A.: (*Breach of Contract Dispute, UNCITRAL*); Prepared two expert reports (February 2010, December 2010) valuing interests held by Claimants in a production sharing agreement for the exploration and exploitation of liquid hydrocarbons in Algeria. Oral evidence given in July 2011 (Engaged by claimant, expert and consultant).
- Quimica e Industrial del Borax Ltda. and others v. Republic of Bolivia: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared an expert report (September 2009) on the valuation of a non-metallic mining concession in Bolivia that was the subject of an expropriation decree (Engaged by claimant, expert and consultant).



- Concesionaria Dominicana de Autopistas y Carreteras, S.A. v Dominican Republic: (Breach of Contract Dispute, ICC); Prepared three expert reports (June 2009, December 2009, July 2010) quantifying the losses claimed by Claimant and Respondent due to delays in the completing the construction of a toll road and critiquing claimant's damages analysis. Oral evidence given in November 2010 (Engaged by respondent, expert and consultant).
- Murphy Exploration and Production Company International v Republic of Ecuador: (Bilateral Investment Treaty Dispute, UNCITRAL); Prepared two expert reports (March 2009 and January 2010) valuing Claimant's interest in various oil fields in the Republic of Ecuador under the assumption that a law, which significantly reduced the profitability of the oil production activities, was a breach of the relevant BIT (Engaged by claimant, expert and consultant).
- Chevron Corporation and Texaco Petroleum Company v. Republic of Ecuador: (Bilateral Investment Treaty Dispute, UNCITRAL); Prepared two expert reports (April 2008, November 2008) on the losses suffered in the oil production industry in the Republic of Ecuador for an alleged denial of justice claim. Oral evidence given in April 2009. The tribunal provisionally awarded Claimants US\$ 699 million subject to adjustment in a further proceeding on taxes and interest (Engaged by claimant, expert and consultant).
- Carpatsky Petroleum Corporation v OJSC Ukrnafta: (Breach of Contract, SCC); Prepared two expert reports (December 2008 and August 2009) quantifying the damages allegedly suffered by claimant for being denied the right to fully participate in the co-development of a natural gas field in Ukraine. Oral evidence given in September 2009. (Engaged by Claimant, consultant and expert).
- Electrabel S.A. v Republic of Hungary: (Energy Charter Treaty Dispute, ICSID); Prepared two expert reports (May 2009 and December 2009) regarding the historical profitability of a regulated power generator in the Republic of Hungary. Oral evidence given in February 2010. (Engaged by Respondent, expert and consultant).
- Mercuria Energy Group Limited v Republic of Poland: (Energy Charter Treaty Dispute, Stockholm Chamber of Commerce); Submitted two expert reports (April 2009, October 2010) quantifying the damages suffered by one of the largest independent energy traders due to the imposition of a fine on the Claimant's wholesale fuel business in Poland. Oral evidence given in February 2011 (Engaged by Claimant, expert and consultant).
- Grand River Enterprises Six Nations, Ltd., Jerry Montour, Kenneth Hill, and Arthur Montour Jr. v United States of America: (NAFTA Chapter 11 Dispute, UNCITRAL); Prepared two expert reports (December 2008, April 2009) on the valuation of a tobacco manufacturing enterprise and its US distributor, as well as the impact of certain

regulatory actions on those values, before a NAFTA arbitration panel. Claimant declined cross examination. Damages sought exceed US\$250 million. All claims were dismissed on jurisdictional grounds or the merits (Engaged by Respondent, consultant and expert).

- Abaclat et al. v Argentine Republic: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (November 2008 and May 2009) regarding the manner in which data was gathered, organized, and analyzed for more than 180,000 Italian investors in defaulted Argentine bonds. Oral evidence given in April 2010. (Engaged by Claimants, consultant and expert).
- Chemtura v Canada: (*NAFTA Chapter 11 Dispute, UNCITRAL*); Prepared an expert report (October 2008) on the alleged losses suffered by an investor in agricultural pesticide products after the product was de-registered following a scientific review of its safety. Oral evidence given in September 2009. Damages sought exceeded US\$ 80 million. The tribunal found Canada not liable for breaches of the NAFTA (Engaged by Respondent, consultant and expert).
- AES Summit Generation Limited and AES Tisza Erömu Kft v Republic of Hungary: (*Energy Charter Treaty Dispute, ICSID*); Prepared two expert reports (July 2008, February 2009) on the financial performance of a regulated electric utility from its privatization in 1996 to 2007. Oral evidence given in March 2009. Damages sought exceeded US\$ 20 million. The tribunal reached a conclusion consistent with our financial evidence that the utility was generating excessive profits, thus justifying a reduction in its capacity fees (Engaged by Respondent, expert and consultant).
- Piero Foresti, Laura De Carli and others v. Republic of South Africa: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared three expert reports – a commercial report assessing the impact of the Mineral and Petroleum Resources Development Act and other legislation on the granite producing industry in South Africa; and two valuation reports of major granite producing companies in South Africa (July 2008). Damages sought exceeded US\$ 50 million. The case was withdrawn by Claimants after their applications for new order mining rights was approved and other matters agreed upon with the Department of Minerals and Energy (Engaged by Claimants, expert and consultant).
- Sergei Paushok, CJSC Golden East Company, and CJSC Vostokneftgaz Company v The Government of Mongolia: (*Bilateral Investment Treaty Dispute, UNCITRAL*); Prepared two expert reports (July 2008, November 2008) evaluating the cost structure of a gold mining company and the impact of windfall tax legislation on the company. Oral evidence given in April 2009 (Engaged by claimant, expert and consultant).
- Electroandina S.A. (Chile) v YPF S.A. (Argentina): (*Breach of Contract, ICC*); Prepared an expert report quantifying the contractual damages suffered due to an alleged breach of a

long-term natural gas supply contract. The case was withdrawn by claimant before submitting its written pleading (Engaged by Claimant, expert and consultant).

- Walter Bau AG v Kingdom of Thailand: (*Bi-lateral Investment Treaty Dispute, UNCITRAL*); Prepared two expert reports (May 2008, August 2008) on the losses allegedly suffered by a German investor on a build, operate, and transfer toll road project in a Bangkok. Oral evidence given in October 2008. Damages sought exceeded € 120 million. The tribunal issued a ruling awarding Claimant €29 million plus interest from November 2006 (Engaged by Respondent, expert and consultant).
- Ioannis Kardassopoulos v Georgia: (*Energy Charter Treaty & Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (January 2008, July 2008) on the valuation of a mixed capital oil pipeline company and a state-owned pipeline management company as estimates for an investor's losses for alleged breaches of the ECT and BIT. Oral evidence given in March 2009. The tribunal awarded Claimant 100 percent of the amount set forth in our reports (Engaged by Claimant, expert and consultant).
- Ron Fuchs v Georgia: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (January 2008, July 2008) on the valuation of a mixed capital oil pipeline company and a state-owned pipeline management company as estimates for an investor's losses for alleged breaches of a BIT. Oral evidence given in March 2009. The tribunal awarded Claimant 100 percent of the amount set forth in our reports (Engaged by Claimant, expert and consultant).
- Rumeli Telecom A.S. & Telsim Mobil Telekomunikasyon Hizmetleri A.S. v Republic of Kazakhstan: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared an expert report (May 2007) on the valuation of a mobile telecommunications company in Kazakhstan. Damages sought exceeded US\$ 300 million. We opined the company was insolvent and poorly run by Claimant and valued Claimant's shares at US\$ 0 under a liquidation analysis. Oral evidence given in October 2007 (Engaged by Respondent, expert and consultant). The tribunal issued an award concurring with our financial assessment of the company and its management, but awarded Claimant US\$ 125 million for its shares without supporting analysis.
- Saluka Investments B.V., Nomura Principle Investment plc, and the Czech Republic (*Settlement Procedure Related to the Arbitrations Concerning the Collapse of IP banka*); Appointed as a valuation expert by the Czech Republic to prepare an expert report on the restructuring and valuation of IP banka a.s. (April 2007) under the settlement terms agreed between the parties for submission to an arbitral tribunal. Oral evidence given in March/April 2008. Claimant's valuation was CZK 68.4 billion and our valuation was CZK 27.4 billion. The Tribunal's award set the value at CZK 34.2 billion.

- Cargill, Inc. v. United Mexican States: (NAFTA Chapter 11 Dispute, ICSID AF); Prepared two expert reports (December 2006, June 2007) quantifying the losses Claimant incurred with respect to its high fructose corn sweetener (“HFCS”) investments in Mexico following various governmental acts which reduced the demand for HFCS in Mexico. Damages sought exceed US\$ 100 million. Oral evidence given in October 2007 (Engaged by Claimant, expert and consultant). The tribunal adopted our damages model and made 3 modifications which reduced damages to US\$ 77,329,240 (plus pre-award interest). This is the largest award under NAFTA Chapter 11 to date.
- EDF (Services) Limited v Romania: (Bilateral Investment Treaty Dispute, ICSID); Prepared two expert reports (October 2006, March 2008) regarding the damages allegedly sustained by an investor from the United Kingdom in a project to develop and operate commercial spaces in Romania’s international airports. Damages sought exceed \$80 million. Oral evidence given in September 2008. The tribunal issued a decision finding Romania not liable on all counts (Engaged by Respondent, expert and consultant).
- Glamis Gold, Ltd v. United States of America: (NAFTA Chapter 11 Dispute, UNCITRAL); Submitted three expert reports (September 2006, March 2007, August 2007) on the valuation of mining claims at three different points in time. Claimant alleged the mining claims were expropriated when new regulations affecting metallic mining were passed in 2002. Damages sought were US\$ 50 million. Oral evidence given in August 2007. We opined the mining claims were still worth US\$ 21.5 million immediately after the new regulations. The tribunal dismissed the expropriation claim finding the mining claims were still worth “more than US\$ 20 million” (Engaged by respondent, expert and consultant).
- United Coal Company v Gerdau S.A.: (Breach of Contract Dispute, ICDR); Provided expert and consulting services regarding alleged breaches of a coal supply agreement. Case was amicably settled before any pleadings were exchanged (Engaged by respondent, expert and consultant).
- Azpetrol International Holdings, Azpetrol Group & Azpetrol Oil Services Group v Republic of Azerbaijan: (Energy Charter Treaty Dispute, ICSID); Retained as the quantum expert to value an oil services and retail fuel distribution company that was allegedly expropriated by the Republic of Azerbaijan. The parties settled after a hearing on jurisdiction (Engaged by Claimant, expert and consultant).
- I&I Beheer B.V. v Bolivarian Republic of Venezuela: (Bilateral Investment Treaty Dispute, ICSID); Prepared an expert report (September 2006) analyzing certain financial instruments allegedly issued by an agricultural bank in the early 1980s and critiquing the calculation of investment losses claimed by a Dutch investor in those financial instruments. Damages sought exceed US\$ 400 million. Case was discontinued after

Claimant failed to file a Reply Memorial on the merits (Engaged by respondent, expert and consultant).

- Técnicas Reunidas, S.A. and Eurocontrol, S.A. v Republic of Ecuador: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared an initial quantification of the losses suffered by an engineering consulting firm contracted to overhaul the Esmeraldas oil refinery in Ecuador. Case settled before proceeding to the pleadings stage (Engaged by claimant, expert and consultant).
- Plama Consortium Limited v. Republic of Bulgaria: (*Energy Charter Treaty Dispute, ICSID*); Prepared two expert reports (July 2006, July 2007) on the financial performance, turnaround strategy, and valuation of an oil refinery that was allegedly expropriated through various acts of the State before the International Center for Settlement of Investment Disputes. Damages sought exceeded \$300 million. Oral evidence given in February 2008. The tribunal rejected all of claimant’s legal claims and reached a view consistent with our view that claimant’s business and financial strategy was flawed and that strategy caused the investment’s failure (Engaged by respondent, expert and consultant).
- Nreka v. Czech Republic: (*Bilateral Investment Treaty Dispute, UNCITRAL*); Prepared four expert reports (June 2006, August 2006, October 2007, November 2007) on the alleged economic harm suffered by a Croatian investor due to the cancellation of certain leasing arrangements before an ad hoc arbitral tribunal employing the UNCTRAL rules of arbitration. Damages sought were approximately US\$ 1.7 million. Oral evidence given in October 2006 and February 2008. We opined that damages correctly calculated would be US\$ 0.5 million. The tribunal issued an award for approximately US\$ 1.25 million (Engaged by respondent, expert and consultant).
- Duke Energy International Peru Investments No. 1, Ltd v. Republic of Peru: (*Legal Stability Agreement Dispute, ICSID*); Prepared two expert reports (June 2006, December 2006) on the effect certain tax regulations played in the privatization of the electricity sector in Peru and the consequential damages resulting from a change in such regulations to an investor in the power generation sector before the International Center for Settlement of Investment Disputes. Damages sought exceed US\$ 35 million. Oral evidence given in May 2007 (Engaged by claimant, expert and consultant). The tribunal issued an award in favor of Claimant for US\$ 20 million on one of its two claims and accepted our calculation of Claimant’s loss on the successful claim without adjustment.
- CIT Group, Inc. v. Argentine Republic: (*Bilateral Investment Treaty Dispute, ICSID*); Submitted two expert reports (October 2005, February 2008) quantifying the claimant’s investment losses in a leasing enterprise in the Argentine Republic in the aftermath of its economic crisis before the International Center for Settlement of Investment Disputes.

Damages sought exceed US\$ 100 million. Claimant and Respondent agreed to discontinue the arbitration in May 2009 (Engaged by claimant, expert and consultant).

- Duke Energy Electroquil Partners and Electroquil S.A. v. Republic of Ecuador: (Bilateral Investment Treaty Dispute, ICSID); Submitted two expert reports (August 2005, January 2006) quantifying the claimant's investment losses in a diesel-fired power plant in Ecuador due to Ecuador's alleged default on a sovereign guarantee and contract mishandling before the International Center for Settlement of Investment Disputes. Damages sought exceed US\$ 25 million. Oral evidence given in April 2006 (Engaged by claimant, expert and consultant). The tribunal issued an award in favor of Claimant on some of its claims and awarded damages exceeding US\$ 10.7 million.
- The National Property Fund of the Czech Republic and the Czech Republic v. Nomura Principal Investment plc: (Share Purchase Agreement Dispute, Zurich Chamber of Commerce); Prepared two expert reports (August 2005, December 2005) on behalf of the Czech Republic regarding the costs to transform the Czech banking sector in its transition to a market economy with emphasis on the cost to bailout the third largest Czech bank after its collapse. Total damages sought by Claimants exceeded US\$ 5 billion. Oral evidence given in April 2006 (Engaged by claimant, expert and consultant). The case settled before an award was issued
- UEG Araucaria Ltda. v. Companhia Paranaense de Energia: (Breach of Power Purchase Agreement, ICC); Prepared two expert reports (May 2005, December 2005) for the International Court of Arbitration on the losses sustained by a consortium of investors contracted to build a gas-fired thermal power plant in the Brazilian state of Parana. Damages sought exceeded US\$ 2 billion. Oral evidence given in January 2006 (Engaged by claimant, expert and consultant). The case settled before an award was issued.
- Saluka Investments B.V. v. Czech Republic: (Bilateral Investment Treaty Dispute, UNCITRAL); Prepared two expert reports (February 2005, March 2005) to an arbitral tribunal organized by the Permanent Court of Arbitration on the cause of failure for a large Czech financial institution. Damages sought were estimated at US\$ 1.4 billion. Oral evidence given in April 2005. (Engaged by respondent, expert and consultant). The case settled before a damages phase was scheduled.
- Noble Ventures v. Romania: (Bilateral Investment Treaty Dispute, ICSID); Prepared and submitted two expert reports (January 2004, August 2004) on the failed privatization and value of a steel mill operation in defense of an expropriation claim brought by a US investor before an arbitral tribunal established under the International Center for Settlement of Investment Disputes. Damages sought exceeded US\$ 400 million. Oral evidence given in October 2004. The tribunal issued an award in favor of Romania on all counts. (Engaged by respondent, expert and consultant).

- GAMI Investments v. United Mexican States: (NAFTA Chapter 11 Dispute, UNCITRAL); Prepared and submitted two expert valuation reports (February 2003, February 2004) on behalf of a US investor to a NAFTA arbitral tribunal on the valuation of a minority stake in a company operating five sugar refineries in Mexico. Damages sought exceeded \$25 million. Claimant did not prevail on the merits in part because the Mexican Supreme Court declared the expropriation unconstitutional and ordered the government to return the sugar mills before the oral hearing in the NAFTA arbitration. Attended hearing, but was not called to provide oral evidence (Engaged by claimant, expert and consultant).
- Victor Pey Casado and the President Allende Foundation v. Republic of Chile: (Bilateral Investment Treaty Dispute, ICSID); Prepared two expert reports (January 2003, March 2003) on behalf of the Republic of Chile on the 1973 value of an expropriated newspaper company before the International Center for Settlement of Investment Disputes. Damages sought were US\$ 515 million. Our damages calculation was US\$ 7 million plus 5.8 percent interest. The tribunal found in favor of Claimant on liability and awarded US\$ 10 million plus 5 percent interest. Not called to provide oral evidence. Provided a third expert report (October 2008) regarding Claimant's Request for Revision (Engaged by respondent, expert and consultant).
- Ceskoslovenska obchodni banka v. Slovak Republic: (Bilateral Investment Treaty Dispute, ICSID); Assisted in the preparation of two expert reports (August 1999, October 2001) on accounting and valuation issues associated with the restructuring of the third largest bank in the Czech Republic and quantified the amounts owed to the bank by the Slovak Republic due to their participation in the restructuring. Expert reports were submitted to arbitral tribunal established under International Centre for the Settlement of Investment Disputes. Award issued (December 2004) in Claimant's favor for \$877 million in damages and costs (Engaged by claimant, consultant only).
- MTD Equity Sdn. Bhd. and MTD Chile S.A. v Republic of Chile: (Bilateral Investment Treaty Dispute, ICSID); Advised the Ministry of Economy of the Republic of Chile regarding the proper amount due to the Claimant given the tribunal's award on the merits and quantum (Engaged by Respondent, consultant).
- Invesmart v Czech Republic: (Bilateral Investment Treaty Dispute, UNCITRAL); Provided consulting services regarding the hypothetical restructuring and valuation of a Czech commercial bank that was the 5<sup>th</sup> largest in the country before it failed (Engaged by Respondent, consultant only).
- RDEVCO, L.L.C. v Tanzania Electric Supply Company, Ltd. (Breach of Contract Dispute, ICC); Providing consulting services regarding the alleged breach of a power offtake agreement for an emergency 100MW natural gas fired power project in Tanzania. (Engaged by Respondent, consultant only).

- United States of America v Government of Canada: (*Trade Dispute, LCIA*); Retained in a state to state arbitration to provide an expert report on the quantum of compensatory adjustments that should be paid due to a breach of a trade settlement agreement over softwood lumbers exports from Canada to the United States. (Engaged by Claimant, consultant only).
- Investor v European State: (*Energy Charter Treaty Dispute, ICSID*); Finalized an expert report quantifying the impact of construction delays and incremental permit restrictions on the fair market value of a 1,700 MW coal-fired power plant. Prior to claimants' submission of its Memorial on the merits, the case was settled (Engaged by Claimant, expert and consultant).
- US Claimant v Turkish Respondent: (*Breach of Contract, Geneva Arbitration Association*); Providing expert and consulting services regarding the alleged losses suffered by a party to operating agreement to construct two natural gas fired power plants in Moscow (Engaged by respondent, expert and consultant).
- Investor v South American Government: (*Bilateral Investment Treaty Dispute, ICSID*); Providing expert and consulting services regarding the value of a coffee roasting and distribution enterprise subject to alleged violations of a BIT (Engaged by claimant, expert and consultant).
- Investor v South American Government: (*Bilateral Investment Treaty Dispute, UNCITRAL*); Providing expert and consulting services regarding the cancellation of a long-term coal supply agreement (Engaged by claimant, expert and consultant).
- Barbados Company v South American Government: (*Bilateral Investment Treaty Dispute, ICSID*); Providing expert and consulting services regarding affected investments in the oil and gas services sector. (Engaged by claimant, expert and consultant).
- Indian Company v Indian Company: (*Breach of Contract; ICC*); Providing expert and consulting services regarding a telecommunications dispute. (Engaged by claimant, expert and consultant).
- Swiss Company v South American Government: (*Bilateral Investment Treaty Dispute, ICSID*); Providing expert and consulting services regarding affected consumer products. (Engaged by claimant, expert and consultant).
- US Investor v Middle Eastern Government: (*Free Trade Agreement Dispute*); Providing expert and consulting services regarding a mining operation allegedly affected by violations of a free trade agreement. (Engaged by claimant, expert and consultant).
- Swiss Company v US Company: (*Breach of Contract, Netherlands Arbitration Institute*); Providing expert and consulting services regarding a failed strategic alliance to



manufacture and distribute luxury goods (Engaged by respondent, expert and consultant).

- Investor v South American State: (Bilateral Investment Treaty Dispute): Providing expert and consulting services regarding the value of two manufacturing plants which were officially expropriated. (Engaged by claimant, expert and consultant).
- US Oil Major v National Oil Company: (Breach of Contract, UNCITRAL); Providing expert and consulting services regarding the loss suffered due to the NOCs failure to implement a reallocation procedure for unitized liquid hydrocarbon field in North Africa.
- CORFO v RWE Thames Water: (Shareholder Agreement Dispute); Provided an analysis of the diminution in value of the shares of Essbio (the third largest water works company in Chile) on behalf of CORFO (the state business development agency in Chile) to resolve a shareholder dispute between CORFO and RWE Thames Water following an investigation into contract irregularities. The analysis indicated a loss of value to CORFO of at least US\$ 11.7 million. The arbitration was settled via a payment from RWE Thames Water for US\$ 11.1 million.
- Slovakia Bankruptcy Proceeding: (Breach of Contract); Prepared a loan valuation report (January 2000) on behalf of Ceskoslovenska obchodni banka for a bankruptcy court in Slovakia to quantify a bank's claims against its insolvent client. (Engaged by claimant, consultant)
- Government of Guatemala: (Privatization); Provided valuation expertise, due diligence support and bid package construction in the 1997 privatization of the national phone company in Guatemala – Guatel.
- Ministry of Finance Guarantee: (Post-privatization Assistance); Reviewed and verified an Eastern European bank's loan accounting for a defaulted loan. The review was used as the basis for the issuance of an amended sovereign guarantee over the loan. The original guarantee was required by a strategic foreign investor seeking to purchase the government's majority shareholding in the bank.

#### US Litigation and Arbitration

In US litigation or arbitration where expert testimony was provided:

- Metamor Worldwide v. Peter Noce, et al.: (Breach of Contract); Submitted an expert valuation report on the fair market value of a content website, eBusiness consulting firm and telecommunications consulting firm. Deposition taken in 2000. (Engaged by defendant)

- Columbia/HCA v. Texas Workers Compensation Commission: (*Breach of Contract*); Provided expert testimony on the amount of unpaid workers compensation claims for fifty hospitals over 6 years after a legislative change to the reimbursement formula for providers was subsequently determined to be unconstitutional. Deposition taken in 2000 (Engaged by claimant)

In US litigation or arbitration in a consulting role:

- GTE v Worldcom: (*Antitrust Claim*); Evaluated and quantified the cost synergies for the planned merger of the second and third largest U.S. long-distance providers in an attempt to prove the merger would not result in lower prices for consumers (Engaged by claimant).
- Internet Backbone Transaction: (*Post-Acquisition Dispute*); Helped rebut a multi-million dollar claim for lost business value in a dispute related to the divestiture, sale and transfer of a large internet backbone (Engaged by defendant).
- Water Utility Investment Analysis: (*Breach of Fiduciary Duty*); Valued several interest rate swaps and assessed the cash flow impact of selling those swaps for a Southern California Water District to rebut claims by the water district that advice given by an investment bank constituted a breach of fiduciary duty. (Engaged by defendant).
- Investment Pool Analysis: (*Breach of Fiduciary Duty*); Performed duration calculations on several exotic fixed income securities to measure the risk and leverage factors for a large Southern California County investment pool. The analysis was used to demonstrate the imprudent management of the pool by the fund manager. (Engaged by defendant).
- CSU, et al v. Xerox: (*Antitrust Claim*); Analyzed the claims of more than 2 dozen independent service organizations against Xerox for monopolizing the service market of high speed copiers and printers by controlling the distribution of replacement parts. The case is often cited as a landmark case in intellectual property rights v. antitrust behavior. (Engaged by defendant).
- Xerox v. CSU: (*Intellectual Property Dispute*); Developed an expert report on damages suffered by Xerox for patent infringement against replacement parts, trade secret violations for password and theft, and copyright infringement for software and user manual theft and reproduction. (Engaged by claimant).
- Plaintiff v. Senior PGA Tour: (*Antitrust Claim*); Prepared an expert report on behalf of the Senior PGA TOUR to a Federal Court that defined the relevant market for senior professional golfers and refuted allegations by a player that the rules and practices of the TOUR were anticompetitive (Engaged by defendant).

- Columbia Central Florida Laboratory v. Winter Park Healthcare Group: (*Breach of Contract*); Supported a Florida hospital in defense of a breach of contract dispute regarding the termination of outpatient laboratory billing contracts (Engaged by defendant).
- Diesel Engine Manufacturer Dispute: (*Predatory Pricing Claim*); Conducting cost accounting analysis to assist a U.S. diesel engine manufacturer refute allegations that its sales prices were predatory in the Southern California market.
- Gedeon Wales, et al. v. Jack M. Berry, Inc.: (*Breach of Contract*); Reviewed the accounting records for more than 500 migrant workers and prepared an analysis and expert report on the underpayment of wages and bonuses to those workers over three harvest seasons (Engaged by claimants).
- Electronics Dispute: (*Antitrust Claim*); Analyzed and defined the relevant product market for a global manufacturer of polymeric-positive temperature coefficient devices to refute allegations of anti-competitive behavior (Engaged by defendant).

#### Investigations

- Anti-Money Laundering Investigation: (*Violations of AML and BSA Regulations*); Recovered millions of transactions in deposit, trust and securities accounts for Embassy and international banking clients of a troubled Washington D.C. bank and evaluated those accounts and transactions for suspicious activity as required by a consent order issued by the Office of the Comptroller of the Currency.
- DOJ / OIG Investigation: (*Medicare and other Federal Health Program Fraud*); Assisted Columbia/HCA, an owner of more than 300 acute care hospitals in the US, develop strategies, quantify exposure, and negotiate settlements regarding Medicare and other governmental program claims of fraud brought by the Department of Justice, Office of Inspector General and the Department of Health & Human Services. (Engaged by defendant)
- DOJ / DEA Investigation: (*Narcotics Inventory Violations*); Developed financial models and forecasts for a national institutional pharmacy company to help assess bankruptcy risk and successfully negotiated a federal fine on behalf of the company for DEA violations stemming from improper oversight of narcotics inventories.
- Medicare Cost Report Review: (*Medicare Reimbursement Assessment*); Reviewed aspects of the reimbursement received by more than 300 hospitals over 5 years in an effort to resolve how much money CMS owed the hospital system due to delayed audits pending a fraud review (Engaged by claimant).

- Puerto Rico Department of Health: (Fraud Investigation); Evaluated the enrollment policies and procedures of the Puerto Rico Medicaid office and investigated more than 500,000 Medicaid beneficiaries applications for fraud. The review found that more than 100,000 beneficiaries were fraudulently receiving services. Those beneficiaries were removed from the program saving the DOH millions of dollars in monthly premiums (Engaged by claimant).
- Health Plan Revenue Recovery: (Underpayment Analysis); Developed and executed a methodology to assist more than a dozen Health Maintenance Organizations recover years of unpaid premiums (total recoveries exceed more than \$120 million to-date) from the Federal Employee Health Benefits Program. Findings led to a contractual revisions between all health plans participating in the program (Engaged by claimants).
- Medicare Reimbursement Reviews: (Revenue Assessment); Reviewed low-income patient statistics for 20 Puerto Rico hospitals to determine if the hospitals had been properly reimbursed by Medicare. Reviews led to more than \$15 million in additional revenue recoveries (Engaged by claimants).
- Medical Device Manufacturer: (Failed Technology Implementation); Assisted an international medical device and software company perform an internal review of its implementation services for intensive care monitoring devices by independently reviewing the facts surrounding the failed implementation.
- Loan Review: (Fraud Investigation); Performed a financial review of a \$12 million dollar loan portfolio for a regional bank accusing its contracted service agent of improperly disposing of loan assets and other fraudulent activities.
- Real Estate Partnership Review: (Fraud Investigation); Assisted a Texas law firm in uncovering fraudulent activities of several wealthy Mexican investors that siphoned millions of dollars from the limited partners of a real estate partnership.

#### Other Management Consulting Assignments

- Provided troubled company and turn-around management consulting to a global manufacturer of co-generation plants and valve and fitting devices and successfully secured critical financing needed to avoid bankruptcy.
- Provided advice to a national trade association in valuing an internet software division and assisted management in making strategic decisions regarding the future of the division.
- Developed a management reporting system to help two large hospitals reduce operating costs and improve profitability.

- Prepared a statistical sampling plan to be used annually in determining both profitability and taxable income for a trade association with for-profit and non-profit activities.
- Assisted the nation's largest long-distance telecommunications company in analyzing and streamlining departmental functions within the environmental health and safety division.
- Identified and measured an appropriate cost base to calculate landing fees at a major U.S. international airport.
- Conducted annual surveys of lodging rates for the General Services Administration in more than 500 markets nationwide to determine the appropriate rates to reimburse government employees traveling on official business such that a sufficient level of room supply is available each night to meet overall demand.

#### Speaking Engagements

- *Asia Pacific Economic Communities: Workshop on Investor-State Arbitration* – Panelist discussing methods of approaching compensation and damages – November 2008
- *Damages in International Arbitration: Strategies, Techniques & Presentation* – 19<sup>th</sup> Annual ITA Workshop organized by the Institute for Transnational Arbitration and the Center for American and International Law – June 2008.
- *Remedies in Commercial, Investment and Energy Arbitrations* – Panelist at the Conference sponsored by the University of Texas School of Law, the Permanent Court of Arbitration, and the Houston Arbitration Club – April 2008.
- *The Role of the Quantum Expert in International Arbitration* – Guest lecturer at Georgetown University Law School – December 2006 and November 2007
- *Applying the Unity of the Investment Principle to Determine Compensation for Complex Investments* - International Bar Association, Investment Treaty Workshop – September 2006
- *Compensation for Non-Expropriatory Treaty Violations: An Analytical Framework* - International Investment Law at a Crossroads, Harvard Law School – March 2006
- *Quantum Matters in International Investment Arbitration*, The Hague, Netherlands – June 2005
- *Valuing International Investments*, Washington DC Bar Association – October 2004
- *Medicare's Improper Application of Section 1886 of the Social Security Act Pertaining to Puerto Rico Hospitals*, Simposio Anual Del Sector Salud de Puerto Rico, March 2005

Technical Competencies

- Proficient in relational database packages such as MS SQL Server, Microsoft Access, FoxPro, and Paradox.
- Proficient in data mart or cube technologies such as QueryObject Systems and Microsoft OLAP Services.
- Familiar with object oriented programming languages including VBA and PAL. Also familiar with VB 6.0 and C++, HTML, Java, VB Script, and Active Server Pages.

## Appendix 2

**Renée Rose Levy vs. República del Perú (Case CIADI N0. ARB/10/17)**  
**Expert Report of Brent C. Kaczmarek**  
**List of Exhibits**

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<b>Document Reference</b>	<b>Description</b>
R-021	General Law of the Financial and Insurance Systems, Organic Law of the Superintendency of Banking and Insurance, Law No. 26702, December 6, 1996
R-023	Loan and Borrower Risk Classification Regulation, Resolución SBS No. 572-97, August 20, 1997
R-030	Decree Instituting the Loan Portfolio and Treasury Bond Exchange Program, Decreto Supremo No. 099-99-EF, June 18, 1999
R-035	SBS Resolution Authorizing Goodwill Credit From Merger for BNM, Resolución SBS No. 0715-99, August 6, 1999
R-036	SBS Resolution Approving the Merger between BNM, Banco del País, Nuevo Mundo Leasing, and the Coordinadora Primavera, Resolución SBS No. 0718-99, August 6, 1999
R-038	SBS Resolution Authorizing BNM to Reduce Shareholder Equity, Resolución SBS No. 0894-99, September 29, 1999
R-039	SBS Resolution Authorizing Banco del País's Reduction in Shareholder Equity, Resolución SBS No. 0895-99, September 29, 1999
R-041	BNM's Development Plan for 1999-2004, 24 November 1999
R-045	Contract between Corporación Financiera de Desarrollo and BNM for the Temporary Transfer of Bonds in Exchange for Loans and their Collection and Guarantees in Trust, December 15, 1999
R-065	Superintendencia de Banca y Seguros, Inspection Visit Report No. DESF "A"-168-VI/2000, 22 November 2000
R-067	BNM's Development Plan for 1999-2004, November 24, 1999
R-080	PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001
R-080	PwC, Special Report on the Loan, Investments, and Other Portfolios Related to 31 December 2000, 5 March 2001
R-103	HISTORIA DE LA SUPERVISIÓN Y REGULACIÓN FINANCIERA EN EL PERU , May 2006
R-129	SBS Technical Legal Report on BNM and NMH's Raising of Funds from the Public, Memorandum S/N-2001-Comisión BNM, June 14, 2001
R-135	SBS's Inspection Visit Report for BNM, Informe SBS No. ASIF "A"-034-VI-97, March 7, 1997
R-137	Central Bank of Peru, 1998 Annual Report
R-139	SBS's Inspection Visit Report for BNM, Informe SBS No. ASIF "A" 164-VI/98, November 17, 1998
R-140	Letter from SBS to BNM regarding SBS's 1998 Inspection Visit Report, Oficio No. 9977-98, November 26, 1998
R-141	SBS Financial Statements for All Banks as of December 31, 1998



**Renée Rose Levy vs. República del Perú (Case CIADI N0. ARB/10/17)**  
**Expert Report of Brent C. Kaczmarek**  
**List of Exhibits**

---

<b>Document Reference</b>	<b>Description</b>
R-143	SBS Inspection Visit Report for BNM, Informe SBS No. ASIF “A”172-VI/99, September 27, 1999
R-144	Letter from SBS to BNM regarding SBS’s 1999 Inspection Visit Report, Oficio No. 10148-99, October 13, 1999
R-145	SBS Resolution Sanctioning BNM for Violation of Loan Classification Regulation, Resolución SBS No. 950-99, October 22, 1999
R-146	Minutes of BNM Board of Directors Meeting, October 25, 1999
R-147	Letter from BNM to SBS regarding SBS’s 1999 Inspection Visit Report, October 26, 1999
R-148	Minutes of BNM Board of Directors Meeting, October 29, 1999
R-149	Minutes of BNM Board of Directors Meeting, November 23, 1999
R-150	Minutes of BNM Board of Directors Meeting, November 29, 1999
R-151	Minutes of BNM Board of Directors Meeting, December 21, 1999
R-152	SBS Financial Statements for All Banks as of December 31, 1999
R-153	BNM Capital Adequacy Report Submitted to SBS, November 30, 1999
R-154	SBS Circular for Loan Exchange Program No. B-2050-99, August 10, 1999
R-155	PricewaterhouseCoopers' Audit of BNM’s December 31, 1999 Financial Statements, February 4, 2000
R-156	SBS’s Report on the Special Examination of BNM's Consumer Loan Portfolio, Informe SBS No. ASIF “A”-028-VI/2000, March 8, 2000
R-159	Paul Beckerman, <i>Dollarization and Semi-Dollarization in Ecuador</i> , The World Bank, May 19, 2000
R-160	BNM Capital Adequacy Report Submitted to SBS, June 30, 2000
R-162	BNM Capital Adequacy Report Submitted to SBS, September 30, 2000
R-170	SBS Balance Sheets for All Banks as of November 30, 2000
R-171	SBS Report on Expenses Recorded as Asset Accounts, Informe SBS No. DESF “A” 178-OT/2000, November 30, 2000
R-173	PricewaterhouseCoopers' Progress Report on Audit of BNM in Intervention’s Financial Statements of December 31, 2000, December 27, 2000
R-175	SBS Compilation of Number of Offices at All Banks as of December 31, 2000
R-176	SBS Financial Statements for All Banks as of December 31, 2000
R-185	Leaseback Operations Report, 2000
R-188	SBS Financial Statements for All Banks as of December 31, 2001
R-190	Standard & Poors, <i>The Argentine Crisis: A Chronology of Events After The Sovereign Default</i> , April 12, 2002
R-191	SBS Report on Lifting of Liens on Land Owned by Gremco, Informe SBS No. 01-2002-DESF “A”, April 16, 2002
R-192	SBS Report on Participation Shares in Fondo de Inversión Multirenta Inmobiliaria, Informe SBS No. 02-2002-VE/DESF “A”, May 9, 2002

**Renée Rose Levy vs. República del Perú (Case CIADI N0. ARB/10/17)**  
**Expert Report of Brent C. Kaczmarek**  
**List of Exhibits**

---

<b>Document Reference</b>	<b>Description</b>
R-196	SBS Financial Statements for All Banks as of December 31, 2002
R-197	Central Bank of Peru, Balance of Payments Statistics, 1990 through 2003
R-198	Central Bank of Peru, Quarterly GDP Figures, 1990 through 2003
R-201	SBS Financial Statements for All Banks as of December 31, 2003
R-205	Basel Committee on Banking Supervision, <i>International Convergence of Capital Measurement and Capital Standards: A Revised Framework</i> , November 2005
R-208	Eduardo Cavallo and Alejandro Izquierdo, <i>Dealing with an International Credit Crunch</i> , Inter-American Development Bank (2009)
R-211	SBS, Monthly Financial Statements for All Banks, January through September 2000
R-214	Superintendencia Nacional de Administración Tributaria ("SUNAT"), Table of Penalty Tax Units, <i>available at</i> <a href="http://www.sunat.gob.pe/indicestajas/uit.html">http://www.sunat.gob.pe/indicestajas/uit.html</a> (last visited January 18, 2012)
R-215	Bank for International Settlements, "About the Basel Committee" <i>available at</i> <a href="http://www.bis.org/bcbs/about.htm">http://www.bis.org/bcbs/about.htm</a> (last visited January 19, 2012)
R-216	Bank for International Settlements, "History of the Basel Committee" <i>available at</i> <a href="http://www.bis.org/bcbs/history.htm">http://www.bis.org/bcbs/history.htm</a> (last visited January 19, 2012)
R-218	William C. Gruben and Sherry Kiser, <i>Why Brazil Devalued the Real</i> , Federal Reserve Bank of Dallas, (1999), <i>available at</i> <a href="http://www.dallasfed.org/eyi/global/9907real.html">http://www.dallasfed.org/eyi/global/9907real.html</a> (last visited January 25, 2012)
R-221	Report on The Observance of Standards and Codes Peru, 2004
R-222	Peter B. Frank, Christian W. Hughes, Michael J. Wagner, & Roman L. Weil, LITIGATION SERVICES HANDBOOK: THE ROLE OF THE FINANCIAL EXPERT, Fourth Edition
R-223	Oanda, Daily Exchange Rates for Brazil, Chile, Colombia, and Peru, 1998 through 2001
R-224	PricewaterhouseCoopers, Loan Inspection Report as of 30 April 2001, 15 October 2001
R-228	SBS Financial Indicators for 1980 through 2003
R-229	SBS, 1998 Annual Report
R-230	SBS, 1999 Annual Report
R-231	SBS, 2000 Annual Report
R-232	SBS, 2001 Annual Report
R-233	Sharon P. Pratt, Robert F. Reilly, and Robert P. Schweihs, VALUING A BUSINESS: THE ANALYSIS OF CLOSELY HELD COMPANIES (2002)
R-241	SBS Financial Statements for All Banks as of 31 December 2010

# Annexes

**Renée Rose Levy vs. República del Perú (Case CIADI N0. ARB/10/17)**  
**Expert Report of Brent C. Kaczmarek**  
**List of Annexes**

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<b>Annex</b>	<b>Description</b>
A	Assessment of BNM's Loan Portfolio Risk Ratings and Provisions as of 30 June 2000 and 31 December 2000
B	Reconciliation of BNM's Losses as of 31 December 2000
C	BNM's Monthly Financial Statements for the Year 2000

**Renée Rose Levy vs. República del Perú (Case CIADI N0. ARB/10/17)**  
**Expert Report of Brent C. Kaczmarek**  
**Assessment of BNM's Loan Ratings and Provisions as of 30 June and 31 December 2000**

Annex A

Number <sup>1</sup>	Client	As of 30 June 2000						As of 31 December 2000			
		Rating <sup>1</sup>		Loan Amount <sup>1</sup> S/. 000	Provisions <sup>2</sup> S/. 000	Guarantees <sup>2</sup> (Y/N)	Additional Provisions <sup>1</sup> (S/. 000)	Rating <sup>4</sup> PWC	Loan Amount <sup>4</sup> S/. 000	Provisions <sup>5</sup> S/. 000	Additional Provisions <sup>6</sup> (S/. 000)
		BNM	SBS								
1	A & D CONSTRUCTORES GENERALES S A	1	1	1,414							
2	A R C ELECTRIC SRL	2	2	1,340							
3	A Y P INMUEBLES R L	3	3	1,693							
4	ACUNA Y PERALTA S A	2	3	810			(184)				
5	AGENCIA DE ADUANA IMEXA S A	1	3	1,326			(599)				
6	AGRARIA EL ESCORIAL S A	0	1	3,325			(81)	1	2,545		
7	AGRICOLA ALPAMAYO S A	0	0	838							
8	AGRICOLA CANDELARIA S A	0	0	1,557							
9	AGRICOLA LM S A C	0	1	725			(18)				
10	AGRO GUAYABITO S A	0	2	1,092			(161)				
11	AGRO INDUSTRIAL PARAMONGA S A	0	1	19,917			(589)	1	18,860		
12	AGROPECUARIA CHAVIN S A	0	0	665							
13	AGROPECUARIA GANOZA OREZZOU S A	0	0	793							
14	ALCANTARA TORRES CELESTINO	0	0	694							
15	ALDOS S A	3	3	1,573			(225)				
16	ALEACIONES ESPECIALES S A	1	3	3,235			(1,186)	3	3,380		
17	ALICORP S A	0	0	8,501	(85)	N		1	3,815	(191)	(106)
18	ALMACENES GENERALES Y ADUANEROS S A	0	1	6,928			(213)	1	4,386		
19	ALMACENES Y LOGISTICA S A	0	2	9,074			(2,269)				
20	ALMAGESTO S A	1	2	810			(80)				
21	ALPHA CONSULT S A	1	2	684			(104)				
22	ALUMINIO Y TECNOLOGIA S A	1	3	2,953		N	(1,407)	4	3,117	(3,204)	(1,797)
23	AMERICAN AUTOS S A	0	1	681			(17)				
24	ARAMSA CCGG	0	1	2,475			(122)				
25	ARTESCO S A	0	1	4,440			(109)	1	3,172		
26	ASOCIACION FREDRIC R HARRIS INC C P S DE INGENIERIA S A	0	0	1,199							
27	ASOCIACION PRO VIVIENDA II UPAO UNIVERSIDAD PRIVADA AN	0	0	1,320							
28	AUSTRAL GROUP S A A	1	1	14,523		N	(73)	2	5,152	(992)	(919)
29	AUTOMOTORES DEL CENTRO S A	0	0	883							
30	AUTOMOTRIZ ESPINOZA E I R L	0	2	729			(91)				
31	AUXSA	0	0	1,098							
32	B Y B CONSTRUCTORES S A	4	4	4,108			(105)				
33	B Y B CONSTRUCTORES S R L	0	2	1,850			(268)				
34	B Y B GESSA PROIME ASPOCIADOS	0	1	3,882		N	(194)	3	4,037	(2,519)	(2,325)
35	BAKELITA Y ANEXOS S A	2	2	6,505				2	5,517		
36	BECERRA URIBE ROSARIO LILIANA	4	4	757							
37	BELLINO PELLE S A	2	4	856			(497)				
38	BEMBOS S A C	0	0	3,651				0	3,155		
39	BENAVIDES & CIA S A	3	3	1,082							
40	BERMUDEZ SALAZAR VANESSA ROSARIO	0	1	2,812			(81)				
41	BINGO PLAYMATE S A	1	1	1,574							
42	BRAEDT S A	0	0	3,596							
43	BRUCE S A CONTRATISTAS GENERALES	1	2	3,389		N	(600)	3	3,428	(1,820)	(1,220)
44	BUREAU VERITAS S A SUCURSAL EN EL PERU	0	0	3,828							
45	C D Y V IMPORTACIONES S A	3	4	2,437			(975)	4	2,459		
46	CANDADOS PERUANOS S A	0	1	1,741			(44)				
47	CARBAJAL ALFARO RAUL ENRIQUE	0	0	537							
48	CARGUEROS S R LTDA	2	2	1,361			(8)				
49	CARLOS VELEZ ACOSTA S R LTDA	2	3	3,323			(618)				
50	CARRION IPARRAGUIRRE JAIME ENRIQUE	1	1	628							
51	CASSINO REAL HOTEL S A	2	3	2,422			(563)	3	2,441		
52	CAYCHO HUAPAYA ROLANDO OCTAVIO	1	3	639			(216)				
53	CEL IMPORTADORES S A	1	2	2,457			(365)				

**Renée Rose Levy vs. República del Perú (Case CIADI N0. ARB/10/17)**  
**Expert Report of Brent C. Kaczmarek**  
**Assessment of BNM's Loan Ratings and Provisions as of 30 June and 31 December 2000**

Annex A

Number <sup>1</sup>	Client	As of 30 June 2000						As of 31 December 2000			
		Rating <sup>1</sup>		Loan Amount <sup>1</sup> S/. 000	Provisions <sup>2</sup> S/. 000	Guarantees <sup>2</sup> (Y/N)	Additional Provisions <sup>1</sup> (S/. 000)	Rating <sup>4</sup>	Loan Amount <sup>4</sup> S/. 000	Provisions <sup>5</sup> S/. 000	Additional Provisions <sup>6</sup> (S/. 000)
		BNM	SBS					PWC			
54	CENTROS COMERCIALES DEL PERU S A	1	1	3,641				1	3,918		
55	CEPER CONDUCTORES ELECTRICOS PERUANOS S A	0	1	2,265		N	(108)	3	2,051	(1,237)	(1,129)
56	CERAMICOS MOCHICA S A	2	2	1,386			(10)				
57	CHARUN FARFAN FELIPE GUILLERMO	3	4	541			(147)				
58	CIA HOTELERA LIMA S A	1	2	6,618		N	(647)	3	5,556	(2,022)	(1,375)
59	CIA HOTELERA LOS DELFINES S A	0	1	18,316		N	(605)	3	19,822	(11,893)	(11,288)
60	CIA INDUSTRIAL NUEVO MUNDO	0	1	6,800			(175)	1	4,746		
61	CIA MINERA CASAPALCA S A	0	0	3,269	(33)	N		2	2,601	(710)	(677)
62	CIA MINERA CONDESTABLE	2	3	12,030			(903)				
63	CIENTIFICA ANDINA S A C	0	2	1,375			(172)				
64	CIESA CC GG S R L	0	0	1,272							
65	CIRUGIA PERUANA S A	2	2	2,225							
66	CLINICA SAN BORJA S A	0	0	1,720							
67	COLPEX INTERNATIONAL S A	0	0	2,897							
68	COMERCIAL AGRICOLA DEL PERU S A C	0	1	820			(27)				
69	COMERCIAL ARTURO S A	2	2	527							
70	COMERCIAL INDUSTRIAL DELTA S A	0	0	885							
71	COMERCIAL MADERERA ANDINA S C R L	0	0	643							
72	COMERCIAL SAC S A	2	3	1,522			(480)				
73	COMERCIAL ULTRA SAC	0	0	1,944							
74	COMPANIA INDUSTRIAL TEXTIL CREDISA TRUTEX S A A	0	0	17,438				0	13,661		
75	CONSERVERA EL PILAR S A	3	4	817			(47)				
76	CONSORCIO INMOBILIARIO LOS PORTALES S A	0	1	4,443			(222)				
77	CONSORCIO MINERQ S A	0	0	18,558							
78	CONSORCIO PESQUERO CAROLINA S A	2	2	2,139			(20)				
79	CONSTRUCCION Y ADMINISTRACION S A	0	0	1,400				0	10,086		
80	CONSTRUCTORA E INMOBILIARIA CRISTINA	0	2	31,448			(4,132)				
81	CONSTRUCTORA NORBERTO ODEBRECHT S A SUCURSAL TRU	0	0	24,493				0	20,989		
82	CONSTRUCTORA QUEIROZ GALVAO S A SUCURSAL PERU	0	0	1,047							
83	CONSTRUCTORA SIPER S R LTDA	3	4	1,280			(550)				
84	CONSTRUCTORES Y MINEROS CC GQ S R I	0	0	7,236	(72)	N		1	6,012	(206)	(134)
85	CONTINENTAL S A	1	1	8,059				1	13,484		
86	CORPORACION COMEK S A (SE ACORDO 3)	2	3	1,519			(299)				
87	CORPORACION DEL MAR S A	2	2	20,448							
88	CORPORACION INFARMASA S A	0	0	1,522							
89	CORPORACION INTERNACIONAL DEL DENIM S A C	2	3	1,633			(572)				
90	CORPORACION MECATRON S A C	1	3	3,347			(1,917)				
91	CORPORACION MOLINERA S A C	0	3	562			(99)				
92	CORPORACION SAGITARIO S A	0	0	7,224				0	6,248		
93	CORPORACION TRANSCONTINENTAL S A	2	2	1,543			(2)				
94	COSAPI S A	0	1	21,956			(1,098)	1	23,585		
95	COTTON KNITS AC	0	0	3,022							
96	COUTO S A	0	1	558			(19)				
97	CREACIONES ORBELL S A	3	3	755							
98	CREACIONES TITA E I RLTDA	2	3	1,133			(196)				
99	CRISTELA DISTBRIBUIDORA S A	0	2	1,537			(203)				
100	DE FABRICA S A	1	1	1,993		N	(9)	3	1,952	(586)	(577)

**Renée Rose Levy vs. República del Perú (Case CIADI N0. ARB/10/17)**  
**Expert Report of Brent C. Kaczmarek**  
**Assessment of BNM's Loan Ratings and Provisions as of 30 June and 31 December 2000**

Annex A

Number <sup>1</sup>	Client	As of 30 June 2000						As of 31 December 2000				
		Rating <sup>1</sup>		Loan Amount <sup>1</sup> S/. 000	Provisions <sup>2</sup> S/. 000	Guarantees <sup>2</sup> (Y/N)	Additional Provisions <sup>1</sup> (S/. 000)	Rating <sup>4</sup> PWC	Loan Amount <sup>4</sup> S/. 000	Provisions <sup>5</sup> S/. 000	Additional Provisions <sup>6</sup> (S/. 000)	
		BNM	SBS									
101	DE PIANTE SALVETTI SILVANA	0	1	862			(22)					
102	DEL PILAR MIRARORES HOTEL S A	1	2	14,997			(1,280)	2	16,012			
103	DIESTRA S A	0	1	1,725			(43)					
104	DISCOVERY S A	1	2	1,197								
105	DISCOVERY S A AGENTES DE ADUANA	0	0	888								
106	DISTRIBUIDORA CATALANES SRL	1	3	968			(311)					
107	DISTRIBUIDORA CINEMATOGRAFICA S A	0	2	1,476			(185)					
108	DISTRIBUIDORA PERUANA DIMASEN S A	0	0	2,520								
109	DISTRIBUIDORA REBAZA S A	0	3	827			(254)					
110	DROKASA PERU S A	0	1	3,385			(169)	1	2,453			
111	DURAPLAST S A	2	3	4,223			(1,105)					
112	E LAU CHUN S A	2	2	1,148	(144)	Y		3	2,898	(869)	(726)	
113	E WONG S A	0	0	10,692				0	12,106			
114	ECOTECNIA S A	0	0	768								
115	EL TUMI PERU SRL	0	0	602								
116	ELECTRO PACHITEA S A	1	1	2,372								
117	ELEKTRA DEL PERU S A	0	0	2,872								
118	EMPRESA DE TRANSPORTES ATAHUALPA S A	0	2	6,868			(634)	2	6,409			
119	EMPRESA REGIONAL DE ELECTRICIDAD DEL NOR OESTE S A	0	0	10,000								
120	EMPRESA REGIONAL DEL SERVICIO DE ELECTRICIDAD	0	0	11,517				0	11,616			
121	EMPRESA SIDERURGICA DEL PERU S A	0	0	16,403	(164)	N		1	10,939	(558)	(394)	
122	ESTUDIO MELO VEGA LAYSECA ABOGADOS S C R L	0	0	820								
123	EUROMUNDO S R LTDA	2	3	580			(100)					
124	EXECUTIVE PLANNING SYSTEMS DEL PERU S A	0	0	820								
125	EXPRESO CRUZ DEL SUR	0	1	9,580			(240)	1	9,552			
126	FABRITEX PERUANA S A	2	2	5,792		N	(29)	3	1,989	(597)	(568)	
127	FARAONA SERVICIOS HOTELEROS S A	0	0	1,222								
128	FERREYROS S A A	0	0	12,156				0	4,892			
129	FIANSA S A	0	0	7,498				0	4,100			
130	FIJESA S A C	1	2	10,529		N	(1,054)	3	11,294	(4,440)	(3,386)	
131	FIMA S A	1	1	5,810				1	4,812			
132	FLEXO PLAST SA	1	2	3,822		N	(383)	3	3,323	(951)	(568)	
133	FLORES NAVARRO CECILIA	1	2	1,117			(121)					
134	FRIGORIFICO SAN HILARION S A	0	3	1,458			(437)					
135	G G INDULAC S A C	0	0	576								
136	G M D S A	0	1	1,804			(90)					
137	G M I SOCIEDAD ANONIMA CERRADA INGENIEROS CONSULTOF	0	0	4,113	(41)	N		1	3,647	(137)	(96)	
138	G Y M SA CC GG	0	0	8,708	(87)	N		1	10,507	(441)	(354)	
139	GARCIA HURTADO DE ARNAO ANTONIETA	0	0	517								
140	GEMINIS AGENTES AFIANZADOS DE ADUANA S A	0	0	534								
141	GESSA INGENIEROS S A	2	2	205								
142	GME S A	0	2	4,712			(1,178)					
143	GMT SAC CONTRATISTAS GENERALES	1	2	1,216			(121)					
144	GONURSA	0	1	1,326			(33)					
145	GONZALES CASTRO VICTOR MANUEL	2	3	547			(176)					
146	GRAFICA INDUSTRIAL SAN ANTONIO S A	3	3	775			(255)					
147	GRAN HOTEL SAVOY S A	1	2	7,605		N	(762)	4	8,066	(7,239)	(6,477)	
148	GREMCO S A	0	1	40,419		N	(977)	3	45,680	(13,704)	(12,727)	
149	GRUPO EDUCATIVO INTEGRAL S R LTDA	0	1	653			(19)					
150	GRUPO SINDICATO PESQUERO	0	1	38,875			(1,042)	1	28,412			
151	HABITAT TRUJILLO SIGLO XXI	0	0	4,450								

**Renée Rose Levy vs. República del Perú (Case CIADI N0. ARB/10/17)**  
**Expert Report of Brent C. Kaczmarek**  
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Annex A

Number <sup>1</sup>	Client	As of 30 June 2000						As of 31 December 2000			
		Rating <sup>1</sup>		Loan Amount <sup>1</sup> S/. 000	Provisions <sup>2</sup> S/. 000	Guarantees <sup>2</sup> (Y/N)	Additional Provisions <sup>1</sup> (S/. 000)	Rating <sup>4</sup>	Loan Amount <sup>4</sup> S/. 000	Provisions <sup>5</sup> S/. 000	Additional Provisions <sup>6</sup> (S/. 000)
		BNM	SBS					PWC			
152	HILADOS Y TENIDOS S A	0	0	791							
153	HILANDERIA DE ALGODON PERUANO S A	0	0	3,741							
154	HIPERMERCADO METRO S A	0	0	22,940	(229)	N		1	16,058	(446)	(217)
155	INDUSTRIA NACIONAL DE CONSERVAS ALIMENTICIAS S A	0	0	790							
156	INDUSTRIA TUBULAR DEL ACERO S A	1	3	12,149			(3,930)	2	11,898		
157	INDUSTRIAL ANDAHUASI S A C	0	0	13,303				0	12,727		
158	INDUSTRIAL CARTONERAY PAPELERASA	0	0	3,643				0	3,520		
159	INMOBILIARIA D'GIANMAR & ASOCIADOS	2	3	1,494			(315)				
160	INMOBILIARIA GUZMAN BLANCO S A	0	0	23,132	(231)	N		1	23,329	(7,120)	(6,889)
161	INMOBILIARIA LA CORUNA S A C	3	3	1,208							
162	INVERSIONES 7 DE AGOSTO S A	0	2	3,166		N	(398)	3	3,151	(1)	397
163	INVERSIONES AUR S A	0	0	768							
164	INVERSIONES BN	0	2	762			(110)				
165	INVERSIONES CIMARRON S R L	1	2	2,163			(249)				
166	INVERSIONES COSTA LINDA S A	2	3	2,691		N	(637)	4	2,717	(1,630)	(993)
167	INVERSIONES HELENICAS S A	1	3	5,078		N	(2,101)	4	5,433	(4,339)	(2,238)
168	INVERSIONES INMOBILIARIAS CAMINOS DEL INCA S A C	0	0	18,067	(181)	Y		2	18,595	(2,615)	(2,434)
169	INVERSIONES INMOBILIARIAS EUGENIE S A	0	1	1,005			(25)				
170	INVERSIONES LOS EUCALIPTOS S A	0	2	1,110			(214)				
171	INVERSIONES MARIA DEL CARMEN S R L	2	3	1,696			(442)				
172	INVERSIONES PARTENON S A	0	2	2,870		N	(695)	3	3,531	(2,217)	(1,522)
173	INVERSIONES VILLA RICA S A	0	1	1,026			(35)				
174	INVERSIONES Y SERVICIOS FINANCIEROS S A	0	0	10,156				0	10,244		
175	J C C C G G E I R L	1	1	9,061							
176	J V C E I R L	4	4	1,588							
177	JARDINES DE LURIN S A	0	2	2,387			(366)				
178	JEAN EXPORT CORPORATION S A C	1	1	8,567				1	6,564		
179	JORMAN SOCIEDAD CONSTRUCTORA S A	1	2	676			(69)				
180	JUNEFIELD GROUP S A	0	0	517							
181	KOMFORT	0	1	1,388			(69)				
182	KOU CAMPOS JOSE YU WING	1	1	510							
183	LBF MOTORS S A	0	1	2,548			(68)				
184	LABORATORIO QUIROFANO S A	0	0	1,853							
185	LARCO MAR S A	0	1	12,348			(289)	1	11,262		
186	LASER S C R L	0	3	1,708			(512)				
187	LEON EYZAGUIRRE JAVIER	1	2	970			(97)				
188	LIMA CAUCHO SA	0	1	4,331		N	(217)	2	4,280	(1,028)	(811)
189	LOGISTICA COMERCIAL METALURGICA S A	0	1	8,865		N	(228)	3	8,920	(3,566)	(3,338)
190	LOS CONQUISTADORES HOTEL S A	0	1	2,080				1	2,108		
191	LOS FRUTALES S A DEPOSITO DE ADUANAS	1	1	1,249			(4)				
192	LU VICTORIA DOMINQA CHANG SAY VDA DE	0	0	2,321							
193	LUCCHETTI PERU S A	0	0	4,492							
194	MADERERA GLASA S A	0	1	551			(14)				
195	MAJIH IMPORT S A	0	1	667			(21)				
196	MANNUCCI LAZO ALICIA GLADYS	2	4	400			(253)				
197	MANUEL A MUNOZ NAJAR IMPORT IND S A C	1	3	548			(160)				
198	MANUFACTURAS DEL SUR S A	0	0	5,706				0	5,478		
199	MARTINEZ CORTEZ, LAURENCIO VITOR	3	3	925							
200	MATERIALES DE CONSTRUCCION SODNOR S	1	2	607			(62)				



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Annex A

Number <sup>1</sup>	Client	As of 30 June 2000						As of 31 December 2000				
		Rating <sup>1</sup>		Loan Amount <sup>1</sup>	Provisions <sup>2</sup>	Guarantees <sup>2</sup>	Additional Provisions <sup>1</sup>	Rating <sup>4</sup>	Loan Amount <sup>4</sup>	Provisions <sup>5</sup>	Additional Provisions <sup>6</sup>	
		BNM	SBS	S/. 000	S/. 000	(Y/N)	(S/. 000)	PWC	S/. 000	S/. 000	(S/. 000)	
201	MECHAS OEL SUR S A SAMEX	0	0	2,352								
202	MELLON PARK S A C	1	2	6,828		N	(841)	3	6,664	(2,434)	(1,593)	
203	MERCHANT INVESTMENTS CORPORATION S A	0	0	2,066								
204	METALPACK S A	0	1	1,260			(16)					
205	MICRO AGE S A	2	4	1,752			(1,060)					
206	MINERA LIZANDRO	0	2	814			(196)					
207	LOS CONQUISTADORES HOTEL S A	1	1	4,213				1	4,356			
208	MONTES CUEVA VICTOR RAUL	0	2	797								
209	MORAVA S A C	0	0	3,113				0	2,819			
210	MULTICINES S A	1	2	10,377		N	(1,350)	3	10,940	(5,009)	(3,659)	
211	MULTIMERCADOS ZONALES S A	0	1	10,470		N	(524)	2	10,560	(2,698)	(2,174)	
212	NEGOCIACIONES MEGO E I R L	0	2	1,400			(306)					
213	NEGUSA CORP S A	0	2	2,774		N	(582)	3	2,174	(907)	(325)	
214	NELSON VASQUEZ CONTRATISTAS GENERALES S A	0	0	800								
215	NORTE REPRESENTACIONES S A NOREPSA	2	3	1,469			(515)					
216	NOVASALUD PERU S A EPS	0	0	5,664				0	3,520			
217	NUEVA ERA TECNOLOGICA S A	0	0	454								
218	OLIVOS RX S A	2	3	1,268			(394)					
219	OPERACIONES NACIONALES S A	1	3	1,180			(468)					
220	OTAROLA VELAZCO ITALO EVERARDO	0	0	1,268								
221	PALMAS DEL ESPINO S A	0	0	2,618								
222	PAPELERA NACIONAL S A	1	1	698								
223	PERU CUPS S A	0	2	3,040			(354)					
224	PERU FASHIONS S A	0	0	1,606								
225	PERU HOTEL SA	0	1	3,665		N	(96)	3	3,636	(1,113)	(1,017)	
226	PERU MANAGEMENT S A	2	3	796			(279)					
227	PESQUERA CAPRICORNIO S A	1	1	1,536								
228	PESQUERA COLONIAL	1	2	13,580			(2,416)	2	12,848			
229	PESQUERA COSTA CELESTE S A	0	0	3,064				0	2,805			
230	PESQUERA DIAMANTE S A	0	0	12,564								
231	PESQUERA EXALMAR S A	0	0	7,911	(79)	N		1	2,466	(123)	(44)	
232	PESQUERA HUMACARE S A	0	0	6,931				0	6,541			
233	PESQUERA INDUSTRIAL EL ANGEL S A	0	1	28,177			(983)	1	28,147			
234	PESQUERA MARIA DE JESUS S A	0	0	2,261				0	1,655			
235	PESQUERIA OLIMPO S R L	1	2	2,890			(345)	2	3,197			
236	PET PRODUCTS INTERNATIONAL DEL PERU S A	0	1	3,033			(86)	1	1,260			
237	PETROLEOS DEL PERU S A	0	0	10,205								
238	PLUSPETROL PERU CORPORATION SUC DEL PERU	0	0	24,779								
239	PONCE VERGARA ROLANDO MARTIN JOSE	0	0	537								
240	PROFISH S A	1	1	4,886	(244)	N		2	4,679	(628)	(384)	
241	PROMOTORES ASOCIADOS DE INMOBIUARIAS SA	0	0	14,685				0	14,709			
242	PROTEGE S A	0	3	1,638			(491)					
243	QUIMICA SUIZA S A	0	0	5,000								
244	QUIMPAC S A	0	0	4,160				0	9,568			
245	RECINES CONTRATISTAS MINEROS S A	1	3	4,237			(2,095)					
246	RICHARD O'CUSTER S A	0	0	3,024								
247	ROYA S A CC GG	0	0	2,540								
248	ROCA SOCIEDAD ANONIMA CERRADA	0	0	988								
249	RODRIGUEZ RAZZETO RICARDO CESAR	0	1	2,042			(51)					
250	ROMERO CARO SONIA MARIA ROSSANA	0	0	633								
251	ROMERO TRADING	0	1	4,258			(118)					
252	ROSS FINLAY (PERU)	0	1	2,097			(92)					
253	SANDOVAL S A	0	0	4,795				0	4,421			
254	SANTIAGO QUEIROLO S A	0	0	589								
255	SCHWEIG JACHCEL EDGARD	0	0	637								

Expert Report of Brent C. Kaczmarek  
Assessment of BNM's Loan Ratings and Provisions as of 30 June and 31 December 2000

Number <sup>1</sup>	Client	As of 30 June 2000						As of 31 December 2000				
		Rating <sup>1</sup>		Loan Amount <sup>1</sup> \$/,000	Provisions <sup>2</sup> \$/,000	Guarantees <sup>2</sup> (Y/N)	Additional Provisions <sup>1</sup> (\$/,000)	Rating <sup>4</sup> PWC	Loan Amount <sup>4</sup> \$/,000	Provisions <sup>5</sup> \$/,000	Additional Provisions <sup>6</sup> (\$/,000)	
		BNM	SBS									
256	SEPROFILE S A	1	3	2,289			(707)	3	2,314			
257	SEPROSA VALORES S A	0	3	1,621			(743)					
258	SERVICIO INDUSTRIAL DE LA MARINA DEL PERU S A	0	0	17,179				0	6,283			
259	SERV, NAC DE VIGILANCIA INDUSTRIAL S A	0	3	543			(8)					
260	SERVICIOS MINEROS CONTRATISTAS E I R L	1	1	1,814			(7)					
261	SERVILLANTAS Y REPUESTOS CHICLAYO S A C	0	0	1,553								
262	SERVILLANTAS Y REPUESTOS HUARAZ S A C	0	0	813								
263	SERVIS COMPANY S A	0	1	1,308			(60)					
264	SHOUGANG HIERRO PERU S A A	0	1	11,587			(435)	1	9,862			
265	SOCIEDAD AGRICOLA JEQUETEPEQUE S R L	2	3	1,902			(333)					
266	SOCIEDAD CONSERVERA DEL NORTE S A	0	0	1,888	(19)	Y		2	1,607	(297)	(278)	
267	SOUSA GARCIA ALVARO VICTOR ALEJANDRO	0	0	461								
268	STARVISION S A	1	3	667			(188)					
269	STEEL INDUSTRY S A	2	2	646								
270	FRANCO STRUGO, MARDOCHEO	1	1	5,671								
271	SUDAMERICANA DE FIBRAS SA	0	0	15,688	(157)	N		1	4,437	(200)	(44)	
272	SUING CISNEROS VICTOR MANUEL	0	0	6,777								
273	SUPERMERCADOS STA ISABEL	0	1	15,888			(437)	1	15,977			
274	SUTTNER & VISCHER S A	1	2	989			(99)					
275	T J CASTRO S A	0	0	1,850	(19)	Y		3	1,060	(318)	(300)	
276	TECNIADUANA S A C	0	0	4,111								
277	TERMOTROL S A	0	0	1,183								
278	TEXTIL ANDINA S A	4	4	604								
279	TEXTIL SAN CRISTOBAL S A	0	0	925								
280	TEXTILES FRUTO DEL TELAR	1	2	1,222			(243)					
281	TEXTILES SAN JOSE S A	1	2	576			(78)					
282	THORSEN GUARDIA JOHN	2	2	873								
283	TORRES DRAGO HERMANOS S A	0	1	1,320			(42)					
284	TRADESOB S A	0	0	1,085								
285	TRADIGRAIN DEL PERU S A	0	0	9,821								
286	TRANSMINA INTERNACIONAL S A	2	2	573								
287	TRANSPORTADORA DEL PACIFICO S A	2	2	1,874								
288	TRANSPORTES MR AGREDA ASOCIADOS S A	0	2	464			(66)					
289	TRIANON S A C	0	1	2,970			(74)					
290	UVK MULTICINES LARCO S A	0	0	10,004	(100)	Y		2	10,679	(1,663)	(1,563)	
291	VASQUEZ ANGELES MEDARDO NESOR	0	0	671								
292	VIAJES LASER S A	0	1	1,151			(32)					
293	VOLCAN COMPANY MINERA S A A	0	0	20,126				0	28,184			
294	WHOLESALE CELLULAR LATINA DEL PERU S A	2	4	1,494			(959)					
295	ZAMALLOA PILCO ODETTE	0	0	565								

**Sources and Notes:**

(1) See SBS's Inspection Vist Report for BNM, Informe de Visita de Inspección No DESF "A"-168-VI/2000, November 22, 2000, Annex 1 and Annex 4 (R-065)

(2) Where necessary, provisions as of 30 June 2000 were calculated using the loan amount noted above and risk classifications identified in PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001, Note 6 g (R-080) Annex A of PricewaterhouseCoopers' Special Report on the Loan, Investments, and Other Portfolios Related to 31 December 2000 dated 5 March 2001 was used to determine whether loans contained guarantees (R-080)

(4) See PricewaterhouseCoopers' Special Report on the Loan, Investments, and Other Portfolios Related to 31 December 2000, 5 March 2001, Annex A (R-080)

(5) See PricewaterhouseCoopers' Special Report on the Loan, Investments, and Other Portfolios Related to 31 December 2000, 5 March 2001, Annex B (R-080) and PricewaterhouseCoopers' Loan Inspection Report as of 30 April 2001, Annex K (R-224) Provision amounts identified in Annex K are as of 31 March 2001 as provisions as of 31 December 2000 were unavailable

(6) Additional provisions as of 30 December 2000 were calculated only for loans where PwC increased the risk rating (i.e., from a risk rating of 2 as of 30 June 2000 to a risk rating of 3 as of 31 December 2000) Where additional provisions as of 30 June 2000 were not provided, provisions as of 30 June 2000 were calculated (see Note 2) and compared to provisions as of 31 December 2000

## Expert Report of Brent C. Kaczmarek

## Reconciliation of BNM's Losses as of 31 December 2000

<i>(All amounts are in S./ 000s)</i>	PwC	
	Income Statement	
	12/31/2000	Source <sup>1</sup>
Interest on Loans	264,809	
Interest on Deposits with other Banks	16,108	
Net Gain from Foreign Exchange Operations	9,961	
Income from Investment in Securities and Others	2,232	
<b>Total Financial Income</b>	<b>293,110</b>	
Interest on Deposits	(94,953)	
Interest on Loans	(93,903)	
Other Expenses	(3,549)	
<b>Total Financial Expenses</b>	<b>(192,405)</b>	
Commissions for Contingent Operations and Services	24,426	
Profit from Sale of Collateral Assets Received from Foreclosures	1,238	
Profit from Sale of Buildings, Furniture, and Equipment	3,522	
Profit from Sale of Intangible Assets	1,682	
Recovery of Provisions for Other Accounts Receivable	13,112	
Recovery of Write Down Accounts	1,040	
Leasing	3,872	
Other	8,521	
<b>Total Other Income</b>	<b>57,413</b>	
<b>Total Financial Income and Other Revenue</b>	<b>158,118</b>	
Provision for Loan Portfolio Transferred Back	(64,994)	6d
Provisions for Other Loans	(155,160)	6g
<b>Total Provision for Loan Losses</b>	<b>(220,154)</b>	
Decrease in Provisions due to the Sale of part of the Loan Portfolio	(13,248)	6d, 6g
Provisions for Collateral Assets Received from Foreclosed Loans	(9,227)	8b
Provision for Terminated Financial Leases where the Asset Could not be Recovered	(9,816)	8e
<b>Provision for Assets, Awarded and Rescinded Leasing</b>	<b>(19,043)</b>	
Accounts Receivable for Sales Tax on Terminated Leases	(2,152)	
Provision for Other Accounts Receivable	(7,256)	
<b>Provision for Various Accounts Receivables</b>	<b>(9,408)</b>	
Provision for Interest Receivable	(11,830)	
Provision for Price Fluctuation	(2,398)	5
<b>Deferred Expenses from Prior Periods</b>	<b>(24,866)</b>	7a, 8c
At Cost Additions for Depreciation of PPE	(22,002)	7
Amortization of Pre-Operating Expenses, Software and Improvements	(10,779)	2e, 8a
Depreciation and Amortization of PPE, Pre-Operating Expenses, Software and Improvements	(32,781)	
Amortization of Goodwill	(43,699)	2e, 8a
<b>Depreciation and Amortization</b>	<b>(76,480)</b>	

## Expert Report of Brent C. Kaczmarek

## Reconciliation of BNM's Losses as of 31 December 2000

<i>(All amounts are in S./ 000s)</i>	PwC	
	Income Statement	
	12/31/2000	Source <sup>1</sup>
<b>Contingencies</b>	(12,233)	11
Personnel expenses	(52,832)	
General expenses	(53,878)	
Miscellaneous	(949)	
<b>Selling, General and Administrative Expenses</b>	<b>(107,659)</b>	
<b>Inflation Adjustment</b>	(2,922)	
<b>Total Other Expenses</b>	<b>(486,993)</b>	
<b>Net Loss</b>	<b>(328,875)</b>	

**Source:**

[1] See PricewaterhouseCoopers' Financial Audit of BNM, December 31, 2000 and December 31, 1999, March 5, 2001. (R-080)

## Expert Report of Brent C. Kaczmarek

## BNM Monthly Financial Statements for the year 2000

(All amounts are in \$/. 000)

Account	Jan-00	Feb-00	Mar-00	Apr-00	May-00	Jun-00	Jul-00	Aug-00	Sep-00	Total
<b>ACTIVO</b>										
<b>DISPONIBLE:</b>	304,645	309,557	385,269	392,022	355,197	373,221	396,714	363,146	281,346	281,346
Caja	79,417	41,456	53,062	70,126	62,734	50,944	41,531	54,142	65,250	65,250
Bancos y Corresponsales	214,331	259,375	318,699	305,753	283,231	299,852	346,083	292,165	182,384	182,384
Canje	10,738	8,481	13,353	16,113	9,054	22,340	9,059	16,734	33,595	33,595
Certificados de Divisas y Otras Dispon.	159	245	155	30	178	85	41	105	117	117
<b>FONDOS INTERBANCARIOS:</b>	-	4,000	10,000	15,500	10,500	21,960	19,000	13,920	40,100	40,100
Fondos Interbancarios M.N.	-	4,000	10,000	15,500	10,500	8,000	19,000	-	40,100	40,100
Fondos Interbancarios M.E.	-	-	-	-	-	13,960	-	13,920	-	-
<b>INVERSIONES:</b>	27,880	30,509	31,804	30,764	35,823	28,901	26,146	18,387	55,909	55,909
Inversiones Temporales M.N.	-	3,000	5,873	4,533	5,078	2,725	1,515	870	4,505	4,505
Inversiones Temporales M.E.	27,880	27,509	25,931	26,231	30,814	26,442	24,911	18,880	52,761	52,761
Inversiones Permanentes M.N.	-	-	-	-	-	-	-	-	-	-
Inversiones Permanentes M.E.	-	-	-	-	-	-	-	-	-	-
Provisión para Fluctuación	-	-	-	-	(69)	(266)	(280)	(1,363)	(1,357)	(1,357)
<b>COLOCACIONES:</b>	1,592,233	1,570,487	1,617,396	1,674,664	1,767,239	1,782,271	1,749,136	1,755,282	1,762,755	1,762,755
Cartera Vigente	1,619,902	1,588,099	1,638,592	1,686,203	1,763,954	1,782,994	1,734,380	1,736,587	1,734,926	1,734,926
Cuentas Corrientes M.N.	20,343	16,144	17,793	18,825	18,931	20,252	19,219	18,988	20,211	20,211
Cuentas Corrientes M.E.	62,266	57,845	65,647	69,057	71,655	85,968	82,167	66,895	66,175	66,175
Descuentos M.N.	20,391	20,369	20,869	19,745	18,421	15,408	15,429	16,042	16,743	16,743
Descuentos M.E.	119,849	114,724	117,610	111,483	116,239	120,178	117,682	105,514	106,529	106,529
Factoring M.N.	-	-	-	-	-	-	-	-	-	-
Factoring M.E.	20,873	21,665	21,145	20,857	22,240	21,308	19,334	18,773	17,790	17,790
Préstamos: M.N.	106,016	105,459	102,248	97,441	96,193	102,255	114,409	116,153	118,379	118,379
Préstamos Corto Plazo M.N.	65,131	62,841	58,280	56,929	56,812	64,699	78,321	79,489	83,417	83,417
Préstamos Largo Plazo M.N.	40,885	42,618	43,968	40,512	39,381	37,556	36,088	36,664	34,962	34,962
Préstamos M.E.	452,929	450,476	442,050	414,714	431,804	424,599	404,691	386,496	395,608	395,608
Préstamos Corto Plazo M.E.	262,386	261,871	260,695	244,333	266,309	263,876	248,101	240,224	254,809	254,809
Préstamos Largo Plazo M.E.	190,543	188,605	181,355	170,381	165,495	160,723	156,590	146,272	140,799	140,799
Colocac. Refinanciadas M.N.	6,209	5,984	7,526	5,341	4,190	4,016	4,708	5,863	4,142	4,142
Colocac. Refinanciadas M.E.	24,151	32,472	44,915	66,255	67,491	70,252	68,742	77,952	71,921	71,921
Arrendamiento Financiero M.N.	-	-	-	-	-	-	-	-	-	-
Arrendamiento Financiero M.E.	543,109	533,984	574,185	628,841	695,576	693,021	667,512	708,041	706,996	706,996
Letras Hipotecarias M.N.	771	894	698	695	329	327	324	322	321	321
Letras Hipotecarias M.E.	95,510	94,269	92,780	92,554	84,223	84,847	83,515	75,676	74,782	74,782
Créditos por Liquidar M.N.	-	-	-	-	-	-	-	-	-	-

## Expert Report of Brent C. Kaczmarek

## BNM Monthly Financial Statements for the year 2000

(All amounts are in \$/ 000)

Account	Jan-00	Feb-00	Mar-00	Apr-00	May-00	Jun-00	Jul-00	Aug-00	Sep-00	Total
Créditos por Liquidar M.E.	1,973	4,095	4,670	3,869	5,641	843	6,872	888	4,466	4,466
Financiación de Exportaciones	102,224	85,685	74,081	87,126	80,526	92,096	83,728	87,037	81,716	81,716
Financiación de Importaciones M.N.	-	-	18	66	60	54	-	-	-	-
Financiación de Importaciones M.E.	36,004	36,755	45,080	41,715	41,702	38,578	37,057	43,230	40,277	40,277
Otras Colocaciones M.N.	6,409	6,414	6,589	6,923	8,033	8,294	8,295	8,021	8,172	8,172
Otras Colocaciones M.E.	875	865	688	696	700	698	696	696	698	698
Cartera Atrasada:	62,497	70,325	66,912	84,577	101,622	109,386	123,518	127,143	131,929	131,929
Vencidos Hasta 4 meses M.N.	1,485	3,179	3,284	3,695	3,968	3,051	3,516	3,747	3,972	3,972
Vencidos hasta 4 meses M.E.	20,236	23,343	18,120	22,971	33,470	34,852	42,598	32,859	29,496	29,496
Vencidos mayores de 4 meses M.N.	4,318	2,619	2,538	2,566	3,473	4,835	5,656	5,959	2,940	2,940
Vencidos mayores de 4 meses M.E.	8,177	9,685	7,979	7,183	10,803	14,068	12,463	12,751	8,928	8,928
En Cobranza Judicial M.N.	4,942	5,920	6,327	10,437	8,980	9,350	8,851	9,396	9,912	9,912
En Cobranza Judicial M.E.	23,339	25,579	28,664	37,725	40,928	43,230	50,434	62,431	76,681	76,681
Provisión para Colocaciones M.N.	(17,905)	(18,441)	(13,510)	(14,554)	(13,951)	(15,432)	(16,429)	(16,581)	(13,184)	(13,184)
Provisión para Colocaciones M.E.	(72,261)	(69,496)	(74,598)	(81,562)	(84,386)	(94,677)	(92,333)	(91,867)	(90,916)	(90,916)
DEUDORES POR ACEPTACIONES BANCARIAS	-	-	-	-	-	-	-	-	-	-
BIENES REALIZABLES Y ADJUDICADOS	13,189	20,847	17,485	15,518	10,655	13,393	11,038	12,469	12,092	12,092
ACTIVO FIJO	165,556	165,562	165,972	165,123	156,607	155,989	158,377	158,164	158,068	158,068
OTROS ACTIVOS:	450,966	442,615	461,814	475,910	510,993	483,428	508,727	487,140	459,548	459,548
Otros Activos M.N.	255,621	253,120	270,856	287,733	320,810	296,764	303,863	299,285	276,566	276,566
Otros Activos M.E.	195,345	189,495	190,958	188,177	190,183	186,664	204,864	187,855	182,982	182,982
<b>TOTAL ACTIVO:</b>	<b>2,554,469</b>	<b>2,543,577</b>	<b>2,689,740</b>	<b>2,769,501</b>	<b>2,847,014</b>	<b>2,859,163</b>	<b>2,869,138</b>	<b>2,808,508</b>	<b>2,769,818</b>	<b>2,769,818</b>
CUENTAS CONTINGENTES DEUDORAS	590,679	566,153	611,950	603,357	647,082	662,113	703,185	706,008	626,408	626,408
CUENTAS DE ORDEN DEUDORAS	3,397,204	3,351,558	3,399,757	3,473,169	3,620,178	3,707,297	3,737,182	3,702,895	3,680,785	3,680,785
<b>PASIVO</b>										
DEPOSITOS	1,002,570	1,017,851	1,134,083	1,174,539	1,184,251	1,251,605	1,276,664	1,248,898	1,209,369	1,209,369
Depósitos del Público:	931,738	950,306	1,064,134	1,124,404	1,136,989	1,178,778	1,186,198	1,174,688	1,089,967	1,089,967
Obligaciones Inmediatas	102,127	108,610	154,153	171,518	156,161	161,971	126,831	140,224	117,608	117,608
Depósitos a la Vista M.N.	15,686	13,513	16,381	19,497	17,868	17,027	19,728	22,548	16,307	16,307

## Expert Report of Brent C. Kaczmarek

## BNM Monthly Financial Statements for the year 2000

(All amounts are in \$/. 000)

Account	Jan-00	Feb-00	Mar-00	Apr-00	May-00	Jun-00	Jul-00	Aug-00	Sep-00	Total
Depósitos a la Vista M.E.	47,535	52,815	55,619	56,066	68,615	56,718	57,103	80,193	65,222	65,222
Otros M.N.	20,524	30,673	27,475	17,774	16,621	16,036	11,319	10,173	9,934	9,934
Otros M.E.	18,382	11,609	54,678	78,181	53,057	72,190	38,681	27,310	26,145	26,145
Depósitos de Ahorros	167,453	148,285	164,359	166,578	161,771	175,481	204,917	200,407	152,635	152,635
Ahorros M.N.	30,689	29,299	33,474	37,104	36,749	36,377	35,336	34,512	36,647	36,647
Ahorros M.E.	136,764	118,986	130,885	129,474	125,022	139,104	169,581	165,895	115,988	115,988
Depósitos a Plazo:	662,158	693,411	745,622	786,308	819,057	841,326	854,450	834,057	819,724	819,724
Certificados de Depósitos M.N.	120	-	-	-	-	-	-	-	-	-
Certificados de Depósitos M.E.	31	30	30	30	30	31	31	31	30	30
Certificados Bancarios	36,107	35,835	31,454	31,005	38,105	40,279	40,108	39,680	36,393	36,393
Cuentas a Plazo M.N.	216,330	225,382	255,745	276,242	307,419	301,201	317,210	296,997	302,287	302,287
Cuentas a Plazo M.E.	392,988	414,887	438,998	446,503	440,049	451,424	451,381	453,273	443,807	443,807
Depósitos con Contratos Swaps y/o Compra Futura M.N.	-	-	-	-	-	-	-	-	-	-
Depósitos con Contratos Swaps y/o Compra Futura M.E.	-	-	-	-	-	-	-	-	-	-
Depósitos C.T.S. M.N.	903	851	823	793	1,119	1,047	1,010	984	1,012	1,012
Depósitos C.T.S. M.E.	6,338	6,302	6,166	6,407	7,712	7,566	7,543	7,703	8,177	8,177
Otros M.N.	1,454	1,974	2,713	7,878	3,078	4,209	1,373	4,987	2,809	2,809
Otros M.E.	7,887	8,150	9,693	17,450	21,545	35,569	35,794	30,402	25,209	25,209
Depósitos del Sist. Financ. y Organismos Internacionales	70,832	67,545	69,949	50,135	47,262	72,827	90,466	74,210	119,402	119,402
Depósitos a la Vista	18,897	16,546	10,964	10,000	15,772	8,295	4,762	11,000	6,512	6,512
Sistema Financiero Nacional M.N.	665	711	411	382	208	648	540	700	1,230	1,230
Sistema Financiero Nacional M.E.	18,151	15,782	10,391	9,513	15,515	7,581	4,221	10,269	5,159	5,159
Sistema Financiero Extranjero M.N.	-	-	-	-	-	-	-	-	-	-
Sistema Financiero Extranjero M.E.	81	53	162	105	49	66	1	31	123	123
Organismos Financieros Internacionales M.N.	-	-	-	-	-	-	-	-	-	-
Organismos Financieros Internacionales M.E.	-	-	-	-	-	-	-	-	-	-
Depósitos de Ahorros:	2,039	2,507	2,843	829	1,462	1,892	2,607	2,125	2,719	2,719
Sistema Financiero Nacional M.N.	235	176	225	277	573	305	400	381	448	448
Sistema Financiero Nacional M.E.	1,804	2,331	2,618	552	889	1,587	2,207	1,744	2,271	2,271
Sistema Financiero Extranjero M.N.	-	-	-	-	-	-	-	-	-	-

## Expert Report of Brent C. Kaczmarek

## BNM Monthly Financial Statements for the year 2000

(All amounts are in S/. 000)

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Sistema Financiero Extranjero M.E.	-	-	-	-	-	-	-	-	-	-
Organismos Financieros Internacionales M.N.	-	-	-	-	-	-	-	-	-	-
Organismos Financieros Internacionales M.E.	-	-	-	-	-	-	-	-	-	-
Depósitos a Plazo	49,896	48,492	56,142	39,306	30,028	62,640	83,097	61,085	110,171	110,171
Sistema Financiero Nacional M.N.	7,616	500	847	10,503	612	17,020	10,037	2,001	4,000	4,000
Sistema Financiero Nacional M.E.	26,262	31,581	40,457	17,156	21,518	39,035	65,487	51,617	100,838	100,838
Sistema Financiero Extranjero M.N.	-	-	-	-	-	-	-	-	-	-
Sistema Financiero Extranjero M.E.	16,018	16,411	14,838	11,647	7,898	6,585	7,573	7,467	5,333	5,333
Organismos Financieros Internacionales M.N.	-	-	-	-	-	-	-	-	-	-
Organismos Financieros Internacionales M.E.	-	-	-	-	-	-	-	-	-	-
<b>FONDOS INTERBANCARIOS</b>	-	-	-	-	-	-	-	-	-	-
Fondos Interbancarios M.N.	-	-	-	-	-	-	-	-	-	-
Fondos Interbancarios M.E.	-	-	-	-	-	-	-	-	-	-
<b>ADEUDADOS Y OTRAS OBLIG. FINANCIERAS</b>	1,051,665	1,035,796	1,041,488	1,036,928	1,035,128	1,013,231	997,045	941,563	941,557	941,557
Adeud. y Otr. Oblig. Financ. M.N.	45,396	51,347	51,093	46,760	43,292	27,860	27,240	26,769	25,158	25,158
Adeud. y Otr. Oblig. Financ. M.E.	1,006,269	984,449	990,395	990,168	991,836	985,371	969,805	914,794	916,399	916,399
Valores en Circulac. Let. Hiptc. M.N.	-	-	-	-	-	-	-	-	-	-
Valores en Circulac. Let. Hiptc. M.E.	-	-	-	-	-	-	-	-	-	-
<b>OTROS PASIVOS:</b>	232,373	220,875	248,824	295,069	362,143	337,328	332,465	351,494	336,399	336,399
Otros Pasivos M.N.	12,869	10,196	10,289	11,671	10,832	22,602	21,683	27,066	22,807	22,807
Otros Pasivos M.E.	219,504	210,679	238,535	283,398	351,311	314,726	310,782	324,428	313,592	313,592
<b>PROVISIONES:</b>	31,790	35,072	32,213	38,229	38,327	27,797	32,368	35,709	29,185	29,185
<b>TOTAL PASIVO:</b>	2,318,398	2,309,594	2,456,608	2,544,765	2,619,849	2,629,961	2,638,542	2,577,664	2,516,510	2,516,510
<b>PATRIMONIO:</b>	236,071	233,983	233,132	224,736	227,165	229,202	230,596	230,844	253,308	253,308
Capital Social	124,226	118,128	118,599	119,161	164,785	165,110	166,085	166,085	167,223	167,223
Capital Adicional y en Trámite	38,443	45,032	45,211	45,462	-	-	-	-	17,490	17,490
Reservas	53,690	67,104	64,511	56,180	56,235	56,346	56,679	56,679	59,761	59,761



## Expert Report of Brent C. Kaczmarek

## BNM Monthly Financial Statements for the year 2000

(All amounts are in S/. 000)

Account	Jan-00	Feb-00	Mar-00	Apr-00	May-00	Jun-00	Jul-00	Aug-00	Sep-00	Total
Resultados Acumulados	16,909	-	-	-	-	-	-	-	-	-
Resultado Neto del Ejercicio	2,803	3,719	4,811	3,933	6,145	7,746	7,832	8,080	8,834	8,834
<b>TOTAL PASIVO Y PATRIMONIO</b>	<b>2,554,469</b>	<b>2,543,577</b>	<b>2,689,740</b>	<b>2,769,501</b>	<b>2,847,014</b>	<b>2,859,163</b>	<b>2,869,138</b>	<b>2,808,508</b>	<b>2,769,818</b>	<b>2,769,818</b>
AVALES, CTAS. FIANZA Y OTRAS CONTINGENCIAS	590,679	566,153	611,950	603,357	647,082	662,113	703,185	706,008	626,408	626,408
VALORES EN COBRZA Y OTRAS CUENTAS DE ORDEN	2,059,168	2,059,075	2,102,705	2,206,930	2,371,052	2,320,792	2,323,974	2,378,392	2,474,908	2,474,908
<b>DESCRIPCION</b>										
<b>TOTAL INGRESOS FINANCIEROS</b>	<b>22,290</b>	<b>41,820</b>	<b>70,651</b>	<b>94,403</b>	<b>120,337</b>	<b>145,621</b>	<b>169,825</b>	<b>193,809</b>	<b>217,791</b>	<b>1,076,547</b>
Ingresos Financieros M/N	5,121	9,891	15,074	20,454	25,861	30,163	35,555	40,231	45,319	227,669
Intereses y Comisiones de Colocaciones	5,019	9,675	14,706	19,856	24,725	28,731	33,901	38,479	43,212	218,304
Int. de Depósitos en Instituciones Financieras	93	199	276	391	531	644	776	817	882	4,609
Intereses de Fondos Interbancarios M/N	9	12	45	74	389	425	472	486	656	2,568
Diferencia de Cambio M/N	-	2	6	22	29	39	73	73	127	371
Reajuste por Indexación M/N	-	-	-	-	-	-	-	-	-	-
Renta e Intereses de Inv. y Result. en la C/V. de Valores.	-	3	41	111	187	323	332	375	439	1,811
Otros M/N	-	-	-	-	-	1	1	1	3	6
Ingresos Financieros M/E	17,169	31,929	55,577	73,949	94,476	115,458	134,270	153,578	172,472	848,878
Intereses y Comisiones de Colocaciones	15,273	28,347	48,221	64,290	82,399	100,876	116,761	134,028	150,377	740,572
Int. de Depósitos en Instituciones Financieras	1,148	2,172	3,363	4,708	6,136	7,611	9,055	10,502	11,730	56,425
Intereses de Fondos Interbancarios M/E	-	-	13	20	29	39	47	72	89	309
Diferencia de Cambio M/E	591	1,159	3,632	4,387	5,377	6,104	6,708	7,186	8,292	43,436
Reajuste por Indexación M/E	-	-	-	-	-	-	-	-	-	-
Renta e Intereses de Inv. y Result. en la C/V. de Valores	153	228	312	489	470	686	1,534	1,600	1,759	7,231
Otros M/E	4	23	36	55	65	142	165	190	225	905
<b>TOTAL GASTOS FINANCIEROS</b>	<b>16,422</b>	<b>31,452</b>	<b>48,204</b>	<b>64,078</b>	<b>80,875</b>	<b>97,200</b>	<b>114,653</b>	<b>131,034</b>	<b>148,839</b>	<b>732,757</b>
Gastos Financieros M/N	4,335	8,489	13,076	17,639	22,236	26,926	32,048	36,305	41,414	202,468
Intereses por Depósitos M/N	3,594	7,112	11,025	14,803	18,779	23,006	27,458	31,450	35,662	172,889
Intereses por Fondos Interbancarios	11	63	77	78	80	81	87	95	103	675
Intereses por Depós. del Sist. Financ. y Org. Internac.	119	144	177	249	287	412	472	520	549	2,929

## Expert Report of Brent C. Kaczmarek

## BNM Monthly Financial Statements for the year 2000

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Int. y Comis. por Otras Obligaciones Financieras	580	1,133	1,756	2,433	2,999	3,334	3,923	4,118	4,881	25,157
Diferencia de Cambio M/N	-	-	1	1	1	1	2	2	4	12
Reajuste por Indexación M/N	-	-	-	-	-	-	-	-	-	-
Primas de Fdo. De Seg. de Depósitos	28	30	29	59	70	70	72	72	105	535
Otros M/N	3	7	11	16	20	22	34	48	110	271
Gastos Financieros M/E	12,087	22,963	35,128	46,439	58,639	70,274	82,605	94,729	107,425	530,289
Intereses por Depósitos M/E	3,697	7,239	11,043	14,852	18,969	22,811	26,948	31,339	35,225	172,123
Intereses por Fondos Interbancarios	307	339	348	348	557	579	656	657	658	4,449
Intereses por Depós. del Sist. Financ. y Org. Internac.	284	530	819	1,035	1,234	1,446	1,741	1,974	2,239	11,302
Int. y Comis. por Otras Obligaciones Financieras	7,406	14,301	22,189	29,148	36,593	43,845	51,391	58,692	66,749	330,314
Diferencia de Cambio M/E	94	95	95	97	102	143	191	192	318	1,327
Reajuste por Indexación M/E	-	-	-	-	-	-	-	-	-	-
Primas del Fdo. de Seg. de Depósitos	130	130	130	279	329	328	328	328	496	2,478
Otros M/E	169	329	504	680	855	1,122	1,350	1,547	1,740	8,296
<b>RESULTADO FINANCIERO</b>	<b>5,868</b>	<b>10,368</b>	<b>22,447</b>	<b>30,325</b>	<b>39,462</b>	<b>48,421</b>	<b>55,172</b>	<b>62,775</b>	<b>68,952</b>	<b>343,790</b>
<b>TOTAL OTROS INGRESOS</b>	<b>8,683</b>	<b>15,767</b>	<b>24,824</b>	<b>29,154</b>	<b>56,737</b>	<b>64,812</b>	<b>69,107</b>	<b>74,213</b>	<b>87,568</b>	<b>430,865</b>
Otros Ingresos M/N	6,579	8,789	14,453	16,534	41,972	45,732	48,173	49,743	58,561	290,536
Comisiones por Operaciones Contingentes y Servicios	478	930	1,456	1,915	2,416	2,838	3,443	3,978	4,599	22,053
Comisiones por Fideicomiso y Administración	-	-	173	240	240	280	422	422	635	2,412
Varios M/N	6,101	7,859	12,824	14,379	39,316	42,614	44,308	45,343	53,327	266,071
Otros Ingresos M/E	2,104	6,978	10,371	12,620	14,765	19,080	20,934	24,470	29,007	140,329
Comisiones por Operaciones Contingentes y Servicios	1,614	2,923	4,428	5,738	7,330	8,660	10,130	11,939	13,590	66,352
Comisiones por Fideicomiso y Administración	-	-	-	-	-	-	-	-	-	-
Varios M/E	490	4,055	5,943	6,882	7,435	10,420	10,804	12,531	15,417	73,977
<b>PROVISIONES Y DEPRECIACION:</b>	<b>3,751</b>	<b>6,782</b>	<b>15,874</b>	<b>19,901</b>	<b>26,276</b>	<b>30,397</b>	<b>31,735</b>	<b>36,567</b>	<b>46,013</b>	<b>217,296</b>
Provisiones y Depreciación M/N.	3,748	6,776	15,861	19,857	24,698	28,537	32,316	34,758	31,875	198,426
Fluctuación de Valores M/N	-	-	-	-	57	58	24	40	43	222
Colocaciones M/N	5	6	7	9	(61)	1,426	3,059	3,059	1,487	8,997
Cuentas por Cobrar M/N	394	2	5,142	5,163	5,483	5,714	5,743	5,743	1,926	35,310

## Expert Report of Brent C. Kaczmarek

## BNM Monthly Financial Statements for the year 2000

(All amounts are in S/. 000)

Account	Jan-00	Feb-00	Mar-00	Apr-00	May-00	Jun-00	Jul-00	Aug-00	Sep-00	Total
Bienes Realizables y Adjudicados M/N	949	1,958	3,423	4,896	7,278	7,411	7,454	7,454	7,841	48,664
Contingencias M/N	-	(25)	-	-	(318)	(321)	(390)	-	61	(993)
Depreciación y Amortización M/N	2,400	4,835	7,289	9,789	12,259	14,249	16,426	18,462	20,517	106,226
Provisiones y Depreciación M/E	3	6	13	44	1,578	1,860	(581)	1,809	14,138	18,870
Fluctuación de Valores M/E	-	-	-	-	12	208	258	1,324	1,321	3,123
Colocaciones M/E	3	6	13	44	2,459	2,545	481	485	12,390	18,426
Cuentas por Cobrar M/E	-	-	-	-	-	-	-	-	-	-
Bienes Realizables y Adjudicados M/E	-	-	-	-	-	-	-	-	-	-
Contingencias M/E	-	-	-	-	(893)	(893)	(1,320)	-	427	(2,679)
Depreciación y Amortización M/E	-	-	-	-	-	-	-	-	-	-
<b>OTROS GASTOS</b>	<b>8,015</b>	<b>15,650</b>	<b>26,632</b>	<b>35,604</b>	<b>63,708</b>	<b>74,821</b>	<b>84,217</b>	<b>91,776</b>	<b>100,844</b>	<b>501,267</b>
Personal	3,168	6,468	9,946	13,765	18,157	22,478	26,802	30,996	35,529	167,309
Generales	4,234	8,339	13,366	17,884	22,479	26,906	31,109	34,100	37,769	196,186
Honorarios del Directorio	-	-	-	-	-	-	-	-	-	-
Varios	613	843	3,320	3,955	23,072	25,437	26,306	26,680	27,546	137,772
<b>UTILIDAD Y/O PERDIDA ANTES DEL IMPUESTO A LA RENTA</b>	<b>2,785</b>	<b>3,703</b>	<b>4,765</b>	<b>3,974</b>	<b>6,215</b>	<b>8,015</b>	<b>8,327</b>	<b>8,645</b>	<b>9,663</b>	<b>56,092</b>
RESULTADO POR EXPOSICION A LA INFLACION	18	16	46	(41)	(70)	(269)	(495)	(565)	(829)	(2,189)
IMPUESTO A LA RENTA	-	-	-	-	-	-	-	-	-	-
<b>UTILIDAD Y/O PERDIDA NETA</b>	<b>2,803</b>	<b>3,719</b>	<b>4,811</b>	<b>3,933</b>	<b>6,145</b>	<b>7,746</b>	<b>7,832</b>	<b>8,080</b>	<b>8,834</b>	<b>53,903</b>

**Source:**

(1) See SBS Monthly Financial Statements for All Banks for January through September 2000. (R-211)