
Frequently Asked Questions
Bancafé International Bank Limited
June 1, 2007

1. I invested in BIB and the lawyer for one of the groups of BIB's depositors recommends we initiate a process in Guatemalan courts. ¿What must I do?

Answer:

- a. The governing legislation for the compulsory winding-up of BIB is a Barbados statute, specifically the International Financial Services Act (IFSA).
 - b. The procedure for filing claims is a simple one and normally can be completed by the depositor without legal assistance; however, the decision to seek legal advice is a personal one.
 - c. The Custodian has recently spent time in Guatemala in order to gain access to the Bank records necessary to commence the claims process. Account statements will be issued by the Custodian in the near future.
 - d. Depositors should review their statement and if they are in agreement, return it signed. Disputed statements should be returned along with all supporting documentation for any discrepancy.
 - e. Parties who are owed money but who are not depositors of the bank, and depositors who do not receive a statement from the Custodian within 30 days of the date of issue (which date will be posted on this website) should contact the Custodian in order to file their claim.
2. By my lawyer's recommendation, I initiated a process in Guatemala; what will happen with this now that PWC is supposedly in charge of BIB's liquidation?

Answer:

- a. The High Court of Barbados has jurisdiction over the winding up of BIB. Actions that are carried out against assets of BIB in Guatemala will be strongly defended and will only serve to lower the amounts available for depositors.
- b. If you have already initiated a lawsuit against BIB in Guatemala you may prejudice your right to participate in the claims process being carried out in Barbados.

3. What does it mean that a judge has issued a sentence in favour of Congressman Baldizón and his family?

Answer:

- a. We have instructed our legal counsel to appeal the sentence by the Judge of the First Instance. We believe it improper under Guatemalan law, the principles of international insolvency as set out in the United Nations Model Law (UNCITRAL), and the banking agreement signed by depositors which stipulate that Barbados law shall apply.
 - b. If the Claimant is ultimately unsuccessful with his claim in Guatemala, which we believe will be the case, the Custodian will seek an award of costs against him which will be recoverable to the estate from the future distribution that may otherwise be payable to him in the Barbados process. It is possible that the Barbados Court may impose other sanctions as well.
 - c. The Guatemalan Courts have generally recognised the standing of the Custodian to administer the liquidation of BIB and have refused a number of claims. The response to Congressman Baldizón is a single exception and, in our view, seeks to prefer that depositor over other depositors.
4. What steps can I take so that the same happens to me as happened to Congressman Baldizón?

Answer:

- a. The Barbadian claims process is the only process which will be acknowledged by the Custodian for the purpose of winding up the affairs of BIB.
 - b. Depositors should register their claims as explained in detail at the following web page:

<http://www.pwc.com/car-bib>
 - b) If you initiate legal action in Guatemala outside of the Barbadian claims process, your claim will be strongly defended and may lead to recourse and other sanctions by the Custodian against any claim you may have in the Barbadian process.
5. How can I be sure that I will recover part of my investment through the claims process, if there is no legal process initiated by myself being carried out?

Answer:

- a. The Custodian has made a substantial asset recovery and will soon be in a position to commence distributing that recovery to admitted claims on a pro rata basis. Unless you have filed a claim with the Custodian in Barbados, you will not be entitled to participate in this distribution or in any future ones.
- b. Your investment or deposit constitutes a claim against BIB in Barbados, not in Guatemala; the process for registering your claim is described above and in greater detail at the Custodians website at <http://www.pwc.com/car-bib>.
- c. Legal action brought against BIB in Guatemala will be opposed aggressively and the costs of this opposition will be assessed against any funds otherwise payable to you from a distribution from the Custodian.

6. Why do Guatemalan courts say that they do not have jurisdiction to hear the liquidation issues of BIB?

Answer:

- a. BIB is incorporated in Barbados and is licensed and regulated there. Therefore, the Barbados Court has jurisdiction over BIB. Its operating agreement signed with the depositors also directs that Barbados law shall apply.
- b. In this context, the Guatemalan Courts have responded favourably to a special request by the High Court of Barbados for assistance and recognition of the Custodian in Guatemala in the form of “Letters Rogatory”.
- c. One of the requests that were granted was acknowledgement by the Guatemalan Courts that the proper jurisdiction for legal action against BIB is Barbados.
- d. The Guatemalan Court further ordered that all assets of BIB located in Guatemala be turned over to PwC, in its capacity as Custodian of BIB.

7. How and when will they distribute what is recovered by PWC?

Answer:

- a. The claims and distribution process is explained in detail on the following web page:

<http://www.pwc.com/car-bib>

8. Why are the Guatemalan courts rejecting the processes that we initiated? Why didn't they reject Congressman Baldizón's process?

Answer:

- a. Most processes that were initiated in Guatemala are being rejected in accordance with the request (Letters Rogatory) of the Barbadian Court.
- b. We are unaware of the motives which caused the processes in Petén to have been so speedy. We have instructed our legal counsel to take all necessary measures to recover the greatest amount of assets for the benefit of all depositors, investors, and creditors of BIB, and not of any one individual. The action taken by the Petén Court results in one Creditor being preferred over other creditors which is contrary to insolvency law and practice; hence our appeal.