

***Case No COMP/M.3547 -
BANCO SANTANDER /
ABBEY NATIONAL***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 15/09/2004

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17-09-2004

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PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties:

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EEC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

Dear Sir/Madam,

**Subject: Case No COMP/M.3547 - Banco Santander/Abbey National
Notification of 13/08/2004 pursuant to Article 4 of Council Regulation
No 139/2004¹**

1. On 13 August 2004 the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation No 139/2004 by which Banco Santander Central Hispano, S.A. ("Banco Santander") acquires within the meaning of Article 3(1)(b) of Council Regulation 139/2004, control of the whole of Abbey National plc ("Abbey") by way of purchase of shares.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation No 139/2004 and does not raise serious doubts as to its compatibility with the common market and with the EEA Agreement.

¹ OJ L 24, 29.1.2004 p. 1.

I. THE PARTIES

3. **Banco Santander** is a Spanish holding company for the Banco Santander group. Banco Santander group is a group of banking and financial companies operating mainly in Spain and in some other European countries, including Austria, Czech Republic, Germany, Hungary, Italy, Portugal and Norway and in Latin America. Banco Santander is mainly active in asset management and private banking, corporate banking, investment banking and treasury.
4. **Abbey** is a UK banking group with a focus on the UK banking market. In the UK Abbey is active in banking and savings (such as residential mortgages, banking and consumer credit, offshore account services), investment and protection (includes investment and savings, pensions and pension schemes, protection policies), general insurance (covers non-life insurance products and payment protection insurance) and treasury services (including asset and liability management, financial products, short term markets and financing). Outside the UK Abbey currently operates only in France where it has negligible activities offering only residential mortgages, commercial and residential lending and consumer credit.

II. THE OPERATION

5. Under the proposed operation Banco Santander intends to acquire the whole of the issued and to be issued ordinary share capital of Abbey. The proposed operation will be implemented by way of a court approved scheme of arrangement pursuant to section 425 of the UK Companies Act 1985. The operation is subject to sanction by shareholders of Banco Santander and Abbey, as well as subject to approval by High Court of Justice in England and Wales.

III. CONCENTRATION

6. Following implementation of the operation Banco Santander will acquire sole ownership and control of Abbey, by way of purchase of shares. The notified operation therefore constitutes a concentration within the meaning of Article 3(1)(b) of Council Regulation No 139/2004.
7. Certain aspects of the Strategic Alliance arrangements, including board representations, between Banco Santander and Royal Bank of Scotland entered into in 1988 were terminated at notification of the proposed operation. The termination of these arrangements has been considered as a fact in the assessment of the proposed operation (see further below under assessment).

IV. COMMUNITY DIMENSION

8. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion². Each of Banco Santander and Abbey have a Community-wide turnover in excess of EUR 250 million, but they do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State.

² Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25). To the extent that figures include turnover for the period before 1.1.1999, they are calculated on the basis of average ECU exchange rates and translated into EUR on a one-for-one basis.

The notified operation therefore has a Community dimension under Article 1(2) of Council Regulation No 139/2004.

V. COMPETITIVE ASSESSMENT

9. The notified operation primarily concerns the banking and financial services market in the United Kingdom. Abbey's commercial activities focus on the UK banking and financial services market, whereas Banco Santander's own activities in the UK are limited. However as explained below in detail, since 1988 Banco Santander has been linked on a contractual basis with the UK based Royal Bank of Scotland ("RBS"). RBS is a major provider of a wide range of financial and banking services in the United Kingdom.

Cooperation between Royal Bank of Scotland and Banco Santander

10. In 1988 Banco Santander and RBS entered into a Strategic Cooperation Agreement. [...].
11. Prior to notification of the proposed operation the parties' decided to modify their strategic cooperation arrangement. In particular, RBS and Banco Santander agreed to terminate the representation on each others' Board of Directors, the commercial cooperation, as well as any cooperation in joint venture operations in Europe as set out in the Agreement. The termination of cooperation in these areas is conditional only upon the implementation of the notified operation. Pending the implementation of the notified operation Banco Santander and RBS have each procured that their respective representatives on the Boards of Directors of the other bank do not attend any board meetings [...].
12. The only link remaining between RBS and Banco Santander is a limited cross-shareholding. At notification Banco Santander held 5.06% of the ordinary shares in RBS and RBS 2.83% of the shares in Banco Santander. On 9 September 2004 the Commission was informed that Banco Santander is reducing its shareholding in RBS to 2.54% of RBS's issued ordinary share capital. The Commission has found that these shareholdings would not entitle either of RBS or Banco Santander to exercise any substantial influence over the others commercial activities.
13. In the course of the Commission's investigation, a third party raised concerns about the close commercial relationship between RBS and Banco Santander. It was submitted that due to the strategic cooperation arrangements between RBS and Banco Santander, the proposed transaction would allow RBS and Banco Santander/Abbey to coordinate their activities in the United Kingdom. In particular, this could lead to a reduction of competition in the United Kingdom personal current accounts' market, higher prices and loss of innovation.
14. Given that the commercial cooperation between Banco Santander and RBS is terminated (subject only to the condition of completion), these concerns have been eliminated.
15. The same third party also pointed to a planned outsourcing of a part of Abbey's business to RBS after the acquisition of Abbey by Banco Santander. According to the information submitted by Banco Santander, no such plan forms part of the proposed transaction. Therefore, the possible future arrangement has not been considered part of the notified operation. This does not preclude that in case the parties' were in the future

to agree an outsourcing arrangement, that cooperation could require scrutiny either by the Commission or a national authority.

Relevant product market

16. The notifying party submits, in accordance with previous Commission decisions, that the banking sector may be divided into three broad sub-sectors: retail banking, corporate banking and financial services³, which may possibly be further sub-divided into individual product groups.
17. However, given that the activities of Banco Santander and Abbey do not overlap or their overlap does not trigger a common market share in excess of 15% irrespective of product market definition, the relevant product market definition can left open in this case.

Relevant geographic market

18. The notifying party submits, in accordance with previous Commission decisions⁴, that as regards banking services to households, the geographic market is national in scope. As regards the corporate banking market, the notifying party also refers to previous Commission decisions in which the Commission has generally taken the view that certain products provided for SMEs will continue to be required and supplied at national level, whereas some corporate banking services offered mostly to large corporate clients might have a more international dimension⁵.
19. Given that the activities of Banco Santander and Abbey either do not overlap or their overlap does not trigger a common market share in excess of 15% irrespective of market definition, either for the provision of retail or corporate banking services, the geographic market definition may be left open in this case.

Assessment of the notified operation

20. Both Banco Santander and Abbey are providers of banking services to households and SMEs. However, there is no overlap between the parties' activities at national level as Abbey is present in the UK and to a limited extent in France and Banco Santander only in Spain. Banco Santander has offices in London and Paris, but these only source corporate banking activities. Therefore, the proposed operation does not raise any competition concerns as regards banking services to households or SMEs.
21. In relation to corporate banking services provided to large international companies, where the relevant geographic market may be wider than national, the proposed transaction will not give rise to any material overlaps between Banco Santander and Abbey. The Banco Santander's group presence in Europe is concentrated on retail banking in Spain and Portugal and its international corporate activities make up only a very small amount of the group's business. In the UK, Banco Santander's London branch involved in wholesale corporate banking generated negligible revenue of [...]

³ See for example Case IV/M.342 Fortis/CGER and Case IV/M.1029 Merita/Nordbanken

⁴ See for example Case IV/M.873 Bank Austria/Creditanstalt

⁵ See for example Case IV/M.873 Bank Austria/Creditanstalt and Case IV/M.1029 Merita/Nordbanken

EUR in 2003, which would correspond to a market share well below 1 %. Considering that Banco Santander's market share in the entire Spanish banking market is around [15-25%], it is clear that its market share on an EU or the EEA-wide corporate banking market would be well below 15%. The same applies to Abbey, as it is only active in two corporate banking product segments in the UK; financial market services and lending/mortgages, with a estimated market share of less than 1% in the UK. Therefore, the proposed operation does not raise competition concerns as regards such activities either.

22. There is no material overlap between Banco Santander and Abbey in the financial services market. Abbey is either not present in the individual product segments or its activities are negligible (less than 1%). Therefore, the proposed operation does not raise any competition concerns as regards these markets.

VI. CONCLUSION

23. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EC) No 139/2004.

For the Commission
(signed)
Mario MONTI
Member of the Commission