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***Case No COMP/M.5948 -
BANCO SANTANDER /
RAINBOW***

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

Article 6(1)(b) NON-OPPOSITION
Date: 15/10/2010

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EUROPEAN COMMISSION

Brussels, 15.10.2010

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In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) 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 Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying party

Dear Sir/Madam,

**Subject: Case No COMP/M.5948 - BANCO SANTANDER / RAINBOW
Notification of 10 September 2010 pursuant to Article 4 of Council
Regulation No 139/2004¹**

1. On 10.09.2010, the European Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004² by which the undertaking Banco Santander S.A. ("Banco Santander", Spain) intends to acquire within the meaning of Article 3(1)(b) of the Merger Regulation control of parts of the undertaking The Royal Bank of Scotland Group (assets collectively referred to as "Rainbow", UK) by way of purchase of assets.

I. THE PARTIES AND THE OPERATION

2. **Santander** is the parent company of an international group of banking and financial companies operating in the UK, Spain and some other European countries as well as in Latin America. It is active in retail banking, asset management, corporate and investment banking, treasury and insurance.

¹ OJ L 24, 29.1.2004, p. 1 ("the Merger Regulation"). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ("TFEU") has introduced certain changes, such as the replacement of "Community" by "Union" and "common market" by "internal market". The terminology of the TFEU will be used throughout this decision.

² OJ L 24, 29.1.2004, p. 1 (the "Merger Regulation").

3. **Rainbow** consists of (i) the Royal Bank of Scotland Group plc's ("RBS") branch-related retail and small and medium sized-enterprise ("SME") business in England and Wales, (ii) the NatWest branch-related retail and SME business in Scotland, along with (iii) certain mid-corporate customer accounts in the UK. In total, Rainbow consists of approximately 300 branches and around 40 SME and business banking centres, including ATMs, together with related contracts, intellectual property and other related assets. Excluded from the scope of the transaction are insurance products, as well as financial market services.
4. The sale of Rainbow business results from an undertaking submitted by the UK authorities as part of RBS' restructuring plan following state support approved by the Commission in its decision of 14 December 2009³. In that decision, it is stated that the "UK authorities commit that the buyer of the Rainbow Business must, together with the rest of the buyer's group, in combination with the Rainbow Business, have a market share of no more than 14% in the UK SME market (on a number of customers basis), prior to the signing of the sale and purchase agreements relating to the sale of the Rainbow Business to the buyer"⁴.

II. CONCENTRATION

5. The proposed transaction will result in Santander acquiring sole control over Rainbow. As Rainbow is not a legal entity, the transaction is structured as an asset deal, with Santander acquiring the branches together with related contracts, guarantees/securities and debts relating to customers of those branches (together with direct customer transfers), as well as intellectual property, goodwill, office equipment and books and records.
6. Therefore the proposed transaction constitutes a concentration within the meaning of Article 3(1)(b) of Regulation 139/2004.

III. EU DIMENSION

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion⁵ (Banco Santander S.A: EUR 76 066 million; Rainbow: EUR [...]). Each of them has a EU-wide turnover in excess of EUR 250 million (Banco Santander S.A: EUR [...]; Rainbow: EUR [...]), but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State. The notified operation therefore has an EU dimension.

IV. RELEVANT MARKETS

8. As Rainbow is active only in retail banking and corporate banking, overlaps with the activities of Santander arise in banking services to private individuals and to corporate customers (SME and large corporate customers)⁶.

³ Decision in Cases N422/2009 and N621/2009, OJ C 119 of 7 May 2010, p. 1.

⁴ Paragraph 99 of the decision in Cases N422/2009 and N621/2009.

⁵ Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Consolidated Jurisdictional Notice (OJ C95, 16.04.2008, p1).

⁶ As specified in recital 3, no financial market services business is included in Rainbow. However, contracts relating to these services are being transferred to Santander. Given that in any event Santander is

9. Regarding retail and corporate banking, the Commission in previous decisions⁷ considered in particular the following relevant product and geographic markets.⁸

(i) Retail Banking

10. In respect of banking services for natural persons, the following segments have been considered: current accounts, savings, personal loans, consumer loans, credit cards⁹, debit cards, mortgages and distribution of mutual funds and other investment products¹⁰. Regarding the geographic definition of retail banking markets, the Commission has generally considered national markets¹¹, but has also looked at, where relevant, the regional distribution of branches in making its assessment.¹²

(ii) Banking for corporate customers

11. In respect of commercial banking services the Commission has looked at the segments of domestic payments, international payments, savings, loans, documentary credits, export financing and cash management services¹³. In addition, the Commission has made a distinction between large corporate customers ("LCCs") and smaller commercial clients such as SMEs¹⁴. In cases falling under the Commission's jurisdiction, the markets for banking services to commercial clients have been considered national in scope while for LCCs the question on whether the market(s) for these services are national or wider in scope has been left open.

12. As regards commercial clients, the Parties have provided data on the basis of customers with turnover of up to GBP 25m as they have indicated that this is how both parties

a minor player in financial market services with a share of less than [0-5]% in any segment this market segment will not be discussed further.

⁷ See COMP/M.4844 – Fortis/ABN AMRO ASSETS.; COMP/M.5384 - BNP Paribas/Fortis; COMP/M. 5726 - Deutsche Bank/ Sal. Oppenheim.

⁸ Leaving aside specialized markets which include leasing services, private banking, asset management and payment transaction processing. These are not analysed in the present case as according to the Parties, their activities in these areas do not overlap. The Commission has also looked at the markets for factoring and for cash handling and sales, but these markets are not affected markets in the context of the notified transaction.

⁹ In one case, COMP/M.5384 - BNP Paribas/Fortis, a separate market was identified for card-based revolving credit.

¹⁰ COMP/M.4844 - Fortis/ABN AMRO ASSETS.

¹¹ COMP/M.4844 - Fortis/ABN AMRO ASSETS; COMP/M.5384 - BNP Paribas/Fortis; COMP/M. 5726 - Deutsche Bank/ Sal. Oppenheim.

¹² COMP/M.3894 Unicredit/HVB, Commission decision of 18 October 2005; COMP/M.4356 – Deutsche Bank/Berliner Bank; COMP/M.5811 – Erste Bank/ASK.

¹³ M.4844 - Fortis/ABN AMRO ASSETS; M.5384 BNP Paribas/Fortis, recital 16.

¹⁴ M.4844 - Fortis/ABN AMRO ASSETS and Case No COMP/M.3894 – Unicredito/HVB.

distinguish internally between SMEs and large customers¹⁵. On the other hand, SMEs are distinguished from retail personal customers by virtue of having a dedicated business account. They have, however, indicated that even if a wider definition of commercial clients were used (up to an annual turnover of GBP 250 million), market shares would be substantially unchanged¹⁶.

V. COMPETITIVE ASSESSMENT

13. The proposed transaction gives rise to potentially affected markets due to horizontal overlaps in two segments in retail banking in the UK, on the basis of new business in 2009: (a) personal current accounts and (b) mortgages¹⁷.
14. With respect to horizontal overlaps in retail banking, other than in personal current accounts and mortgages, the combined market shares exceed 15% only in personal current accounts and mortgages (measured in both cases as share of new business).
15. For personal current accounts in the UK the combined share of new business in 2009 is [10-20]% (Santander: [10-20]%; Rainbow: [0-5]%)¹⁸.
16. Regarding mortgage loans, the combined share of new business in 2009 is [20-30]% (Santander: [10-20]%; Rainbow: [0-5]%)¹⁹.
17. In both cases, a number of strong competitors exist. In personal current accounts: Lloyds ([30-40]%), RBS ([10-20]%), Barclays ([10-20]%), and HSBC ([10-20]%). In mortgage loans: Lloyds ([20-30]%), Nationwide ([5-10]%), Barclays ([10-20]%), RBS ([10-20]%) and HSBC ([10-20]%)²⁰.
18. Even if the Commission were to consider the competitive impact at a regional level, the picture would not change to any significant or relevant degree²¹.

¹⁵ According to the notification, a different team of relationship managers will service customers with a turnover above GBP 25m.

¹⁶ In M.4844 Fortis/ABN AMRO ASSETS, a turnover threshold of €250 million was applied based on the commercial practice of the Parties in that case.

¹⁷ If only share of total stock were taken into account there would be no horizontally affected markets. However, given that this measure compounds information from previous years, in particular for long-term assets and liabilities, the acquisition of new business is likely to be a better proxy for the effective competitive pressure currently exercised by the players in the marketplace.

¹⁸ Figures for new business in regard to personal current accounts have been provided by the Parties based on calculations by a third party, [...], using a survey methodology in which customers were asked about new products taken out in the six months prior to the interview.

¹⁹ According to the Parties, Santander and other players in the UK report new gross lending as a separate line in their annual reports and accounts, whilst the Bank of England provides total new gross lending figures for the overall market. As a share of stock, the figures for 2009 are [10-20]% and [10-20]% respectively.

²⁰ All market shares quoted in terms of new business in 2009.

²¹ The highest combined market share provided by the Parties on the basis of possible regional segmentations is [10-20]% for personal loans ([...]) and [20-30]% for mortgages ([...]).

19. None of the possible segments in corporate banking gives rise to an affected market. However, as the SME market in the UK was considered specifically in the state aid decision regarding the restructuring of RBS it may be noted that, according to the notifying party, the combined market shares range between [5-10]% and [10-20]% for any of the possible market segments within SME banking, on the basis of SME main bank relationships²².
20. Given the limited combined market shares that the transaction will bring about and the significant number of large and credible competitors, it can be concluded that the transaction does not raise serious doubts on any of the possible markets.

VI. RELATIONSHIP WITH STATE AID RULES

21. Based on the information available at this stage, the Commission has no indication that RBS is in breach of any of its obligations regarding the sale of the Rainbow business within the framework of the State aid procedure²³. The present decision under the EU Merger Regulation in no way prejudices, however, the ongoing monitoring of RBS' implementation of its obligations in line with the above decision of the Commission of 14 December 2009.

VII. CONCLUSION

22. For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation.

For the Commission,

(signed)
Maroš ŠEFČOVIČ
Vice-President of the Commission

²² This is based on PH data, [...]

²³ Cases N422/2009 and N621/2009.