

COLONIAL BANGROUP INC  
Form S-3/A  
November 12, 2004  
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As filed with the Securities and Exchange Commission on November 12, 2004

Registration No. 333-120166

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## SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

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### PRE-EFFECTIVE AMENDMENT NO. 1

TO

FORM S-3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

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## THE COLONIAL BANGROUP, INC.

(Exact name of Registrant as specified in its charter)

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Delaware  
(State of Incorporation)

6021  
(Primary Standard Industrial

63-0661573  
(I.R.S. Employer

One Commerce Street, Suite 800  
Montgomery, Alabama 36104  
(Address of principal executive offices)

Classification Code Number)

Identification No.)  
(334) 240-5000  
(Telephone No.)

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Helena T. Duncan

Secretary

**Post Office Box 1108**

**Montgomery, Alabama 36101-1108**

(Name and address of agent for service)

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**Copies to:**

**Willard H. Henson**

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**One Commerce Street, Suite 305**

**Montgomery, Alabama 36104**

**Telephone: 334-834-5550**

**Facsimile: 334-265-4533**

**Approximate date of commencement of proposed sale to the public:** From time to time after the effective date of this Registration Statement.

If the securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box. "

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. "

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. x

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering "

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. "

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**The Registrant hereby amends this Registration Statement on each such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to Section 8(a), may determine.**



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INTRODUCTORY NOTE

Each time Colonial BancGroup offers securities, we will provide you with one of these prospectuses that will contain a general description of the offering and a prospectus supplement that will contain specific information about the terms of that offering.

We may not sell these securities or accept any offer to buy these securities until we deliver the prospectus and an accompanying prospectus supplement in final form. We are not using the prospectus and any accompanying prospectus supplement to offer to sell these securities or to solicit offers to buy these securities in any place where the offer or sale is not permitted.

No dealer, salesperson or other person has been authorized to give any information or to make any representations other than those contained or incorporated by reference in the prospectus and any accompanying prospectus supplement and, if given or made, such information or representations must not be relied upon as having been authorized by us. The prospectus and any accompanying prospectus supplement do not constitute any offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so or to anyone to whom it is unlawful to make such offer or solicitation.

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**Prospectus**

**Subject to Completion, Dated November 12, 2004**

**\$500,000,000**

**The Colonial BancGroup, Inc.**

**COMMON STOCK**

**PREFERENCE STOCK**

**DEBT SECURITIES**

Colonial BancGroup will provide specific terms of the above securities in supplements to this prospectus from time to time. You should read this prospectus and the accompanying prospectus supplement carefully before you invest.

These securities are not deposits or other obligations of a bank and are not insured by the Federal Deposit Insurance Corporation or any other governmental agency.

Our common stock is listed on the New York Stock Exchange under the symbol **CNB** . The closing price of our common stock was \$21.93 on November 11, 2004.

These securities have not been approved or disapproved by the Securities and Exchange Commission or any state securities commission nor has the Securities and Exchange Commission or any state securities commission passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is November 12, 2004.

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You should rely only on the information incorporated by reference or provided in this prospectus. We have not Authorized anyone else to provide you with different information. You should not assume that the information in this prospectus is accurate as of any date other than the date on the front of this document.

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**PROSPECTUS SUMMARY**

This summary highlights information contained elsewhere in this prospectus. This summary is not complete and may not contain all the information that you should consider in making your investment decision. You should read the entire prospectus and the attached prospectus supplement carefully, including the documents referred to in *Where You Can Find More Information*, including our financial statements. When we refer to Colonial BancGroup, BancGroup, the Company, we, us or our in this prospectus, we are referring to The Colonial BancGroup, a Delaware corporation. When we refer to Colonial, the Bank or Colonial Bank in this prospectus, we are referring to Colonial Bank, N.A., a national association.

**The Offering**

This prospectus is part of a registration statement that Colonial BancGroup filed with the Securities and Exchange Commission (the SEC) using a shelf registration process. Under this shelf registration process, we may, from time to time, offer any combination of the following securities as described in this prospectus, in one or more offerings up to a total dollar amount of \$500,000,000:

common stock;

preference stock; and

debt securities, which will be subordinated as described in this prospectus.

This prospectus provides you with a general description of the common stock, the preference stock and the debt securities. Each time we sell common stock, preference stock and/or debt securities, we will provide a prospectus supplement that will contain specific information about the terms of that offering. That prospectus supplement may include a discussion of any risk factors or other special considerations that apply to those securities. The applicable prospectus supplement may also add, update or change information in this prospectus. If there is any inconsistency between the information in this prospectus and any prospectus supplement, you should rely on the information in the prospectus supplement. You should read this prospectus and the applicable prospectus supplement together with the additional information described under the heading *Where You Can Find More Information*.

The registration statement containing this prospectus, including exhibits to the registration statement, provides additional information about us and the securities offered under this prospectus. The registration statement can be read at the SEC website or at the SEC's offices mentioned under the heading *Where You Can Find More Information*.

**The Colonial BancGroup, Inc.**

Colonial BancGroup is a financial services company with total assets of \$18.2 billion that provides diversified financial services primarily through its wholly-owned banking subsidiary, Colonial Bank, N.A. Colonial Bank conducts general commercial and retail banking business through its branch network of 289 branches in Florida, Alabama, Georgia, Nevada, Tennessee and Texas.

Our principal executive offices are located at Colonial Financial Center, One Commerce Street, Montgomery, Alabama 36104. Our telephone number at that address is (334) 240-5000.

## **Strategy**

The foundation of BancGroup is built upon a community banking philosophy that allows local responsibility for customer relationships. This operating philosophy has been important in making acquisitions, retaining



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skilled and highly motivated local management teams and developing a strong customer base, particularly with respect to lending relationships.

The expertise in each local market is supported by consolidated operations and a centralized credit review function, which allows the local banking officers to concentrate on the customer. Through this structure of local customer relationship responsibility and consolidated operations, the local banks have decision making capability while at the same time having an effective operational structure at their disposal to service the customer in the most cost effective and efficient manner.

We expect that there will continue to be considerable competition in all of our markets. We are continuing to expand our geographic footprint through acquisitions and internal growth. Our acquisition strategies focus on finding strong banks in growth markets that fit into our strategic plans and desired market areas. Our internal growth strategies include seeking quality loan growth in each regional market, generating deposit growth through the development of customer relationships and competitive product offerings, continued development of our presence in higher growth markets, growth in noninterest income through continued expansion of fee based products and services and the ongoing development of a sales oriented business culture with an emphasis on customer service.

**Recent Developments:**

In September 2004, we announced the signing of a definitive agreement to acquire Union Bank of Florida (Union). Union operates 18 full service branches in Miami-Dade, Broward, and Palm Beach Counties. At September 30, 2004, Union had total assets of \$1 billion, loans of \$639 million and deposits of \$717 million. Total consideration for the transaction is approximately \$233 million based on \$20 per share of BancGroup stock. The aggregate consideration consists of approximately 75% cash and 25% stock, subject to the limitation that we will issue no more than 3.24 million shares in the transaction. The transaction is expected to be completed in the first quarter of 2005.

The following is a summary of assets, deposits and branches at September 30, 2004 (pro forma including the impact of the Union Bank of Florida acquisition):

	<b>% of total</b>	<b>% of non-time</b>	<b>% of total</b>	<b>Number of</b>
	<b>Assets</b>	<b>Deposits</b>	<b>Deposits</b>	<b>Branches</b>
Florida	50%	59%	53%	141
Alabama	25%	25%	31%	116
Georgia	8%	5%	6%	22
Texas	5%	5%	4%	12
Nevada	4%	5%	4%	13
Corporate/Other	8%	1%	2%	3

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**A WARNING ABOUT FORWARD LOOKING STATEMENTS**

We make forward-looking statements in this document and in our public documents to which we refer. When we use words such as anticipate, believe, estimate, may, intend, expect, will, should, seek or other similar expressions we refer to events or conditions subject to risk and uncertainties. When considering those forward-looking statements, you should keep in mind the risks, uncertainties and other cautionary statements made in this prospectus. You should not place undue reliance on any forward-looking statement, which speaks only as of the date made. In addition to the risks identified below, you should refer to our public documents for specific risks which could cause actual results to be significantly different from those expressed or implied by those forward-looking statements. Some factors which may affect the accuracy of the forward-looking statements apply generally to the financial services or real estate industries, while other factors apply directly to us. The important factors which could cause actual results to differ materially from those in the forward-looking statements include, but are not limited to:

the impact and effects of leverage;

regulatory limitations on Colonial Bank's ability to pay dividends;

the potential adverse impact on Colonial Bank's operations and profitability of changes in interest rates and future legislation or regulations;

economic conditions, both generally and particularly in areas where we or our subsidiaries, including Colonial Bank, operate or hold assets;

interest rate and credit risk associated with Colonial Bank's loan portfolio and the related sufficiency of its allowance for loan losses;

the success of technological, strategic and business initiatives;

the risks associated with commercial real estate and development;

the risks associated with the value of our equity securities;

the profitability of our banking and non-banking initiatives and investments;

the ability to successfully integrate any business or assets that we may acquire;

the highly regulated nature of our banking business; and

the highly competitive nature of our businesses.

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Many of these factors, as well as factors that could cause actual results to differ from our forward-looking statements, are beyond our control and beyond the control of Colonial Bank and Colonial BancGroup. You should consult our periodic and current reports filed with the SEC for any further disclosures of a forward-looking nature that we may make.

### USE OF PROCEEDS

Unless otherwise specified in the applicable prospectus supplement, BancGroup will use the net proceeds it receives from any offering of these securities to fund one or more acquisitions or for general corporate purposes, which may include, among other things:

funding its operating units and subsidiaries,

financing business expansion,

refinancing or extending the maturity of existing debt obligations,

redemption of preferred stock or debt securities, and

investments at the holding company level and stock repurchases.

The applicable prospectus supplement may provide more detail on the use of proceeds of any specific offering. The precise amounts and timing of the application of such proceeds depends upon many factors, including, but not limited to, the amount of any such proceeds and actual funding requirements. Until the proceeds are used,

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we may invest the proceeds, depending on our cash flow requirements, in short and long-term investments, including, but not limited to treasury bills, commercial paper, certificates of deposit, securities issued by U.S. government agencies, money market funds, repurchase agreements and other similar investments.

**CONSOLIDATED EARNINGS RATIOS**

The following table provides BancGroup's consolidated ratios of earnings to fixed charges:

**Computation of Ratios of Earnings to Fixed Charges**

	Nine Months ended September 30, 2004	Year ended December 31,				
		2003	2002	2001	2000	1999
				(In thousands)		
Income before Income Taxes	\$ 194,123	\$ 227,163	\$ 214,743	\$ 191,897	\$ 189,741	\$ 187,396
Fixed charges:						
Interest Expense	187,294	274,165	322,261	480,240	517,754	384,891
<sup>1</sup> /3 Rent Expense	7,298	9,402	7,511	6,222	5,661	4,943
Total Fixed Charges	194,592	283,567	329,772	486,462	523,415	389,834
Adjusted Earnings	\$ 388,715	\$ 510,730	\$ 544,515	\$ 678,359	\$ 713,156	\$ 577,230
Ratio of Earnings to Fixed Charges	2.00x	1.80x	1.65x	1.39x	1.36x	1.48x
Interest on Deposits	\$ 101,693	\$ 139,695	\$ 185,520	\$ 323,499	\$ 359,460	\$ 279,166
Ratio of Earnings to Fixed Charges excluding interest on deposits	3.09x	2.58x	2.49x	2.18x	2.16x	2.69x

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The principle activity of BancGroup is to supervise and coordinate the businesses of its subsidiaries and to provide them with capital and services. BancGroup conducts its business primarily through its wholly owned subsidiary, Colonial Bank.

Colonial Bank conducts a general commercial banking business and offers a variety of demand, savings and time deposit products as well as extensions of credit through personal, commercial and mortgage loans within its market areas. Colonial Bank also provides additional services to its markets through cash management services, electronic banking services, credit card, and merchant services and financial planning services. Financial planning services include trust service, insurance sales and the sales of various types of investment products such as mutual funds, annuities, stocks, municipal bonds and U.S. government securities.

The following is a summary as of September 30, 2004 of our assets, deposits and branches by state:

	<b>% of Total Assets</b>	<b>% of Core (non-time) Deposits</b>	<b>% of Total Deposits</b>	<b>Number of Branches</b>
Florida	48%	56%	50%	123
Alabama	26%	27%	33%	116
Georgia	8%	5%	7%	22
Texas	6%	5%	4%	12
Nevada	4%	5%	4%	13
Corporate/Other	8%	2%	2%	3

We believe that we are poised to take advantage of growth opportunities because of our strategic locations in attractive markets in the United States, including Florida and Nevada. During the past few years Colonial has made a concerted effort to build a solid infrastructure and transform its culture to one that is sales and service focused. We are just now beginning to reap the benefits from these strategic initiatives. Colonial is finding more opportunity to grow relationships with its existing customer base as well as expand its presence in chosen markets in the fastest-growing areas of the country.

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**SUPERVISION AND REGULATION**

As a financial holding company and a bank holding company under the Bank Holding Company ( BHC ) Act, the Federal Reserve regulates, supervises and examines BancGroup. For a discussion of the material elements of the regulatory framework applicable to financial holding companies, bank holding companies and their subsidiaries and specific information relevant to BancGroup, please refer to BancGroup's Annual Report on Form 10-K for the fiscal year ended December 31, 2003, Quarterly Reports on Form 10-Q and any subsequent reports that BancGroup files with the SEC, which are incorporated by reference in this prospectus. This regulatory framework is intended primarily for the protection of depositors and the federal deposit insurance funds and not for the protection of security holders. As a result of this regulatory framework, BancGroup's earnings are affected by actions of the federal regulatory agencies that regulate us and Colonial Bank, and the SEC and NASD, which regulate the activities of certain subsidiaries engaged in the securities business.

BancGroup's earnings are also affected by general economic conditions, our management policies and legislative action. In addition, there are numerous governmental requirements and regulations that affect our business activities. A change in applicable statutes, regulations or regulatory policy may have a material effect on BancGroup's business.

Depository institutions, like Colonial Bank, are also affected by various federal laws, including those relating to consumer protection and similar matters. BancGroup also has other financial services subsidiaries regulated by federal and state regulatory agencies and self-regulatory organizations. BancGroup's non-bank subsidiaries may be subject to other laws and regulations of the federal government or the various states in which they are authorized to do business.

**Restrictions on Ownership**

The BHC Act generally would prohibit any company that is not engaged in banking activities and activities that are permissible for a bank holding company or a financial holding company from acquiring control of BancGroup. Control is generally defined as ownership of 25% or more of the voting stock or other exercise of a controlling influence. In addition, any existing bank holding company would need the prior approval of the Federal Reserve before acquiring 5% or more of the voting stock of BancGroup. In addition, the Change in Bank Control Act of 1978, as amended, prohibits a person or group of persons from acquiring control of a bank holding company unless the Federal Reserve has been notified and has not objected to the transaction. Under a rebuttable presumption established by the Federal Reserve, the acquisition of 10% or more of a class of voting stock of a bank holding company with a class of securities registered under Section 12 of the Exchange Act, such as BancGroup, would, under the circumstances set forth in the presumption, constitute acquisition of control of the bank holding company.

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**DESCRIPTION OF SECURITIES**

The following summary describes the material terms of the securities offered in this prospectus. A more complete description may be contained in the supplemental prospectus.

**DESCRIPTION OF COMMON STOCK**

BancGroup is incorporated under the General Corporation Law of the State of Delaware. Our authorized common stock consists of 200,000,000 shares of common stock, par value \$2.50 per share. As of September 30, 2004, we had 133,617,232 shares of common stock issued and outstanding. BancGroup's board of directors may at any time, without additional approval of the holders of common stock, issue additional authorized but previously unissued shares of common stock, subject to the applicable rules of the New York Stock Exchange. For the complete terms of our common stock you should read the more detailed provisions of our Certificate of Incorporation and Bylaws.

**Voting Rights**

The holders of common stock are entitled to one vote per share on all matters presented to stockholders. Holders of common stock are not entitled to cumulate their votes in the election of directors.

**No Preemptive or Conversion Rights**

The holders of common stock do not have preemptive rights to subscribe for a proportionate share of any additional securities issued by BancGroup before such securities are offered to others. The absence of preemptive rights increases BancGroup's flexibility to issue additional shares of common stock in connection with BancGroup's acquisitions, employee benefit plans and for other purposes. The holders of common stock are not entitled to any redemption privileges, sinking fund privileges or conversion rights.

**Dividends**

Holders of common stock are entitled to receive dividends ratably when, as and if declared by BancGroup's board of directors from assets legally available therefor, after payment of all dividends on preference stock, if any is outstanding. Under Delaware law, BancGroup may pay dividends out of surplus or net profits for the fiscal year in which declared and/or for the preceding fiscal year, even if its surplus accounts are in a deficit position. Dividends paid by Colonial Bank are the primary source of funds available to BancGroup for payment of dividends to its stockholders and for other needs. BancGroup's board of directors currently intends to maintain its present policy of paying regular quarterly cash dividends. The declaration and amount of future dividends will depend on circumstances existing at the time, including BancGroup's earnings, financial condition and capital requirements, as well as regulatory limitations and such other factors as BancGroup's board of directors deems relevant.

**Liquidation**

Upon liquidation, dissolution or the winding up of the affairs of BancGroup, holders of common stock are entitled to receive their pro rata portion of the remaining assets of BancGroup after the holders of BancGroup's preference stock have been paid in full any sums to which they may be entitled.

**Certain Charter and ByLaw Provisions Affecting Stock**

BancGroup's Restated Certificate of Incorporation and bylaws contain several provisions that may make BancGroup a less attractive target for an acquisition of control by anyone who does not have the support of BancGroup's board of directors. Such provisions include, among other things, the requirement of a supermajority



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vote of stockholders or directors to approve certain business combinations, a staggered board of directors, restrictions on stockholders' ability to nominate directors or to introduce business at stockholders' meetings and the limitation that stockholders may not call special meetings or act by written consent. The foregoing is qualified in its entirety by reference to BancGroup's Restated Certificate of Incorporation, as amended, and Bylaws both of which are on file with the Commission.

### **DESCRIPTION OF PREFERENCE STOCK**

BancGroup has authorized 1,000,000 shares of \$2.50 par value preference stock. The preference stock is issuable in one or more series and BancGroup's board of directors, subject to certain limitations, is authorized to fix the number of shares, dividend rate, liquidation prices, redemption, conversion, voting rights, and other terms. BancGroup's board of directors may issue preference stock without approval of the holders of BancGroup common stock. As of September 30, 2004, no shares of BancGroup preference stock were issued and outstanding. A prospectus supplement will more fully describe any preference stock that may be issued if and when BancGroup offers one or more series of preference stock.

### **DESCRIPTION OF DEBT SECURITIES**

We have described below certain general terms that may apply to the debt securities issued pursuant to this prospectus. We will describe the particular terms of any debt securities we offer to you in the prospectus supplement relating to those debt securities.

The debt securities will be subordinated debt securities. We will issue the subordinated debt securities under a subordinated indenture between us and an eligible trustee under the Trust Indenture Act. The following summary of certain provisions of the subordinated indenture is not complete. You should refer to the indenture, a copy of which has been filed as an exhibit to the registration statement of which this prospectus is a part.

The indenture does not limit the amount of debt securities that we may issue. We also have the right to reopen a previous issue of a series of debt securities by issuing additional debt securities of that series. The subordinated debt securities will be unsecured and will be subordinated and junior to all senior indebtedness (as defined below under "Subordination"). In addition, under certain circumstances relating to our dissolution, winding-up, liquidation or reorganization, the subordinated debt securities will be junior to all other financial obligations (as defined below under "Subordination").

We are a bank holding company that conducts substantially all of our operations through subsidiaries. As a result, claims of the holders of the debt securities will generally have a junior position to claims of creditors of our subsidiaries, except to the extent that Colonial BancGroup may be recognized, and receive payment, as a creditor of those subsidiaries. Claims of our subsidiaries' creditors other than Colonial BancGroup include substantial amounts of long-term debt, deposit liabilities, federal funds purchased, securities sold under repurchase agreements, commercial paper, and other short-term borrowings.

We may issue the debt securities in one or more separate series of subordinated debt securities. We will specify in the prospectus supplement relating to a particular series of debt securities being offered the particular amounts, prices, and terms of those debt securities.

These terms may include:

the title and type of the debt securities;

any limit on the aggregate principal amount or aggregate initial offering price of the debt securities;

the purchase price of the debt securities;

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the dates on which the principal of the debt securities will be payable and the amount payable upon acceleration;

the interest rates of the debt securities, including the interest rates, if any, applicable to overdue payments, or the method for determining those rates, and the interest payment dates for the debt securities;

the places where payments may be made on the debt securities;

any mandatory or optional redemption provisions applicable to the debt securities;

any sinking fund or similar provisions applicable to the debt securities;

the authorized denominations of the debt securities, if other than \$1,000 and integral multiples of \$1,000;

if denominated in a currency other than U.S. dollars, the currency or currencies, including the euro or other composite currencies, in which payments on the debt securities will be payable (which currencies may be different for principal, premium, and interest payments);

any conversion or exchange provisions applicable to the debt securities;

any events of default applicable to the debt securities (if not described in this prospectus); and

any other specific terms of the debt securities.

We may issue some of the debt securities as original issue discount debt securities. Original issue discount debt securities bear no interest or bear interest at a below-market rate and will be sold at a discount below their stated principal amount. The prospectus supplement will contain any special tax, accounting, or other information relating to original issue discount debt securities. If we offer other kinds of debt securities, including debt securities linked to an index or payable in currencies other than U.S. dollars, the prospectus supplement relating to those debt securities will also contain any special tax, accounting, or other information relating to those debt securities. Persons considering the purchase, ownership, or disposition of original issue discount debt securities or other kinds of debt securities, including debt securities linked to an index or payable in currencies other than U.S. dollars, should consult their own tax advisors concerning the United States federal income tax consequences to them from the purchase, ownership, or disposition of those securities in light of their particular situations, as well as any consequences arising under the laws of any other taxing jurisdiction.

Unless otherwise specified in the prospectus supplement, we will issue the debt securities only in fully registered form without coupons. You will not be required to pay a service charge for any transfer or exchange of debt securities, but we may require payment of any taxes or other governmental charges.

Unless otherwise specified in the prospectus supplement, we will pay principal, premium, if any, and interest, if any, on the debt securities at the corporate trust office of the trustee. You may also make transfers or exchanges of debt securities at that location. We also have the right to pay interest on any debt securities by check mailed to the registered holders of the debt securities at their registered addresses. In connection with any payment on debt securities, we may require the holder to certify information to Colonial BancGroup. In the absence of that certification, we

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may rely on any legal presumption to enable us to determine our responsibilities, if any, to deduct or withhold taxes, assessments, or governmental charges from the payment.

The subordinated indenture does not limit our ability to enter into a highly leveraged transaction or provide you with any special protection in the event of such a transaction. In addition, the indenture does not provide special protection in the event of a sudden and dramatic decline in our credit quality resulting from a takeover, recapitalization, or similar restructuring of Colonial BancGroup.

The debt securities may be exchangeable for or convertible into other series of our debt securities. The prospectus supplement will describe the specific terms of any of those exchangeable or convertible securities. It will also describe the specific terms of the debt securities issuable upon the exchange or conversion of those securities.

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The subordinated debt securities will be direct, unsecured general obligations of Colonial BancGroup. The subordinated debt securities will be subordinate and junior in right of payment to all senior indebtedness and, in certain circumstances described below relating to our dissolution, winding-up, liquidation, or reorganization, to all other financial obligations. The subordinated indenture does not limit the amount of debt, including senior indebtedness, or other financial obligations we may incur.

Unless otherwise specified in the applicable prospectus supplement, the maturity of the subordinated debt securities will be subject to acceleration only upon our bankruptcy or reorganization. See *Events of Default* below.

The holders of subordinated debt securities of a series that are specified to be convertible into our common stock or other securities will be entitled as specified in the applicable prospectus supplement to convert those convertible subordinated debt securities into common stock or such other capital securities, at the conversion price, at the times, and on the terms set forth in the prospectus supplement. If so specified in the applicable prospectus supplement, the holders of subordinated debt securities of any series may be obligated at maturity, or at any earlier time specified in the prospectus supplement, to exchange that series of subordinated debt securities for capital securities. Capital securities may consist of our common stock, perpetual preferred stock, or other capital securities of Colonial BancGroup acceptable to the Federal Reserve, which is our primary federal banking regulator. The terms of any such exchange and of the capital securities that will be issued upon the exchange will be described in the applicable prospectus supplement. Whenever subordinated debt securities are exchangeable for capital securities, we will be obligated to deliver capital securities with a market value equal to the principal amount of those subordinated debt securities. In addition, we will unconditionally undertake, at our expense, to sell the capital securities in a secondary offering on behalf of any holders who elect to receive cash for the capital securities.

*Subordination.* The subordinated debt securities will be subordinate and junior in right of payment to all senior indebtedness and, under certain circumstances described below, to all other financial obligations. As used in this prospectus, *senior indebtedness* means the principal of, premium, if any, and interest on all indebtedness for money borrowed by us, whether outstanding on the effective date of the subordinated indenture, or created, assumed, or incurred after that date (including all indebtedness for money borrowed by another person that we guarantee). However, senior indebtedness does not include indebtedness that is stated in its terms not to be superior to or to have the same rank as the subordinated debt securities.

The subordinated indenture defines *other financial obligations* to mean all indebtedness of Colonial BancGroup for claims in respect of derivative products, such as interest and foreign exchange rate contracts, commodity contracts, and similar arrangements, except obligations that constitute senior indebtedness and except obligations that are expressly stated in their terms to have the same rank as or not to rank senior to the subordinated debt securities.

If the maturity of any subordinated debt securities is accelerated, the holders of all senior indebtedness outstanding at the time of such acceleration will first be entitled to receive payment in full of all amounts due on that senior indebtedness before the holders of subordinated debt securities will be entitled to receive any payment upon the principal of (or premium, if any) or interest, if any, on the subordinated debt securities. No payments on account of principal (or premium, if any) or interest, if any, in respect of the subordinated debt securities may be made if there shall have occurred and be continuing:

a default in the payment of principal of (or premium, if any) or interest on senior indebtedness, or

an event of default with respect to any senior indebtedness resulting in the acceleration of the maturity thereof or any judicial proceeding with respect to any such default.

In addition, upon our dissolution, winding-up, liquidation, or reorganization:

we must pay to the holders of senior indebtedness the full amounts of principal of, premium, if any, and interest, if any, on the senior indebtedness before any payment or distribution is made on the subordinated debt securities, and

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if, after we have made those payments on the senior indebtedness, there are amounts available for payment on the subordinated debt securities and creditors who hold other financial obligations have not received their full payments, then we will first use amounts available for payment on the subordinated debt securities to pay in full all other financial obligations before we may make any payment on the subordinated debt securities.

*No Limitation on Disposition of Voting Stock of Principal Subsidiary Bank.* The subordinated indenture does not contain a covenant prohibiting us from selling or otherwise disposing of any shares of voting stock of our subsidiary banks, or securities convertible into, or options, warrants, or rights to purchase shares of, voting stock of our subsidiary banks. The subordinated indenture also does not prohibit our subsidiary banks from issuing any shares of their voting stock or securities convertible into, or options, warrants, or rights to purchase shares of their voting stock.

*Events of Default.* The subordinated indenture defines an event of default with respect to any series of subordinated debt securities as any one of the following events:

- (1) default in the payment of interest on any subordinated debt security of that series and continuance of that default for 30 days;
- (2) default in the payment of principal of, or premium, if any, on, any subordinated debt security of that series at maturity;
- (3) default in the deposit of any sinking fund payment applicable to any subordinated debt security of that series and continuance of that default for 5 days;
- (4) failure by us for 60 days after notice to perform any of the other covenants or warranties in the subordinated indenture applicable to that series;
- (5) specified events of bankruptcy, insolvency, or reorganization of Colonial BancGroup; and
- (6) any other event of default specified with respect to subordinated debt securities of that series.

Upon the occurrence of specified events of bankruptcy, insolvency, or reorganization, the principal amount (or, if the subordinated debt securities of that series are original issue discount subordinated debt securities, a specified portion of the principal amount) of the outstanding subordinated debt securities of a series will become due and payable immediately. Subject to certain conditions, the holders of a majority in principal amount of the outstanding subordinated debt securities of that series may annul the acceleration. The right of the holders of the subordinated debt securities of a series to demand payment in cash upon the occurrence and continuance of an event of default continues to exist so long as the subordinated debt securities of that series have not been exchanged or converted.

Unless otherwise provided in the terms of a series of subordinated debt securities, there is no right of acceleration of the payment of principal of the subordinated debt securities of that series upon a default in the payment of principal or interest or a default in the performance of any covenant or agreement in the subordinated debt securities or the subordinated indenture. In the event of a default in the payment of interest or principal (including a default in the delivery of any capital securities in exchange for subordinated debt securities) or in the performance of any covenant or agreement in the subordinated debt securities or the subordinated indenture, the trustee may, subject to specified limitations and conditions, seek to enforce that payment (or delivery) or the performance of that covenant or agreement.

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Subject to the duty of the trustee to act with the required standard of care during a default, the trustee is not obligated to exercise any of its rights or powers under the subordinated indenture at the request or direction of any of the holders of the subordinated debt securities, unless those holders have offered the trustee security or indemnity reasonably satisfactory to the trustee. Subject to that provision for security or indemnity, the holders of a majority in principal amount of the subordinated debt securities of any series then outstanding have the right to



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direct the time, method, and place of conducting any proceeding for any remedy available to, or exercising any trust or power conferred on, the trustee with respect to the subordinated debt securities of that series.

The subordinated indenture includes a covenant requiring us to file annually with the trustee a certificate of no default or specifying any default that exists.

*Defeasance and Covenant Defeasance.* The subordinated indenture contains a provision that, if made applicable to any series of subordinated debt securities, permits us to elect:

defeasance, which would discharge us from all of our obligations (subject to limited exceptions) with respect to any subordinated debt securities of that series then outstanding, and/or

covenant defeasance, which would release us from our obligations under specified covenants and the consequences of the occurrence of an event of default resulting from a breach of these covenants.

To make either of the above elections, we must deposit in trust with the trustee money and/or U.S. government obligations (as defined below) or, with respect to subordinated debt securities denominated in a foreign currency, foreign government obligations (as defined below) which, through the payment of principal and interest in accordance with their terms, will provide sufficient money, without reinvestment, to repay in full those subordinated debt securities. As used in the subordinated indenture, U.S. government obligations are:

- (1) direct obligations of the United States or of an agency or instrumentality of the United States, in either case that is guaranteed as a full faith and credit obligation of the United States and that is not redeemable by the issuer; and
- (2) certain depositary receipts with respect to an obligation referred to in clause (1).

As used in the subordinated indenture, foreign government obligations are direct obligations of a foreign government or governments or of an agency or instrumentality of such foreign government or governments, in either case that is guaranteed as a full faith and credit obligation of such foreign government or governments and that is not redeemable by the issuer. As a condition to defeasance or covenant defeasance, we must deliver to the trustee an opinion of counsel that the holders of the subordinated debt securities will not recognize income, gain, or loss for federal income tax purposes as a result of the defeasance or covenant defeasance and will be subject to federal income tax on the same amount, in the same manner and at the same times as would have been the case if defeasance or covenant defeasance had not occurred. That opinion, in the case of defeasance, but not covenant defeasance, must refer to and be based upon a ruling received by us from the Internal Revenue Service or published as a revenue ruling or upon a change in applicable federal income tax law.

If we exercise our covenant defeasance option with respect to a particular series of subordinated debt securities, then even if there were a default under the related covenant, payment of those subordinated debt securities could not be accelerated. We may exercise our defeasance option with respect to a particular series of subordinated debt securities even if we previously had exercised our covenant defeasance option. If we exercise our defeasance option, payment of those subordinated debt securities may not be accelerated because of any event of default. If we exercise our covenant defeasance option and an acceleration were to occur, the realizable value at the acceleration date of the money and U.S. government obligations in the defeasance trust could be less than the principal and interest then due on those subordinated debt securities. This is because the required deposit of money and/or U.S. government obligations in the defeasance trust is based upon scheduled cash flows rather than market value, which will vary depending upon interest rates and other factors.

*Modification and Waiver.* The subordinated indenture provides that we, together with the trustee, may enter into supplemental indentures without the consent of the holders of subordinated debt securities to:

evidence the assumption by another person of our obligations;

add covenants for the benefit of the holders of all or any series of subordinated debt securities;

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add any additional events of default;

add to or change the subordinated indenture to permit or facilitate the issuance of debt securities in bearer form;

add to, change or eliminate a provision of the subordinated indenture if such addition, change or elimination does not apply to a subordinated debt security created prior to the execution of such supplemental indenture or modify the rights of a holder of any subordinated debt security containing the provision;

secure any subordinated debt security;

establish the form or terms of subordinated debt securities of any series;

evidence the acceptance of appointment by a successor trustee; or

cure any ambiguity or correct any inconsistency in the subordinated indenture or make other changes, provided that any such action does not adversely affect the interests of the holders of subordinated debt securities of any affected series in any material respect.

Other amendments and modifications of the subordinated indenture may be made with the consent of the holders of not less than a majority of the aggregate principal amount of each series of the outstanding subordinated debt securities affected by the amendment or modification. However, no modification or amendment may, without the consent of the holder of each outstanding subordinated debt security affected:

change the stated maturity of the principal of or any installment of principal or interest, if any, on any subordinated debt security; or reduce the principal amount of (or premium, if any) or the interest rate, if any, on any subordinated debt security or the principal amount due upon acceleration of an original issue discount security;

change the place or currency of payment of principal of (or premium if any) or the interest, if any, on subordinated debt security;

impair the right to institute suit for the enforcement of any payment on or with respect to any subordinated debt security;

reduce the percentage of holders of subordinated debt securities necessary to modify or amend the subordinated indenture; or

modify the foregoing requirements or reduce the percentage of outstanding securities necessary to waive compliance with certain provisions of the subordinated indenture or for waiver of certain defaults.

The holders of at least a majority of the aggregate principal amount of the outstanding securities of any series may, on behalf of all holders of that series, waive our required compliance with certain restrictive provisions of the subordinated indenture and may waive any past default under the subordinated indenture, except a default in the payment of principal, premium or interest or in the performance of certain covenants.

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Additionally, no modification or amendment to the subordinated indenture may, without the consent of the holder of each outstanding subordinated debt security affected:

modify the subordination provisions of the subordinated debt securities of any series in a manner adverse to the holders of the subordinated debt securities; or

adversely affect the right to convert any subordinated debt security.

*Consolidation, Merger, and Sale of Assets.* We may, without the consent of the holders of any subordinated debt securities, consolidate or merge with any other person or transfer or lease all or substantially all of our assets to another person or permit another corporation to merge into Colonial BancGroup, provided that:

- (1) the successor is a person organized under U.S. law;

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- (2) the successor, if not us, assumes our obligations on the subordinated debt securities and under the subordinated indenture;
- (3) after giving effect to the transaction, no event of default, and no event which, after notice or lapse of time or both, would become an event of default, shall have occurred and be continuing; and
- (4) other specified conditions are met.

## **Governing Law**

The subordinated indenture and the subordinated debt securities are expected to be governed by and construed in accordance with the laws of the State of New York.

## **BOOK-ENTRY ISSUANCE**

### **Permanent Global Securities**

We may issue securities offered by use of this prospectus as permanent global securities and deposit them with a depository with respect to those securities. Unless otherwise indicated in the prospectus supplement, the following is a summary of the depository arrangements applicable to the securities issued in permanent global form and for which The Depository Trust Company ( DTC ) will act as depository. Each permanent global security will be deposited with, or on behalf of, DTC, as depository, or its nominee and registered in the name of a nominee of DTC. Except under the limited circumstances described below, global securities are not exchangeable for definitive, certificated securities.

Only institutions that have accounts with DTC or its nominee ( DTC participants ) or persons that may hold interests through DTC participants may own beneficial interests in a global security. DTC will maintain records evidencing ownership of beneficial interests by DTC participants in the global securities and transfers of those ownership interests. DTC participants will maintain records evidencing ownership of beneficial interests in the global securities by persons that hold through those DTC participants and transfers of those ownership interests within those DTC participants. DTC has no knowledge of the actual beneficial owners of the debt securities. You will not receive written confirmation from DTC of your purchase, but we do expect that you will receive written confirmations providing details of the transaction, as well as periodic statements of your holdings from the DTC participant through which you entered the transaction. The laws of some jurisdictions require that certain purchasers of securities take physical delivery of those securities in certificated form. Those laws may impair your ability to transfer beneficial interests in a global security.

DTC has advised us that upon the issuance of a global security and the deposit of that global security with DTC, DTC will immediately credit, on its book-entry registration and transfer system, the respective principal amounts or number of shares represented by that global security to the accounts of DTC participants.

We will make payment on securities represented by a global security to DTC or its nominee, as the case may be, as the registered owner and holder of the global security representing those securities. DTC has advised us that upon receipt of any payment on a global security, DTC will immediately credit accounts of DTC participants with payments in amounts proportionate to their respective beneficial interests in that security,

as shown in the records of DTC.

Standing instructions and customary practices will govern payments by DTC participants to owners of beneficial interests in a global security held through those DTC participants, as is now the case with securities held for the accounts of customers in bearer form or registered in street name. Those payments will be the sole responsibility of those DTC participants, subject to any statutory or regulatory requirements in effect from time to time.

None of Colonial BancGroup, the trustee, nor any of our other agents will have any responsibility or liability for any aspect of the records of DTC, any nominee, or any DTC participant relating to, or payments made on

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account of, beneficial interests in a global security or for maintaining, supervising, or reviewing any of the records of DTC, any nominee or any DTC participant relating to those beneficial interests.

A global security is exchangeable for certificated securities registered in the name of a person other than DTC or its nominee only if:

- (1) DTC notifies us that it is unwilling or unable to continue as depository for that global security or DTC ceases to be registered under the Securities Exchange Act of 1934;
- (2) we determine in our discretion that the global security will be exchangeable for certificated securities in registered form; or
- (3) if applicable to the particular type of security, there shall have occurred and be continuing an event of default or an event which, with notice or lapse of time or both, would constitute an event of default under the securities.

Any global security that is exchangeable as described in the preceding sentence will be exchangeable in whole for certificated securities in registered form, of like tenor, and, in the case of global debt securities, of an equal aggregate principal amount as the global security, in denominations of \$1,000 and integral multiples of \$1,000 (or in denominations and integral multiples as otherwise specified in the applicable prospectus supplement). The registrar will register the certificated securities in the name or names instructed by DTC. We expect that those instructions may be based upon directions received by DTC from DTC participants with respect to ownership of beneficial interests in the global security.

Except as provided above, as an owner of a beneficial interest in a global security, you will not be entitled to receive physical delivery of securities in certificated form and will not be considered a holder of securities for any purpose. No global security will be exchangeable except for another global security of like denomination and tenor to be registered in the name of DTC or its nominee. Accordingly, you must rely on the procedures of DTC and the DTC participant through which you own your interest to exercise any rights of a holder of the global security.

We understand that, under existing industry practices, in the event that we request any action of holders, or an owner of a beneficial interest in a global security desires to take any action that a holder is entitled to take, DTC would authorize the DTC participants holding the relevant beneficial interests to take that action, and those DTC participants would authorize beneficial owners owning through those DTC participants to take that action or would otherwise act upon the instructions of beneficial owners owning through them.

DTC has advised us that DTC is a limited purpose trust company organized under the New York Banking Law, a banking organization within the meaning of the New York Banking Law, a member of the Federal Reserve System, a clearing corporation within the meaning of the New York Uniform Commercial Code, and a clearing agency registered under the Securities Exchange Act of 1934. DTC holds securities of DTC participants and facilitates the settlement of securities transactions among DTC participants in those securities through electronic book-entry changes in accounts of the DTC participants, thereby eliminating the need for physical movement of securities certificates. DTC participants include securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is owned by a number of DTC participants and by the New York Stock Exchange, Inc., the American Stock Exchange, Inc., and the National Association of Securities Dealers, Inc. Access to DTC's system is also available to others, such as banks, brokers, dealers, and trust companies that clear through or maintain a custodial relationship with a DTC participant, either directly or indirectly. The rules applicable to DTC and DTC participants are on file with the SEC.

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If specified in a prospectus supplement investors may elect to hold interests in the offered securities outside the United States through Clearstream Banking, société anonyme ( Clearstream ) or the Euroclear Bank S.A./



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N.V., as operator of the Euroclear System ( Euroclear ), if they are participants in those systems, or indirectly through organizations that are participants in those systems. Clearstream and Euroclear will hold interests on behalf of their participants through customers' securities accounts in Clearstream's and Euroclear's names on the books of their respective depositaries. Those depositaries in turn hold those interests in customers' securities accounts in the depositaries' names on the books of DTC.

Clearstream has advised us that it is incorporated under the laws of Luxembourg as a bank. Clearstream holds securities for its participants and facilitates the clearance and settlement of securities transactions between its customers through electronic book-entry between their accounts. Clearstream provides its customers, among other things, services for safekeeping, administration, clearance and settlement of internationally traded securities, and securities lending and borrowing. Clearstream interfaces with domestic securities markets in several countries. As a bank in Luxembourg, Clearstream is subject to regulation by the Luxembourg Commission for the Supervision of the Financial Sector. Clearstream's customers are financial institutions around the world, including underwriters, securities brokers and dealers, banks, trust companies, clearing corporations, and other organizations. Indirect access to Clearstream is also available to others, such as banks, brokers, dealers, and trust companies that clear through or maintain a custodial relationship with a Clearstream participant, either directly or indirectly. Distributions with respect to global securities held through Clearstream will be credited to cash accounts of its customers in accordance with its rules and procedures, to the extent received by the U.S. depositary for Clearstream.

Euroclear has advised us that it was created in 1968 to hold securities for its participants and to clear and settle transactions between Euroclear participants through simultaneous electronic book-entry delivery against payment, thereby eliminating the need for physical movement of certificates and any risk from lack of simultaneous transfers of securities and cash. Euroclear provides various other services, including securities lending and borrowing, and interfaces with domestic markets in several countries. Euroclear is operated by Euroclear Bank S.A./N.V. (the Euroclear Operator). Euroclear Clearance Systems S.C. establishes policy for Euroclear on behalf of Euroclear participants.

Euroclear participants include banks (including central banks), securities brokers and dealers, and other professional financial intermediaries. Indirect access to Euroclear is also available to other firms that clear through or maintain a custodial relationship with a Euroclear participant, either directly or indirectly.

Distributions with respect to global securities held beneficially through Euroclear will be credited to the cash accounts of Euroclear participants in accordance with Euroclear's terms, conditions, operating procedures and applicable Belgian law, to the extent received by the U.S. depositary for Euroclear.

## **Global Clearance and Settlement Procedures**

Unless otherwise specified in a prospectus supplement with respect to a particular series of global securities, initial settlement for global securities will be made in immediately available funds. DTC participants will conduct secondary market trading with other DTC participants in the ordinary way in accordance with DTC rules and accordingly secondary market trades will settle in immediately available funds using DTC's same day funds settlement system.

If the prospectus supplement specifies that interests in the global securities may be held through Clearstream or Euroclear, Clearstream and/or Euroclear participants will conduct secondary market trading with other Clearstream and/or Euroclear participants in the ordinary way in accordance with the applicable rules and operating procedures of Clearstream and Euroclear. Then secondary market trades will settle in immediately available funds.



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Cross-market transfers between persons holding directly or indirectly through DTC on the one hand, and directly or indirectly through Clearstream or Euroclear participants on the other, will be effected in DTC in accordance with DTC's rules on behalf of the relevant European international clearing system by the U.S. depository for that system; however, those cross-market transactions will require delivery by the counterparty in the relevant European international clearing system of instructions to that system in accordance with its rules and procedures and within its established deadlines (European time). The relevant European international clearing system will, if the transaction meets its settlement requirements, deliver instructions to the U.S. depository for that system to take action to effect final settlement on its behalf by delivering or receiving interests in global securities in DTC and making or receiving payment in accordance with normal procedures for same-day funds settlement applicable to DTC. Clearstream participants and Euroclear participants may not deliver instructions directly to DTC.

Because of time-zone differences, credits of interests in global securities received in Clearstream or Euroclear as a result of a transaction with a DTC participant will be made during subsequent securities settlement processing and will be credited the business day following the DTC settlement date. Those credits or any transactions in global securities settled during that processing will be reported to the relevant Euroclear or Clearstream participants on that business day. Cash received in Clearstream or Euroclear as a result of sales of interests in global securities by or through a Clearstream participant or a Euroclear participant to a DTC participant will be received with value on the DTC settlement date but will be available in the relevant Clearstream or Euroclear cash account only as of the business day following settlement in DTC.

Although DTC, Clearstream, and Euroclear generally agree to the procedures described above in order to facilitate transfers of interests in global securities among DTC participants, Clearstream and Euroclear, they are under no obligation to perform those procedures, and those procedures may be discontinued at any time.

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**PLAN OF DISTRIBUTION**

We may sell the securities being offered by use of this prospectus and an applicable prospectus supplement in one or more of the following ways from time to time:

through underwriters;

through dealers;

through agents; or

directly to purchasers.

The names of any underwriters or dealers involved in the sale of the securities in respect of which this prospectus is delivered, the amount or number of securities to be purchased by any such underwriters and any applicable commissions or discounts will be set forth in the applicable prospectus supplement.

In addition, we may sell some of the securities covered by this prospectus through:

a block trade in which a broker-dealer will attempt to sell as agent, but may position or resell a portion of the block, as principal, in order to facilitate the transaction;

purchases by a broker-dealer, as principal, and resale by the broker-dealer for its account;

ordinary brokerage transactions and transactions in which a broker solicits purchasers; or

privately negotiated transactions.

We may also enter into derivative hedging transactions or sell securities not covered by this prospectus to third parties in privately negotiated transactions. For example, we may:

enter into transactions with a broker-dealer or affiliate thereof in connection with which such broker-dealer or affiliate will engage in sales, including short sales, of the securities pursuant to this prospectus, in which case such broker-dealer or affiliate may use securities received from us to close out its short positions;

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sell securities short itself and redeliver such securities to close out its short positions;

enter into option or other types of transactions that require us to deliver securities to a broker-dealer or an affiliate thereof, who will then resell or transfer the securities under this prospectus; or

loan or pledge the securities to a broker-dealer or an affiliate thereof, who may sell the loaned securities or, in an event of default in the case of a pledge, sell the pledged shares pursuant to this prospectus.

If underwriters are used in the sale, the securities will be acquired by the underwriters for their own account and may be resold at various times in one or more transactions, including negotiated transactions, at a fixed public offering price or prices, which may be changed, at market prices prevailing the time of sale, at prices related to such prevailing market prices, or at negotiated prices. A distribution of securities by us may also be effected through the issuance by us or others of derivative securities, including without limitation, warrants, exchangeable securities, forward delivery contracts and the writing of options. Underwriters may sell securities to or through dealers, and such dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters.

We may authorize underwriters, dealers and agents to solicit offers by certain institutions to purchase securities pursuant to delayed delivery contracts providing for payment and delivery on a future date specified in the prospectus supplement. Institutions with which delayed delivery contracts may be made include commercial and savings banks, insurance companies, educational and charitable institutions and other institutions that we may approve. The obligations of any purchaser under any delayed delivery contract will not be subject to any conditions except that any related sale of offered securities to underwriters shall have occurred and the purchase by an institution of the securities covered by its delayed delivery contract shall not at the time of delivery be prohibited under the laws of any jurisdiction in the United States to which that institution is subject.

Any underwriting compensation paid by BancGroup to underwriters in connection with the offering of securities, and any discounts, concessions or commissions allowed by such underwriters to participating dealers,

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will be described in an accompanying prospectus supplement. Underwriters, agents and dealers participating in the distribution of securities may be deemed to be underwriters, and any discounts and commissions received by them and any profit realized by them on resale of such securities may be deemed to be underwriting discounts and commissions, under the Securities Act. Underwriters, agents and dealers may be entitled, under agreement with BancGroup, to indemnification against and contribution toward certain civil liabilities, including liabilities under the Securities Act, and to reimbursement by BancGroup for certain expenses.

Underwriters, agents and dealers may engage in transactions with, or perform services for, BancGroup and/or any of their affiliates in the ordinary course of business.

Except as otherwise stated in the applicable prospectus supplement, the securities, except for common stock, will be new issues of securities and will have no established trading market. Any underwriters to whom securities are sold for public offering and sale may make a market in such securities, but such underwriters will not be obligated to do so and may discontinue any market making at any time without notice. Such securities may or may not be listed on a national securities exchange or the Nasdaq National Market. No assurance can be given as to the liquidity of or the existence of trading markets for any securities.

## **LEGAL MATTERS**

Unless otherwise indicated in the applicable prospectus supplement, some legal matters concerning the securities will be passed upon for BancGroup by the law firm Miller, Hamilton, Snider & Odom, L.L.C., Montgomery, Alabama. Certain matters relating to U.S. Federal income tax considerations may also be passed upon for BancGroup by Miller, Hamilton, Snider & Odom, L.L.C., Mobile, Alabama. John C. H. Miller, Jr. is a member of this law firm and a director of Colonial BancGroup. The law firm received fees for legal services performed in 2003 of approximately \$2,647,660. John C. H. Miller, Jr. beneficially owns 66,117 shares of Colonial BancGroup common stock. Mr. Miller also received employee-related compensation from Colonial BancGroup in 2003 of \$41,845, the use of a company provided vehicle for personal use valued at \$4,204, the personal use of the company aircraft valued at \$2,215 and a \$100,000 year-end cash bonus paid in 2004 for services provided to BancGroup in 2003.

## **EXPERTS**

The consolidated financial statements of BancGroup incorporated in this prospectus by reference to the Annual Report on Form 10-K for the year ended December 31, 2003, have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP independent registered public accounting firm, given on the authority of said firm as experts in accounting and auditing.

## **WHERE YOU CAN FIND MORE INFORMATION**

We file reports, proxy statements, and other information with the SEC. You can read and copy these reports, proxy statements, and other information concerning us at the SEC's Public Reference Room at 450 Fifth Street, N. W., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the Public Reference Room. You can review our electronically filed reports, proxy and information statements on the SEC's Internet site at <http://www.sec.gov>. Our Common Stock is quoted on the New York Stock Exchange. These reports, proxy statements and other information are also available for inspection at the offices of the New York Stock Exchange, 20 Broad Street, New York City, New York 10005.

We have filed a registration statement on Form S-3 with the SEC covering the securities offered by this prospectus. This prospectus, which forms a part of the registration statement, does not contain all of the information included in the registration statement. For further information about us and securities offered by this prospectus you should refer to the registration statement and its exhibits. You can obtain the full registration statement from the SEC as indicated above.

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The SEC allows us to incorporate by reference the information we file with the SEC. This permits us to disclose important information to you by referring to these filed documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. We incorporate by reference documents filed by us with the SEC (excluding any portions of that information that is furnished rather than filed):

our Annual Report on Form 10-K for the year ended December 31, 2003,

our Quarterly Reports on Form 10-Q for the periods ended March 31, 2004, June 30, 2004, and September 30, 2004,

our Current Report on Form 8-K filed on September 1, 2004,

a description of our Common Stock, \$2.50 par value per share, contained in our Registration Statement on Form 8-A, filed with the SEC on November 22, 1994 and effective February 22, 1995 and the description of our preferred stock and debt securities contained in our registration statements filed under Section 12 of the Securities Exchange Act of 1934 and any amendment or report filed for the purpose of updating those descriptions,

all reports that we file with the SEC after the date of the initial filing of the registration statement and prior to the effectiveness of the registration statement, and

any future filings made with the SEC under Sections 13(a), 13(c), 14 or 15(d) under the Securities Exchange Act of 1934 until we sell all of the Common Stock under this prospectus.

You may request a copy of these filings at no cost by writing or telephoning us at the following address:

Helena T. Duncan

Secretary

The Colonial BancGroup, Inc.

Colonial Financial Center

One Commerce Street

Eighth Floor

Montgomery, Alabama 36104

(334) 240-5000

You should rely only on the information incorporated by reference or provided in this prospectus. We have not authorized anyone else to provide you with different information. We are not making an offer of the securities in any state where the offer is not permitted. You should not assume that the information in this prospectus is accurate as of any date other than the date on the front of this prospectus.





**Table of Contents****PART II****INFORMATION NOT REQUIRED IN PROSPECTUS****Item 14. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION**

The following table sets forth the expenses (other than underwriting discounts and commissions) to be borne by The Colonial BancGroup, Inc. (the registrant) in connection with the offering. All of the amounts shown are estimates except the SEC registration fee.

SEC Registration Fee	\$	63,350
Legal Fees and Expenses		150,000
Accounting Fees and Expenses		40,000
Printing and Mailing Expenses		40,000
Miscellaneous Expenses		25,000
<b>TOTAL FEES AND EXPENSES</b>	<b>\$</b>	<b>318,350</b>

**Item 15. INDEMNIFICATION OF DIRECTORS AND OFFICERS**

Pursuant to the Delaware General Corporation Law ( DGCL ), a corporation may indemnify any person in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than a derivative action by or in the right of such corporation) who is or was a director, officer, employee or agent of such corporation, or serving at the request of such corporation in such capacity for another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding, if such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of such corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

The DGCL also permits indemnification by a corporation under similar circumstances for expenses (including attorneys fees) actually and reasonably incurred by such persons in connection with the defense or settlement of a derivative action, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to such corporation unless the Delaware Court of Chancery of the court in which such action or suit was brought shall determine upon application that such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

The DGCL provides that indemnification described above shall not be deemed exclusive of any other indemnification that may be granted by a corporation pursuant to its by-laws, disinterested directors vote, stockholder s vote, agreement or otherwise.

The DGCL also provides corporations with the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation in a similar capacity for another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him or her in any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him or her against such liability as described above.

Directors, officers, employees, and agents of BancGroup and its subsidiaries are entitled to indemnification as expressly permitted by the provisions of the DGCL, BancGroup's restated certificate of incorporation, the charters of BancGroup's subsidiaries, and BancGroup's liability insurance. BancGroup has also entered into indemnification agreements with its directors regarding indemnification against certain liabilities. Insofar as

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indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers, or persons controlling BancGroup pursuant to the foregoing provisions, BancGroup has been informed that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in that Act and is therefore unenforceable.

**Item 16. EXHIBITS**

The following exhibits either are filed herewith or incorporated by reference to documents previously filed or will be filed by amendment, as indicated below:

## INDEX TO EXHIBITS

<b><u>Exhibits</u></b>	<b><u>Description</u></b>
Exhibit 4.	Instruments defining the rights of security holders:
4.1	Restated Certificate of Incorporation of the Registrant filed as Exhibit 4.1 to the Registrant's Current Report on Form 8-K, dated February 21, 1995, and incorporated herein by reference.
4.2	Amendment to Article 4 of Registrant's Restated Certificate of Incorporation, dated May 15, 1998, filed as Exhibit 4.2 to the Registrant's Registration Statement on Form S-4 (File No. 333-56241), effective June 22, 1998, and incorporated herein by reference.
4.3	Bylaws of the Registrant filed as Exhibit 4.2 to the Registrant's Current Report on Form 8-K, dated February 21, 1995, and incorporated herein by reference.
4.4	All other instruments defining the rights of holders of long-term debt of the Registrant and its subsidiaries not filed pursuant to clause 4(iii) of Item 601(b) of Regulation S-K to be furnished upon request of the Commission.
4.5*	Form of Subordinated Indenture
Exhibit 5.	Opinion of Miller, Hamilton, Snider & Odom, L.L.C. as to certain Delaware law issues of the securities being registered
Exhibit 12.	Statements regarding Computation of Ratios.
Exhibit 23.	Consents of experts and counsel:
23.1	Consent of PricewaterhouseCoopers LLP.
23.2	Consent of Miller, Hamilton, Snider & Odom, L.L.C.
Exhibit 24.*	Power of Attorney.

\* Previously filed.

**Item 17. UNDERTAKINGS**

(a) The Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

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(b) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

(c) The Registrant hereby also undertakes:

(1) to file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) to reflect in the prospectus any facts or events arising after the effective date of this registration statement (or the most recent post-effective amendment thereto) which, individually or in the aggregate, represent a fundamental change in the information set forth in this registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in this registration statement or any material change to such information in this registration statement;

provided, however, that paragraphs (1)(i) and (1)(ii) do not apply if the information required to be included in post-effective amendment by those paragraphs is contained in periodic reports filed by a registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in this registration statement.

(2) that, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) to remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.



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Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Pre-Effective Amendment No. 1 to this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized in the City of Montgomery, State of Alabama, on the 12th day of November, 2004.

**THE COLONIAL BANGROUP, INC.**

<u>SIGNATURES</u>	<u>TITLE</u>	<u>DATE</u>
<u>/s/ ROBERT E. LOWDER</u> <b>Robert E. Lowder</b>	Chairman of the Board and Chief Executive Officer	**
<u>/s/ SARAH H. MOORE</u> <b>Sarah H. Moore</b>	Chief Financial Officer and Executive Vice President (Principal Financial Officer)	**
<u>/s/ SHEILA P. MOODY</u> <b>Sheila P. Moody</b>	Chief Accounting Officer (Principal Accounting Officer)	**
<u>*</u> <b>William Britton</b>	Director	**
<u>*</u> <b>Jerry J. Chesser</b>	Director	**
<u>*</u> <b>Augustus K. Clements, III</b>	Director	**
<u>*</u> <b>Robert S. Craft</b>	Director	**
<u>*</u> <b>Patrick F. Dye</b>	Director	**
<u>Clinton O. Holdbrooks</u>		

*	Director	**
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<b>Harold D. King</b>		
*	Director	**
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<b>John Ed Mathison</b>		
*	Director	**
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<b>Milton E. McGregor</b>		
*	Director	**
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<b>John C. H. Miller, Jr.</b>		



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<u>SIGNATURES</u>	<u>TITLE</u>	<u>DATE</u>
*	Director	**
<b>Joe D. Mussafer</b>		
*	Director	**
<b>William E. Powell, III</b>		
*	Director	**
<b>James W. Rane</b>		
*	Director	**
<b>Frances E. Roper</b>		
*	Director	**
<b>Simuel Sippial</b>		
*	Director	**
<b>Edward V. Welch</b>		

\* The undersigned, acting pursuant to a power of attorney, has signed this Pre-Effective Amendment No. 1 to this Registration Statement on Form S-3 for and on behalf of the persons indicated above as such persons true and lawful, attorney-in-fact and in their names, places and stead, in the capacities indicated above and on the date indicated below.

/s/ W. FLAKE OAKLEY

W. Flake Oakley,

Attorney-in-Fact

\*\* Date: November 12, 2004.