

TO: Clients and Friends of the Firm
FR: Frishberg & Partners
RE: Acquisition of a Ukrainian Bank

The Orange Revolution significantly increased international financiers' interests in Ukraine. This is not surprising, as Ukraine boasts a size and population comparable to France with developed industry, rich natural resources, a reasonably developed infrastructure and an educated workforce. These factors give Ukraine vast potential and reserves for long-term economic growth. In fact, according to the market research of Raiffeisenbank, whose subsidiary bank became one of the largest banks in Ukraine after its acquisition of Bank "Aval", the financial market of Ukraine is only 23% developed. Therefore, any financial institution that comes to Ukraine and introduces western standards will enjoy a vast potential for growth.

More and more foreign bankers, insurers and investors are showing interest in Ukraine's existing financial institutions and in creating new subsidiaries. As a consequence, increasingly more transactions involve the acquisition of Ukrainian banks by foreign investors. For instance, the Polish bank "Pekao" acquired the Ukrainian subsidiary bank of Societe Generale; Raiffeisenbank acquired Bank "Aval"; Swedish "SEB" acquired a stake in Bank "Azhib"; BNP Paribas (France) purchased a 51% stake in Ukrsibbank; and Banca Intesa (Italy) purchased over 85% in Ukrsotsbank. Russian bankers are especially active on the Ukrainian market, as evidenced by the fact that the Alfa Group, the National Reserve Bank and Vneshtorgbank have already established full-fledged Ukrainian banks.

Notably, the interest in acquiring Ukrainian financial institutions is due to two main factors. First, Ukrainian financial institutions are usually undercapitalized. Therefore, they do not cost as much as analogous institutions on Western markets. Second, stiff political competition exists between two ruling political ideologies, and the more liberal of such ideologies will most likely prevail. As a consequence, the economy will experience significant liberalization which, in turn, will lead to a huge growth of the Ukrainian financial market. Hence, everything that is being created and acquired today will have a considerably higher price tomorrow due to the liberalization of the economy.

In 2005 Ukraine acquired the status of a country with a market economy and is currently preparing to join the World Trade Organization, which will lead to further liberalization of the economy and international trade. Understandably, the real financial players do not want to lose their "Ukrainian jackpot" and, therefore, we frequently see entire Western delegations of Western financial analysts coming to Ukraine over the last two years. While only lucky winners can hit the real jackpot in this

little casino, all of those who invest in Ukraine can multiply their riches merely at the expense of economic growth.

The surprisingly developed legislation in Ukraine permits foreign banks to freely work on the market. The Law “On Banking and Banking Activity” (the “Banking Law”) was one of the first laws passed in independent Ukraine and was subject to a complete make-over in 2000. Together with the Laws of Ukraine “On the National Bank of Ukraine” and “On Economic Associations”, the Civil and Economic Codes, and other supporting legislation, the Banking Law comprises an advanced and well-adapted legal tool, which permits the acquisition of Ukrainian banks and facilitates successful banking activity on the territory of Ukraine.

Under Ukrainian legislation, the National Bank of Ukraine (“NBU”) is the main state body, which grants preliminary permission to register newly-created banks with foreign investment. The NBU also grants preliminary permission to foreign investors to acquire shares of stock in active resident Ukrainian banks. The NBU is the only authority which carries out the state registration of resident Ukrainian banks, including those with foreign investment, grants preliminary permission to foreign investors to create banks and/or acquire shares of stock in existing Ukrainian banks and, in parallel with the Antimonopoly Committee of Ukraine, grants permission to acquire majority shares in Ukrainian banks (10% and higher).

A bank will be deemed registered and acquire the status of a legal entity only after the NBU introduces a newly established commercial bank into the State Bank Register of Ukraine. Banks may be created in the form of open joint stock or limited liability companies or cooperative banks. The minimum amount of participants (shareholders) of a cooperative bank may be no less than 50 shareholders, each of which has the right to one vote regardless of their percentage of participation in such bank’s capital.

Banks are further separated into two types: specialized and universal banks. Specialized banks may specialize in savings, investment, mortgage and settlement-clearing relations. A bank is considered specialized if no less than 50% of its assets are of one type. For example, in an investment bank, no less than half of its assets must be formed from the issuance and circulation of securities, which is carried out at the expense of private investors. In a mortgage bank, the majority of assets must be allocated under a pledge of land or real property. In a settlement-clearing bank, the majority of assets must be allocated to clearing accounts.

The shareholders or participants of a bank may be natural persons or legal entities, residents or non-residents, provided that legal entities are not affiliated structures, associations of citizens, or religious and charitable organizations.

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