



TO: Clients and Friends of the Firm  
FR: Frishberg & Partners  
RE: Ukrainian Investment Climate

At last, foreign investors have realized that their economic gains in Ukraine can be enormous. A brief summary of business activities, immediately below, will attest to the level of new-found interest in Ukraine, which is arguably one of the top emerging markets in the world. At the same time, doing business in Ukraine is not exactly a rose garden. Thus, we will also give you a summary of the bad news.

### **I. The Good News: Ukrainian M&A Report**

Many large Western companies have been operating in Ukraine for years, and only recently have decided to drastically increase their investment. For instance, in 2007 **McDonalds** is investing \$7 million into 4 new restaurants in Kyiv, Odessa, Kharkiv and Kriyvyy Rih, in addition to their 57 other establishments. Swiss-based **Nestle**, who started doing business in Ukraine in 1994, will invest \$50 million into a new greenfield ketchup and sauce production in Volyn region in addition to their Svitoch chocolate factory, acquired in 1998. The US company, **Archer Daniels Midland**, bought from Risoil S.A. (Switzerland) 100% stock in Illichevsk Oil Extraction Factory in the Odessa region, consolidating full control over one of the world's top three producers of unrefined sunflower oil.

Besides their two production facilities in Kyiv and Dnipropetrovsk, Finland-based **Ruukki Corporation** will launch a new plant 20 kilometers outside Kyiv that will manufacture roofing products. French automaker, **Citroen**, plans to build its assembly line in the Brovary region on a 27 hectare parcel of land, while Germany's **Knauf** will launch its thermal insulation plant in the Kyiv region, followed by plasterboard and construction mix facilities, a total of \$250 million in investment. Their main competitor in Ukraine is the French construction materials giant, **Lafarge**, who owns Mykolayiv Cement Factory in addition to their new facility in Donetsk.

In addition to the above "old-timers", all sorts of newcomers are busy setting up production in Ukraine. On June 26, 2007, France's **Orangina Group** (Europe's third largest soft-drink manufacturer) announced that it acquired Rosynka, a leading Ukrainian non-alcoholic beverage maker. Just a few weeks earlier, on June 7, 2007, **PepsiCo** and **PepsiAmericas, Inc.** announced a joint purchase of 60% of Sandora LLC, Ukraine's top juice maker for \$542 million (with additional 20% to be purchased by November, 2007), thereby outbidding Coca-Cola. And two competing French-based dairy giants, **Danone Group** and **Bel Broup** entered the Ukrainian

market within 7 months (in September 2006 Shostka City Milk Plant in Sumy region and Rodych Dairy Plant in Kherson in April 2007, respectively). The competition is increasing, and fast.

Last, but not least, for posterity we must note the invasion of European banking groups, which has caused a flurry of M&A activity. It started in 2005, when Austria's **Raiffeisen** paid \$1 billion to acquire 99% of Bank Aval. In the same year, **Skandinaviska Enskilda Banken (SEB)** acquired over a 98% controlling share in Bank Azhio (the bank's name was officially changed to SEB on May 24, 2006) and France's **BNP Paribas** paid hundreds of millions for a 51% share of UkrSibBank. And, on July 5, 2007, Italy's **UniCredit Group** paid \$2.07 billion to Victor Pinchuk's Interpipe Group for an approximate 95% stake in UkrSotsBank. Finally on September 18, 2007, information became public regarding German-based **Commerzbank's** acquisition of just over a 60 percent stake in privately-owned Forum bank, paying \$600 million. Commerzbank also secured an option to acquire a further 25 percent stake in Forum bank after 36 months. Forum bank is Ukraine's 10<sup>th</sup> largest bank in terms of assets.

A number of smaller transactions took place in 2006: Austria's **Erste** bought Kiev-based Prestige bank for \$104 million, France's **Credit Agricole** purchased 100% in Kiev-based Indeks-bank for \$260 million, Swedbank of Sweden bought TAS-Kommerzbank for nearly \$1 billion, Greece's **EFT Eurobank Ergasias** purchased 99.3% of Lviv-based Universalny bank for about \$43 million and **Alpha Bank** wants to buy two medium-sized banks for a total of \$500 million. In 2007, **Piraeus Bank** of Greece purchased a 99.6 percent stake in the medium-sized International Commercial Bank for \$75.3 million. By 2008, more than a half of Ukraine's banking industry is expected to be foreign-owned. At present time, 30 percent of the bank market share is owned by foreign banking groups, up from 10 percent only a few years ago. Experts expect foreign banking groups to target even more of Ukraine's top 10 banks in the near future, nearly half of which are already owned by foreign shareholders.

Note that all of the above investments took place during the time of escalating political crisis, with protestors waving multi-colored flags on the streets of Kiev, obstructing traffic for months. This suggests that notwithstanding the unstable political situation in Ukraine international investors are highly confident in Ukrainian business and will continue to make investments in the future.

## II. The Bad News

### A. Changes in Corporate Legislation and Minority Shareholders Rights

The bad news is that the M&A market remains largely unregulated and applicable legislation ignores almost all of the vital issues, granting almost no protection to minority shareholders

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