


# Ukraine's \$11.4 billion bank robbery



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# Editors' Note

## Ukraine's great bank robbers

Clearly, we at the Kyiv Post have been sleeping all these years because we keep missing our chances to get rich in Ukraine. The nation's now-disgraced – but wealthy and unpunished – former bankers could have shown us the way. Some of them mastered the art of stealing at least three times from Ukrainians as they amassed, in some cases, billion-dollar fortunes.

The first theft came when they opened a bank (requiring no disclosure of ownership before 2014), took deposits from an unsuspecting public, sometimes promising exorbitantly high interest rates. They then lent the deposits to themselves or their friends or their companies, with no intention of repaying.

The second theft came when the shell game could no longer be sustained and the bank collapsed. So they robbed the Ukrainian taxpayers, who have had to fork over \$3 billion and counting to guarantee the insured deposits of individuals (up to a legal maximum of Hr 200,000 or \$8,000 per person).

The third theft came when some of these bank owners, until earlier this year, were able to buy confiscated assets on the cheap from failed banks in rigged, unpublicized and uncompetitive auctions.

In America's bank-robbing gangster era of the 1930s, John Dillinger, Bonnie & Clyde, Alvin Karpis, Pretty Boy Floyd, Baby Face Nelson and "Slick" Willie Sutton cleaned out bank after bank, often violently.

Financially, however, these Americans were amateurish pikers compared to the likes of Ukraine's great bank robbers of the early 21st century: Andriy and Serhiy Klyuyev, Dmytro Firtash, Viktor Polishchuk, Mykola Lagun, Kostyantyn Zhevago, Serhiy Kurchenko and Leonid Klimov. The list is likely to grow.

These and others managed to wreck Ukraine's banking system and rack up \$11.4 billion in losses for a nation that teetered on the edge of bankruptcy as the looting came to light after the EuroMaidan Revolution in 2014. →29

All of our contacts are available online at <http://www.kyivpost.com/contacts/>

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The losses are still being added up, but \$11.4 billion has been looted from Ukraine's banks, with bank failures accelerating since 2014. In all, 77 of 180 banks have been declared insolvent or are under temporary administration in the last three years. More will likely go under this year. (123rf.com)



National Bank of  
Ukraine Governor  
Valeria Gontareva  
speaks with the Kyiv  
Post on June 21.  
(Volodymyr Petrov)

# Governor Gontareva says that corrupt legal system is biggest obstacle to fighting bank fraud

By **Brian Bonner**  
bonner@kyivpost.com

About \$11.4 billion has been looted from Ukraine's banks in recent years and Ukrainians, directly and indirectly, will be paying for the grand-scale theft for years to come.

What makes the crimes even more maddening are that the bank robbers are, for the most part, known to the authorities.

Yet no one has been convicted, let alone prosecuted, for bank fraud, and less than 10 percent of the total losses are likely to be recovered.

The \$11.4 billion figure is made up of three parts, estimated by the National Bank of Ukraine and Deposit Guarantee Fund:

1. \$3 billion paid out to insured depositors;
2. \$5.2 billion in uninsured losses; and
3. \$3.2 billion in loans still owed to the central bank.

The staggering sum is more than 10 percent of the nation's expected total economic output this year of \$100 billion.

## 'Absolutely frustrated'

"As you mentioned correctly: absolutely no prosecution, or any court hearings about all this fraud - everything is documented and sent to our police, to our prosecutor's office," National Bank of Ukraine Governor Valeria Gontareva told the Kyiv Post in a June 21 interview. "We did our job properly. We sent these banks for liquidation. The Deposit Guarantee Fund sent more than 2,000 requests for our prosecutors and police."

About the lack of results, Gontareva said, "we are absolutely frustrated about that. For us it's a more frustrating picture than for all of our citizens because we did our job properly. We documented it properly."

She scoffed at claims of prosecutors who, when asked to explain their inactivity, questioned the strength of the evidence of bank fraud supplied by the two major players: the central bank, which regulates the industry and declares banks insolvent, and the state-financed Deposit Guarantee Fund, which liquidates insolvent banks and

repays individual depositors up to Hr 200,000 (\$8,000) in state-insured losses.

"Top quality is our quality," Gontareva said. "Everything is documented; 70 percent or 80 percent of cases are just simple fraud or money laundering. You do not need any high-quality forensic professionals. We've already documented all this fraud and money laundering. We could not send banks to the Deposit Guarantee Fund for liquidation or for resolution without any proof of wrongdoing."

She said that more than 90 percent of loan portfolios in many failed banks simply involved insider lending schemes.

### Corrupt courts

In the end, Gontareva said, nothing will improve substantially in Ukraine without rule of law – including independent, effective and honest police, prosecutors and judges.

"Everybody should start from the court system," Gontareva said. "If the court will not be corrupted, all prosecution and police will start to transform themselves."

But as for her role in this transformation, "it's not absolutely not my responsibility, not my mandate," Gontareva said.

She doesn't favor the appointment of a special anti-prosecutor or legal team for bank-fraud issues and recovery of assets. She also doesn't favor making a public registry of all bad loans in Ukraine, even in state-owned banks.

"Like a regulator, I believe that bank secrecy should be there," she said.

### Deadbeat borrowers

When claims for repayment of bad debt are made in court, as the central bank has done, the information becomes public. It is not only Ukraine's remaining 103 banks that are infected with non-performing loans, or deadbeat borrowers.

So is the central bank.

When she took over as NBU governor in 2014, she inherited a stock of Hr 110 billion (now \$4.4 billion) in unpaid refinancing loans issued to bankers stretching out over many years, not just during Viktor Yanukovich's 2010-2014 presidency.

"The biggest part of this portfolio is the legacy of 2008," Gontareva said. She said Hr 77 billion (\$3.1 billion) of the total in unpaid refinancing loans were issued before Yanukovich came to power.

"You can find to whom you like to blame from this period," she said.

That's easy enough to do. At that time, Viktor Yushchenko was president, Yulia Tymoshenko was prime minister, Volodymyr Stelmakh was central bank governor and President Petro Poroshenko was a member of the central bank's board of directors.

Through steady repayments, however, the total has been whittled down by Hr 29 billion (\$1.1 billion – and now stands at Hr 81 billion (\$3.2 billion).

"We estimate the recovery ratio will also be about 30 percent," Gontareva said. Gontareva created a special division to recover non-performing loans due the central bank.

### Firtash owes Hr 12 billion

Who are the leading deadbeats? More than 50 percent of the remaining amount owed is from five former bankers:



**By Igor Dykunsyy, LL.M.**

Partner at DLF attorneys-at-law

## Peculiarities of drugs advertising

For the last couple of years the Ukrainian Parliament and Government are constantly making efforts to simplify regulations for import and certification of drugs on the territory of Ukraine. The latest development is adoption of the law on simplification of state registration of drugs, which have been already registered with the competent authority of the USA, Switzerland, Japan, Australia, Canada or the EU. This law was signed by the President of Ukraine on 16 June 2016.

However, the importers/manufacturers of drugs are fully aware that certification of drugs is one issue whilst the question of their distribution at the new market is quite different. Given the fact of Ukrainian strict advertising rules, advertising of drugs should be carefully crafted and structured.

### Liability

Failure to comply with the legislative requirements for advertising of drugs results in disciplinary, civil, administrative and criminal responsibility according to the law. Thus, a fine in the amount of five times the value of advertising is imposed.

In the last couple of years Ukraine experienced cases when breach of advertising regulations resulted in severe fines for pharmaceutical companies in the amount of several millions hryvnias, including due to breach of antimonopoly legislation. Therefore, it is strongly advised to undergo legal examination of the content of drug advertisement before its official publication.

### Definition of a drug

Pursuant to the Law of Ukraine "On drugs", a drug is defined as any substance or combination of substances (one or more APIs and excipients), which has the qualities and is intended for the treatment or prevention of human diseases, or any substance or combination of substances (one or more APIs and excipients), which can be designed to prevent pregnancy, restore, correct or change physiological functions of human beings through pharmacological, immunological or metabolic action, or for medical diagnosis.

### Pre-requisites for drug advertisement

Manufacturing of drugs and their distribution in Ukraine require a special licence. Thus, failure of the manufacturer, importer or supplier (as the case might be) to obtain a licence results in prohibition to advertise such drug. The same prohibition applies in the event such licence was suspended or annulled.

Furthermore, some specific provisions apply to advertisement of drugs as provided by the Law of Ukraine "On advertising" pursuant to which advertising of drugs is only possible if such drugs are:

- permitted for use in the territory of Ukraine by the Ministry of Health of Ukraine;
- permitted for use without the doctor's prescription;
- not included into the list of drugs prohibited for advertising maintained by the Ministry of Health of Ukraine. Such list is accessible through the official register of drugs in Ukraine.

### Requirements for drug advertisement

In the advertisements the following requirements should be followed:

- objective information about a drug to be made in such a manner so that it is clearly understandable that this is an advertisement and the advertised product is a drug;
- requirement to consult a doctor before any use of the drug;
- recommendation for the mandatory familiarization with instructions on the drug;
- disclaimer as follows: "Self-medication could be harmful to your health", which takes at least 15 percent of the area (length) of all advertisement.

Furthermore, Ukrainian legislation is rich on the type of information, which should be avoided in drug advertisements, such as that can give the impression that drug use does not require expert consultation or that the therapeutic effect following use of a drug is guaranteed, etc. However, the abovementioned restrictions do not apply if the drug is advertised in specialized publications intended for healthcare institutions and doctors, and/or which are distributed at seminars, conferences, symposia on medical topics.



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**1** Billionaire Dmytro Firtash, the fugitive oligarch who used to own the now-defunct Nadra Bank, owes Hr 12 billion (now \$482 million). (Considering the loans were taken out in 2008-2009, they might have been worth \$2 billion, since the hryvnia/dollar exchange rate was 5:1 throughout most of 2008.)

**2** Mykola Lagun, owner of the defunct Delta Bank, owes Hr 9 billion (\$360 million).

**3** Oleg Bakhmatyuk, owner of the defunct VAB bank, owes Hr 10 billion (\$400 million).

**4** Kostyantyn Zhevago, owner of the defunct Finance & Credit Bank, owes Hr 5 billion (\$200 million); and

**5** Leonid Kliimov, a member of parliament and owner of the defunct Imexbank, owes Hr 3 billion (\$120 million).

Ukraine's central bank has gone to court against Bakhmatyuk, Zhevago and Klimov, an independent lawmaker who used to belong to Yanukovich's Party of Regions. All three men gave personal guarantees for the loans, Gontareva said, and the central bank won a court judgment against Bakhmatyuk. But he is appealing.

Forensic audits have recently been done on Nadra and Delta banks, but the findings are not public.

## Revamping, regulating

Despite the shortcomings of the legal system – allowing remorseless impunity to continue – and a lagging recovery process, Gontareva is

## The Great Bank Robbery of Ukraine

**Hr 74 billion**  
(\$3 billion)

### Insured losses

This is the amount the taxpayer-financed Deposit Guarantee Fund has paid out to individuals who lost their money in liquidated banks since 2014. The maximum individual payout is Hr 200,000 or \$8,000.

**Hr 130 billion**  
(\$5.2 billion)

### Uninsured losses

The number from the Deposit Guarantee Fund comes from an accepted creditors claim registry, filed by uninsured depositors (over Hr 200,000 in losses), corporate entities, etc. These non-insured deposits will be paid out from proceeds received from the sales of assets of failed banks. Payouts are made according to priorities set out by law. As of June 1, there is an approved registry for 57 liquidated banks. Uninsured individual depositors claimed Hr 33 billion and corporates claimed Hr 97 billion.

**Hr 81 billion**  
(\$3.2 billion)

### Unrepaid refinancing loans

This is the amount of money that bankers or former bankers owe the National Bank of Ukraine for refinancing loans from the central bank, dating back at least to 2008, when Viktor Yushchenko was president.

**Hr 285 billion**  
(\$11.4 billion)+

### Total losses

The losses are likely to grow as more banks are liquidated and more claims for financial losses are filed. The bank losses amount to more than 10 percent of Ukraine's expected gross domestic product in 2016. The actual dollar value of the losses is higher, since some of the unpaid loans were taken out when the exchange rate was Hr 5/\$1. Now the rate is Hr 25/\$1.

Source: National Bank of Ukraine, Deposit Guarantee Fund of Ukraine.

convinced that the future will be brighter with tougher regulation to prevent bank fraud and related-party lending.

This has been accomplished by changing the law in three ways:

**1** Requiring transparency in bank ownership and shareholders in banks;

**2** Rigorous monitoring of related parties of those owners and shareholders; and

**3** Legal responsibility of bank shareholders and managers for criminal wrongdoing.

"Two years ago absolutely nobody understood related parties and how to recognize them," Gontareva lamented.

"We now know all the related parties for the biggest 20 banks, their lending portfolio, they've disclosed 100 percent of shareholders. It's the main priority for this year – to set up proper monitoring, forward-looking risk-based supervision. We truly believe that will turn this banking sector around and even revamp the sector. We would like all these changes to be irreversible."

Financial experts define risk-based supervision as an approach that devotes most of its time and resources on the biggest and riskiest institutions, rather than compliance-based supervision, described as an outdated approach where all the banks are treated equally and in line with pre-approved rules and procedures.

## Only 20 banks will be left standing?

The Ukrainian banking sector of the future might have as few as 20 banks, which now constitute 88 percent of the industry's assets. The next 20 banks account for only 8 more percentage points of the market.

In other words, Gontareva said, the top 40 existing banks account for 96 percent of the market.

So, when the shakeout is complete, Ukraine could possibly go from 180 banks in 2014 to no more than 20-40 banks. This means at least another 60 banks could fail in the coming year.

Unless one of those banks is Privatbank, which is by far the largest bank in Ukraine with more than 20 percent of all banking assets, the harm to Ukraine's financial system is likely to be minor.

## Privatbank's special case

Privatbank and its billionaire owner, Igor Kolomoisky, is a touchy subject for Gontareva. Simply bringing up his name constituted a "provocation" during the Kyiv Post interview. She did not speak of him by name and insisted that Privatbank is treated no differently than any other bank in the nation, which seems to be at odds with the risk-based regulatory approach.

Many people are skeptical that Privatbank is treated the same as any other bank. Its failure, some think, would destroy Ukraine's banking system. Others note Kolomoisky's political and business clout – including ownership stakes in Ukraine International Airlines and Ukrnafta, the state oil producer – as well as his willingness to wield power, backed by at least two dozen loyal members of parliament.

But Gontareva said Privatbank's issues are manageable.

"It's only how you organize a proper process of recapitalization and repayment of related party loans. If the shareholder is willing to do that, we will succeed with it," Gontareva said. "We have a program. This program is signed and stamped. They will be in line with all other banking requirements. It's not only a program for Privatbank."

Under the terms of the International Monetary Fund's four-year

lending program to Ukraine, ending in 2018, functioning banks have four years to recapitalize and repay related-party loans, Gontareva said.

She doesn't want to talk about specifics, however.

"I will not disclose any related-party loan portfolio of any banks in our countries," Gontareva said, leaving it up to the public to simply have faith that the central bank is solving the problem.

## Touchy subjects

Gontareva also tires of fielding questions about her work at Investment Capital Ukraine financial group, which she headed from 2007 to 2014, and her ties to Poroshenko, who chose ICU as his financial manager for arranging the sale of his confectionary corporation Roshen through a network of offshore companies after his 2014 election.

One allegation she debunked is whether ICU under her leadership improperly profited on the domestic bond market at the expense of the state taxpayers, as some documents circulating publicly purport to show.

"Everything that was written in this letter was false...It's just an insinuation," Gontareva said. "We didn't even trade any securities with banks. We did only public auctions...ICU is the biggest trader of securities in this country. ICU was 10 years the biggest one and still the biggest one. I am happy for that. Because I started the organization with my partners. Before ICU, I was the biggest trader of treasury bills and bonds in 1996 in Societe Generale Ukraine. After I joined ING Bank, ING was the No. 1 securities trader. And ICU was the biggest trader - of course, ICU, 90 percent of their deals are linked to treasury bills and bonds. It is the biggest trader and broker and dealer of securities."

Under her tenure, ICU had the "top position" and "everything was No. 1" - in treasury bills, managing assets and in research, she said.

## ICU, Poroshenko's offshore firms

The Organized Crime and Corruption Reporting Project and Slidstvo, a Ukrainian investigative reporting group, on May 20 reported that nearly €4 million was moved out of Ukraine to a Poroshenko company in Cyprus.

The transaction, the Kyiv Post partner OCCRP reported, involved a combination of cash and in-kind payments. The cash payment would have violated the central bank's currency control regulations in place at the time unless the Poroshenko company had a National Bank of Ukraine license for the transaction, which it did not.

"We didn't issue any license because it was not any operation that needed a license," Gontareva said. "We already publicly announced all of that. It's not news." Her explanation is consistent with the president's disputed position that no currency was transferred abroad.

On another matter involving her time at ICU, OCCRP reported earlier this year that Yuri Soloviev, an official from the Russian-owned VTB bank, issued a 3 percent interest, \$10 million offshore loan to her company six months before she took over as Ukraine's top regulator. OCCRP also reported that the wife of the VTB official appears to have been Gontareva's business partner. Specifically, OCCRP reported that in December 2013, an offshore company called Quillas Equities S.A., owned by VTB's Soloviev, loaned \$10 million to another offshore, Karanto Holdings Ltd., which is connected to Ukraine's ICU - it had the same mailing address in Kyiv as ICU.

Gontareva said the loan had nothing to do with VTB and that commercial loans were a common practice in ICU's business. "Traders never work using their own capital because their capital is limited," she said.



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## Top 10 payouts from Deposit Guarantee Fund

	Amount (million, \$)	Owner of bank	Date of temporary administration
 Delta Bank	622	Mykola Lagun 	March 3, 2015
 Finances and Credit Bank	394	Kostyantyn Zhevago 	Sept. 17, 2015
 VAB Bank	266	Oleh Bakhmatyuk 	Nov. 21, 2014
 IMEXBANK	166	Leonid Klimov 	Jan. 27, 2015
 Nadra Bank	145	Dmytro Firtash 	Nadra Bank
 Financial Initiative	145	Oleh Bakhmatyuk 	June 23, 2015
 Forum Bank	114	Vadim Novinsky 	March 26, 2014
 Brokbusiness-bank	104	Serhiy Kurchenko 	Feb. 28, 2014
 Kyivska Rus	85	Viktor Bratko 	March 19, 2015
 Pivdenkom-bank	74	Ruslan Tsyplakov 	May 26, 2014
<b>Total of top 10 banks</b>			<b>\$2.1 billion</b>
<b>Total payouts to all insured depositors who lost money in failed banks since 2014 (up to Hr 200,000 or \$8,000 limit.)</b>			<b>\$2.8 billion</b>

Source: Deposit Guarantee Fund of Ukraine, National Bank of Ukraine.

## Delta Bank scandal

There have been numerous reports of millions of dollars in money and assets being transferred out of several banks ahead of being declared insolvent by the central bank and on its way to liquidation by the state-financed Deposit Guarantee Fund.

Among the allegations is that her son, Anton, withdrew Hr 800,000 and her daughter-in-law even more money from Delta Bank after the central bank identified it as a problem institution. Gontareva responded bluntly: "Why should I discuss with you insinuation and bullshit?"

However, at worst, the transactions involving some failed banks suggest insider information allowed bank fraud and asset stripping. Consequently, the thefts increased financial losses for taxpayers who have to bail out depositors who lose their savings in failed banks, guaranteed by the state to a maximum of Hr 200,000 (\$8,000).

At best, the transfers show that a dangerous delay and regulatory gaps exist in the process that prevents regulators from freezing transactions in a timely way.

"The NBU needs more legal tools to be able to deal with some of these issues more quickly," said Qiamio Fan, the World Bank country director for Ukraine, Belarus and Moldova told the Kyiv Post. "From the time they identify a bank as problem to the point it's declared insolvent, it takes too much time."

## Defends system in place

But Gontareva doesn't see a problem, including with the failed Bank Mikhailovsky. "They decided to do a fraud and we caught them and sent them to liquidation," Gontareva said. She said that Mikhailovsky's owner and CEO, Viktor Polishchuk and Igor Doroshenko, respectively, fraudulently added Hr 1.1 billion (\$44 million) to the balance sheet, evidently in an attempt to gain more state Deposit Guarantee Fund payouts for clients who lost their money.

The NBU "did not accept the balance sheet. We will not accept the balance sheet. We sent the claims to the police."

Critics, however, note that the central bank put the bank under supervision in December, mysteriously lifted restrictions on transactions before the declared insolvency in March and that an attempt to change the bank ownership was registered in May, ostensibly to remove Polishchuk from criminal liability.

But the NBU press service said that "nothing cancels Polishchuk's responsibility for Mikhailovsky."

Depositors, meanwhile, say they were duped by the bank into transferring their money into a related investment company and deserve to have their losses covered by the state fund.

Gontareva and Deposit Guarantee Fund head disagree.

"I even publicly announced the sentence should be five years (in prison) for each of them," Gontareva said of Polishchuk and Doroshenko. "What else should I do? Maybe I should kill them or what?"

Whatever happened, considering that 2,000 cases of suspected bank fraud have been referred to police and prosecutors with no result since 2014, there is no reason now to think that the criminal justice system will start working on the Bank Mikhailovsky case.

## Central bank credibility

When asked whether the failure to prosecute any bank fraud undermines the central bank's regulatory powers, Gontareva said the



credibility of the institution she leads will be judged in other ways.

"Our credibility is more on the territory of fighting with inflation, a new monetary policy...a clean-up of the banking sector," she said. "We are ahead of a lot of our peers in the world right now. We are like a role model for other central bankers on how to clean up the banking sector."

She doesn't expect that future losses will be high because, after asset-quality evaluations and stress tests, "we know what's going on in the top 20 banks that are 88 percent of the banking system. I am really proud we know what's going on."

Many of the groundless attacks against her and the central bank, she said, come from oligarch-owned media.

"Because of all this tough fight with oligarchs and all the mass media in their hands, you cannot expect anything good on TV and the press," Gontareva said. "But in the international community and among bankers here, we have very high credibility."

### IMF lending

Gontareva said the prospect of reduced IMF lending or a slower payout in 2016 should not affect the central bank's goals, including lowering of interest rates and relaxation of hard currency restrictions designed to help protect the value of the hryvnia – the national currency that has lost two-thirds of its value since 2014.

"It's not a big deal for us," she said of reports that the IMF in July will approve only a \$1 billion loan installment instead of the planned \$1.7 billion. The IMF's thinking appears to be to delay until greater progress is made by Ukraine in the anti-corruption drive.

### Russian banks

She also sees no reason why, despite Russia's war against Ukraine now in its third year, Ukraine should exclude Russian-owned banks, with 15 percent of the banking market, from doing business in Ukraine.

The top three Russian-owned banks are Sberbank, VTB and Prominvest.

One argument undermining Ukraine's call for tougher sanctions on Russia from Western governments is the continuing business done between Ukraine and Russia. Critics note that Ukraine was slow to formally adopt trade and other sanctions against Russia, and that it took a blockade by activists last year to stop commerce between the Ukrainian mainland and Russian-occupied Crimea. Moreover, Poroshenko keeps doing business in Russia with his Roshen confectionary subsidiary.

### Gontareva doesn't see the problem.

"VTB is facing very specific sanctions. It doesn't prohibit them from operating locally. They have their correspondent accounts in the USA and Europe. The prohibitions prevent them from borrowing on the international markets more than 90 days," Gontareva said. "To prevent financial instability, we treat them equally with all other banks. Of course, we are regulators, not political animals here. If our security council decides these banks should not be on our territory, we will react accordingly." ■



### Peter Z. Teluk

Managing Partner, Squire Patton Boggs Ukraine Head, Squire Patton Boggs-Salkom International Association

## GlobalStart: Globalizing Technology Companies

Technology continues to be one of the biggest and fastest growing sectors driving the global business revolution. It spans continents, removes borders, crosses time zones and through continued innovation it challenges thinking and shapes future industry direction.

Following on from 2014's busy year in technology, which included Facebook's US\$16bn acquisition of instant messenger app WhatsApp and the record IPO of Chinese e-commerce giant Alibaba among its most notable deals, we continue observing a further surge in the volume and value of deals completed in the sector. Over the last two years our firm's corporate team alone has completed more than 60 deals for technology sector clients. Many of those matters required a cross-border, cross-practice solution, and our global footprint across Europe, Asia, the Middle East and the US allows us to provide industry-specific experience with local knowledge to clients.

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# In regulating a disaster, Gontareva brings close ties to Poroshenko

By **Olena Savchuk**  
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**V**aleria Gontareva became the first woman to lead the Ukraine's central bank two years ago, after more than 20 years in the country's financial sector.

Some in the Ukrainian media have dubbed her the "iron lady" for her radical cleanup of the banking system – 77 of 180 banks have been declared insolvent or under temporary administration since her appointment in 2014.

Her critics, however, say she merely declared the obvious – that the banks were dead and stripped of their assets by the time she arrived on the scene of the ghastly disaster.

She is faulted for being an insider close to President Petro Poroshenko who has shown no interest in determining who is criminally responsible for Ukraine's massive bank fraud.

She is hailed as fearless by her fans and as someone who does not take criticism well by her critics.

The 51-year-old governor of the National Bank of Ukraine comes from Dnipro. She dreamed of becoming a physicist and got her first university degree at Instrument Engineering Department at Kyiv Polytechnic Institute, in 1981-1987. But that career didn't pay much, so she started a career in the banking sector. She received a master's degree in economics in 1997 from Kyiv National Economic University.

In 1993, she was hired as a senior economist to the recently established Ukrainian Interbank Currency Exchange. The institution laid the foundations of the foreign exchange market after the fall of the Soviet Union. She worked there until 1996.

The following decade saw Gontareva take on increasingly senior roles at foreign banks, starting with a stint on the board of directors at the Ukrainian subsidiary of French Société Générale from 1997 to January 2001.

From there, she was appointed as first deputy CEO at Ukrainian subsidiary of Dutch bank ING.

## Managing the president's money

In December 2007, Gontareva moved from foreign banking to become CEO of Investment Capital Ukraine, an investment firm that had been founded the year before.

Under her control, the group became the biggest player on the market of asset management and trading operations in Ukraine.

In the years since, the company has become famous as the money manager of President Petro Poroshenko. Gontareva has known Poroshenko since for more than a decade when she was helping in developing his Mriya business.

"Poroshenko wasn't the biggest client of ICU," Gontareva told *Ukrainska Pravda* in a recent interview. "I think if another ICU client were to become president, there would be much more to talk about."

The firm has been mired in a number of scandals involving alleged tax evasion by Poroshenko and misconduct on the part of Gontareva herself.

Poroshenko hired ICU to sell his business assets, including Roshen confectionery, in August 2014. But in early April 2016, documents released in the Panama Papers leak revealed that ICU had set up an offshore company

**Oleg Lyashko, the leader of the Radical Party faction, showers Valeria Gontareva with money in parliament on Jan 16, 2015. (Volodymyr Petrov)**



for Poroshenko's businesses, potentially concealing them from Ukrainian tax obligations.

Another Panama Papers investigation revealed that Poroshenko moved up to 4 million euros offshore while in office, in possible violation of National Bank of Ukraine regulations. She says, however, the transaction in question did not require an NBU license -- meaning no money was transferred abroad. ICU Managing Director Makar Paseniuk, a Gontareva colleague from ING, said that the transactions occurred as part of a corporate restructuring.

In September 2013, Gontareva was also appointed as head of the supervisory committee board at ICU subsidiary Avangard Bank.

According to NBU data, as of January 2016, the bank was owned by Investment Capital Ukraine executive directors Kostyantyn Stetsenko and Paseniuk (both have 47.7 percent).

Two 10 percent stakes in the company belong to Ukraine's former Energy Minister Volodymyr Demchyshyn and incumbent director of Investment Capital Ukraine analytical department Aleksandr Valchishen.

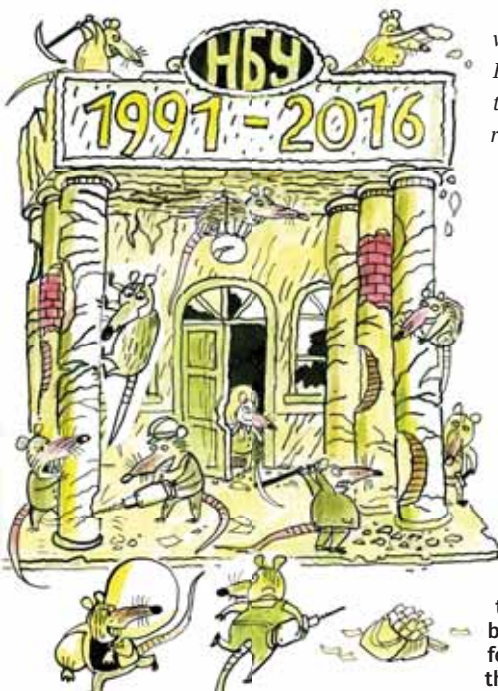
In June 2014, Gontareva left Avangard and Investment Capital Ukraine to head Ukraine's central bank at the invitation of Poroshenko. Before taking the position, she sold her 22.7 percent stake in Investment Capital Ukraine to the company.

The NBU chief has been criticized for allowing multiple banks, owned by politically connected people, to be looted before going bankrupt.

Gontareva's predecessor was Deputy Prime Minister Stepan Kubiv, who quit the post of NBU head in 2014 with the intention to pursue a political career. Gontareva's official monthly salary is Hr 163,000 (\$6,500). Married with two sons, Gontareva sports a tattoo on her shoulder that says, "Do you still love me?" A tattoo on her husband's shoulder says: "Yes, I do."

According to her 2015 declaration, she owns a Porsche Panamera (2012), Porsche Cayenne (2013), 106-square meter apartment, 250-square meter house and 900 square meters land patch. Those items she purchases before taking the NBU post.

*Kyiv Post staff writer Josh Kovensky contributed to this report. ■*



**As the NBU boasts about its banking sector reforms, Ukrainians are becoming more angered about the fact that no one has been prosecuted for stealing their deposits.**



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## Fighting for assets that got stuck in insolvent banks: legal issues

More than one year has passed since the adoption of amendments to legislation regarding tightening of personal responsibility of bank's owners and other persons recognized by the NBU as related to the bank. Some experts have declared the said changes as extremely progressive while others concluded them as only "partially" positive. However, as of the date we are not aware of any effective judgment of conviction or even court decision in civil case as a result of which any related to a bank person was recognized guilty in bankruptcy of the bank and has been recognized obliged to recover damages incurred to the bank and its creditors.

### Criminal responsibility as "know-how"

New kind of crime has been introduced to the Criminal Code of Ukraine, namely, bringing a bank to insolvency. Hence, starting from March 08, 2015, persons related to a bank (including but not limited to shareholders of the bank and its officers) became responsible for unlawful guilty acts that lead the bank to insolvency. As the result of judgment of conviction the following punishments could be applied with regard to the mentioned persons: deprivation of freedom for the term of 1-5 years, with fine in size of 85,000 – 170,000 UAH and deprivation of rights to conduct exact kind of activity for the term of not more than 3 years.

Hopefully, such kind of responsibility will serve for improving of legal culture not only of bank's owners but even of its lower management. Nevertheless, it is too soon to talk about real results from such changes. Unfortunately, Ukrainian reality shows that till the appearance of real examples for criminal liability the total quantity of law-abiding persons would not be increased significantly.

### Civil responsibility as mechanism for recovering of damages

Generally, person related to a bank shall not be responsible under the liabilities of the bank, unless otherwise provided by the bank's charter or by the law. The laws of Ukraine do not provide for unconditional liability of bank's owners in cases where the bank has been recognized insolvent. Mostly, charters of commercial banks do not contain special provisions for responsibility of its owners or officers too.

Pursuant to the applicable laws a bank's owner could be sued with a claim on recovering of damages incurred to the bank or its creditors. As per categories of plaintiffs, among them could be not only unsatisfied creditors but also the insolvent bank and even the Deposit Guarantee Fund.

The most complicated part of each civil claim is to prepare appropriate evidences of unlawful acts, amount of damages, causal connection between unlawful acts and damages and personal guilt in civil injury. Hence, filing a claim to a court on recovering of damages is not a panacea for unsatisfied creditors unless they are fully "weaponed" with respective evidences.

Court practice under claims on recovering of damages caused by bringing a bank to insolvency indicates that without determination of personal guilt in bringing a bank to insolvency, imposing the obligation to compensate damages may not be possible. As per evidencing of exact amount of damages, it is important to mention that till the approval of the bank's liquidation balance and while the process of liquidation is not completed, it is virtually impossible to establish the existence of damages clearly.



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# How to stop bank robbers in Ukraine



Daria Kaleniuk

**On** June 21, prosecutors conducted searches in the house of Andriy Klyuyev, the former head of Security and Defense Council and close ally of ex-President Viktor Yanukovich.

Klyuyev is suspected of organizing violent police crackdowns against protesters during the EuroMaidan Revolution that ousted Yanukovich on Feb. 22, 2014.

The search happened two years and three months after the investigation against Klyuyev started in Ukraine and the European Union imposed sanctions against Klyuyev brothers.

Not surprisingly the searches didn't lead investigators to any credible evidence.

What exactly prosecutors tried to find in the abandoned house of Klyuyev, two years after his escape from Ukraine, is not clear.

But it is clear that the General Prosecutor's office fails to understand and collect even publicly available evidence of grand bank robbery conducted by Andriy and Serhiy Klyuyev, who jointly embezzled billions of hryvnias from two state-owned banks in Ukraine.

As of Dec. 31, 2015, Andriy and Serhiy Klyuyev owe to state-owned Oshchadbank and Ukreximbank about Hr 15 billion (\$600 million) and Hr 7.3 billion (\$292 million), respectively.

These are loans a set of companies ultimately controlled by Klyuyev brothers took in 2006 and from 2009 – 2012 to develop solar energy plants in Ukraine.

During the last two years, state banks have been desperately trying to collect these loans through commercial court proceedings, but have failed to recover anything as most of the Klyuyev's companies that received funds are already bankrupt and have no assets to repay.

And prosecutors are not backing state banks with evidence, which they had to collect through the course of criminal investigation over the economic crimes of Klyuyev brothers.

It is important to note that, other than the Klyuyev brothers, the two big state banks were crediting an impressive list of both former and current influential businessmen with close ties to politics (Yuriy

Ivanyushchenko, Viktor Polishchuk, Sergiy Tyshchenko and others). Many of these loans will unlikely be ever repaid.

In the meantime, in January 2015, Oshchadbank and Ukreximbank declared jointly Hr 16.4 billion (\$656 million) in losses, becoming two of the five worst performing banks of the country.

These banks are systemic and authorities can't declare them insolvent, as this would cause default of the entire financial and banking sector of Ukraine.

The next \$1 billion International Monetary Fund loan tranche expected in July will likely be used to back up Oshchadbank and Ukreximbank to prevent their collapse.

Another 77 Ukrainian banks, which were not too big to fail, went bankrupt within the last two years.

A reason why these institutions got in trouble is the same – funds were merely siphoned from the banks through bad loans to companies, controlled by insiders and ultimate owners of the pocket banks.

The state-financed Deposit Guarantee Fund submitted hundreds of complaints to prosecutors asking law enforcement to investigate fraud and money laundering, but not a single case end with the conviction of an owner or insider of the fleeced bank.

The losses reflected in the complaints are worth of hundreds of billions hryvnia, probably no less than half of annual budget of Ukraine.

The largest concern is who will repay these losses?

Individual depositors of the robbed banks will be repaid partly by the Deposit Guarantee Fund up to the limit of Hr 200,000 each. The fund itself borrows from the Ministry of Finance to cover the huge demand of defrauded depositors.

The Ministry of Finance, in turn, takes loans from the International Monetary Fund and other international financial institutions, which have to be repaid by Ukrainian taxpayers.

Every taxpayer in Ukraine is repaying debts of those group of insiders and owners of the banks, who ended up with funds in hands and total impunity.

Moreover, bank secrecy laws protect the perpetrators and we are not entitled even to know whose debts we are paying for and will continue to repay the next dozens of years.

## Some solutions

Ideally, smooth professional work and cooperation should be taking place among three government institutions: the Prosecutor General's Office, the National Bank of Ukraine and the Deposit Guarantee Fund.

Prosecution has to coordinate investigations across the country of hundreds of similar cases regarding insiders and owners of the banks, which were driven to bankruptcy through insider bad loans, money laundering and other fraudulent criminal conducts.

Many banks deceived Ukrainians by promising high interest rates for their deposits; in reality they used the money for their own businesses.



However, the example of Andriy and Sergiy Klyuyev loans from Oshchad and Ukrexim indicates total incapability and unwillingness of prosecutors to investigate and prosecute the most obvious and vivid cases.

Hundreds of complaints submitted by the Deposit Guarantee Fund to the Prosecutor General's Office have been sent to various other law enforcement agencies in different regions of Ukraine.

Prosecutors should ensure the professional coordination of these investigations, which are complex financial crimes. There are already some cases in the public domain revealing that prosecution of bank fraud cases ends with non-guilty verdicts. In private conversations with depositors - the victims of bank robbery -- we just hear examples how prosecutors are bribed and/or influenced to simply not investigate such criminal cases properly and effectively.

The Deposit Guarantee Fund has the right to file civil lawsuits against insiders and owners of the banks who caused financial losses to the financial institutions. Since July 2015 the law, introduced under IMF pressure, grants such a legal tool to Deposit Guarantee Fund, which in a year failed to use it even once.

For already two years, a team of asset recovery experts from a joint United Nations and World Bank STAR (Stolen Asset Recovery) initiative have proposed to help the Deposit Guarantee Fund in civil lawsuits. However, the fund claims to not have enough evidence to move ahead with cases, even though it has an entire department of investigators.

The National Bank of Ukraine has to back up prosecutors and the Deposit Guarantee Fund with information and prevent the theft of funds by insiders from more banks.

However, the recent story with bankruptcy of Bank Mikhailovsky indicates serious discrepancies in the work of national bank regulator as well.

All three state institutions, which have to work closely to recover funds and protect victims and financial interests of the country, usually blame each other in non-professionalism and poor performance.

All three institutions -- National Bank of Ukraine, Deposit Guarantee Fund and General Prosecutor's Office -- are under the political influence of President Petro Poroshenko.

Yuriy Lutsenko, recently heading the president's faction in parliament, is now the general prosecutor.

Kostyantyn Vorushylin, a former co-owner with Poroshenko of the International Investment Bank, is head of the Deposit Guarantee Fund.

Valeria Gontareva, who used to be a board member of Investment Capital Ukraine, which still provides services for Poroshenko businesses, is the governor of the National Bank of Ukraine.

So, in a situation of vicious circle of corruption, the lack of senior political will and failure of state institutions to do their jobs, there could be two parallel solutions for Ukraine now:

1. limit bank secrecy; and
2. joint international investigation team.

Public registry of loans

Loans granted by banks to clients usually are protected by bank secrecy laws.

However, there should be exceptions when the public interest overrides bank secrecy, which is not an absolute right.

The National Bank of Ukraine doesn't even need to change legislation.



**Maxim Uslysty**

Counsel, Eterna Law

## Doing Business in Ukraine — what has changed for investors?

### General Business Environment

In the first six months of 2015, Ukraine's GDP showed growth for the first time in the last two years. Both Fitch and Moody's upgraded the country's long-term sovereign credit rating. 2015 was also a landmark year for Ukraine's Transparency International rating, which was up 12 points.

In spite of outstanding political and legislative issues, Ukraine's breakthrough in reform did not go unnoticed by its Western partners. Its national market stands a good chance of high growth in 2016 due to the improved business climate and deep economic integration with global markets. Currently Ukraine is a worldwide leader in business reforms, which have enabled the state to become one of the top 30 countries rated easiest for opening and doing business.

Ukraine's economy came out of recession in the second half of 2015, although its economic condition remains generally weak. Nevertheless, there are several key factors promoting economic growth in 2016. First, external, financial and raw material markets have stabilised. Second, experts expect a softer fiscal policy, with the government deficit being likely to increase in terms of GDP from 2.3% in 2015 to 3.6% in 2016. The initial budget balance will be a positive 0.5% of GDP, and this, together with real GDP growth, will reduce the national debt.

### Current opportunities and future prospects

Ukraine remains Eastern Europe's most appealing maritime country. With a business unit in Ukraine and running sophisticated logistics processes, an investor can easily access neighbouring markets, apart from the Ukrainian marketplace. Ukraine's workforce is also well trained and low cost, while Ukraine's infrastructure is advanced.

From 2014 onwards, foreign investors and donors have been implementing various billion-dollar projects in Ukraine in various industries. The projects have mainly been implemented in the real economy. Ukraine has taken actions to ensure the transparent privatisation of state-owned property. All of the above shows that Ukraine's economy has recovered, with conditions being created for its growth due to continuous support from global financial institutions.

As for the current investment opportunities in Ukraine, industries recently showing growth should be the main focus, including energy, energy-saving technologies, agriculture, telecommunications, IT, food, pharmaceuticals, transport and infrastructure, retail trade, and defence.

### Foreign investment restrictions

#### Regulatory environment

Throughout 2015, the new members of the parliament, together with the government, introduced and implemented reforms designed to improve the national investment climate and stabilise the economy. A number of laws were adopted to ease company registration (a maximum of 24 hours to do it), optimise licencing and approval procedures, reduce the impact of government authorities on business entities, turn 22 taxes into 11 taxes, introduce an e-procurement system, strengthen investor protection, and create the council of business ombudsman to facilitate the transparency of business and increase Ukraine's investment potential.

#### Direct investment

A new investment support policy bolstered direct foreign investments in 2015. The major investors in Ukraine's economy remain Cyprus, the Netherlands, Germany, Russia, Austria, the United Kingdom and the British Virgin Islands. Among the most invested in and lucrative industries in Ukraine are infrastructure, agribusiness and IT.

#### Restrictions on foreign capital

According to the Foreign Investment Act, any investment activities or other business of foreign investors must be supported at the national scale, save for any restrictions imposed by the laws or international treaties of Ukraine. Currently, the main problematic restriction facing foreign investors is the Ukrainian Land Code, which prohibits any transfer of agricultural land to the ownership of foreign companies or individuals (although this restriction is to be lifted in 2017). Besides, bans have been placed on foreign investors investing in specific industries such as rocket launcher development or bioethanol production, and limits are imposed on the maximum shareholdings of foreigners in enterprises of strategic importance. However, as they are applied rarely, those restrictions are hardly relevant to foreign investors in practical terms.



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(L) Then presidential administration chief of staff Andriy Klyuyev, a close ally of ousted President Viktor Yanukovich, speaks on Jan. 21, 2014. (R) Lawmaker Serhiy Klyuyev, Andriy's brother, pauses at the rostrum on June 3 in parliament while urging his colleagues not to lift his immunity from prosecution. He later fled the country, as his brother did earlier. (UNIAN)



It could issue a regulation waiving banking secrecy in situations where public interest to know information is higher than a need to protect it.

NBU could set up a public registry of loans, which should contain the following information:

1. loans higher than Hr 10 million granted by state-owned banks;
2. non-performing loans of banks receiving refinancing from the NBU; and
3. non-performing loans of insolvent banks.

The right of every taxpayer in Ukraine to know whose debts we are paying for overrides bank secrecy in these circumstances. To say otherwise only protects those who fleeced the nation's banks at great public expense.

Information in the registry should contain the date of the loan's issuance, amount, name of creditor and debtor, collateral, names of loan guarantors.

Partly information about loans is already public. Specifically there is a requirement to reveal details of loans of a certain amount for companies who are members of a stock market ([smida.gov.ua](http://smida.gov.ua)).

This resource helped the Anti-Corruption Action Center to reveal the hundreds of millions in euros that Ukreximbank loaned to companies controlled by Sergiy and Andriy Klyuyev.

Another source of information about bad loans is a court registry, which reveals details of proceedings in criminal and civil cases against banks.

So part of the information about loans, especially non-performing ones, are already public and there is no reason to protect the remaining secret information.

A public registry of loans could be an amazing resource for civil society, investigative journalists and victims of bank robbery to analyze and identify persons behind the schemes.

In addition, it will be a powerful preventive tool for not allowing these persons and companies to obtain loans from banks in the future.

Such publicity is especially needed considering the incapability of law enforcement and controlling agencies to prosecute influential fraudsters.

Joint international investigation team

Many bank robbery cases in Ukraine involve Western banks and offshore shell companies.

This is how insiders and owners of insolvent banks hide their identities behind complex corporate structures.

For example, through one insider-loan scheme involving Western correspondent banks, at least 600 million euros were laundered out of

Ukraine. And this came after the EuroMaidn Revolution.

In February, the Anti-Corruption Action Centre submitted complaints to Vienna prosecutors describing Austrian Meindl bank's participation in laundering at least 200 million euros from many insolvent banks in Ukraine.

In the Klyuyev brothers cases, Cyprus company AST Activ Solar Trading received hundreds millions euros from Klyuyev's companies in Ukraine, many of which can't repay loans to state banks.

It is now obvious that the unreformed law enforcement system in Ukraine is incapable and will not do proper investigations and prosecutions of such cases, leaving enriched perpetrators and no punishment.

Therefore, a temporary joint international investigation team with a mandate to conduct criminal investigations in Ukraine over cases involving Western jurisdictions could help to fill in the absolute hole existing now within law enforcement system in Ukraine.

Western countries and their taxpayers who are giving loans and financial assistance to Ukraine to repay debts of insolvent banks should be more interested in finding out and punishing those who allegedly stolen the money.

Moreover, such an exercise could help to trace money internationally and help Ukraine to recover funds stolen in the country, instead of giving more multibillion loans, which might be stolen again.

The joint international investigative team could work closed with the fledgling National Anti-Corruption Bureau of Ukraine, the Specialized Anti-corruption Prosecutor and the Asset Recovery Office.

Jose Ugaz, head of Transparency International, in his last visit to Ukraine, recommended Ukrainian authorities to study the Guatemalan experience, where an international investigative body was able to investigate complex money laundering and corruption cases.

A similar joint investigative team, which could be a light version of the Commission of Impunity in Guatemala, could be the best ever-technical assistance that the entire international community could provide to Ukraine – and probably the most cost-effective.

*Daria Kaleniuk is executive director of the Anti-Corruption Action Centre in Kyiv. ■*

# Vorushylyn: Deadbeats should be exposed publicly; nation should hire asset-recovery prosecutors

By **Ilya Timtchenko and Brian Bonner**  
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**A**s he spoke with the Kyiv Post on June 20 at the Deposit Guarantee Fund, Kostyantyn Vorushylyn's voice was constantly interrupted by angry protesters yelling from the outside entrance of the building.

They were people whose loans have not been paid out by Bank Mikhailovsky, which was declared insolvent on March 23.

The bank's owner, Viktor Polishchuk, is accused by the National Bank of Ukraine of having stolen millions of dollars from Ukrainians using his shell company, Ekosipan. Polishchuk is the owner of a luxurious shopping mall called Gulliver in downtown Kyiv as well as Eldorado, an electronics retail chain.

But Bank Mikhailovsky is not the only bank that has aggravated the public.

So far there are 77 Ukrainian banks that are going through the liquidation process, many of which may have as little as one performing loan. Vorushylyn is responsible for liquidating the banks and returning their assets to the state budget, and to the depositors.

Because of lucrative schemes run at many of these banks, at least \$11.4 billion have disappeared from Ukrainian banks since 2014.

"It's not that this angers me – I'm furious," Vorushylyn said.

As of today, the Deposit Guarantee Fund has recovered only Hr 2 billion (\$80 million) worth of assets through sales. It paid out Hr 74 billion (nearly \$3 billion) to depositors for insured losses, but most of it was funded by taking out loans from the Finance Ministry and the National Bank of Ukraine. The money is to be paid back with an annual interest of 12 percent.

## Poor sales

As of today, the fund hasn't had to take out more money this year.

But that might change, as the fund is struggling to sell assets – mainly because of the weak judicial system, which should be punishing those responsible for deadbeat loans, and because of the highly bureaucratic processes of taking over insolvent banks.

"It's very unfortunate, but not one shareholder, not one top manager has been held responsible for the deliberate bankruptcy of their bank. This is our problem, this is our pain," Vorushylyn said. "Because of impunity, assets continue to be stolen."

## No responsibility

So far there have been almost 3,000 court cases filed where the Deposit Guarantee Fund referred to the General Prosecutor's Office and to the law enforcement authorities. Of these, only six went to trial, and not one person has been held responsible, Vorushylyn said.

This, in turn, makes it very tempting for "someone else to use the same schemes."

When asked what should be done to make sure that the asset leakage doesn't continue, Vorushylyn ducked the question.

"The question is not for me," he said.

He does, however, point to South Korea's experience, where there are two prosecutors and 15 investigators working full-time on asset recovery issues for a similar fund.

"They are quite effective in getting back assets," Vorushylyn said. He prefers this model, and says that he addressed the prosecutor's office, Interior Ministry and Security Service of Ukraine many times about the matter, but has yet to get any response.

As of now, it is very difficult to identify who is working on which exact case, as there are many investigators involved.

## 'No one to talk with'

"This is what happens: first one investigator works on a case, and then another one takes it from him, and then a third, and then documents





**State-financed Deposit Guarantee Fund head Kostyantyn Vorushylyn told the Kyiv Post on June 21 that he wants a public registry of those responsible for unpaid loans. (Anastasia Vlasova)**

get lost and technical problems appear,” Vorushylyn said. “And the process takes forever. And there is no one to talk with.”

“It’s as if everyone is... for returning the assets. No one says they are not. Everyone says that the ones who have stolen them should be held responsible. But we never have any final result.”

But one of the even more fundamental problems is that there is a general tendency for borrowers not to care about their credit history. Instead, they go to court.

“While in the whole world all borrowers are afraid of going to court, here we have borrowers that go to court for protection from the government,” Vorushylyn said.

Altogether, throughout Ukraine there are 150,000 court cases under way relating to banks that are undergoing liquidation. Surprisingly, the courts mainly find in favor of the fund. “Most of the time the judges make decisions that are balanced and correct,” Vorushylyn said. He said his fund wins 70 percent of the cases it brings.

The Deposit Guarantee Fund has also filed 170 civil cases when there is no way to open a criminal case or when there is no response coming from the general prosecutor’s office. But to do this, the fund has to hire lawyers, which is an expensive process.

Vorushylyn has constantly lobbied for the Cabinet of Ministers and parliament to change the law “to bring it back to the status when we didn’t have to pay for court fees.”

### Changing laws

But to get concrete results, changing the legislation won’t necessarily help.

Vorushylyn echoes the words of many others in Ukraine, saying that it is much more important simply to enforce already existing laws.

“Maybe the law is not fully developed, but it is not bad,” Vorushylyn said. “The law today allows us to... go after the top managers and the shareholders.”

### Public deadbeats

What does have to change in the legislation is the creation of a public list of deadbeat borrowers, so that Ukrainians can see who the crooks are and where their tax money goes.

“I personally support it,” Vorushylyn said. Officially “we have banking secrecy, but my personal opinion is that we don’t need to have any banking secrecy – banking secrecy is for a normal borrower... but for people who took away money this should be public information, so that everyone knows that they took money.”

### Poroshenko connection

Some wonder, however, whether Vorushylyn is fully independent himself.

The most vocal criticism against him is based on his former connections to Ukrainian President Petro Poroshenko’s businesses, such as working previously for the International Investment Bank, Bogdan Corporation and Mriya Bank, which now belongs to Russian-owned VTB Bank. Vorushylyn denies any conflict of interest.

“There could only be a conflict of interest if Poroshenko would be buying assets. But believe me, he is not buying anything, and his companies are not buying anything either,” Vorushylyn said.

### Looting assets

Regarding those who do steal, one of the biggest loopholes that allow banks to continue stealing assets is the long process it takes for a bank to be transferred to temporary administration, and then to be liquidated.

There is no quick-fix solution, Vorushylyn said.

“Banks systematically got ready for (liquidation). They were preparing ahead of time,” Vorushylyn said. “They knew that the life of their bank might come to an end.”

The head of the fund says that often times banks have professional lawyers and economists who prepare for the liquidation process far ahead of time. And it is still taking too long for the Deposit Guarantee Fund’s new staff members to understand the various fraud schemes.

“There is NBU surveillance, and we have our team of new people,” Vorushylyn said. “But on their side there are many more people thinking up ways to construct a system of asset extraction. And they’re not stupid people.”

Moreover, not all banks remove their assets right before the temporary administration comes in - some of them remove them much earlier.

But perhaps even a bigger problem is that the central bank’s surveillance team only has the right to observe, and not to take action on the spot when a violation is detected, according to Deposit Guarantee Fund’s head.

“The NBU must have the right and also the obligation to put in their own administration right away to replace the bank’s administration if the bank has problems,” Vorushylyn said. “The curator of the NBU can only observe, he can’t even stop any of the operations.” ■



# Vorushylyn, Poroshenko's business partner, heads up fast-growing Deposit Guarantee Fund

By **Olena Savchuk**  
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Ukrainian media have branded Kostyantyn Vorushylyn "the president's personal banker" – and for good reason. The 46-year-old has part of President Petro Poroshenko's financial and business interests for half of his life.

Vorushylyn started his professional career in Aval Bank. But in 1994,

he was hired as the first deputy CEO at joint stock commercial bank Mriya (Dream), which was founded by the Poroshenko family in 1992. In 1996, he was appointed as CEO of the institution. He left it only in 2007, when the bank was sold to Russia's VTB bank.

Right after Mriya, Vorushylyn started working at bus manufacturer Bohdan, which is linked to Poroshenko. There he was in charge of the financial and investment activities of the company until 2014.

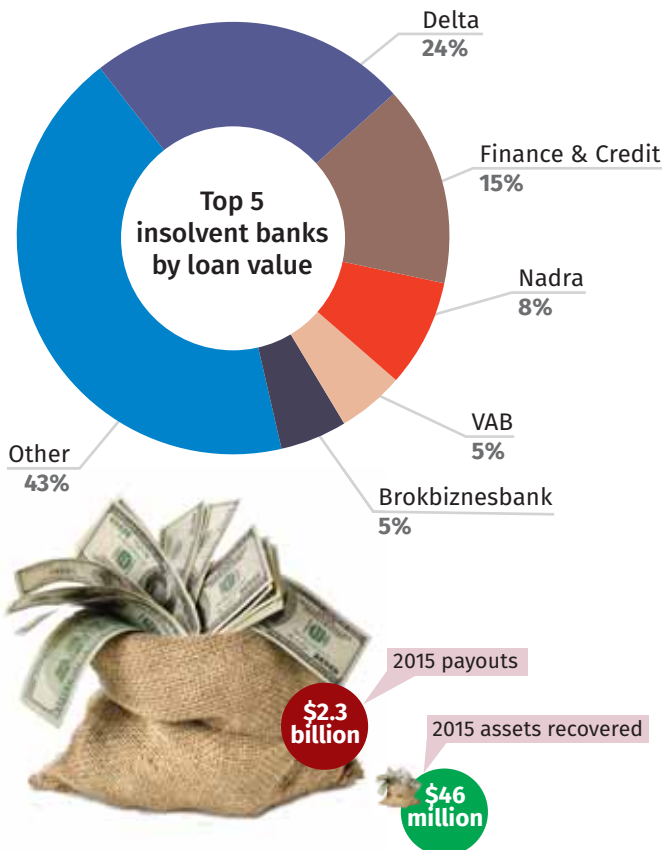
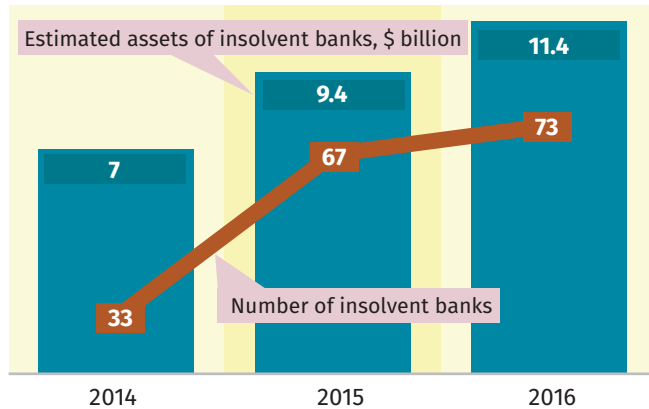
In 2008-2014 he was also head of the supervisory board at International Investment Bank, which is 60 percent owned by Poroshenko.

Among the bank's shareholders are the president's closest allies, such as lawmaker Igor Kononenko (14.94 percent) and First Deputy Secretary of Security and Defense Council Oleg Gladkovsky (9.9 percent). Vorushylyn also once owned a 5.19 percent stake in the bank.

On Oct. 3, 2014, the Administrative Council of the Deposit Guarantee Fund appointed Vorushylyn as the fund's director. Vorushylyn kept his share in president's bank until June 2015. According to the NBU, his share was then split among his children - Katerina and Serhiy Vorushylyn.

As of Sept. 27, 2015, Vorushylyn's official salary at the fund was Hr 31,059 (\$1,247) per month. ■

## Deposit Guarantee Fund



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# LEGAL SERVICES

Listing is arranged in alphabetical order

Phone number	Top executives	HQ	Est.	Main Specialization, services	Major clients	Languages
<b>Accountor Kyiv LLC</b> 20A Esplanadna St., office 202, 01601 Kyiv, Ukraine; kiev@accountorgroup.com.ua, www.accountorgroup.com.ua						
+38 044 364 3868	Timo Matinpalo, Oksana Kochmarska	Helsinki, Finland	2008	Corporate Law; Contractual Relations; Litigation&Dispute Resolution; Labour&Employment; Tax&Customs; Due Diligence; International Trade; Currency Regulations	WND	English, German, Finnish, French, Russian, Ukrainian
<b>Aleksandr Peremezhko &amp; Partners</b> 86D Kazymyra Malevycha (Bozhenko) St., 3rd floor, office 3.1, Kyiv 03680, Ukraine; office@opp.com.ua, www.opp.com.ua						
+38 044 371 4007	Aleksandr Peremezhko	Kyiv, Ukraine	2010	Litigation & Arbitration; Tax and Customs; Corporate and M&A; Competition and Anti-monopoly; Media and Communication; Intellectual Property; White Collar Defense	Bershka Ukraine, Sharp Electronics Ukraine, Lego Ukraine, B&H, UFD, LeDoyen Studio, Eurofins Food & Agro Testing Sweden AB, Ciklum Ukraine, AstraZeneca, Volyntabak	English, German, Polish, Russian, Ukrainian
<b>Ante Law Firm</b> 45A Nyzhnoyurkivska St., Kyiv 04080, Ukraine; office@antelaw.com.ua, www.antelaw.com.ua						
+38 044 277 2300	Andriy Guck, Kateryna Ishchenko	Kyiv, Ukraine		Litigation; Corporate; White collar; Transport & Infrastructure; Aviation; Energy & Natural resources; Employment; IP; Tax & Customs; Pharmaceuticals	Emirates, Lufthansa, Austrian, British Airways, Atlasglobal, Zdravo	English, Turkish, Russian, Ukrainian
<b>Arzinger</b> Eurasia Business Centre, 75 Zhylyanska St., 5th Floor, Kyiv 01032, Ukraine; mail@arzinger.ua, www.arzinger.ua						
+38 044 390 5533	Timur Bondaryev	Kyiv, Ukraine	2002	Banking & Finance; Corporate/M&A; Dispute Resolution; Real Estate; Antitrust/Competition	EBRD, IFC, UniCredit, Deutsche Bank, Raiffeisen Bank, ING, BNP Paribas, Societe Generale, Porsche Group, Bunge, GSK, MSD	English, German, French, Ukrainian, Russian
<b>Asters</b> Leonardo Business Center, 19-21 Bohdana Khmelnytskoho St., 14th floor, Kyiv 01030, Ukraine; info@asterslaw.com, www.asterslaw.com						
+38 044 230 6000	Oleksiy Didkovskiy, Armen Khachatryan		1995	Full-Service Law Firm	L'Oreal, Coca Cola, Nissan Motor Ukraine, S.C. Johnson, EBRD, IFC	English, Russian, Ukrainian
<b>Avellum</b> 38 Volodymyrska St., 4 floor, Kyiv 01030, Ukraine; info@avellum.com, www.avellum.com						
+38 044 591 3355	Mykola Stetsenko, Glib Bondar, Dmytro Marchukov	Kyiv, Ukraine	2009	Capital Markets; Corporate/M&A; Competition; Dispute Resolution; Employment; Energy and Infrastructure; Finance; Real Estate; Restructuring and Insolvency; Tax	Bayer, DTEK, EBRD, Ferrexpo, ING Bank, Kernel, Lafarge, MHP, Ministry of Finance of Ukraine, Mohawk Group, Nadezhda, Novartis, PrivatBank, Raiffeisen Bank International AG, UniCredit Group	English, Russian, Ukrainian
<b>AVER LEX Attorneys at law</b> 2 Khrestovyi Alley, 5 floor, Kyiv 01010, Ukraine; info@averlex.com.ua, www.averlex.com						
+38 044 300 1151	Olga Prosyanyuk, Vitaliy Serdyuk	Kyiv, Ukraine	2012	Criminal law and process; Litigation; Taxation	WND	English, Russian, Ukrainian

Phone number	Top executives	HQ	Est.	Main Specialization, services	Major clients	Languages
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**Axon Partners**

22 Verhniy Val St., Kyiv 04071, Ukraine; poke\_us@axon.partners, http://axon.partners



+38 044 578 2337	Denys Beregovyi, Dmytro Gadomsky, Bogdan Duchak, Nazar Polyvka	Kyiv, Ukraine	2016	IT; Media; Telecom; Intellectual Property; Litigation & Arbitration; Commercial Agreements; Transaction support; Data protection	BlaBlaCar, Innovecs, Stanfy, TripMyDream, 908.vc, Datas/Egar, Kuna Bitcoin Agency, Bitcoin Foundation Ukraine, DOU, Grossum, Yalantis, rabota.ua, Sponge, VDNH-TECh, Wishround, MLSDev, Prozorro	English, Russian, Ukrainian
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**Baker & McKenzie**

Renaissance Business Center, 24 Bulvarno-Kudriavska (Vorovskoho) St., Kyiv 01601, Ukraine; kyiv@bakermckenzie.com, www.bakermckenzie.com

BAKER &amp; MCKENZIE

+380 44 590 0101 +380 44 590 0110	Serhiy Chorny, Serhiy Piontkovsky		1992	Antitrust & Competition; Banking & Finance; Corporate; M&A; Securities; Dispute Resolution; Employment; IP; International Trade; Real Estate and Construction; Tax and Customs; Energy & Infrastructure	Arcelor Mittal, EastOne Group, Horizon Capital, ING Bank Ukraine, Metinvest BV, RaiffeisenBank, MasterCard, UkrSibbank BNP Paribas Group	English, Russian, Ukrainian
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**BDO Ukraine**

201-203 Kharkivske Road, Kyiv 02121, Ukraine; bdo@bdo.kiev.ua, www.bdo.ua



+38 044 393 2687	Alla Savchenko, Sergey Balchenko, Victor Nevmerzhiysky	Brussels, Belgium	1997	Audit & Advisory; Tax Dispute Resolution; Debt Restructuring Services; Corporate, Commercial, Labor Legal Services; M&A	International & Ukrainian companies of the following areas: energy, pharma, insurance, manufacture, natural resources, non-profit, RES, retail, TMT, transport & engineering, banks.	English, Russian, Ukrainian
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**CMS Cameron McKenna LLC**

38 Volodymyrska St., 6th floor, Kyiv 01030, Ukraine; KyivOffice@cms-cmck.com, www.cmslegal.com, www.cms-cmck.com, www.cms-lawnow.com



+38 044 391 3377	Daniel Bilak	London, UK	2007	Infrastructure; Corporate and M&A; Banking and Finance; Commercial; Tax&Customs; Competition; Dispute Resolution; Compliance; Employment; Property; Technology Media and Communication; Agribusiness; Lifesciences/Pharmaceuticals; Intellectual Property	WND	English, French, Ukrainian, Russian
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**Dentons (LLC Dentons Europe)**

49A Volodymyrska St., Kyiv 01034, Ukraine; kyiv@dentons.com, www.dentons.com

大成 DENTONS

+38 044 494 4774 +38 044 494 1991	Oleg Batyuk	Global law firm	1992	Banking and finance; Corporate/M&A; Dispute resolution; Investments; IP&T; Real estate and Construction; Restructuring; Tax	Multinational corporations, commercial and investment banks, energy companies, developers, hotel chains, investment funds, international organisations	English, Russian, Ukrainian
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**DLF attorneys-at-law**

Torus Business Centre, 17D Hlybochytska St., 04050, Kyiv, Ukraine; info@DLF.ua, www.DLF.ua



+380 44 384 2454	Igor Dykunsky	Kyiv, Ukraine	2012	Corporate Law; M&A; Insolvency; Labour Law; Competition Law; IP Law; Real Estate and Tax Law; Agriculture Law; Renewable Energy Law; Litigation and Dispute Resolution	International companies from German and English speaking countries from various sectors of economy, Ukrainian companies, embassies in Ukraine	English, German, Russian, Ukrainian
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**ePravo**

28/9 Pushkinska St., 2nd floor, office 24, Kyiv 01004, Ukraine; welcome@epravo.ua, www.epravo.ua



+38 044 235 0444	V. Vlasjuk	Kyiv, Ukraine	2012	Litigation and Corporate; M&A; Intellectual Property; E-Commerce; Tax and International Business Administration; Legal Advice for Startups; Investments in Solar Energy in Spain	Allta, Astrafit, Askertrade, Studway, Orion.Group, National Police of Ukraine (pro bona), Khimfarminvest, NBK, MyDutyFree, Hedy Group	English, Russian, Spanish, Ukrainian
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Phone number	Top executives	HQ	Est.	Main Specialization, services	Major clients	Languages
<b>Eterna Law</b> Sophia Business Centre, Rylskiy Lane 6, 01001, Kyiv, Ukraine; pr@eterna.law, eterna.law 						
+38 044 490 7001	Andrey Astapov, Oleh Malskyy, Oleh Beketov, Eugene Blinov, Oksana Kneychuk, Daria Goulko, Yevgeniy Lukashuk	Kyiv, Ukraine	2002	Dispute Resolution; Corporate; M&A; Tax; International Finance; Compliance; Regulatory Enforcement; IP; Insolvency; Construction; Real Estate Acquisitions; Oil and Gas	Baxter, Bayer, Bioton, Bunge, CDMA, Huawei, China National Oil Corporation, EBRD, Energoatom, FHI 360, EFKO, Mriya, United Grain Company, Nemiroff, MasterCard, Mechel, Metagenics, Nutricia	Russian, Ukrainian, English, German, Polish, Latvian
<b>FCLEX Law Firm</b> 14D Bekhterivsky Lane, Kyiv 04053, Ukraine; info@fclex.ua, www.fclex.com 						
+38 044 238 6420	Viktor Barsuk	Kyiv, Ukraine	2002	Litigation; Restructuring & Bankruptcy; Banking and Finance; Real Estate; Corporate and M&A; Tax; White Collar Crimes; Intellectual property;	Azovmash, Ferrexpo AG, National Bank of Ukraine, Ukrainian Business Group, Vernum Bank, AIS Group, Concorde Capital, NEST Corp., Arterium Corp., Crystal Bank; AutoKraz and others	English, Russian, Ukrainian
<b>Gryphon Legal</b> 5B Dimitrova St., office 305, Kyiv 03680, Ukraine; office@gryphongroup.com.ua, www.gryphongroup.com.ua 						
+38 044 227 9212	Helen Lynnyk, Igor Lynnyk	Kyiv, Ukraine	2011	Corporate finance; M&A; Banking and Finance; Tax; Compliance; Forensic; Litigation; Due Diligence; Business Structuring; Debts Restructuring	IFC (World Bank Group), Alfa-Bank Ukraine, Alfa Insurance Ukraine, Allianz Group, Aesthetic Consilium Clinic, Leogaming Pay, Furshet, Eco-Market, Atoll Holding, Karbon Invest, Privat Bank, AIS Group, FC Finance, Astelit, PKO Bank Polski, Kredobank, 24nonStop, Foxtrot	English, Russian, Ukrainian
<b>Law Firm GORO legal</b> 72 Velyka Vasylkivska St., office 21, 13th floor, Kyiv 03150, Ukraine; info@goro.in.ua, www.goro.ua 						
+38 044 383 1857 +38 050 436 0077	Goroshynskiy Oleksandr, Ovsii Dmytro, Kornev Igor	Kyiv, Ukraine	2010	Litigation and legal practice; Land, construction, real estate; Business support; Intellectual property	SOCAR ENERGY UKRAINE, Ferrotrade, MERX, Holding Company Kievgorstroy, Altis Development, Information Center under the Ministry of Justice of Ukraine	English, Russian, Ukrainian
<b>Golovan &amp; Partners Law Firm</b> 33B Bulvarno-Kudriavska (Vorovskoho) St., Kyiv 01054, Ukraine; info@golovan.ua, www.golovan.ua 						
+38 044 486 0047	Igor Golovan	Kyiv, Ukraine	1996	Complex Business Protection; Crimea & ATO Zone Issues; White Collar Crimes; Litigation & International Arbitration; Investment Disputes; Copyright & Related Rights	Privileged	English, Russian, Ukrainian
<b>ICF legal service</b> 10 Muzeinyi Lane, office 101-102, Kyiv 01001, Ukraine; info@icf-ua.com, icf-ua.com 						
+38 044 255 5767	Natalya Ulyanova	Kyiv, Ukraine	2005	International Tax Planning; Business Structuring; Corporate Restructuring; Organization Of International Trade; Solutions For Financial And Securities Companies; Business And Assets Protection	WND	English, Russian, Ukrainian
<b>Jurimex Law Firm</b> 9/2 Velyka Vasylkivska St., office 67, Kyiv 01004, Ukraine; reception@jurimex.ua, www.jurimex.ua 						
+38 044 500 7971	Danylo Getmantsev	Kyiv, Ukraine	2003	Taxation; Banking and Finance; Media Law; Intellectual Property; Administrative Law and Licensing; Land Law and Real Estate; Litigation and Arbitration; International Trade and Investment; Pharmaceutical and Medical Law	MSL, ModnaKasta, Viasat, Bontrup Ukraine, Travel Professional Group, NEFCO, Espresso.TV, Watsons, High-Point Rendel LTD, Ukrainian Pay Card, Med Expert, Bokjung International Co.,LTD	English, German, French, Russian, Ukrainian
<b>KM Partners</b> 5 Pankivska St., 5 floor, Kyiv 01033, Ukraine; admin@kmp.ua, www.kmp.ua, www.ao.kmp.ua 						
+38 044 490 7197	Alexander Minin	Kyiv, Ukraine	1999	Tax; Customs; Transfer pricing; M&A/Restructurings; Contract law; Litigation; Agriculture; Real estate; Competition/Antitrust; Corporate law, Labour law; Currency control; IP; Criminal law	WND	English, Russian, Ukrainian

Phone number	Top executives	HQ	Est.	Main Specialization, services	Major clients	Languages
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### Koval & Partners, Patent & Law Company

23 M. Raskovoy St., apt. 602, Kyiv 02660, Ukraine; info@koval-partners.com, www.koval-partners.com



+38 044 228 2552	Koval Maxim, Koval Natalia	Kyiv, Ukraine	2003	Trademarks; Patents; Designs; Copyrights; IT law and domain name disputes; Licencing and Franchising; Customs and Border Enforcement; Anti-counterfeiting and anti-piracy operations	Naspers, Philipp Plein, ForexClub, Efes, SCM, Stoller, Teddy Mountain, Alpha Industries, Evyap, Coral travel , TicketForEvent	English, Russian, Ukrainian
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### Kushnir, Yakymyak & Partners

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**KUSHNIR, YAKYMYAK & PARTNERS**  
ATTORNEYS & COUNSELORS AT LAW

+38 044 253 5939	Yuri Kushnir	Kyiv, Ukraine	2003	Banking & Finance; Corporate; Energy; Investments; IT; Labour; Litigation; Real Estate; Tax; Trade Law	3M, General Electric, Ecolab, Johnson & Johnson, UNIQA, LG Electronics, Emfi, Agroprosperis (NCH), Leimholzprofi, National Oilwell Varco, Sibelco, Araj, Voxel, Medfarcom, Television Industry Committee, Space IT	English, Polish, Russian, Ukrainian
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### Legitimus Law Company

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LEGITIMUS

+38 044 585 8255 +38 044 585 8256 +38 044 585 8257	Ochkolda Nikolay	Kyiv, Ukraine	2006	Real Estate and Land Law; Taxation; Corporate Law; Litigation and Arbitration; International Trade/Foreign Investment	KAN Development, TMM, Procredit bank, Eitimbobi, City Hotel, SVAROG West Group	English, Spanish Russian, Ukrainian
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### Lexwell & Partners

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LEXWELL PARTNERS

+38 044 228 6080	Andriy Kolupaev	Kyiv, Ukraine	2005	M&A & Corporate; Antitrust & Competition; Litigation & Arbitration; Real Estate & Construction; Tax & Customs; Employment	AET, ArcelorMittal, Bridgestone, Chicago Mercantile Exchange, CRH, DuPont, East Metals, Evraz, Honda Trading, Gas of Ukraine, Interpipe, Intesa Sanpaolo, Lexus, Marubeni, Pfizer, Millhouse, Sojitz, Subaru, Sumitomo, Toyota, Ukrainian Ministry of Justice, VS Energy	English, Russian, Ukrainian
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### Marchenko Danevych

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MARCHENKO  
DANEVYCH

+38 044 220 0711	Oleh Marchenko, Borys Danevych	Kyiv, Ukraine	2013	Antitrust & Competition; Corporate/M&A; Dispute Resolution; Intellectual property; Life Sciences/ Pharmaceuticals; Tax & Customs	AAK, AbbVie, Aspen Pharma, AstraZeneca, Deutsche Bank, Eli Lilly, Goodyear, GSK, Johnson & Johnson, LafargeHolcim, McKinsey & Company, Morgan Furniture, Novo Nordisk, PPD, Sanofi, XPO Logistics	English, Russian, Ukrainian
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### Moris Group Law Company

8B Moskovska St., Kyiv 01010, Ukraine; info@moris.com.ua, www.moris.com.ua



+38 044 359 0305	Andriy Romanchuk	Kyiv, Ukraine	2004	Banking and Financial Institutions; Oil and Gas Industry; Petrochemical Industry; Defense Industry; Government Sector; Food Processing Industry; Real Estate and Construction; Transport And Infrastructure	DEPOSIT GUARANTEE FUND, "FIRST PRIVATE BREWERY" LLC, SBC "Ukroboronprom", Football Federation of Ukraine, PJSC "Ivano-Frankivsktsement", State Enterprise "Antonov", Karpatnaftokhim LLC, UkrLandFarming PLC	English, German, Russian, Ukrainian
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### Redcliffe Partners

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REDCLIFFE  
PARTNERS

+38 044 390 5885	Olexiy Soshenko, Dmytro Fedoruk, Rob Shantz, Sergiy Gryshko	Kyiv, Ukraine	2015	Antitrust; Banking and Finance; Capital Markets; Compliance; Corporate and M&A; Debt Restructuring and Insolvency; International Arbitration; Litigation; Real Estate	Abbott Laboratories, Amadeus IT Group, BNP Paribas, Citigroup, Credit Suisse, Deutsche Bank, EBRD, FMO, IFC, ING, JPMorgan, Monsanto, Morgan Stanley, Raiffeisen Bank, UniCredit, Vitol	English, Russian, Ukrainian
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Phone number	Top executives	HQ	Est.	Main Specialization, services	Major clients	Languages
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**Law Firm "Sofiya"**

10 Sichovyh Strilciv St., off.45, Kyiv 04053, Ukraine; office@lawfirmsofiya.kiev.ua, www.lawfirmsofiya.kiev.ua



+38 044 331 0485	Oleksandr Polivodskyy	Kyiv, Ukraine	2004	Food&Drink Law; Litigation; Agrarian&Land Law; Finance Law; Tax Law; Real Estate Law; Business Law	WND	English, Ukrainian, Russian
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**Sayenko Kharenko**

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**SAYENKO KHARENKO**

+380 44 499 6000	Michael Kharenko, Vladimir Sayenko	Kyiv, Ukraine	2004	Antitrust; Banking&Finance; Debt Restructuring; Capital Markets; Corporate/M&A; Corporate Security; GR; IP; International Arbitration; International Trade; Labour&Compliance; Litigation; PDP; Private Wealth Management; Tax	Ageas, Avangardco, Auchan, Barclays, BNP Paribas, Cadbury, Citi, Coca-Cola, Commerzbank, Credit Suisse, Dell, Eaton, EBRD, Ferrexpo, HP, ING, IFC, JTI, Kimberly Clark, Lafarge, MoneyGram, Novartis, Pfizer, SigmaBleyzer, Solvay, Soufflet Group, Sun InBev, VISA	English, German, Russian, Ukrainian
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**Syutkin and Partners**

10 Redutna St., office 2, Kyiv 01015, Ukraine; office@siutkin.com, www.siutkin.com

SYUTKIN & PARTNERS  
firm of attorneys

+38 044 383 0000	Mykola Syutkin, Nataliya Osadcha	Kyiv, Ukraine	2006	M&A; Bancruptcy and Debt; Real Estate; Assets Securitization; Litigation; Corporate Law; Tax; Investment Protection	WND	English, Russian, Ukrainian
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**Squire Patton Boggs-Salkom International Association**

12 Khreschatyk St., Kyiv 01001, Ukraine; www.squirepattonboggs.com, www.salkom.ua



+38 044 591 3100 +38 044 591 3140	Peter Teluk, Evgeniy Kubko	Kyiv, Ukraine	1992	Anti-Corruption (FCPA/UK Bribery Act); Antitrust and Competition; Banking and Finance; Commercial Contracts; Corporate; Dispute Resolution; Intellectual Property; Labor and Employment; Litigation; M&A; PE; Real Estate; Tax and Customs	Acron, Carlsberg, ContourGlobal, Group DF, Intellectsoft, Kyivstar, Lufthansa Ukraine, Nadra Bank, Oriithil, Sovereign Wealth Fund, Ukrlandfarming, Ukrainian Construction Company, UniCredit Bank, United Capital Partners, Velti, Winner Imports Ukraine	English, Russian, Ukrainian
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**Skliarenko, Sydorenko and Partners, Attorneys At Law**

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+38 044 235 8575	Oleksandr Skliarenko, Andrii Sydorenko, Yulia Stusenko	Kyiv, Ukraine	2011	Commercial Law; Corporate Law; Criminal Law and Procedure; Litigation; Restructuring and Bankruptcy; Banking and Finance; Tax; Private Clients; Agricultural Law; Labor Law; Mediation	Grawe Ukraine, IDS Group Ukraine, OTP Bank, Kvazar, Mamamusic	English, Russian, Ukrainian
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**TCM Group Ukraine**

10A Vozdvyzhenska St., Kyiv 04071, Ukraine; info@tcm.com.ua, tcm.com.ua



+38 044 228 1338	Denys Kopii, Dmytro Golopapa, Arthur Tretiakov, Dmytro Govorun	Kyiv, Ukraine	2014	Alternative Dispute Resolution & Mediation; Litigation & Arbitration; Recognition & Enforcement of Arbitral Awards/Court Judgements; Bankruptcies; Crime Investigations & White Collar Crimes	Discovery, FedEx, Reebok, Erste Bank, Coca-Cola, Du Pont, Xerox. HSBC, Barclays, Bank of Ireland	English, Russian, Ukrainian
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**Vasil Kisl & Partners**

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+38 044 581 7777	Andriy Stelmashchuk	Kyiv, Ukraine	1992	Agricultural Business; Antitrust & Competition; Capital Markets; Corporate / M&A; Energy & Natural Resources; Finance & Securities; Intellectual Property; International Trade, Project and Trade Finance; Labour & Employment; Litigation & Arbitration; Private Clients; Public Private Partnership, Concessions & Infrastructure; Real Estate & Construction; Taxation	Alfa Bank (Ukraine), Arricano, BASF, Bayer Consumer, BNP Paribas, British American Tobacco, Central European Media Enterprises, Coca Cola, Danone, DuPont, Google, Hubei Changyang Hongxin Industrial Group, Inditex Group, Mary Kay, Samsung, Seven Hills, Shell, YouTube	English, German, Swedish, Russian, Ukrainian
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# Delta Bank customers lose hope as big players walk away with millions from one of biggest bank failures

By **Isobel Koshiw**  
ivkoshiw@gmail.com

Once Ukraine's fourth largest bank, Delta Bank was classified as problematic in October 2014 by the National Bank of Ukraine and declared insolvent in March 2015. The state payout for the bank is the biggest in Ukrainian history, with \$622 million going to people who lost their deposits.

The bank's management, its owner Mykola Lagun, and the central bank have been accused of wrongdoing by depositors, journalists and members of parliament. Lagun could not be reached for comment.

Most of the alleged wrongdoing is said to have occurred during the three months before the bank declared insolvent, when it was under the control of a central bank curator. An investigation was launched into all parties by the General Prosecutor's Office last April. No one has been prosecuted.

Despite the record payouts, under Ukrainian law, deposits are guaranteed to a maximum of Hr 200,000 (\$8,000) per individual.

But 40,000 of Delta's depositors lost Hr 8 billion (\$321 million) in uninsured deposits. The state-financed fund estimates the bank's assets will raise Hr 29 (\$1.1 billion) at auction, though the bank's management reported that there was Hr 80 billion (\$3.2 billion) on the balance sheet

upon insolvency in March 2015.

Under Ukrainian creditor law, state creditors take priority over individuals. Therefore, the National Bank's refinancing loan, Hr 9 billion (\$361 million) and the Hr 16 billion (\$642 billion) initial payout will be returned first.

The depositors are in court vying for their money, but their prospects look bleak.

"The history of Ukraine hasn't had any case where the fourth line of creditors, (individuals,) got all their money," said Roman Badalis, the lawyer representing the Delta Bank depositors. He was also a depositor in the bank and lost \$10,000 which wasn't covered by the Deposit Guarantee Fund.

Given the number of awards Delta and its management won for banking and finance in the preceding years, its collapse came as a shock to many people.

## What happened?

Delta Bank failed because Lagun bought up banks aggressively, without paying much attention to the quality of assets he was acquiring, Oleksandr Paraschiy, head of investment company Concorde Capital, told Kyiv Post.

"I think its success was in owner's strategy to expand non-organically," said Paraschiy.

A closed branch of Delta Bank on Kyiv's Taras Shevchenko Boulevard. Delta Bank was declared insolvent by the National Bank of Ukraine in March 2015 and customers with uninsured deposits are currently in court. (Pavlo Podufalov)



In the summer of 2014, the bank's problems spilled out into the streets. There were queues outside Delta branches as people struggled to withdraw more than Hr 100 a day.

The central bank has been criticized for not acting earlier based on the daily accounting reports they receive from all banks. But the main criticism comes from what happened when the bank came under the total supervision of the central bank. The bigger players were able to get their money out, cleaning out the bank before the liquidators arrived.

"The National Bank gives two to three months and the shareholders just get all the best assets out of the bank and when the insurance fund is there, they cannot pay the depositors because the assets are not there. What you have to do is get the assets back to get the money to pay people," Badalis told the Kyiv Post.

### Cargill takes some assets

Days before the bank was declared insolvent, the bank's 30 percent shareholder, American agro giant Cargill, reassigned some of Delta's assets estimated to be worth the equivalent of its shareholdings and exited with Hr 2.5 billion (\$104 million). Cargill says its actions comply with international law.

Badalis, who represents the depositors, says that the transaction was illegal because, by that point in time, the National Bank of Ukraine restricted all withdrawals. In January 2016, a Ukrainian court ruled to support the liquidator in order to determine if Cargill had the right to reassign assets.

The following month, in February 2016, a letter written by Cargill to the head of the presidential administration, Borys Lozhkin and the head of the Deposit Guarantee Fund, Kostyantyn Vorushylin, copying the U.S. Ambassador to Ukraine Geoffrey R. Pyatt, was published online.

**National Bank of Ukraine Governor Valeria Gontareva closes her eyes as bank robbery keeps happening and no one is held responsible.**



In it, Cargill emphasized its numerous investments in Ukraine, berated representatives of the government for their "negative" and "misinformed" statements on its relations with Delta and said that continued investment would depend on the government's position being aligned with their own.

The case regarding the reassigned assets is now in the process of starting anew in court.

### Refinancing themselves

In July 2015, on the court's instructions, an unplanned state audit was carried out on Delta Bank for the period of 2012-2015. It found that the bank stole Hr 4.1 billion (\$160 million) of its Hr 10 billion (\$400 million) refinancing loan issued in 2014 via factitious credit transactions to 12 affiliated companies, (one of which was even named Bonnie and Clyde.)

Ten of the companies had bank accounts at Latvia's Baltic International Bank. The remaining two had accounts with Amsterdam Trade Bank and Trasta Komerbanka.

Investigators found that some of the directors of the 12 companies that received the money were also top managers at Delta Bank.

A criminal investigation was opened nine months ago but no one has been prosecuted.

Lagun, who is still spotted around Kyiv, places the blame on Vitaliy Masyura, the former first deputy chairman of Delta's board of directors. Lagun alleges that Masyura acted without the knowledge of the bank's management and shareholders. The Ukrainian police believe that Masiura is hiding in the United Kingdom.

Volodymyr Gutsulyak, who is in charge of the Delta Bank case at Ukraine's General Prosecutor's Office, told Kyiv Post that they are looking at the legality of the actions of Masyura, especially Lagun and all others connected to the siphoning off of the refinancing. However, Gutsulyak noted that no cases had been brought against individuals, although the registered property of a number of those connected, including Lagun, has been frozen.

As far as the National Bank's role is concerned, in April, oligarch and member of parliament Serhiy Taruta told the National Anti-Corruption Bureau of Ukraine that the central bank was aware that Delta's management was shifting money outside the country during the supervisory period of October 2014 to March 2015.

"They gave them money which they stole and according to my sources, the leadership of the National Bank knew about this," Taruta told the Kyiv Post. "I doubt there is the political will to get to the bottom of what happened."

Gutsulyak says that the actions of the National Bank are also included in their investigation.

### Connections matter

Documents investigated by the National Anti-Corruption Bureau of Ukraine indicate that Valeriya Gontareva, the national bank governor, used her connections to help members of her family that had money in Delta.

According to leaked bank statements published by investigative journalist Oleksandr Dubinsky in October 2015, Gontareva's son and his wife were able to withdraw money from Delta before the bank collapsed. Both withdrawals happened during the interim period while the bank was under direct



observation of the National Bank and months after the bank had told other depositors that there was no money left.

The leaked statements indicate that Gontareva's son withdrew Hr 800,000 in February 2015. In the same month, his wife paid Hr 125,00 commission. Dubinsky says this means she withdrew Hr 12.5 million.

Gontareva denied the authenticity of the documents.

The National Anti-Corruption Bureau confirmed the transactions, but said that the total sum of withdrawal was Hr 125,000 and the rest of the money was transferred to a different account, and that 13,000 depositors performed similar transactions in the January-March 2015 period.

The bureau then ceased investigating Gontareva's alleged abuse of office, saying there was no wrongdoing on her part.

## The state pays twice

Yet another example of high level schemes to ensure that certain players got their money out before the bank's collapse involved Ukrainian state company Ukrgazvydobuvannya.

During the administration period, high-profile individual depositors purchased Ukrgazvydobuvannya's Hr 214 million debt to Delta Bank. Meaning that the state gas extraction company would pay them instead of the bank and the other depositors would lose more assets in the liquidation process.

The 10 individuals involved include the relatives of former ministers and high level state officials as well as directors of several oligarch-owned companies. So as state refinancing loans were funneled offshore, state-owned companies were used to reimburse the losses of members of the elite.

"They agreed with Lagun to save their own money," Badalis said.

In April, the court backtracked on earlier decisions to rule in favor of Delta Bank in the case. And the prosecution of the individuals involved also does not look hopeful.

Gutsulyak of the General Prosecutor's Office said that the incident was being looked at together with other cases of corruption at Ukrgazvydobuvannya.

## Cutting in line

Creditors in Ukraine are prioritized depending on their status. For example, people who have been physically harmed by a bank's insolvency are first to receive their money, individuals are fourth, and businesses and institutions come seventh.

In March 2015, shortly before Delta was declared insolvent, a few of the larger businesses and institutions were granted a special status by the bank's management, meaning that they jump to the front of the line.

The entities in question are Oshchadbank, electronics retailer Foxtrot Group, Avant Bank and the State Mortgage Institution. The Deposit Guarantee Fund declared their statuses void and accused them of distorting their contracts with Delta Bank in order to withdraw assets. Yet in March, Oshchadbank has won its case for Hr 3 million against Lagun, which may set a precedent for the others.

"The commission of IMF approves of the action of the central bank, but either they don't fully understand the consequences or know what's going on. Or they just explain it as part of the reform process because you can't have reform without pain," said Badalis. ■



## Dmytro Ovsy

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# Problems in the bank — opportunities for the borrower

It's no secret that the Ukrainian banking system is going through difficult times. One third of the banks that were in the Ukrainian banking system at the beginning of 2014 are no longer on the market. The process of a bank leaving the market starts with the introduction of temporary administration. And when a temporary administration enters a bank, the reliable partner of yesterday starts to behave unpredictably.

It can all collapse in a moment, primarily for the bank's customers. From a comfortable familiar environment you find yourself in a hostile environment. Your bank is "ill," and it's not known when or if it will recover. However, understanding what's going on inside the bank, and outside it, will help clear up the problems. Moreover, if you take the right approach, you can even turn the situation to your advantage.

### Is your bank sick?

At the initial stage, the most important person in a failing bank is the head of the temporary administration, who takes over management from the shareholders, supervisory board and the board of directors. By law, the duration of the interim administration is one month. Once that month is up, there may be one of these outcomes:

- the bank restores its solvency
- the bank will be sold
- the bank will be liquidated

From past practice, there is a 99.9% probability that the bank will be liquidated. This means that the bank's assets will be assessed and sold. The bank's assets include: real estate (buildings, structures), movables (vehicles, office equipment, furniture).

But credits are also assets. Your loan from the bank is an asset that can be valued and sold. Many factors affect the valuation:

- security
- litigation
- the presence of arrears

### The classic question: "what to do?"

When a loan is offered for sale, anyone can buy it. Well, almost anyone.

And with the right approach, nothing prevents a borrower from buying their own loan. However, this requires some effort. You will need to find a reliable company to represent your interests in the sale and purchase transaction of the loan.

The biggest plus for the borrower is that the loan debt can be sold at a discount. In some cases this can reach 60 percent or more.

So with such a discount, you could even pay off the loan in a few months. However, to get a discount, you need to understand and take into account credit assessment methodology. What factors affect the valuation? What would reduce the valuation of your loan? When should you start acting?

For answers to these questions, it is best to consult a legal adviser who will not only help you find the answers, but also guide you along this thorny path.

Whatever happens in the bank, a borrower that takes an active position can win additional benefits. And in many ways the result will depend on the personal activity of the borrower and their advisers.



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# NBU props up big Privatbank in hopes of averting disaster

By **Josh Kovensky**  
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Ukraine's banking system is at the mercy of one man and his bank - billionaire Ihor Kolomoisky and his Privatbank, the nation's largest. Experts say that if Kolomoisky so desired, he could implode Ukraine's economy by destroying the bank, creating a "financial Chernobyl."

The bank has \$11 billion in assets, making it the runaway leader in a banking system which is worth only \$52.8 billion. This gives Kolomoisky 21 percent of the market.

A recent deal between Privatbank and the National Bank of Ukraine means the bank is relieved of a requirement to raise new capital as it continues to receive state support. But keeping the bank alive in the short run fails to address questions of its long-term viability.

Issuing roughly half of the country's credit cards and serving as a deposit bank for one in three Ukrainians, Privatbank has a huge corporate and other loan portfolio allegedly infected with at least 70 percent related-party lending, likely to other Kolomoisky businesses.

Privatbank's press service denied that 70 percent of its loan portfolio was to connected parties, and said in

a statement that the bank is "fully transparent" in its lending.

Experts say that the bank will eventually have to be split up and partly nationalized in order to solve the double-headed problem of its instability and market dominance.

If that happens, the next question will be: will the state or Kolomoisky take on the bank's most troublesome portions?

Privat CEO Oleksandr Dubilet refused to be interviewed for this story. When asked at a public conference if an agreement over the bank's future had been struck, Dubilet refused to answer.

Kolomoisky has publicly denied that he uses the bank's size as a blunt political instrument, instead calling it the "holy cow" of his business empire - one that is too sacred to be touched. He could not be reached for a Kyiv Post interview.

## Power of No. 1

Kolomoisky founded Privatbank in 1992 with his Dnipropetrovsk business partner, Hennadiy Boholyubov.

**A man attempts to enter a Privatbank branch at night. Holding 21 percent of the Ukrainian banking system's assets with up to 70 percent non-performing loans, the bank's collapse could destroy Ukraine's economy overnight. (Kostyantyn Chernichkin)**



At first, the business thrived on transferring money between Ukraine and Russia. But over the years, Privat has grown to become Ukraine's largest deposit bank, holding 21 percent of the public's bank deposits.

Privatbank has invested in speedy customer service and an aggressive PR team that creates the appearance of an open, Western-style bank. To that end, it has repeatedly won awards from Western finance trade publications as "best bank in Ukraine."

But the bank's dominance grants its owners immense political leverage. According to Oleksandr Savchenko, a former deputy head of the National Bank of Ukraine and current rector of Ukraine's International Business School, Kolomoisky could destroy Privat "in 30 seconds" by simply defaulting on his obligations.

Privat's destruction could cause a panic that results in its clients making withdrawals en masse.

"The banking system of Ukraine would stop," Savchenko said, and it would likely precipitate a drop in gross domestic product.

What's worse is that many of its depositors may be ineligible to receive anything from the Deposit Guarantee Fund, at least those who invested in a service that Privatbank calls "Profitable Investments." According to a bank press representative, the service has accepted Hr 2 billion in deposits.

Promising 24 percent annual return on deposits, the service is not insured by the government since it is not a direct bank deposit. The bank offers insurance through Ingosstrakh – a Privat Group member that, according to the bank's press service, has bank accounts in Privatbank. A similar service, offered by Bank Mikhaivivsky and also privately insured by a company affiliated with its owner, led to more than Hr 1 billion (\$44 million) in uninsured losses among Ukrainian depositors after the bank collapsed.

### 'Blackmailing entire state'

According to Oleh Lavryk, a lawmaker with the Samopomich Party who serves on parliament's finance committee, the state would have no ability to cover Privat's eligible deposits in the event of a bank run.

"With one decision, the leadership of Privat Bank could influence the financial system," Lavryk said.

Under both ousted President Viktor Yanukovich and current President Petro Poroshenko, Kolomoisky has used Privatbank as a political tool, threatening to bring it to collapse, said political analyst Vitaliy Bala.

The bank also comes in handy for leveraging concessions for his other business interests, including Ukraine International Airlines and Ukrnafta, the state oil producer.

Viktoriya Voytsitska, another Samopomich lawmaker, said that "by throwing the bank into bankruptcy, it would cause a major collapse of the entire banking system."

"It's blackmailing the entire state," Voytsitska added.

"The NBU and Privat understand this, so Privat has not had problems with receiving refinancing or with the recent extension of the term of returning refinancing for a few years," said Oleksandr Zholud, an expert at the Center for Economic Strategy, a think tank.

### Art of the deal

Disregarding blackmail allegations, there are indications that Privatbank itself is unstable.



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## Why Ukrainian Businessmen Use Foreign Companies For Structuring Their Business

This article deals with why in building holding entities Ukrainian businessmen use foreign companies.

Such a situation is caused by a number of circumstances.

First, despite the fact that corporate laws are undergoing reforms in Ukraine currently, unfortunately, the whole range of instruments needed by business to flexibly adjust its interrelations are not available now. For example, there is no efficient mechanism in place to break the impasse; the order of voting at shareholders' meetings is strictly regulated by Law, etc.

As the practice shows, if business partners haven't reached an arrangement at the initial stage, any misunderstanding between them in the future may result in a really adverse consequences up to loss of business.

Unfortunately, the above situation forces the business to find a solution in other jurisdictions. In my opinion, the most preferable are jurisdictions of General Law, as well as the Netherlands, the Antilles. The legislation of those jurisdictions allow to quite flexibly arrange the procedure of making deposits by each of the partners, the procedure of decision-making, and the settlement of conflict (dead-end) situations; and efficient measures for judicial defence of owners' interests are provided for.

When selecting a jurisdiction, a number of factors have to be taken into consideration too, namely:

- Whether they have a Double-Taxation Treaty with Ukraine;
- Tax burden on dividends;
- Having a jurisdiction listed in the "Black List";
- Owners' protection;
- Confidentiality (disclosure of the beneficiary owner)

In such a way, in order that Ukrainian business would use Ukrainian companies for building corporate structures, serious reforms in the domain of corporate law have to be made in Ukraine, and best practices of other jurisdictions have to be implemented.



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According to Ruslan Chornyy, an analyst at Financial Club, an independent banking market research firm, 70 percent of the bank's loans are connected to Privat Group - a massive instance of related-party lending which could result in non-performing loans.

It is unclear how badly the bank has been afflicted by the wave of NPLs that has hit the rest of Ukraine's banking sector. CEO Dubilet claimed in a February 2016 interview with Bin.ua that roughly 10 percent of the bank's loan portfolio is "problematic" - the general figure for the whole banking system is more than 24 percent. But another source told the Kyiv Post that as much as 60 percent of the bank's lending portfolio is non-performing.

Lavryk, the Samopomich lawmaker said, "the bank is constantly being refinanced."

The combination of NPLs and related-party lending has likely gnawed away Privatbank's capital base, leaving it in desperate need of external cash.

Lavryk added that other banks which failed to raise their own capital have been shut down, while Privat's systemic importance allowed it to persist.

"It's a threat to the financial stability of the country," Lavryk added.

## Owes state \$1 billion

The NBU has already doled out refinancing loans to Privatbank since 2014 with Privat-owned airplanes serving as collateral. The loans have left it Hr 30.5 billion (more than \$1 billion) in debt to the state. Privatbank said that it has returned Hr 8.1 billion (\$3.2 million) of the loan.

All of this has left Privatbank with a capitalization problem - how can the bank be funded so that it can continue to exist, thereby ensuring the survival of Ukraine's economy?

National Bank of Ukraine Governor Valeria Gontareva and Kolomoisky have reportedly argued over how much the Dnipro billionaire should put up to fund the bank.

"The problem is that one day she talks about Hr 128 billion and then the next she says, no, it's Hr 15 billion," Kolomoisky told Politico Europe in December. "And today she has her tongue stuck up her ass, because she doesn't know what to say next."

The bank's refinancing has attracted allegations of misconduct. Sergii Leshchenko, a lawmaker from Bloc President Petro Poroshenko, alleged in a May 12 Facebook post that "when Stepan Kubiv was leading the NBU, Kolomoisky's bank received undisclosed billions in stabilizing loans. The time came to pay it back, but Kolomoisky made a deal for another postponement."

Tension between the bank and the government came to a head in the spring of this year.

**Privatbank has 20 percent of the nation's banking assets. If it has the same problems with non-performing loans and insider lending as other banks, the banking system is in big trouble. But the central bank has entered into a refinancing agreement with billionaire owner Igor Kolomoisky.**

## Avoiding regulation

Ukraine's notoriously political anti-monopoly committee sued Privatbank on Feb. 25, saying that it had refused to hand over information pursuant to a subpoena. That case ended in an Hr 247,000 fine in April.

On May 23, Finance Minister Oleksandr Danylyuk, speaking live on Ukrainian television, accused Privat of having systemic problems. "They use all possible means to avoid regulation," Danilyuk said.

But at the beginning of June, signals that a deal had been reached began to appear.

"No threat to the existence of Privatbank exists," Poroshenko said at a June 3 press conference, adding that he had met with Kolomoisky on the matter.

On June 7, Privatbank CEO Dubilet said "the capitalization issue is resolved," in a statement to Ukrainian journalists, adding that the bank was not being required to increase capital, essentially deferring the bank's root problem.

Asked about details of the deal at a press conference related to peer-to-peer lending the same day, Dubilet demurred.

"I can only comment on the presentation," he said.

## Privat parts

There are many potential solutions for Privatbank, including a breakup by divisions - corporate, retail and investment - or nationalization.

Savchenko said that splitting it up and imposing a cap on assets could solve the problem.

"To solve the problem of PrivatBank, you have to offer the owner to split the bank into two parts, a retail bank and a corporate bank, and to sell a part of it for profit," Savchenko said.

Vitaliy Vavryschuk, director of financial stability at the National Bank of Ukraine, told the Kyiv Post that establishing "systemic capital requirements" that would diversify the market is in the NBU's pipeline, but that it would happen in 2019 at the earliest.

Others say that while splitting up the bank among numerous private owners might be the best option, it is also the least likely due to Kolomoisky's political sway and savvy.

"The problem will not be solved this year, but it must be solved," said Ruslan Chornyy, the finance analyst. "We can expect a partial nationalization."

Chornyy added that the bank would have to be nationalized at some point because "the bank's main shareholders do not want to (repay) state loans."

"Their shares would remain with the bank,"

Chornyy said, adding that the Ukrainian state might find itself nationalizing the unprofitable portions of the bank.

The bank itself refuted this allegation, saying that it needs "neither help nor guarantees from the government."

Kolomoisky, when asked how to rate the work of the National Bank of Ukraine during an impromptu encounter with a reporter from Ukrainian news website Ukrainska Pravda, called it "excellent."

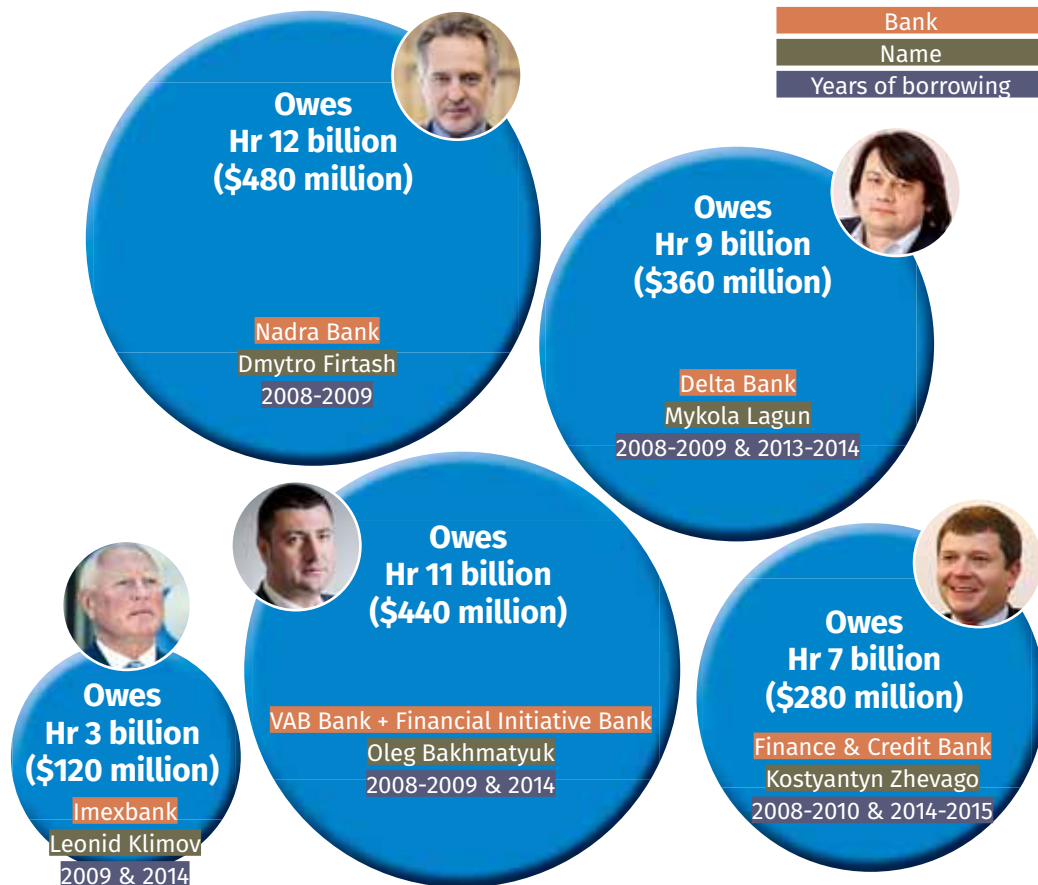
"Valeria Alekseyevna (Gontareva) is cleaning the market for us," he added. ■



## Top 5 deadbeats from failed private banks and amounts they owe to nation's central bank

These five people ran banks, now insolvent, that still owe Ukraine's central bank Hr 42 billion (\$1.7 billion) in unpaid refinancing loans, more than half the Hr 81 billion (\$3.2 billion) owed. When Valeria Gontareva took over as NBU governor in 2014, the total was Hr 110 billion (\$4.4 billion), but Hr 29 billion (\$1.2 billion) has been paid off.

Sources: National Bank of Ukraine, Deposit Guarantee Fund of Ukraine.



## Editors' Note: This scandal still stinks

→3 Who is to blame? Plenty of people, including President Petro Poroshenko, who served many years on the board of directors of a National Bank of Ukraine that did not even demand to know who owned the banks they were supposed to regulate. The whole mess stinks of insider dealing at the expense of poor Ukrainians, once again.

Blame continues to today as central bank governor Valeria Gontareva and members of parliament, some of whom defaulted on multimillion-dollar bank loans, guard bank secrecy at the expense of the public's right to know what happened. They are also not pressing hard for criminal prosecutions of bank fraud.

Can it still happen? Of course it can. Law enforcement has shown that nobody is in danger of being prosecuted so, without the fear of legal consequences, why wouldn't crime

keep flourishing? Excessive bank secrecy is guarded by gatekeepers like the ultimate insider Gontareva, who will keep protecting the shenanigans from ordinary Ukrainians who, as usual, are treated as human trash whose job is to pay the bills.

Poroshenko takes even more blame because he installed loyalists as heads of the three key government institutions -- General Prosecutor's Office, Deposit Guarantee Fund and National Bank of Ukraine. Together, they refuse to get their act together ("it's not my responsibility") and see to it that justice is done and people are prosecuted for bank fraud.

Consequently, poor Ukrainians will not see these looted billions again. They will also be repaying international loans for years to come from their taxes to cover this financial hole as billionaires and millionaires drive the

streets of Kyiv in their Mercedes or take up residence in their mansions in exile abroad, with no fear of punishment or seizure of their ill-gotten riches.

Westerners, this is not reform, so temper your praise with the hard recognition that nobody's been punished here for one of the world's great robberies of all time.

Raw sewage smells sweeter than the Great Ukrainian Bank Robbery of the first 16 years of the 21st century.

But there are solutions. First, the NBU must make a public registry of those who are not repaying loans. Second, there must be special prosecutors working on asset recovery-cases. Third, convicted crooks must finally be put in jail and have their assets seized in civil proceedings so that others will not be tempted to do the same.

## Top 25 banks by assets. Ukrainian banks ranked by assets (as of April 1)

Total assets of Ukraine's banking sector are estimated by the National Bank of Ukraine at \$52.8 billion.

The top 20 banks account for 88 percent of the sector's assets.

	Bank	Overall as-sets (billions, \$)	Ultimate beneficiaries		Bank	Overall as-sets (billions, \$)	Ultimate beneficiaries
	1 Privatbank	11.1	Ihor Kolo-moisky and Gennadiy Bogolyubov		13 VTB Bank (1992). Previously Bank Mriya until 2007.	0.9	Bank VTB Russia (Russian Federal Property Agency)
	2 Oshadbank (1991)	7.2	State (Cabinet of Ministers)		14 OTP Bank (1998). Until 2006, known as Raiffeisen Bank Ukraine.	0.9	OTP Bank Plc, Hungary
	3 Ukreximbank (1992)	6.3	State (Cabinet of Ministers)		15 Bank Pivdennyi (1993, Odesa)	0.8	Yuriy Rodin and Mark Bekker
	4 Sberbank (2001). Previously Bank NRB-Ukraine (2001-2005) and NRB (2005-2008)	2.3	Sberbank Russia (Central Bank of the Russian Federation)		16 Citibank (1998)	0.7	Citigroup Inc., USA
	5 Raiffeisen Bank Aval (1992). Until 2006, it was Poshtovo-pensiy-niy bank Aval.	2.1	Raiffeisen Bank International AG (Austria)		17 ING Bank Ukraine (1997)	0.7	ING Bank N.V., Netherlands
	6 Ukrsotsbank (1991)	2.1	Unicredit Bank Austria AG, Austria and Alfa Group		18 Megabank (1991, Kharkiv)	0.4	Viktor Subotin
	7 Ukgazbank (1993) Previously Khadzhbeybank (1993-1995) and Intergazbank (1995-1996)	2.0	State (Ministry of Finance)		19 Kredobank (Lviv, 1992). Previously Zakh-idno-Ukrainskiy Komertsiy-niy Bank (until 2001) and Credit Bank (2001-2006)	0.4	PKO Bank Polski SA, Poland
	8 UkrSibbank (1991)	1.6	BNP Paribas S.A. France		20 ProCredit Bank (2000). Previously Microfi-nansoviy Bank (2000-2003)	0.4	ProCredit Holding, Germany
	9 PUMB	1.6	Rinat Akh-metov		21 Diamantbank (1993)	0.3	Igor Kerez, David Zh-vaniya
	10 Alfa Bank (1993), earlier Bank Vito (until 1997) and Kyivinvestbank (1997-2001)	1.6	Alfa Group consortium, Mikhail Frid-man		22 Bank Credit Dnipro	0.3	Viktor Pin-chuk
	11 Prominvestbank (1992)	1.6	Vneshkom-bank Russia (Russian government)		23 Platinum Bank (2005). Previously International Mortgage Bank (2005-2009)	0.3	Grygoriy Gurtoviy
	12 Credit Agricole (1993). Previously Index-bank until 2011.	1.1	Credit Agricole S.A., France		24 Bank Vostok (Dnipro-petro-vsk, 2002). Previously Agrobank (2002-2007), Khoum Credit Bank (2007-2011)	0.3	Volodymyr Kostelman, Volodymyr Morokhovskiy
					25 International Invest Bank (2008)	0.2	Petro Poro-shenko, Ihor Kononenko

Source: National Bank of Ukraine

# Deadbeat lawmaker enrages creditors with \$800 million in unpaid loans

By **Isobel Koshiw and Josh Kovensky**  
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**W**hat happened to the man whose company took out an \$800 million loan with no ability to pay it back, leading to one of the largest bankruptcies in Ukrainian history, and setting off years of legal battles?

He's writing creditor defense legislation in the Rada.

It's not a joke.

The story involves Westa, a battery producer, which was owned by Denys Dzenzerskiy, a Dnipro lawmaker with the Arseniy Yatsenyuk-led People's Front.

After years of alleged mismanagement, it racked up debts of \$800 million to more than 54 separate creditors, ranging from Russian-owned bank VTB-Ukraine, to the country's tax service, to a small military battalion based along the Dnipro River.

Dzenzerskiy declined to comment for this story. He said through a representative that since he left Westa in 2012, he was no longer connected to the case, even though the company is still owned by his father and former partner, Viktor Dzenzerskiy.

The Kyiv Post was unable to reach any of Westa's representatives, including Viktor Dzenzerskiy.

Westa's bankruptcy was sparked by the wider economic crisis in Ukraine, which has affected manufacturers in particular. Access to one of their biggest markets, Russia, was curtailed, and falling oil prices brought down demand. Their ability to repay was further hurt by Ukraine's currency devaluation.

The loan is one of many multimillion-dollar non-performing loans in Ukraine. Over 60 banks have been closed in the last two years because their asset portfolios were just too weak to withstand the crisis.

For example, Westa's main creditor, VTB-Ukraine, which is owed \$213 million, reported a \$180 million loss in 2015 after several loans failed to come to fruition and, according to the bank's press service, it is looking for a buyer.

Denys Kytsenko, a partner at Integrities law firm who is representing VTB in the matter, said that Westa's assets were enough to pay only 8 percent of its debts.

"There are many questions for all the banks that participate in the project," Kytsenko said. "How did it end up like this?"

## Big ambitions

Founded in 2001, Westa expanded into manufacturing various types of car batteries, steadily increasing its market share until it occupied roughly one percent of the global car battery market.

By 2011, it successfully completed an initial public offering on the Warsaw stock exchange for \$43 million.

According to Nick Piazza, an investment banker who acted as financial adviser for the deal, the company used the money to build a new factory, after selling an older factory to current President Petro Poroshenko.

Piazza said that Westa had big ambitions:

"With a lot of people in Ukraine there was a window to take a lot of cheap debt from Ukrainian banks, so when we were on the road, the debt number was in there, everyone pointed it out as a risk."

But in 2007, the situation was different and VTB approached Westa with an offer to expand the company. Between then and 2010, the bank lent the company \$213 million.

"VTB was with us at the closing of the deal, they went with us to the ringing of the bell," Piazza added.

Kytsenko, who toured Westa soon before the company stopped paying the loan, was impressed.

"If you brought a person to the site or showed him a picture, the person would say, 'wow, business development in Ukraine!'" Kytsenko said.

At the same time, Westa began to pay for equipment from its many suppliers on credit as well. One of those, a box supplier called Kilchen, has been in debt for three years now after Westa bought supplies on credit and failed to pay up.

"It turns out that for this business development, the guy took out a loan much bigger than the business was worth," the VTB lawyer said.

In 2013, Westa stopped paying up, and since then has tried to prevent its assets from being appropriated.

## Bank goes to war

Initially, partly due to a peculiarity of Ukrainian law, VTB was reluctant to sue Dzenzerskiy over the debt. If a Ukrainian bank wants to go to court over a non-performing loan, Kytsenko said, it must log a "reserve" sum of money with the National Bank of Ukraine equivalent to the amount of the loan. In VTB's case, Kytsenko said, that would mean a \$300 million reserve.

Having to guarantee the extra amount of money makes banks



Denys (R) and Viktor (C) Dzenzerskiy show then-Prime Minister Yulia Tymoshenko (L) their Westa-Dnipro factory in November 2009. The Dnipro Commercial Court ordered the state liquidator to begin work in June as part of the company's bankruptcy proceedings. (UNIAN)

less likely to “go to war” in cases of large non-performing loans, Kytsenko said – particularly when the debtor wields political influence.

But this case, VTB decided to go to war. In 2014, the bank filed cases in Dnipro over the unpaid loan.

Out of the five companies that are in debt, four of them have been declared bankrupt by the Dnipro Commercial Court, though the process has been lengthy and the state liquidator was only granted permission to begin work on June 2. But for one of their biggest factories, ReKS (Rekuperatsiya Svintsa), the bankruptcy proceedings are taking place in Kharkiv.

Westa re-registered ReKS to Kharkiv and then voluntarily declared bankruptcy in Kharkiv, which meant a moratorium was declared over the seizure of its assets. Ukrainian law stipulates that such a moratorium is to last for six months, but there have been cases in Ukraine in which it lasted for several years.

Before the bankruptcy proceedings started for ReKS in Kharkiv, and those in Dnipro had ended, there was a legal window to freeze some of the company’s assets. So in November 2015, as part of the legal process, a group of officers from the State Executor Service went to seize ReKS’ assets in Dnipro.

According to both a video reviewed by the Kyiv Post and court documents filed by attorneys for VTB, Denys Dzenzerskiy greeted the officers outside the state-owned Dnepr Carbuilding Plant (DMZ). REKS is located within the territory of DMZ. Dzenzerskiy was accompanied by armed security.

In the video, Dzenzerskiy is clearly visible, yelling at a group of officials and lawyers attempting to enter the premises. Kytsenko says that while security guards at the facility did not openly brandish weapons, they arranged their clothing in such a way that the outlines of the weapons were visible. The state executors failed to seize the plant’s assets.

In a criminal complaint sent to the Dnipropetrovsk regional prosecutor’s office after the incident, VTB further accuses the company’s owners of using the fact that Dzenzerskiy is a member of parliament as a defense.

## Creditors across Ukraine

Through Westa, the Dzenzerskiys owe money to a bizarre collection of creditors scattered around Ukraine, totaling more than 50 separate entities and individuals.

Ukraine’s state tax service, which did not reply to a request for comment, is owed nearly Hr 24 million (around \$1 million) by Westa.

A number of banks besides VTB and Ukreximbank are on the list, including Privatbank, as well as VAB bank and the Kazakh BTA bank.

One institution - Bank Forum - collapsed in 2015 and was declared bankrupt by the National Bank of Ukraine. That bank extended a loan of around Hr 80 million to Westa - a sum that, though not enough to kill the bank, “certainly helped” its destruction, according to Kytsenko.

Other, smaller creditors complained about the issue. The director of Kilchen, the box-making firm, said that the company had sold Hr 200,000 worth of boxes to Westa on credit, before the company stopped paying, calling it a “miserly sum that we would like to have returned.” A military base along the Dnipro claims it is owed Hr 150,000 by Westa.

## New creditors appear

In April 2016, two years after the banks initiated their case against Westa, a new creditor appeared, the Hong Kong-registered company Selamar Trading Limited. They claimed they were owed Hr 2.4 billion by ReKS. The Kharkiv appeals court has yet to make a decision about its claim.

Their demands are based on a contract between Selamar and Ekolight Energies, a Westa affiliate company, of which ReKS was the guarantor.

Oleksandr Maiorsky, the former director of Ekolight, a non-descript Moldova-registered company that is one of the largest creditors for the groups, is now the current director of ReKS.

If the court chooses to accept Selamar’s claims, they and not VTB would be the largest creditor and gain control over the creditors’ committee and therefore direct the insolvency of ReKS, which currently owes money to VTB.

Kytsenko alleges that it is impossible for ReKS to have acted as a guarantor. Between 2012 and 2013 when the alleged contracts took place, ReKS was worth a total of Hr 900 million, Hr 800 million of which was used to secure credits from VTB. On top of that, they were in debt a further Hr 1 billion to other creditors. Court documents from the initial insolvency of ReKS in Dnipropetrovsk support this.

Selamar could not be reached for comment.

“In this strange way, (if accepted) it gives Selamar complete control of the creditors’ committee,” Kytsenko said.

## Deadbeat defending creditors

Dzenzerskiy is the deputy chairman of the parliamentary committee for banking and finance but he rarely attends meetings, according to fellow committee member and Samopomich lawmaker, Oleh Lavryk. The parliament’s website shows that Dzenzerskiy has been present 31 times and absent 169 times since the beginning of the convocation.

Ukrainian deputies are among some of the richest businessmen in the country and regularly lobby for their own interests in parliament.

“They work to develop their own enterprises, and their enterprises get a lot of advantages compared to those who try to work honestly,” said Lavryk. “If people had the opportunity to meet their own needs then they might start thinking differently.”

But Lavryk says that it would be difficult for Dzenzerskiy to directly influence legislation for the benefit of Westa, as he is just one lawmaker, and draft legislation is discussed within all the factions.

His legislative proposals have been mixed: focusing on restructuring consumer loans and protecting creditors, but also lobbying to introduce moratoriums of property used as collateral for foreign loans. Either way, given Westa’s enormous \$800 million debt, this is still a clear conflict of interest.

According to NBU Financial Stability Department Chief Vitaliy Vavryschuk, the NBU keeps a list of the largest debtors and originators of NPLs.

Sharing that information with the general public, Vavryschuk said, would violate bank secrecy.

“There are very many, some influential people that have a huge stock of debts, whose companies have a huge stock of debts, and that are not repaying the debts,” Vavryschuk said. “We do see, unfortunately, that some of these people are not behaving in a proper manner.” ■



# NBU fails to stop massive financial fraud at looted Bank Mikhailovsky

By **Josh Kovensky**  
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**W**ant to get rich in Ukraine? Set up a bank. And then destroy it. That's what Gulliver skyscraper and Eldorado electronics chain owner Viktor Polishchuk did with the recently collapsed Bank Mikhailovsky.

Polishchuk set up a scheme at Mikhailovsky by which clients could make deposits at high growth rates, but without protection from the Deposit Guarantee Fund.

The millionaire, who is reportedly married to a niece of Russian Prime Minister Dmitry Medvedev's wife, then used Mikhailovsky to lend to himself in a scheme that continued for months after the National Bank installed an official observer.

As the bank began to collapse, Polishchuk jettisoned the non-guaranteed deposits into Mikhailovsky, creating a situation whereby the government – and Ukraine's taxpayers – would be legally obliged to take responsibility for his fraud. In so doing, he also aligned his own interests against the government, and with those of the defrauded depositors.

Polishchuk did not reply to numerous requests for comment, made through Gulliver and Eldorado's press services.

## Yanukovych links

Polishchuk founded Mikhailovsky in June 2013, through a shell company called Ekosipan.

Ekosipan is a limited liability company controlled by 11 directors, each with equal shares. The directors include Polishchuk, as well as former Mikhailovsky chairman Igor Doroshenko.

From the moment of the bank's creation, Doroshenko promoted an aggressive expansion strategy that would see the bank purchase other, smaller banks.

"We're in the process of reviewing a few banks," Doroshenko told news agency Minprom in a fall 2014 interview.

But the only attempt that Mikhailovsky ever made to purchase another bank came in March 2015, when the bank applied for – and received – permission from Ukraine's Anti-Monopoly Committee to purchase the All-Ukrainian Development Bank, owned by ousted President Viktor Yanukovich's son Oleksandr Yanukovich.

The transaction was later blocked in court.

Antonina Volkotrub, a researcher at the Anti-Corruption Action Center, suspects that Polishchuk was acting as a front for the Yanukovich family.

"I cannot say that Polishchuk is an independent player," Volkotrub said.

## Brazen fraud

At the same time as the attempted purchase, Mikhailovsky was engaged in a brazen fraud that allowed it to multiply its client base while loaning the money back to its owners.

The bank offered a service by which clients could keep money at high growth rates. Instead of being held by the bank itself, the deposits would be held by a separate firm called the Investment Calculation Center. Through an individual investment agreement, the bank promised to pay 25 percent per year interest on the money.

So what's the catch?

The deposits weren't insured by the Deposit Guarantee Fund. Though the government gave the Investment Calculation Center permission to take deposits as an investment fund, the depositors did not realize that they were making an investment, and not a bank deposit.

"All the other banks had a lot of problems with providing credit," said Grigoriy Lukashenko, a pensioner protesting the Deposit Guarantee Fund on June 21 protest, who claimed to have lost more than Hr 100,000 in savings. "It seemed like Mikhailovsky was the best bank."

The deposits were privately insured, but only via Forte – an insurer that Polishchuk purchased in November 2013, five months after Mikhailovsky's founding. A call to Forte was met with an automated statement saying that the firm would be unable to pay out losses from the bank's collapse.

Artem Marinushkin, an attorney representing the clients who lost money in Mikhailovsky, said "these companies, the Investment Resource Center, connected to Polishchuk are, by essence, shell firms."

**Protesters gather outside Ukraine's Deposit Guarantee Fund on June 21. Polishchuk transferred Hr 1 billion worth of deposits to Bank Mikhailovsky hours before it was shut down, making the government liable for the money. (Anastasia Vlasova)**



As an investment fund, the Investment Calculation Center appears to have “invested” people’s money as deposits into Bank Mikhailovsky.

“It’s a case where the company gathered the money from investors, and then itself put the money into Bank Mikhailovsky as a deposit at a higher interest rate, and earned cash off of it,” Marinushkin added.

Over the course of 2014, as the Ukrainian economy began to tank, Bank Mikhailovsky grew its deposit base 4.5 times to Hr 631 million this way, while the first half of 2015 saw that figure nearly double to total deposits of Hr 1.1 billion.

Minutes from the bank’s board meetings suggest insider lending. In 2014, the bank gave Hr 790 million to a group of companies that appear to be linked to Polishchuk.

One company, for example, is Aleksandriya, which received a loan totaling Hr 131 million from Mikhailovsky. The company is owned by a man named Oleksandr Denisov, who was a co-director of Ekosipan and served on the board of Mikhailovsky.

In another case, Mikhailovsky loaned Hr 130.7 million to a company called Inter-Profit, registered to an address in the Kyiv suburb of Brovary where Polishchuk owns land. A Kyiv court ordered the property seized in October 2015 as part of an investigation into real estate fraud in Brovary.

Overall, during this period Mikhailovsky was lending far more money than it had in deposits.

“It turns out that the philosophy of the business was oriented so that the bank would not be profitable,” said Volkotrub.

## Bank run starts as NBU watches

The NBU classified Mikhailovsky as problematic in December 2015. The central bank then sent an official observer into Mikhailovsky to oversee transactions at the institution.

“The official observer has access to all business transactions of the bank, he could follow the flows of money, how everything happened,” said Marinushkin, adding that the NBU would have had to have known of the bank’s schemes starting at least from December.

Installing the official observer also meant that the bank had to agree to a number of restrictions on capital flow and the kinds of loans it could put out.

But at the end of March, the restrictions were lifted.

“Why the NBU lifted these restrictions is not understood,” Volkotrub said. “That’s the main question.”

The lifting of restrictions allegedly allowed the bank’s management to begin to empty the bank’s vaults, so that, in Marinushkin’s words, “the necessary people could remove their assets from the bank.”

NBU Deputy Governor Katerina Rozhkova told the Kyiv Post that the restrictions were lifted part of a “plan of the banks financial recovery.”

## Collapse

By May 18, Mikhailovsky was almost out of money. Lines began to form near its ATMs as people tried to take out what they could, while the bank’s leadership instituted a Hr 1,000 withdrawal limit.

But behind the scenes, Polishchuk and others were preparing for the collapse. On the same day, Board chairman Doroshenko resigned.

The next day, Polishchuk sold his 92 percent stake in the company to 12 people, meaning that no owner had more than 10 percent.

The change was apparently done to avoid exposure under a recently passed law that makes bank owners liable for everything that happens

in their bank. The National Bank registered the change on its website on May 23, though the bank’s press service said on June 24 that the change occurred “automatically” after the bank uploaded the data.

“Nothing cancels Polishchuk’s responsibility for Mikhailovsky,” an NBU spokeswoman said.

On May 20, amid the run on Mikhailovsky, Investment Calculation Center, the shell company that took people’s deposits, sent a message to its depositors saying that their money had been returned to Mikhailovsky checking accounts.

On the same day, the central bank says, Mikhailovsky’s financial monitoring system was disabled, preventing the NBU observer from seeing the transactions.

When the system was reconnected at the end of the May 20 business day, Mikhailovsky had Hr 1.1 billion more in individual deposits that the Deposit Guarantee Fund had previously had to insure. The bank’s leadership had transferred the fraudulent deposits into Mikhailovsky.

All of a sudden, the burden of the fraud was on the state.

## High-level links, similar fraud to come?

Ukrainian government officials argue that the deposits were fraudulently placed into Mikhailovsky, and that the Deposit Guarantee Fund therefore has no responsibility to insure the losses, as they were technically made as investments, and not as deposits.

Those defrauded argue that they made the deposits under the pretense of them belonging to Mikhailovsky, and that even though the money was transferred at the last minute, that does not absolve the fund of its legal responsibility to guarantee the assets.

“The law is on our side,” said Kirill Rostenko, a Mikhailovsky client who came from Kharkiv to protest outside the fund.

The NBU official who has perhaps been the most vocal against insuring the Hr 1.1 billion has been NBU deputy governor Rozhkova, who said that the government would not insure the money.

“The deposit fund is a separate, independent institution,” Marinushkin said. “Rozhkova cannot order them what to do.”

Rozhkova, however, has her own connection to the matter. Before joining the NBU, she worked at Platinum Bank, the institution to which Doroshenko immediately decamped after leaving Mikhailovsky in May.

Rozhkova has denied any conflict of interest surrounding Platinum.

When asked why the NBU did not detect the fraud, Financial Stability Chief Vitaliy Vavryschuk said “you can never guess when management or shareholders will decide to kill the bank.”

A similar scheme to that which underpinned Mikhailovsky’s collapse, by which depositors make investments not guaranteed by the state, also exists in the country’s largest bank, Privatbank. The Dnipro-based bank advertises it as a “Service of Profitable Deposits.” A Privatbank spokesman said that the service has Hr 2 billion in deposits, nearly double what Mikhailovsky had.

Advertising materials given to the Kyiv Post by a clerk at one of Privatbank’s central Kyiv branches did not mention that the deposit is not guaranteed by the state.

Instead, it is insured by Ingosstrakh, a Privatbank-owned company with accounts in the bank. ■



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