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Kroll report, Ukraine: Kolomoisky and Surkis brothers withdrew money from Privatbank during the bail-in

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1. Background and Scope

1.1 Background of the investigation

In December 2016, 42 corporate depositors and 2 individual depositors of the Cyprus branch of PrivatBank ("Privatbank Cyprus") were subjected to a "bail-in" whereby the funds totaling approximately USD 310 million were brought into the capital of the bank to ensure that Privatbank met its capital requirements. In Cyprus, legal cases have been initiated by six account holders at Privatbank Cyprus to challenge the use of these deposits for such a purpose. These six account holders represented around 80% of the total bailed in deposits in Cyprus, totaling USD 245 million. On 27 May 2017, Kroll received a request from [REDACTED] to summarise the information gathered to date in respect of the six accounts: Sofinam Investments LLP, Lumil Investments LLP, Berlin Commerical LLP, Camerin Investments LLP, Sunnex Investments LLP and Tamplemon Investments LLP (the "Six Depositors"). [REDACTED]

2. Executive summary and next steps

2.1 Executive summary

The analysis of cash flows related to the Six Depositors incorporates two main elements: (1) the conversion of initial loans to the deposits currently held at Privatbank; (2) the repayment of the initial loans by issuing new loans (loan recycling). A visual chart detailing the complete mechanism is attached as appendix 7. While NBU analysed the cash flows for both parts, Kroll's analysis to date has concentrated on corroborating the links between the deposit balances and the initial loans. To date Kroll has not conducted a detailed review of the loan recycling scheme, but has corroborated the analysis performed by NBU to bank statements. Further detailed analysis of the loan recycling mechanism will be part of our further work (see Section 2.2 Next steps).

Documents reviewed by Kroll in relation to the bank account activity for the Six Depositors who have initiated claims against Privatbank demonstrate that the deposits were funded through a series of loans which were made between 2008 and 2010 by Privatbank Cyprus, to companies which were related parties of Privatbank. The loans, which totalled USD 361 million, were grouped in batches, within which loans were issued within minutes of each other before being immediately channelled through a web of transactions between related party company accounts which appeared to have no obvious commercial purpose, before being placed in deposit accounts of the Six Depositors. The funds were placed on deposit in the accounts of a number of intermediary companies for extended periods of up to two years, and were finally in the deposit accounts of the Six Depositors at the time of the bail-in. The interest which was earned on the deposits was significantly higher than the interest which was due on the loans. The loans appear to be a part of a much larger long term scheme, whereby loans issued by Privatbank Cyprus were recycled and paid off by new loans which were issued under the guise of legitimate corporate lending. Although the loans which were issued and which were channelled to the depositor accounts have now been settled, the source of funds which settled them has not yet been fully understood, as it involved multiple layers of loan recycling.

This report details three separate fund flows. The first provides a summary of USD 207 million loans issued to five companies which were classified by Privatbank or strongly suspected by the NBU as being related parties to Privatbank, based on a number of defined criteria. These loans can be traced to depositor accounts in the name of four of the Six Depositors. During this process, interest payments and other capital was also channelled to accounts held at the Bank of Cyprus, totalling USD 125 million. The second fund flow traced USD 85 million of loans issued by Privatbank Cyprus to three related party companies, which then was transferred to the depositor account of another of the Six Depositors. The third fund flow detailed in this report traces Depositor funds to loans issued from Privatbank Ukraine, totalling USD 69 million which are transferred to the last of the Six Depositors.

No documentation was available which demonstrated the original purpose of the loans issued in 2008, but it appears from the fund flows that they were intentionally channelled through a web of related party accounts to disguise the source, before being placed on deposit to generate interest. Analysis has also revealed other significant factors which

indicate that this was part of large-scale co-ordinated scheme. The borrowers who took out the loans were largely related parties to the bank. The depositors themselves were also related parties with companies registered on the same day with the same address in the UK, with ownership in the BVL. The structures of moving the funds also demonstrate many of the characteristics of money laundering, for example the movement of funds through multiple accounts, layering of funds and using of loan funds as collateral for the same loan.

Analysis of the Six Depositor accounts has linked them all to Grigory and Igor Surkis, prominent Ukrainian magnates who have multiple interests in commercial enterprises. The two Surkia brothers are also known business partners of Igor Kolomoisky, one of the biggest shareholders of Privatbank. Many of the companies involved in either the borrowing, the layering or the depositors could also be linked to Kolomoisky.

Because the depositor funds were used to "bail-in" the bank, the most significant dissipation of funds outside Privatbank which originated from either the capital portion of the loan or the interest received from the loans was a sum of approximately USD 150 million which was transferred to a number of accounts held at the Bank of Cyprus.

Although Kroll has not yet reviewed in detail the loan recycling analysis conducted by NBU we have corroborated many of the transactions which were analysed to bank records and have not found any discrepancies in the work undertaken. The NBU observations included the use of "technical overdrafts", where within one day the current account of one of the intermediary companies which was used to channel and disguise the funds may have a large negative balance for part of the day which was then settled later on in the day. Other observations include the use of the same network of offshore company accounts for conducting loan recycling operations, use of similar very generic transactional descriptions and apparent lack of underlying documents to substantiate the economic basis for money transfers.

According to this information, in 2008-2010 a number of companies associated with Privatbank received loans from Privatbank Cyprus, totaling USD 361 million.

"The loans, which totaled USD 361 million, were grouped in batches, within which loans were issued within minutes of each other before being immediately channeled through a web of transactions between related party company accounts which appeared to have no obvious commercial purpose."

According to investigators, the same funds were later deposited in Privatbank. They were initially deposited for a period of up to two years at the time of the bail-in on the accounts of a number of

companies that later redirected funds to deposit accounts of six companies: Sofinam Investments LLP, Lumil Investments LLP, Berlini Commercial LLP, Camerin Investments LLP, Sunnex Investments LLP, and Tamplemon Investments LLP. They were all registered on the same day at the same address and came under the jurisdiction of the British Virgin Islands.

“These six account holders represented around 80% of the total bailed in deposits in Cyprus, totalling USD 245 million... ..The interest which was earned on the deposits was significantly higher than the interest which was due on the loans,” – the Kroll report states. “The loans appear to be a part of a much larger long term scheme, whereby loans issued by Privatbank Cyprus were recycled and paid off by new loans which were issued under the guise of legitimate corporate lending. Although the loans which were issued and which were channeled to the depositor accounts have now been settled, the source of funds which settled them has not yet been fully understood, as it involved multiple layers of loan recycling.”

About USD 150 million, including loan funds and interest, was withdrawn from Privatbank through this scheme. According to the Kroll report, these funds were transferred to a number of accounts held at the Bank of Cyprus.

Kroll’s research showed that all six deposit accounts mentioned in the report lead to Grigory and Igor Surkis. They are Ukrainian oligarchs and business partners of Igor Kolomoisky, one of the biggest shareholders of Privatbank before its nationalization. Surkis brothers tried to prove in the courts that they were not associated with the former owners of Privatbank and insisted that the bail-in procedure was illegal.

Simultaneously with the court proceedings in Ukraine, Igor Surkis filed a lawsuit in the High Court of London. The lawsuit, contrary to the Ukrainian proceedings, declared the obvious connection between Surkis brothers and Igor Kolomoisky.

On June 15, 2020, the Grand Chamber of the Supreme Court of Ukraine decided to close the case of Surkis family against the National Bank of Ukraine: they failed to challenge the fact of their connection with the former owner of Privatbank Igor Kolomoisky.

A Kroll’s independent investigation of the Privatbank activities was carried out from 2016 to 2017. It showed that Privatbank had been part of large-scale co-ordinated fraud scheme for at least ten years prior to the bank nationalization, resulting in bank loss at least USD 5.5 billion. This information is stated in the investigation results that were presented by the National Bank of Ukraine in January 2018.