

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**THE GOVERNMENT OF UKRAINE**  
**AND**  
**PUBLIC JOINT STOCK COMPANY "STATE SAVINGS BANK OF UKRAINE"**  
**AND**  
**EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT**  
**IN RESPECT OF**  
**SUPPORT OF REFORM OF OSCHADBANK AND ITS PREPARATION FOR**  
**PRIVATISATION**

**MEMORANDUM OF UNDERSTANDING** (hereinafter referred to as the "Memorandum") between the Government of Ukraine (hereinafter referred to as the "Government"), Public Joint Stock Company "State Savings Bank of Ukraine" (hereinafter referred to as "Oschadbank" and/or the "bank") and the European Bank for Reconstruction and Development (hereinafter referred to as "EBRD"), hereinafter separately referred to as a "Party" and jointly referred to as the "Parties".

## **WHEREAS**

- (A) Oschadbank is a joint stock company organized and existing under the laws of Ukraine, 100%-owned by the Government.
- (B) EBRD welcomes the decision of the Government to reform the state-owned banks (the "SOB") in accordance with the Principles of the State Banking Sector Reforming<sup>1</sup> (the "SOB Strategy") approved by the Cabinet of Ministers of Ukraine (the "CoM") on 11 February 2016. The Government has requested that EBRD support and facilitate the transformation of Oschadbank to a sustainable financial institution on the principles of good corporate governance, commercial operations, and level playing field in preparation for its intended partial privatisation by 2018 and decision as to the majority/full privatisation by 2020.
- (C) The SOB Strategy defines privatisation as one of the key elements of the reform that is expected to strengthen the transparent commercial principles of bank's governance and operations, emphasize profit-orientation, and maximize shareholder value creation. The Government is expected to benefit from increased value of its shareholding stake in Oschadbank and ultimate privatisation proceeds, as well as from the bank's greater ability to more effectively provide banking services and financing to various sectors of economy following the expected improvements in operational and financial capacities of the bank.
- (D) The Parties agree that in order to maximise future privatisation proceeds and positive spillover effects for the Ukrainian economy and banking sector Oschadbank needs to develop and implement a comprehensive transformation programme of corporate governance, operational, and financial activities. EBRD is willing to cooperate with the bank and the Government on the development and realisation of such a programme, as well as to consider in the future acquiring a minority equity stake in the bank through participation in a capital increase as part of pre-privatisation process.

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<sup>1</sup> [http://www.minfin.gov.ua/uploads/redactor/files/SOB\\_strategy\\_01-15\\_11022016\\_ENG\\_TC.pdf](http://www.minfin.gov.ua/uploads/redactor/files/SOB_strategy_01-15_11022016_ENG_TC.pdf)

**NOW THEREFORE**, the Parties have come to the following understanding:

## **I. PURPOSE**

The purpose of this Memorandum is to set out a framework for cooperation between the Government, Oschadbank and EBRD with the view to facilitating Oschadbank's commercialisation and preparation for privatisation.

This Memorandum will not create a legal relationship or binding obligations of the Parties.

## **II. COOPERATION**

### **1. Role of the Government**

The Government will endeavour to:

- 1.1. In relation to Oschadbank, apply decision-making policy consistent with the SOB Strategy, in particular the principles of sound corporate governance, commercial operation, and level playing field.
- 1.2. Support and facilitate development, adoption, and implementation of the legislation framework required for the reform of corporate governance, including amendments to the laws and Oschadbank charter as listed in paragraphs 73 and 74 of the SOB Strategy.
- 1.3. Procure transparent international selection for the appointment of a new Supervisory Board for Oschadbank with majority of independent members by no later than 1H 2017 in line with process and criteria agreed with International Financial Institutions (the "IFIs").
- 1.4. Refrain from providing Oschadbank with special treatment or other preferential or priority rights compared to other private commercial banks in relation to the bank's operations in the market, access to clients, government financing programmes, projects, capital and money markets transactions, introduced by special CoM regulations, to ensure a level playing field. For the avoidance of doubt, the paragraph 1.4 is not applicable to the state programmes, which are already financed and serviced by Oschadbank as of the date of this MoU, as well as to the banking services, provided either to the clients dealing with the national security (directly or indirectly) or under the special circumstances (military actions, etc).
- 1.5. Within its authority, provide required support and facilitate fulfilment of the benchmarks of the transformation programme covering corporate governance,

operational, and financial restructuring of the bank, which is to be developed and agreed between Oschadbank and EBRD as part of the cooperation.

- 1.6. Procure relevant decisions of the CoM and facilitate and support adoption of other required laws and regulations that allow sale of shares in Oschadbank to reputable third party investors. In particular, the decision and relevant legal framework for a sale of at least 20% stake in Oschadbank should be in place by mid 2018, and majority stake sale by 2020.
- 1.7. In line with the paragraph 21b of the SOB Strategy, make available for sale at least 20% stake in Oschadbank by mid-2018 to a strategic and/or IFI investors. Ensure that the sale is carried out through an open transparent and competitive process assisted by reputable independent investment advisers.
- 1.8. Following positive decisions on the matter and required legislative amendments implement majority/full privatization by 2022 and engage independent advisors to prepare for and assist in such privatization by end 2020 in consultation with the minority investors.
- 1.9. Maintain Oschadbank's capitalization within the minimum prudential capital adequacy requirements at all times.
- 1.10. Within its authority, facilitate and support development, approval, and implementation of a legal and regulatory framework necessary for effective resolution of problem exposures on the balance sheets of Oschadbank and other state-owned banks.

## **2. Role of EBRD**

EBRD, in accordance with its Strategy for Ukraine, as may be updated from time to time by its Board of Directors, and consistent with the Bank's internal policies, rules and procedures, intends to support, where and as appropriate, the Government's and Oschadbank's efforts aimed at facilitating the latter's commercialisation and preparation for privatisation. In particular, EBRD will, subject to availability of funding for these purposes, endeavour to:

- 2.1. Assist Oschadbank in development and implementation of a technical assistance programme (the "TA Programme") aimed at transformation of Oschadbank into a commercially run financial institution and its ultimate preparation for privatisation. The key areas of the TA Programme will include (i) MSME lending development, (ii) centralization and optimisation, and (iii) risk management and compliance functions.
- 2.2. Assist Oschadbank in arranging the procurement of adequate third party consultants for the TA Programme and help arrange partial financing of the required assignments.
- 2.3. Subject to standard EBRD policies and approval procedures and achievement

of transformation programme benchmarks, consider providing financing facilities to Oschadbank to support and promote its lending activities, in particular for financing of international trade, MSMEs, and energy efficiency programmes.

- 2.4. In 2018 assess the progress made by Oschadbank and CoM in preparation of Oschadbank for privatisation and consider acquisition of a minority stake in the bank through a capital increase. It is envisaged that EBRD will consider making an equity investment in Oschadbank upon Oschadbank reaching certain pre-agreed milestones in accordance with the transformation programme and subject to explicit written commitment of the Government to fully privatize Oschadbank.

### **3. Role of Oschadbank**

In line with its mandate defined by the Ukrainian legislation and in accordance with the SOB Strategy guidelines, Oschadbank will endeavour to:

- 3.1. Operate on a commercial basis, implementing the transformation programme.
- 3.2. Prioritize and focus on building its internal capacity and presence in retail and MSME segments, resulting among other things in a substantial sustainable growth of the respective loan portfolios.
- 3.3. Cooperate with EBRD in implementation of the transformation programme and TA Programme by (i) procuring required internal decisions, (ii) allocating adequate human and management resources, (iii) maintaining efficient project management process and organizational structure, (iv) providing a transparent and regular communication with EBRD and other stakeholders.
- 3.4. Ensure a transparent and efficient process for selection and appointment of key bank personnel required for implementation of the TA Programme and the transformation programme.
- 3.5. Provide its part of the required financing for the consultants under the TA Programme, as agreed with EBRD.
- 3.6. Ensure support of the Management Board and responsible top managers in development of consultants' recommendations under the TA Programme and their practical implementation in the bank.
- 3.7. Facilitate and finance as necessary the functioning of the new Supervisory Board and its committees, including payment of director fees and salaries, provision of required facilities, logistical, and procedure support.

### **III. COMMUNICATION**

Any notice or other communication to be given or made under this Memorandum

will be addressed and sent to the following contact points or at such other address as either Party designates by notice to the other Parties:

**For the Government of Ukraine, represented by the Minister of Finance of Ukraine**

The Ministry of Finance  
12/2 Mykhaila Hrushevskoho Street  
Kyiv, 01008 Ukraine  
Attention: Minister of Finance, Deputy Minister for European Integration  
Facsimile: +38 044 425-90-26, 277-5487

**For Oschadbank:**

12-G Hospitalna Street  
Kyiv 01001, Ukraine

Attention: Chairman of the Management Board, Head of External Financing  
Department  
Facsimile: +380 44 247-86-95, +380 44 247-85-68

**For EBRD:**

One Exchange Square  
London EC2A 2JN  
United Kingdom

Attention: Operations Administration Department  
Facsimile: +44 (20) 7338 6100

**IV. FINAL PROVISIONS**

This Memorandum reflects the views and intentions of the Parties to co-operate on a non-exclusive basis, expressed in good faith but without the creation of any legal obligation or the incurrance of any liability on the part of any of them. Nor shall any third party obtain any legal benefit from this Memorandum.

It is understood and agreed that nothing in this Memorandum will constitute, or be construed as, an offer, promise or undertaking by either Party to finance all or part of any activity or project identified in or pursuant to this Memorandum.

All rights and obligations of the Parties regarding the EBRD's contemplated pre-privatisation assistance and assistance in the privatisation process of Oschadbank are subject to further agreement between the Parties and signing of legally binding documentation.

In the event that opportunities for activities or projects are identified in the course, or as a result, of the cooperation between the Parties, specific arrangements for any such

activity or project would need to be agreed upon between the Parties.

Each of the Parties will incur its own expenditures arising as the result of the implementation of this Memorandum, unless otherwise specified in relevant separate agreements.

Nothing in this Memorandum will limit the right of, or prevent the Parties from entering into memoranda or arrangements with other parties with respect to any activity, project or area of cooperation covered by this Memorandum.

The Parties will meet periodically, but not less frequently than once every 3 months, to review and discuss the implementation of this Memorandum, assess the achievement of the objectives as set out herein above, and consider necessary adjustments, if any.

Nothing in this Memorandum will constitute nor be construed as a waiver, renunciation or other modification of any of the privileges, immunities and exemptions granted to the EBRD under the Agreement Establishing the European Bank for Reconstruction and Development, international conventions or any applicable laws.

Any dispute arising out of, or in connection with, the interpretation or application of any provision of this Memorandum of Understanding will be settled amicably through consultations between duly authorised representatives of the Parties.

This Memorandum and any amendments, modifications or supplements hereto, will be executed both in English and Ukrainian languages. In the event of any discrepancies between the English and Ukrainian versions, the English version shall prevail.

This Memorandum will come into effect on the date it is signed by the last of the three Parties and will remain in effect until either Party notifies the other Parties in writing of its intention to terminate this Memorandum. In such case, this Memorandum will terminate 60 (*sixty*) days after receipt of such notice by the corresponding Parties.

This Memorandum may be amended by mutual written consent of the Parties.

**For the Government of Ukraine, represented by the Minister of Finance of Ukraine**

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Name: Oleksandr Danyliuk  
Title: Minister of Finance of Ukraine  
Date: 25 November 2016

**For Public Joint Stock Company "State Savings Bank of Ukraine"**

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Name: Andriy Pyshnyy  
Title: Chairman of the Management Board  
Date: 25 November 2016

**For European Bank for Reconstruction and Development**

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Name: Francis Malige  
Title: Managing Director, Eastern Europe and the Caucasus  
Date: 25 November 2016