

**OVERVIEW OF THE  
UKRAINIAN BANK ISSUES  
Oschadbank and Vnesheconombank**

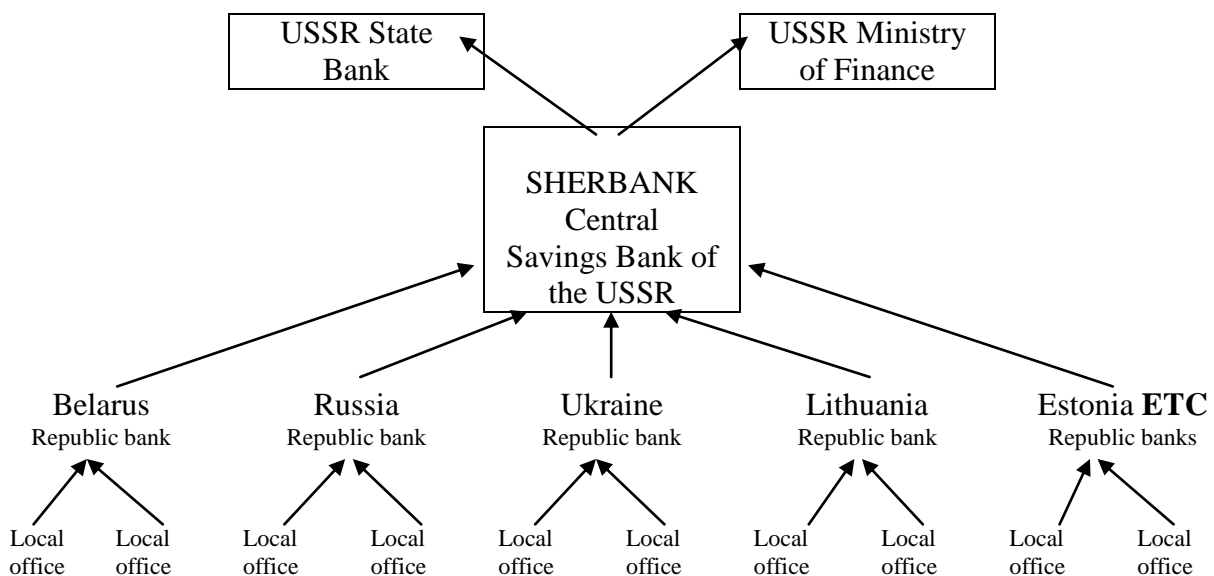
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**OSCHADBANK SAVINGS BANK ISSUE**

During the period of existence of the USSR (1922 to 1991), a centralized savings bank system existed within the 15 republics. The central bank located in Moscow was known as “*Sberbank*”. This savings bank system operated as follows: each republic had a central republican savings bank in the capital with branches throughout the particular country. Savings of individuals that were deposited in the local or regional banks of each republic were periodically transferred to the central bank within that particular republic. [In Ukraine, the savings banks were known as “*Oschadbank*”]. Each republic’s central savings bank would, in turn, transfer all of the deposited assets collected during the calendar year to *Sberbank* - the central savings bank of the USSR. This transfer would occur on the last business day at the end of each calendar year. [As such, each Republic Bank would start its calendar year with a zero balance]

In turn, *Sberbank*, the central savings bank for the USSR, would transfer all of the assets collected from the republics’ savings banks to the USSR State Bank and a portion to the Ministry of Finance of the USSR.



On the end of business on December 31, 1991, the total sum collected over the years in this savings bank system and deposited by the republics with the *Sberbank* and further transferred to the USSR State Bank and Ministry of Finance was over 350 Billion Rubles of which 84.3 Billion rubles were from Ukrainian depositors. At midnight on December 31, 1991, the Soviet Union ceased to exist. The actual control of the assets of the USSR State Bank and of the USSR Ministry of Finance was immediately assumed by the Russian Federation. To this day the Russian State Bank in the Russian Federation failed to return these assets to the republics.

On October 31, 1991, the various savings banks of the former republics and *Sberbank* had entered into an agreement acknowledging the amount of money transferred by the republics to the central savings bank [the Ukrainian portion being 84.3 Billion Rubles] The agreement further stated that a substantial portion of the money due from the central bank *Sberbank* to the republics' savings banks would be eventually transferred to them. [This agreement was signed by all the republics except Lithuania and Estonia] The amounts due would earn interest at 7% until paid. The remainder of the assets [Ukrainian portion ~35 Billion rubles] would be treated as an inter-bank loan at 7% and would be repaid once the issue of division of assets and liabilities among the republics of the former USSR was resolved.

On December 29, 1991, *Sberbank* unilaterally dissolved itself and ceased to exist. All the assets and obligations of this entity were assumed by the National Bank of the Russian Federation.

On March 13, 1992, the former republics agreed that the liability of the USSR Savings Bank *Sberbank* would be proportionately assumed by each of the republics as each country's individual debt to its citizen depositors **provided** that this assumption of obligations would only occur upon the actual dissolution and distribution of the *Sberbank's* savings bank assets among the republics. Needless to say this never occurred.

On March 20, 1992, an agreement was signed by most of the former republics [except the Russian Federation, Tajikistan and Moldova] to set up a commission to develop a mechanism to divide the assets of the USSR Savings Bank. Since Russia did not sign, nothing happened.

On Nov. 21, 1996, Ukraine passed legislation to partially alleviate the losses suffered by the populace resulting from the failure to obtain the return of the funds from the *Sberbank* situation. However due to lack of funds, the Ukrainian government was incapable of substantially implementing this legislation.

It should be noted that all negotiations vis-à-vis this issue have ceased and there are no pending negotiations between governments on the resolution neither of the Sberbank asset distribution nor of the republics' division of the assets and liabilities of the former USSR. Furthermore, it should be noted that the Russian Federation has in fact paid over to its citizens all of the monies that its citizens had within the savings bank system of the former USSR. It did not do so for any of the other republics.

### **COMMERCIAL BANK ISSUE**

During the existence of the USSR, all foreign currency transactions for all individuals and institutions in all of the 15 republics were handled centrally by a government controlled financial institution known as *Vnesheconombank*.

Following the dissolution of the USSR the Government of the Russian Federation ordered *Vnesheconombank* to stop all foreign currency transactions and blocked its accounts as of 31 December 1991. On 13 January 1992, the Russian Federation formally recognized and assumed the liabilities of *Vnesheconombank* relating to the deposits of citizens and entities **resident** in the Russian Federation. No provision was made for individual or corporate depositors from the former USSR not legally resident in the Russian Federation.

The Russian Federation subsequently revised its position to include payments to individual citizens of the former USSR who had been *Vnesheconombank* depositors. In 1997 and 1998, personal accounts of Ukrainian citizens were finally unblocked and paid out by *Vnesheconombank*.

To date, however, the accounts of former USSR corporate entities non-resident in Russia have not been settled. This includes the accounts of approximately 88 Ukrainian companies claiming deposits at *Vnesheconombank* in various currencies with an aggregate value of approximately \$600 million US. Resolution of this issue has been the subject of numerous bilateral discussions between the Governments of Ukraine and the Russian Federation since 1992. To date, the Russian side insists that all of the claims have to be settled by the Ukrainian side unilaterally at its own expense.

## COMMENTARY

During her 2007 parliamentary campaign, Julia Tymoshenko made numerous promises to compensate within 2 years those Ukrainian citizens whose life's savings were lost in the collapse of the *Oschadbank* Savings Bank. Many economists have criticized her plan as economically unfeasible since the losses are estimated to be up to \$25 BN US. Others have pointed out that such government action will require a substantial increase in tax revenue which will be strongly opposed by the industrialists and business tycoons in the Verchovna Rada and will unduly burden the economy. Very few, if any, have asked the ultimate question: Why should the Ukrainian Government be responsible in the first place? When the USSR collapsed at the stroke of midnight on Dec. 31, 1991, all of the *Oschadbank* deposits [84 BN rubles] were in the possession of the parent savings bank in Moscow the assets and liabilities of which were assumed by the National Bank of the Russian Federation. These assets and liabilities still remain with the Russian National Bank which bears the ultimate responsibility for repayment to its depositors. The return of the *Oschadbank* deposits has been the subject of unsuccessful negotiations between Ukraine and Russia for over 16 years. Russia adamantly maintains that the bank claims are a part of the division of assets and liabilities of the USSR question. Russia steadfastly argues that the former republics have accepted the "ZERO Variant" --- Ukraine strongly denies its acceptance of this formula. [Under the Zero Variant" each republic keeps the assets of the former USSR on its respective territory and makes no claim as to other assets – in return Russia keeps all of the other USSR assets on Russian and international territory that could be potentially divisible and assumes all of the debt of the former USSR] As with the bank cases, there are absolutely no bilateral negotiations in progress on the "Division of USSR Assets" issue either.

However, even if Ukraine were to accept the "Zero Variant", the liability for the return of the assets falls squarely on Russia. The asset, the Ukrainian deposits, were in the Central Savings Bank in Moscow and Russia took control of these assets – thus, Russia, which has assumed the liabilities of the former USSR, is liable for their return.

There are no easy alternatives for Ukraine. Maintaining the status quo and doing nothing will merely permanently cement the \$25 Billion US dollar loss that the Ukrainian population suffered. Having the Ukrainian government voluntarily assume the obligation of compensating the victims, no matter how laudable and charitable, inequitably shifts the burden from the liable

party, The Russian National Bank, to the Ukrainian taxpayers. Normal political logic would dictate that all of the Ukrainian political parties, the Orange, the Blue, and the Red, should find a common political will to pursue compensation from the liable party, even though it may provoke strong disagreements with Russia. After all, the victims are constituents of all of these political parties and are scattered evenly throughout Ukraine and like the population, a large portion are Russian or Russian speaking.

Even if Ukraine develops a program to voluntarily compensate the *Oschadbank* victims, it may be more prudent to simultaneously revitalize the negotiations with Russia as soon as possible to resolve these issues. If no effort is made to have Russia pay the compensation, then the voluntary compensation program will only reinforce the Russian version of the Zero Variant argument. If no negotiable resolution is achieved within a relatively short period of time, serious consideration should be given to instituting litigation in an international judicial forum. We must also realize that the government is not necessarily the only party that can bring such legal actions – the victims themselves or associations of victims can initiate them. No matter what the outcome of these litigations is, it will at least give closure to the bank issues and shed a clearer light and a sharper definition to true nature of the “neighborly” relations between Ukraine and its northern neighbor.

If timely negotiations and or litigations with Russia on the Bank cases are not pursued, then, in accordance with the age old adage “possession is 99.99% of the law”, the passage of time will resolve the question to the ultimate disadvantage of Ukraine’s citizenry.

**Myroslaw Smorodsky, Esq.** is an American attorney who successfully represented the Ukrainian class of victims in a series of class action litigations in the US against Austrian and German Industry for Slave/Forced Labor crimes committed by the Nazis during WWII. The litigations resulted in a 5 Billion US Dollar settlement of which over 1 Billion US dollars was distributed to victims in Ukraine. He is also a member of **AZE**ast Group LLC.