



Moldova Banking Crisis

Doc No: MOLDOVA\_REPORT\_001

Subject to Legal Privilege

**Moldova Banking Crisis**  
**Situation Assessment and Opinion**  
**Subject to Legal Privilege**



Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
Subject to Legal Privilege	

Background .....	5
The Kroll Report .....	6
Summary .....	6
1.1 Background and Scope of Work .....	9
2.1 Overview .....	9
2.3 2013: The acquisition of BS and BEM.....	10
2.4 2014: Events Leading to Collapse of UB, BS and BEM .....	11
3.1 Defining the “Shor Group of Companies” .....	12
4.1.1 Shareholders .....	12
5.1 February 2013 - Roseau transaction .....	14
6.1 BEM .....	15
10.2.3.2 <i>Repaying the loans: transfers from BEM loan customers</i> .....	15
10.6 Suspicious loss of loan documentation at BEM, BS, and UB.....	16
12. Where did the money go?.....	17
Kroll Memorandum.....	17
Ruslan Grate Statement.....	19
Court decision – 21 <sup>st</sup> June 2017 .....	19
The Kroll 2 Summary Report.....	21
Summary .....	21
1.1 Background.....	23
1.2 Objective and scope .....	23
1.3 Reporting structure and distribution .....	24
1.4 Contents of the Detailed Report .....	24
1.5 Caveat.....	25
2. Executive Summary .....	25
2.1 Total loan analysis and destination .....	26
2.2.1 Concentrating the loan exposure in BEM to increase liquidity .....	27
2.4 Shor Group control of the loan application process and accounts involved in the fraud .....	27
2.7 Other fund flows by jurisdiction.....	27
3.1 Statement of Mr Shor.....	28
3.2 Caveat.....	29
4. Increase in the loan exposure 2011 – 2014 .....	30



4.1.1 Shor Group companies.....	30
4.1.2 Loan exposures – 2012 to 2014 .....	30
4.1.4 Quantification of the loss in the Three Moldovan Banks .....	31
4.2.5 Coordinated loan applications at the Three Moldovan Banks .....	32
4.3 Switch of the entire loan portfolio on 25-26 November from BEM to BS.....	33
8. Identification of beneficiaries / perpetrators .....	33
The state of the Moldovan Banking System prior to 2012 .....	34
The Expert-Grup Analysis – June 2015 .....	34
Table 1 from the Expert-Grup Report.....	35
The IMF Report October 2012 .....	36
IMF Report Risk Assessment Matrix .....	38
Grigore Gacichevici.....	39
Administration Considerations .....	39
Conclusion.....	43

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

List of Annexes:

- A. Project Tenor Scoping Phase Final Report dated 2<sup>nd</sup> April 2015.
- B. Project Tenor II Summary Report dated 20<sup>th</sup> December 2017.
- C. Translation of sentencing hearing, SHOR Ilan, CASE FILE No. 14-1-10386-24082016 (1-439/17), 21<sup>st</sup> June 2017.
- D. Indictment of Ilan SHOR in criminal case No. 2016970539 (Translation).
- E. Record of the hearing of the witness, Ilan SHOR, in case:2015978138, 13<sup>th</sup> October 2015 (Translation).
- F. VEB Settlement Agreement
- G. Kroll Memorandum to National Anti-Corruption prosecutor, Moldova dated June 2016.
- H. Witness statement GRATE Ruslan Case file no. 1-439/17 dated June 2017.
- I. Sentence documents published By NewsMaker 20<sup>th</sup> April 2017.
- J. Translation of sentencing hearing, FILAT Vladimir, CASE FILE No. 14-1-15217-23122015 (1-721/2016), 27<sup>th</sup> June 2016.
- K. Decoding the Kroll Report – Analysis on basic factors which led to the decapitalisation of Banca de Economii, Banca Sociala and Unibank, (June 2015) Expert-Grup.
- L. IMF Republic of Moldova: Staff Report for the 2012 Article IV Consultation, Fifth Reviews Under the Extended Arrangement and Under the Three-Year Arrangement Under the Extended Credit Facility, and Requests for Waivers for Non-Observance and Modification of Performance Criteria dated October 2012.

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

## Background

1. In 2014 what appeared to be a series of frauds which led to the closure of three Moldovan Banks were discovered. The media jumped on the headline that \$1billion US had been stolen from the banks in question and, while subsequent rulings in Moldova have placed the losses at a much lower figure, it continues to be the \$1 billion story that grabs headlines.
2. Subsequently, Kroll were engaged by the National Bank of Moldova, supposedly to carry out investigations into the fraud and the losses which ultimately led to the liquidation of the banks.
3. In April 2015 Kroll produced an initial scoping report<sup>1</sup> (Kroll 1) for the National Bank of Moldova (“NBM”) on the banking collapse of B.C UNIBANK (“UB”), BC “Banca SOCIALA” (“BS”) and Banca de Economii S.A (“BEM”)<sup>2</sup>. The Kroll Scoping Report is attached at **Annex A**.
4. Subsequently the Speaker of the Parliament of the Republic of Moldova, Mr Andrian Candu, released this report to the public. The report had a significant effect on the proceedings, and arguably on the banks ability to stabilise itself, and has been referenced many times since, including as justification for prosecutions.
5. On 20<sup>th</sup> December 2017, Kroll published their supplementary findings in a Summary Report (Kroll 2) which was almost immediately released online<sup>3</sup>. In the Summary Report, Kroll refer to a “Detailed Report” which has been given to the NBM but which is not yet on general release (Kroll 3). Kroll’s Summary Report is attached at **Annex B**.
6. This report has been compiled to evaluate the reports produced by Kroll. This report will mirror the structure of the Kroll reports for ease of reference and expand upon relevant elements where that is considered helpful to further understand what I consider to be the highly unsatisfactory nature of the material released into the public domain.

<sup>1</sup> Kroll Report – *Project Tenor – Scoping Phase Final Report*, 02 April 2015, accessed 24<sup>th</sup> November 2017  
[http://candu.md/files/doc/Kroll\\_Project%20Tenor\\_Candu\\_02.04.15.pdf](http://candu.md/files/doc/Kroll_Project%20Tenor_Candu_02.04.15.pdf) – Annex A

<sup>2</sup> Kroll’s terminology has been adopted for consistency in referencing

<sup>3</sup> <http://www.bnm.org/en/content/nbm-published-detailed-summary-second-investigation-report-kroll-and-steptoe-johnson> - Annex B

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

## The Kroll Report

### Summary

7. It would appear that Kroll 1 was never intended (by Kroll at least) for general release. Kroll inserted an apparently robust Restricted Use Warning (see below) into the document. Kroll's reaction to the apparently deliberate and calculated general release in defiance of that Restricted Use Warning is unclear. I have been provided with no evidence that Kroll publicly distanced itself from the leaking of Kroll 1 or that it sought publicly to state that Kroll 1 could not be used or interpreted in the manner in which it was widely used and interpreted after it was leaked.

8. Kroll 1 was only a scoping report but it has been treated by Politian's, international momentary regulators and funds and the wider media as an authoritative investigative report. It has been used to influence and, in some cases, as authority for:

- 8.1. Negative media reporting against Ilan Shor.
- 8.2. Decisions on financial matters pertaining to the Banks.
- 8.3. Prosecution and judicial decisions.

9. This is all the more concerning because Kroll 1 is candid in accepting that it is based on a single source; the data and analysis provided to Kroll by their client, NBM. Furthermore, Kroll also frankly admit that they were only given access to a fairly small subset of the data. Their task appears to have been very limited indeed, even according to the expectations of a "scoping report".

10. This is unsurprisingly reflected in Kroll 1. The report is almost completely focused on Ilan Shor despite cogent evidence available at that time that other prominent individuals were suspected of involvement in the fraud.

11. Similarly, the figures quoted in Kroll 1 as having been stolen in the course of the fraud and echoed across the media (the "\$1billion dollar theft of the century") are now known to be absurdly exaggerated. In his sentencing of Ilan Shor in June 2017, and after considering apparently reliable expert testimony<sup>4</sup>, his trial judge considered the amount in question to be around \$93 million.

12. The Kroll report does not situate the events which it attempts to describe by examining the state of the Moldovan Banking System prior to the relevant events concerning Ilan Shor in order properly to assess his culpability. The question remains unanswered why the instructions for Kroll's investigation did not include this critical earlier period. It is understood

---

<sup>4</sup> I have seen no evidence that this assessment, as the basis upon which Ilan Shor was sentenced, was challenged by the prosecution.

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

that Mr Strelet negotiated the scope of the second report<sup>5</sup>. It remains unclear who determined the instructions for Kroll I.

13. With so little hard evidence, and, indeed, independent investigation, Kroll 1 and its deliberate leaking appears part of a wider political agenda directed either at Ilan Shor's personal wealth or at his political ambitions.

### Restricted Use Warning – Page 2

14. Kroll 1 makes a very deliberate Restricted Use Warning on the second page. As comprehensive as it is, the key comments in the disclaimer are:

*“THIS REPORT DOES NOT CONSTITUTE A RECOMMENDATION, ENDORSEMENT, OPINION OR APPROVAL OF ANY KIND WITH RESPECT TO ANY TRANSACTION DECISION OR EVALUATION, AND SHOULD NOT BE RELIED UPON AS SUCH UNDER ANY CIRCUMSTANCES<sup>6</sup>”*

15. Furthermore, the restricted use warning states:

*“Statements herein concerning financial, regulatory or legal matters should be understood to be general observations based solely on Kroll’s experience as risk consultants and may not be relied upon as financial, regulatory or legal advice which Kroll is not authorized to provide.”<sup>7</sup>*

16. These limitations need no interpretation or gloss. It is therefore concerning that Kroll 1 has been consistently deployed as direct or tacit authority for financial, regulatory and legal decisions:

16.1. In Ilan Shor’s sentencing a witness statement was presented by Matei Dohotaru indicating that his opinion on the culpability of Ilan Shor in the alleged fraud was drawn from the “reports presented by the Kroll Company”<sup>8</sup>. A translation of Mr Shor’s sentencing hearing is attached at **Annex D**.

*“He indicated that the National Bank of Moldova concluded with the company Kroll 2 contracts which purpose was the investigation of the bank fraud and the identification of involved parties. From the reports **presented by the Kroll company**, it is confirmed the involvement of the citizen Shor Ilan in the respective*

<sup>5</sup> <http://jurnal.md/ro/economic/2015/9/9/strelet-kroll-cere-60-din-banii-care-ar-urma-sa-fie-recuperati/>

<sup>6</sup> Kroll Report – *Project Tenor – Scoping Phase Final Report*, Page 2, 02 April 2015 – Annex A.

<sup>7</sup> Ibid

<sup>8</sup> Translation of sentencing hearing, SHOR Ilan, CASE FILE No. 14-1-10386-24082016 (1-439/17), 21<sup>st</sup> June 2017– Annex C.

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

*fraud, in this regard, the National Bank of Moldova published several releases on the web page with regard to the investigation results.”<sup>9</sup>*

16.2. The prosecution indictment against Ilan Shor credits the ‘Kroll Report’ and the prosecutor’s assessment of monies alleged to have been stolen is likewise made on “the basis of the Kroll report “<sup>10</sup>. A translation of the indictment is attached at **Annex E**.

17. I assume Kroll would have been alarmed to have seen such reliance placed on Kroll 1. Its failure publicly to disabuse that reliance is likely explained by the expectation that its client, the NBM, would do so. I have seen no evidence that the NBM did so.

18. The Restricted Use Statement clearly asserts:

*“This report was prepared by Kroll at the request of the client to whom it is furnished. The client agrees that reports and information received from Kroll, including this report, are strictly confidential, may only be disclosed to regulatory bodies and agencies with prior approval from Kroll and are intended solely for the private and exclusive use of the client only in connection with a business, investment or other commercial purpose. Any other use (including for employment purposes, credit evaluation or insurance underwriting purposes) is strictly prohibited and client has agreed that no such use will occur. Any communication, publication, disclosure, dissemination or reproduction of this report or any portion of its contents to third parties without the advance written consent of Kroll is not authorized.”*

19. That is a statement to which the NBM was bound in accepting Kroll 1. The motivation of those who leaked Kroll 1 is a matter of inevitable conjecture. The motivation of the NBM to acquiesce in the subsequent use of Kroll 1 as an authoritative source of evidential value is less a matter of conjecture and more one of permissible inference. In my view, having commissioned a “scoping report” based on restricted, untested and unaudited information provided exclusively by the NBM, it was incumbent on the NBM to take responsible ownership of the consequences of the leaking of Kroll 1 and ensure that it was not relied upon as an authoritative source of evidential value. I have seen no evidence that the NBM did this. I have seen no evidence to suggest a reasonable explanation for this failure. The permissible inference which results is that this was therefore part of a deliberate strategy on the part of the NBM to allow use of Kroll 1 for purposes and to an extent that were never intended or permitted by Kroll.

20. The motivation of the NBM is however immaterial. What is material is that the legal, financial and media narrative resulting from the unauthorised publication of Kroll 1 is fundamentally incomplete, inadequate and misleading.

<sup>9</sup> Sentencing of Ilan Shor – 21<sup>st</sup> June 2017.

<sup>10</sup> Indictment of Ilan SHOR in criminal case No. 2016970539 (translation)

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

## 1.1 Background and Scope of Work

21. Kroll 1 is expressly composed in the context of “*general observations based solely on Kroll’s experience as risk consultants*”<sup>11</sup> and therefore would, without doubt, need to draw on and reference published materials on international banking norms and regulatory requirements. It would be reasonable to assume in these instances, that Kroll would draw upon international advice such as the Basel Committee on Banking Supervision (2013)<sup>12</sup> or seek direction from the many publications of the IMF.

22. No such reliance is referenced or otherwise evident in Kroll 1. The authors may well excuse this on the basis that they were relying upon information and instructions from the NBM. There is however no evidence that the NBM paid any cognisance to international standards on banking supervision and regulation.

## 2.1 Overview

23. Kroll 1 is peppered with phrases such as:

*“Kroll has conducted an **initial scoping** investigation.”*

24. It goes on to state that:

*“Ilan Shor was one of, if not the only, beneficiary [of the banking fraud].”*

25. It is not explained in Kroll 1 and not otherwise explicable why Kroll 1 does not mention at least Filat as a potential beneficiary of the banking fraud. The allegations against him had been made well in advance of the production of Kroll 1 but are not even acknowledged. In January 2013, Mr Victor Gurau, a representative of the Communist Party, held a press conference and alleged that Mr Filat had brought BEM to the “brink of bankruptcy” after the theft of MDL 1.5 billion (citing the IMF report and a BEM audit study).<sup>13</sup> Whilst is not able to be determined how this figure was calculated, the essence of the declaration provides to the public forum what appears to be an informed suspicion against Filat which is to be expected to have been considered within the Kroll report.

26. Once again, seeking to ascribe a cause or motive for this omission is immaterial. The omission is significant. The resulting assertion that Ilan Shor was “*...one of, if not the only, beneficiary [of the banking fraud]*” is patently unreliable.

<sup>11</sup> Kroll Report – Project Tenor – Scoping Phase Final Report, Page 2, 02 April 2015

<sup>12</sup> <https://www.bis.org/bcbs/charter.htm>

<sup>13</sup> [https://www.publika.md/atacuri-dure-la-adresa-lui-filat-din-tabara-comunistilor--cum-s-a-furat-un-miliard-de-lei-de-la-banca-de-economii\\_1236321.html](https://www.publika.md/atacuri-dure-la-adresa-lui-filat-din-tabara-comunistilor--cum-s-a-furat-un-miliard-de-lei-de-la-banca-de-economii_1236321.html)

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

27. The report goes on to state that:

*“The transactions to which these Shor Group entities were party ultimately contributed to the banks’ collapse at the end of 2014, with a combined loan exposure of nearly MDL18 billion, of which MDL4.7 billion relates to future interest payments.”*

28. The lack of forensic rigour is once again emphasised by the fact that Kroll 1 does not define or describe what it means by “Shor Group entities”<sup>14</sup> making this assertion incapable of any coherent meaning, less still analysis.

### 2.3 2013: The acquisition of BS and BEM

29. The Kroll report states that:

*“Under the terms of the share agreement, BEM’s shareholders were to provide new liquidity to the bank in the form of a subordinated loan of MDL600 million, and the purchase of non-performing loans at BEM totalling no less than MDL300 million. The latter was facilitated through a cession agreement with UK registered Roseau Alliance LLP, which had signed a similar agreement in February of the same year, to acquire non-performing loans to the value of MDL1 billion from BEM, at nominal value. Little is known about Roseau Alliance or its beneficiaries to explain **why the company would be willing to acquire such a significant number of NPLs at no discount.**”*

30. The question posed in the final sentence is an entirely reasonable one. It is the aspect of Ilan Shor’s involvement which justifies the closest analysis. Ilan Shor claims that the reason for this, seemingly illogical deal is that he was being coerced and extorted by Mr Filat. He first formally advanced this explanation in his witness statement of 13<sup>th</sup> October 2015 deployed at the trial of Filat. A translation of this witness statement is attached at **Annex E**.

*“Directly after that, V. Filat asked me to buy a series of loans of Banca de Economii that amounted to about 1 bln. MDL and said that he would solve the issue with the customs and petrol station. My auditors analyzed the proposed loans and pledges thereon and stated that the real value of them was not more than 80 mln. MDL. I naturally refused, after which V. Filat started to put pressure on me threatening to cancel the Government Decision on the petrol station and with hints of making the Dufremall work more complicated.*

*Despite all my attempts to explain the situation, the Supreme Court of Justice confirmed in March 2012 the right of customs office to refuse to allocate plots (despite the above-mentioned contract between the customs and us), moreover, the Government Decision on duty free petrol stations was repealed on 13.12.2012. V. Filat did not return the advance paid by me to him amounting to 500 thous. USD.*

<sup>14</sup> This failure is addressed in more detail later in this Report at Section 3.1.

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

*V. Filat tried again to persuade me to repay bad BEM assets at the beginning of 2013, having promised to restore the petrol station project and applied pressure to conscience, and explained that he needed it extremely, since his Ministry of Finance managed the bank and made a hole amounting to 1 Billion MDL. V. Filat assured me that the disclosure of that fact by publications on TV and on the Internet, made by one of the city councilors Gurau V. was the only factor preventing him from becoming the unanimous Ruler in Moldova, and the repayment of those loans could have removed the problem. And that if he became such, then I could have had free way in the republic in any projects, if I refused, then I could not have had business in the country.”<sup>15</sup>*

31. Ilan Shor asserts that Filat and others had plundered the bank for years. They were well aware of the balance sheet black-hole and needed someone to plug it. Filat chose Ilan Shor. Ilan Shor was not going to buy bad debt at 1bn MDL which his internal audit team had concluded was worth only 80m MDL. The leverage alleged by Ilan Shor was crude; either he cooperated and bought the debt, effectively as a political favour to Filat or he could consider himself shut out of any existing and future business opportunities in Moldova.

#### **2.4 2014: Events Leading to Collapse of UB, BS and BEM**

32. Kroll 1 states that:

*“A preliminary review of the transactions undertaken in each bank suggest a deliberate intention to extract as much benefit as possible for entities connected to Mr Shor and to the detriment of the banks. These transactions ultimately contributed to the collapse of the banks at the end of 2014.”*

33. Kroll 1 goes on to assert that, in this instance, overnight lending was used in order artificially to boost the lending capacity of BEM thereby providing a mechanism by which to extract value, to the alleged benefit of Ilan Shor, through unsustainable loan agreements.

34. In considering whether the overnight lending structure was designed by Ilan Shor to “extract as much benefit as possible for entities connected to Mr Shor”<sup>16</sup> the ruling by Judge Niculcea is relevant. Judge Niculcea ruled that:

*“Thus, Mr. Ilan intended to repay the financial means credited to Banca de Economii JSC, which is in line with the statements of witnesses.”.<sup>17</sup>*

<sup>15</sup> Witness statement – SHOR 13<sup>th</sup> October 2015 – case against Filat.

<sup>16</sup> Kroll Report – Project Tenor – Scoping Phase Final Report, Page 9, 0 2 April 2015

<sup>17</sup> Judge Andrei Niculcea, 21<sup>st</sup> June 2017.

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

*“The prosecution did not present, and in the hearing it was not confirmed that Shor Ilan, in one way or another, would have had the purpose of stealing the credited financial means, an act that would ultimately constitute a scam. Moreover, the defendant, trusting Platon Veaceslav, granted him the sum of 869,224,839, 76 MDL, a sum that was appropriated.”<sup>18</sup>*

35. In the face of no doubt considerable persuasion to reach a contrary conclusion, and with Kroll 1 unfurled as a document purportedly speaking of fact, Judge Niculcea appears to have discharged his duty to reach a decision according only to the evidence. That evidence is now a matter of record and it is difficult to see how Judge Niculcea could have reached any other conclusion.

36. Without evidence of intention to benefit from the unsustainable loan transactions on the part of Ilan Shor there is no logical or evidential basis to conclude that the (unidentified) “entities connected to Mr Shor” were set up for that purpose. A purpose the Moldovan court has found not to have existed.

37. So far as I can see, and consistent with the evidence considered by the Moldovan court on 21<sup>st</sup> June 2017, the assertion in Kroll 1 that Ilan Shor or (unidentified) “...entities connected to...” him benefited from the bank fraud is evidentially baseless.

### **3.1 Defining the “Shor Group of Companies”**

38. Despite the repeated use of the label, Kroll 1 does not define what it refers to as the “Shor Group of companies”.

39. Kroll is both candid and unabashed about this omission, going on to say:

*“We have not conducted a review on the identification of companies belonging to the Shor Group, thus all analysis on the Group is reliant on the work conducted by NBM.”*

40. In truth there is no such “analysis”, even of the received variety. Whilst that candour and attribution is laudable, what is not explicable is the use of this undefined and apparently uncertain label to sustain the un-evidenced assertion that Ilan Shor was perhaps the “only” beneficiary of the bank fraud through his (undefined and unidentified) “Shor group of companies”.

#### **4.1.1 Shareholders**

41. When discussing shareholders, Kroll 1 (Para 4.1.1) states that:

---

<sup>18</sup> Judge Andrei Niculcea, 21<sup>st</sup> June 2017.

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

*“Marios Papantoniou, a Cypriot national, operates an accountancy practice in the UK named Axiano Ltd. According to one media report Axiano is one of a number of UK companies being investigated in relation to money laundering involving UK “offshore” companies, Moldovan and Russian businesses, and Latvian banks.”*

42. What the media reporting<sup>19</sup> actually states is:

*“... it lists its registered address as that of a small accountancy firm, Axiano, in Edinburgh, **which is not involved in any wrongdoing.**”*

and

*“Axiano is one of hundreds of British firms which conduct **entirely legitimately** work as formation agents, setting up companies for clients in a way that allows them to retain their anonymity.”*

43. While such misreporting may not be integral to the case against Ilan Shor, it does show the effect of Kroll 1 in stimulating a narrative with no evidential basis.

---

<sup>19</sup> <http://www.belfasttelegraph.co.uk/business/news/uk-firms-under-investigation-for-alleged-conspiracy-to-make-20bn-of-dirty-money-seem-legitimate-in-one-of-europes-biggest-moneylaundering-operations-30668083.html>

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

## 5.1 February 2013 - Roseau transaction

44. In paragraph 7.1 of Kroll 1 it is asserted that they do not understand why Roseau LLP purchased non-performing loans in March 2013.

*“On 18 March 2013, BEM signed a cession agreement, which resulted in the transfer of all claims relating to a series of non-performing loans to a UK based entity, Roseau Alliance LLP (“Roseau”). Roseau acquired the loans at nominal value, amounting to almost MDL 1bn.*

*The origin of the transaction is unclear from information available at present, as is the reason **why Roseau would be willing to acquire a series of non-performing assets, with no discount applied**, effectively enabling BEM to exchange a series of distressed assets, for cash. The loans had been on BEM’s books for a number of years, and according to information provided by NBM, derived from a series of historical commercial lending activity.”*

45. This once again brings into relief the assertion by Ilan Shor that he was economically coerced by Filat.

*“V. Filat tried again to persuade me to repay bad BEM assets at the beginning of 2013, having promised to restore the petrol station project and applied pressure to conscience, and explained that he needed it extremely, since his Ministry of Finance managed the bank and made a hole amounting to 1 Billion MDL. V. Filat assured me that the disclosure of that fact by publications on TV and on the Internet, made by one of the city councilors Gurau V. was the only factor preventing him from becoming the unanimous Ruler in Moldova, and the repayment of those loans could have removed the problem. And that if he became such, then I could have had free way in the republic in any projects, if I refused, then I could not have had business in the country. Finally, we agreed on the following: loans for the amount of 1 billion MDL were executed in the name of my companies that are listed in the table that I am attaching to this interrogation record, and V. Filat provided credit resources from BEM to Banca Sociala and Unibank, and I should agree on the loans themselves. Then that money was for the purchase of a bad portfolio of BEM, i.e., just a rolling of money, and not a real purchase of the bank's debts, which was done at the end of March-April 2013.”<sup>20</sup>*

46. Ilan Shor states that distressed loans were a well-known and common problem within BEM between 2006 and 2013. Filat was aware of this and was concerned that the banks would lose their licences unless their balance sheets were cleaned up. Ilan Shor alleges that Filat proposed that the bad loans be consolidated to provide both stability and greater certainty.

<sup>20</sup> RECORD of the hearing of the witness - Ilan Shor at trial of V Filat - 13 October 2015.

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

47. Ilan Shor alleges that he was told by Filat that these loans were a temporary measure in order ‘to clean the banks’ balance sheet’ and that the money would ultimately be repaid. Ilan Shor was selected by Filat to effect this “consolidation”. When Ilan Shor refused, he alleges that Filat threatened to “collapse” his businesses in Moldova. Ilan Shor says that believing the money was to be repaid he agreed to implement these schemes. The money was never returned as Filat had pledged.

### 6.1 BEM

48. Kroll 1 addresses very briefly the share acquisition by VEB noting that Ilan Shor was moved to the board as the VEB representative.

*“In April 2014, SSI reduced its stake in the bank from 34% to 9%, around the size of its original holding prior to the share issue. The shares were sold to the Russian Bank VEB, which as a result became a 25% shareholder. Subsequently, at an AGM of BEM held on 29 April 2014, Ilan Shor was elected to the Board of BEM, representing VEB. Shor’s affiliation to VEB and the reason for his shareholder representation are not known at present.”*

49. Ilan Shor alleges that the VEB acquisition was, in fact, a very good opportunity to obtain investment from a major bank which would not only increase capital but increase confidence. To this end he claims to have provided them with a personal guarantee for their investment. When the shares were “annulled” VEB called in the personal guarantee. A translation of the settlement is attached at **Annex F**<sup>21</sup> Mr Shor has reportedly settled this liability. I have seen no evidence of any legal proceedings by VEB to enforce the personal guarantee and there is no reason to conclude that VEB, having called in the personal guarantee, would not have made such a claim, unless, as he claims, Ilan Shor had promptly settled the liability. Objectively assessed, this is wholly inconsistent with an intention to raid the banks for personal gain.

#### 10.2.3.2 Repaying the loans: transfers from BEM loan customers

50. Kroll 1 states that:

*“Kroll **reviewed** the movement of funds relating to a loan between BEM and Voximar Com SRL on 12 November, **to demonstrate** the movements of Shor Group loan funds from BS and UB to BEM via the placement of new BEM loans with Shor Group customers.”*

<sup>21</sup> SETTLEMENT AGREEMENT no. 144/DNFK/UK-10/20 – 9 October 2015 – Annex F

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

51. The language used once again suggests an unquestioning acceptance of what Kroll was told by NBM rather than an evidenced based investigation leading to a considered conclusion.

### **10.6 Suspicious loss of loan documentation at BEM, BS, and UB**

52. Kroll 1 further states that:

*“A large amount of documents held by BEM, BS and UB disappeared under suspicious circumstances only a few days prior to BEM being placed under special administration on 27 November 2014. A van used to transport BEM files for archiving and operated by a company associated with Ilan Shor was allegedly stolen and later found burned out.”*

53. The implication that Ilan Shor was complicit in the wilful destruction of evidence is clear. I understand there exists evidence not referred to or analysed by Kroll that can shed light on this. It is comprised in:

53.1. A witness statement from the driver of the Van which does not implicate Ilan Shor.

53.2. Evidence seizure logs from NBM. Ilan Shor claims that NBM raided the office of the bank and ensured that no documents or electronic storage was removed before it could secure a complete evidential cache. NBM then reportedly removed the mainframe servers of the bank, and secured them as evidence. If the NBM holds the servers as evidence the destruction of paper copies would be entirely otiose.



## 12. Where did the money go?

54. Kroll 1 asserts that, between 1 November and 24<sup>th</sup> November 2014, the (unidentified and undefined) “Shor Group” exposure increased by a further MDL 5 billion and that the precise reasons were unclear at the time of writing.

*“The actual quantification of loss and tracing of funds is part of a broader exercise to be conducted in the future phase of investigation. It is however clear that at present, BS is owed MDL18.3 billion by Fortuna (MDL13.7 billion before accrued interest is applied). Even if these funds were used in part to clear down MDL13.1 billion loan exposure at BEM in the name of Provoliom SRL, Dracard SRL, Caritas Group SRL and Voximar Com SRL, those entities have only been identified as utilising MDL 6.5 billion of funds loaned to them to clear down existing Shor Group loan exposure, leaving MDL7.2 billion not accounted for.”*

55. Ilan Shor alleges that loans worth MDL 13.7 billion were indeed issued, which together with interest amounted to MDL 18.3 billion. However, he says that a large proportion of this loan money was short-term and repaid. Kroll’s allegation that MDL 18.3 billion was owed by 27<sup>th</sup> November 2014 is not an evidence based conclusion. I infer that it is once again a recital of what Kroll was told by the NBM.

56. We do now have an evidenced based conclusion, which not only shows that the NBM’s instruction to Kroll was exaggerated but is one that the NBM cannot plausibly go behind.

57. This issue was addressed directly at Ilan Shor’s sentencing on 21<sup>st</sup> June 2017. The court found that the far smaller sum of MDL 2.7 billion remained outstanding at the date of the bank’s collapse.<sup>22</sup>

58. Furthermore, the court found that, of the MDL 2.7 billion, at least MDL 1.3 billion were stolen by Filat and Platon.

59. The court consequently ruled that just MDL 1.4 billion remains unaccounted for.<sup>23</sup>

60. This is a far cry from the shrill headline-grabbing sums alleged by Kroll.

### Kroll Memorandum

61. Kroll 1 further alleges that the (undefined and unidentified) “Shor Group” ultimately contributed to the banks’ collapse at the end of 2014, with a combined loan exposure of

<sup>22</sup> Sentencing of Ilan Shor – 21<sup>st</sup> June 2017.

<sup>23</sup> Sentencing of Ilan Shor – 21<sup>st</sup> June 2017.

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

nearly MDL 13.3 billion (exclusive of an assessed MDL 4.7 billion in future interest payments)<sup>24</sup>.

62. In July 2016, Kroll reportedly sent a memorandum to the Prosecutors office in response to a letter from the National Anti-Corruption Prosecutor (“NACP”) asking for detail in relation to two open criminal cases (BS - nr. 2014978151 and BEM - nr. 2014978152)<sup>25</sup>. The cases refer to pecuniary damages of MDL 5,778,710,500 and MDL 4,675,994,336 respectively. In this memorandum Kroll make the following distinctions – “*Financial loss*” is intended to explain what cash was taken as a result of the transaction. The term “*liability*” was used to define what liability was created in the books of the banks. The Kroll memorandum is attached at **Annex G**.

63. Kroll further deduce that the *Financial Loss* to the banks between 31<sup>st</sup> October 2014 and 24<sup>th</sup> November 2014 was MDL 5 billion.

64. The Kroll memorandum<sup>26</sup> alleges that a letter from NACP to the Governor of the NBM (dated 9<sup>th</sup> June 2016) stated that the perceived financial damage to BEM was in total MDL 10,641,211,200 (approx. \$711m USD<sup>27</sup>). As already observed, on 21<sup>st</sup> June 2017 Judge Niculcea did not agree. Having assessed the evidence he ruled that the amount unaccounted for from BEM was MDL 1.4bn (approx. \$93m USD<sup>28</sup>).

65. In the memorandum Kroll continue to allege that the loans were granted to Moldovan companies, working in concert, which were connected to Ilan Shor. Once again, the absence of evidential rigour is pronounced. It is not explained why Kroll were unaware of the destination of funds especially due to the access granted by their client, NBM, but also because the criminal case of Filat had been concluded by the date of the memorandum’s dissemination<sup>29</sup>.

66. Had Kroll conducted a detailed and wider investigation they would have determined that the corporate laundering of the sums removed from the Banks (whether by the “Shor Group of companies” or othyer companies) were used to channel funds to the ultimate beneficiaries; Filat and Platon. Kroll’s memorandum was released approximately 1 year prior to the sentencing of Ilan Shor on 21<sup>st</sup> June 2017. The attached covering note from the NBM is dated 1<sup>st</sup> of July 2016. This is 4 working days after the sentencing of Filat.

<sup>24</sup> Kroll Report – Project Tenor – Scoping Phase Final Report, Page 9, 0 2 April 2015

<sup>25</sup> memorandum KROLL for BNM.pdf

<sup>26</sup> Ibid

<sup>27</sup> Exchange rate taken at 27<sup>th</sup> November 2014 - <http://www.xe.com/currencytables/?from=MDL&date=2014-11-27>

<sup>28</sup> Ibid

<sup>29</sup> sentinta Filat Vlad integral.pdf



## Ruslan Grate Statement

67. A specialist from the financial monitoring department of BEM has provided a statement to the court stating that the top-level figure of 5.2bn MDL is erroneous because, for example, loans that have been repaid have been ignored. Ruslan Grate concludes that the damage to NBM is circa MDL 2.5bn not MDL 5.2bn. A translation of the statement is attached at **Annex H**<sup>30</sup>.

68. Ruslan Grate<sup>31 32</sup> (also translated as Grati) was the Head of Banking Supervision at BEM. He was called as a “Specialist” (expert) to provide an opinion on the actual losses incurred by BEM. Mr Grate set out explanations of various loan agreements in order to determine where loans have been repaid and where they remain outstanding.

69. It should be noted that Ruslan Grate was one of 20 persons named by Mr Sagaidac Sergui<sup>33</sup> (the former head of money laundering prevention and transaction monitoring at BS) as one of the parties that knew the status of the banks and failed to act in a professional capacity. Mr Sergui called on these persons to provide testimony as to how the crisis evolved.

70. Mr Grate provided evidence to the criminal investigation relating to loan facilities provided by UB, BS and BEM in November 2014. Mr Grate concluded that:

*“through interbank placements, this amount (17,082,929 EUR and 11,251,137 USD) was transferred by BC Unibank and Banca Sociala to the accounts of Banca de Economii. Thus, we conclude that this amount cannot be considered as extinct from the banking system of the Republic of Moldova, given the fact that following the financial operations, the money means have migrated from the correspondent accounts of BC Unibank SA and BC Banca Sociala SA to the correspondent accounts of BC Banca de Economii SA.”<sup>34</sup>*

## Court decision – 21<sup>st</sup> June 2017

71. At the trial of Ilan Shor in June 2017, the defence argued that:

*“In conclusion, by excluding from the sum invoked for damages, of 5 291 708 829, 71 MDL to Shor Ilan, of the amount of 2,6 billion MDL (the amount that has not disappeared from the banking system), the amount of 474 881 003,3 MDL (the beneficiary of which is Filat Vladimir), but also the amount of 869 224 839,7 MDL (the beneficiary of which is Platon Veaceslav), it is concluded that the amount disappeared from the bank system,*

<sup>30</sup> Witness statement Grate.docx.pdf Annex H

<sup>31</sup> [http://www.realitatea.md/fostul-sef-al-sectiei-prevenirea-spararii-banilor-al-bancii-sociale-sugereaza-o-lista-de-ex-functionari-care-ar-trebuie-anchetati-in----dosarul-miliardului---\\_41822.html](http://www.realitatea.md/fostul-sef-al-sectiei-prevenirea-spararii-banilor-al-bancii-sociale-sugereaza-o-lista-de-ex-functionari-care-ar-trebuie-anchetati-in----dosarul-miliardului---_41822.html)

<sup>32</sup> <http://tv7.md/ro/politic/live-text-interpol-cu-sergiu-sagaidac/>

<sup>33</sup> <http://www.ziarulnational.md/solicitarea-lui-sagaidac-pentru-procuratura-anticoruptie-ce-vrea-sa-afle-dupa-declaratiile-adrianei-betisor/>

<sup>34</sup> Gratii 1 ENG.docx



which currently has no justification, is 1,4 billion MDL (In the original Court Sentence there is a technical error. It is written 1,4 MDL), an information that did not reach the Court, even if all the testimony was forwarded to the Prosecutor's Office, including the statement of the witness Pahomi Stela. As it is, **Shor Ilan just contributed to the realization of crime scheme without knowing about true intents of Platon Veaceslav, not being aware that Platon Veaceslav will not honor his obligations assumed by contracting loans through intermediaries. Also, in case of removing funds from the BANCA DE ECONOMII JSC for Filat Vladimir, the defendant did not action with a purpose of cupidity. Shor Ilan was forced to give to Filat Vladimir financial means as the effect of continuous extortion continued.** Then the defendant, as member of Board of BANCA DE ECONOMII JSC was involved in manipulation activities that have led to unfair advantages to third parties, Filat Vladimir and Platon Veaceslav. So, there is partly the objective side of crime for which Shor Ilan was sent to trial (there are deceit and abuse of trust, actions combined with Article 196 of the Criminal Code), but there is no subjective side specific to the component of crime provided in Article 190 of Criminal Code, as there are missing direct intention and special purpose required by the incriminating disposition – the purpose of cupidity.”<sup>35</sup>

72. On sentencing Ilan Shor on 21<sup>st</sup> June 2017, Judge Andrei Niculcea, ruled that:

*“In respect of the amount of the damage claimed by the accusing party that by the actions of the defendant Shor Ilan, to Banca de Economii JSC were caused **damages amounting to MDL 5,291,708,829.71**, the court observes that in the court hearing it was established that **the effective beneficiary of the financial means in the amount of 472 537 568, 78 MDL was Filat Vladimir**, who received from the defendant in the form of unlawful remuneration goods, services, including money, fact ascertained by decision of the Supreme Court of Justice from February 22, 2017, pronounced in the criminal case of accusation of Filat Vladimir, a decision that became irrevocable, obtaining the authority of a final decision.*

*At the same time, the defence provided proof that, by the sentence of Chisinau Court, Buiucani headquarters from April 20, 2017, pronounced in the criminal case of the accusation of Platon Veaceslav, the court of first instance established that the latter benefited from financial means from Banca de Economii JSC in the amount of **869 224 839, 76 MDL** (obtained by scam from the defendant Shor Ilan). The criminal case against Platon Veaceslav at the time being examined by the court of appeal.”*

*“Thus, **Mr Ilan intended to repay the financial means credited to Banca de Economii JSC**, which is in line with the statements of witnesses Golovenko Elena, who stated at the hearing that the amount of credits granted by Banca de Economii to CARITAS GROUP "LTD, " VOXIMAR COM" LTD, "PROVOLIROM" LTD and DRACARD LTD and the related interests were restituted, as well as the statements of the witness Railean Vlad, who said*

<sup>35</sup> Sentencing of Ilan Shor – 21<sup>st</sup> June 2017.

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

*that at the end of 2014 the investments placed in the banks of the Russian Federation were returned. Moreover, the specialist Grate Ruslan (employee of the National Bank of Moldova) stated that, following the analysis of the money movements in the accounts of the economic agents and the corresponding accounts of Banca de Economii JSC, CB Unibank JSC and CB Banca Sociala JSC, it was found that part of the sums granted to the companies Caritas Group LTD, Provoliom LTD, Dracard LTD and Voximar Com LTD, namely about 2.5 billion MDL, was actually reimbursed with money means, thus, **the non-reimbursed amount constitutes approximately 2.7 billion MDL.** “*

*“Therefore, in the court hearing it was established that the loans contracted directly by the companies affiliated to the defendant Shor Ilan amounting to **2 575 769 144 MDL were returned to CB Banca de Economii JSC.***

*The accusing part did not present, and in the hearing **it was not confirmed that Shor Ilan, in one way or another, would have had the purpose of stealing the credited financial means, an act that would ultimately constitute a scam.**”*

## The Kroll 2 Summary Report

73. The Kroll 2 Summary Report was released on 20<sup>th</sup> December 2017. What is being referred to as the Summary Report has been disclosed. A “Detailed Report” is claimed to have been released only to Kroll’s clients (NBM) and “could be provided to relevant authorities”<sup>36</sup>. The Kroll Summary Report is attached at **Annex B**.

## Summary

74. The following comments are relevant to the Summary Report:

74.1. This is described by Kroll as a Summary Report (for general release) with the main Detailed Report going only to their client. This makes it very difficult for anyone to argue conclusively against the released report as it contains no conclusive detail.<sup>37</sup>

74.2. The Restricted Use Statement still says that “Any communication, publication, disclosure, dissemination or reproduction of this report or any portion of its contents to third parties is subject to the advance written consent of Kroll. Kroll assumes no direct, indirect or consequential liability to any third party or any other person who is not the intended addressee of this report for the information contained herein”. Presumably, therefore, Kroll have given their consent and must accept some liability?

<sup>36</sup> Kroll 2 Summary Report Section 1.3.

<sup>37</sup> Kroll 2 Summary Report Section 1.3.

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

74.3. Much of the report is focussed on establishing that a fraud actually took place. This is considered otiose in light of the legal actions that have taken place in Moldova prior to its publication and which find as a matter of Moldovan legal record that a fraud on the Banks took place and that Filat and Platon were the principal beneficiaries.

74.4. There are indications throughout that this is still largely a NBM investigation which Kroll has reported on rather than audited.

74.5. Consistent with this, the report does not consider any in-country legal rulings on the matter of the banking fraud. It is unsatisfactory and unexplained why Kroll has sought to reach conclusions in elective disregard for decisions of the Moldovan courts.

74.6. If anything, since the Scoping Report (Kroll 1), Kroll appear to have tried to further espouse the US \$1bn tag. This may well make a good headline and remain consistent with the very substantial international bailout afforded to Moldova, but it is not based in fact and is not consistent with the rulings of Moldova's courts.

74.7. Whilst it is possible to infer a political motivation for sustaining the \$1bn headline, this may equally result from a crude error. By Kroll's own admission, the methodology for assessing the amounts 'stolen' "involved tracing whole amounts **if any onward payments that originated from the fraud were included in those amounts**". Unless a corresponding adjustment was made to reflect the legitimate portion of such payments, the figures identified by Kroll are self-evidently unreliable.

74.8. The report still mainly discusses the period 2012-2014 and there is no recital or analysis of their balance sheet position in or prior to 2012.

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

## 1.1 Background

75. Kroll 2 states that:

*“Kroll’s Scoping Phase investigation (the “Scoping Phase”), as reported on 2 April 2015, found evidence indicative of wrongdoing in relation to actions taken within Banca de Economii SA (“BEM”), Banca Sociala SA (“BS”), and Unibank SA (“UB”), (together, the “Three Moldovan Banks”) between 2012 and 2014, which appears to have ultimately resulted in their collapse at the end of November 2014 with a combined loan exposure in the region of USD 1 billion. “*

*“Kroll’s Scoping Phase report found evidence that suggested that Ilan Shor, and companies and individuals affiliated with him (the “Shor Group”) played an integral role in coordinating these activities, **suggesting that he was one of, if not the only beneficiary.** The transactions to which these Shor Group entities were party to appear to have ultimately contributed to the collapse of the banks at the end of 2014.”*

## 1.2 Objective and scope

76. The Kroll 2 report states that:

*“The overall objective of the investigation in Phase II was to evidence **what caused the Three Moldovan Banks to collapse**, to understand who perpetrated and benefitted from the fraud, and **to support criminal and/or civil proceedings to recover the misappropriated funds.**”*

*“Broadly, the investigation in Phase II has focussed on answering the following questions:*

- *When did **the loss of the USD 1 billion** occur during the period 2012 to November 2014?*
- *How were BEM, BS and UB able to increase the corporate lending to Shor Group entities to approximately USD 1 billion by the end of November 2014?*
- *How was the entire loan portfolio at BEM, of close to USD 1 billion switched from BEM to BS on 25 and 26 November 2014?*
- *Who coordinated and controlled the transactions that enabled the increase in corporate lending and the switching of the loan portfolio to take place?*
- *What mechanisms were used to launder the funds obtained through the fraudulent loans between 2012 and 2014?*
- *How much of these new loans issued between 2012 and 2014 were used to pay off existing loan exposure at the Three Moldovan Banks and/or other Moldovan banks?*
- *What was the final destination of **funds that were not recycled to pay off existing loan exposure?***

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

- *Who were the ultimate beneficiaries of the stolen funds?*
- *What are the priorities to maximise chances of recovery of assets?"*

77. The report would appear to continue with the notion that USD 1 billion has been lost despite legal rulings in Moldova to the contrary.

78. Furthermore, it continues with this figure despite acknowledging that some of the funds were recycled to pay off existing loan exposure and that portions of the sums advanced were for legitimate purposes.

79. Kroll 2 states that:

*"The next phase of our work will comprise taking steps to recover the misappropriated funds, as well as the identification of parties who knowingly participated in and benefitted from the fraud."*

80. If Kroll intends that future action is to be undertaken in Moldova, they are likely to encounter real difficulty acting in a manner inconsistent with the rulings of the Moldovan courts which they have so far failed to report on.

### **1.3 Reporting structure and distribution**

81. Kroll 2 states that:

*"Kroll and Steptoe and Johnson (together the "Consortium") were instructed to produce an additional report of investigative work to date (the "Summary Report"), that will be made public, accompanied by a more detailed report (the "Detailed Report") containing specific details and examples of fund flows and mechanisms engaged which allowed the fraud to occur, that will remain subject to initial confidentiality undertakings and could be provided to relevant authorities, provided that those authorities will provide first to Kroll and Steptoe and Johnson a written undertaking to maintain confidentiality of the Detailed Report."*

### **1.4 Contents of the Detailed Report**

82. Kroll 2 states that:

*"This document is a high level Summary Report which will be accompanied by additional details included in the Detailed Report. The sections included in the Detailed Report are shown below:"*

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

## 1.5 Caveat

83. Kroll 2 further states that:

*“In preparing this report, Kroll has placed reliance on documentation provided by NBM, as well as overseas regulators, to draw a number of the conclusions set out in this report. Kroll makes no representation as to the authenticity or completeness of the documentation provided by the NBM or the regulators. There may be additional documentation or information to which Kroll has not had access which could contradict or challenge conclusions drawn from the documentation reviewed to date.”*

*“Kroll has not interviewed or requested explanations from all individuals involved in the matters set out in this report.”*

84. Again, Kroll stress their reliance on information provided by their client while making “no representation as to the authenticity or completeness of the documentation provided by the NBM or the regulators”. It could be considered reasonable to make some assessment as to its accuracy and completeness. Indeed, the veracity and integrity of the information should have been considered at each stage of the investigative procedure were a full and independent investigation to have been carried out.

## 2. Executive Summary

85. Kroll 2 states that:

*“Our investigation to date has identified contemporaneous and independent documentary evidence that indicates that the Three Moldovan Banks were subjected to a large, coordinated fraud, which took place over at least three years, and intensified in 2014, ultimately resulting in their collapse. The suspected fraud involved the issuing of hundreds of loans to linked companies, the majority of which were transferred to a laundering mechanism in Latvia. While the majority of the loan funds were then channelled back to Moldova to repay existing loans and to allow the continuation of lending, at least USD 600 million was dissipated to other destinations.”*

*“Contemporaneous documents **suggest** the involvement in the suspected fraud of a large group of Moldovan companies working in concert, linked to Mr. Ilan Shor (“Mr. Shor”) (the “Shor Group”). At least 77 companies with accounts at the Three Moldovan Banks made up this group.”*

86. The words ‘suggest’ and ‘suspected’ do not depict a thorough investigation which has revealed a definitive solution as to what exactly occurred and who was responsible.



*“This report analyses the destination of USD 2.9 billion of loans which were issued by the Three Moldovan Banks between 2012 and 2014.”*

*“Following the apparent laundering of funds through the Core Laundering Mechanism, the funds were either returned to Moldova to repay other loans and thereby allow lending to continue, or were subjected to further money laundering mechanisms involving other Moldovan, Latvian and Estonian banks, before being dissipated to accounts in multiple other jurisdictions.”*

## 2.1 Total loan analysis and destination

87. Kroll 2 asserts that:

*“**The total loan exposure of the Three Moldovan Banks increased from USD 491 million at the beginning of 2012 to approximately USD 1 billion by the end of November 2014.**”*

*“**The majority of the loan proceeds were used to pay down existing loans, after being apparently laundered through the Core Laundering Mechanism, while a significant proportion of the funds was extracted from the Core Laundering Mechanism, and appear to comprise stolen assets.**”*

88. These statements appear to elide loan exposure with losses and confirm that the proceeds of the loans were used to pay down the existing loans rather than having been stolen. This echoes the findings of the judge at Ilan Shor’s trial on 21<sup>st</sup> June 2017 where the missing funds were evaluated by financial experts and found to constitute a far smaller amount.<sup>38</sup>

89. Furthermore, possibly due to Kroll’s practice of eliding funds from the Moldovan banks with any other elements involved in the interbank and international transfers, ever-changing and seemingly ever-inflated figures are discussed throughout the report.

*“As detailed further in section 2.5, approximately USD 2.6 billion was passed to the Core Laundering Mechanism, and approximately USD 2.0 billion was returned back to accounts at the Three Moldovan Banks. This left a value of approximately USD 600 million which **appears to have been stolen** following the Core Laundering Mechanism and dissipated to other destinations.”*

90. Given nearly three years of investigation ‘appears to have been stolen’ is a surprisingly diffident conclusion with respect to \$600million.

<sup>38</sup> Sentencing of Ilan Shor – 21<sup>st</sup> June 2017.



### 2.2.1 Concentrating the loan exposure in BEM to increase liquidity

91. Kroll 2 asserts that:

*“During November 2014, the majority of new loans were issued by BEM, while the exposure at UB and BS reduced. **Existing loans at UB and BS were repaid** from the newly issued loans from BEM, with the majority of funds passing through the Core Laundering Mechanism in an apparent attempt to disguise the origin of funds. **This had the effect of consolidating all the loans from the Three Moldovan Banks at BEM by 24 November 2014.**”*

### 2.4 Shor Group control of the loan application process and accounts involved in the fraud

92. Kroll 2 further asserts that:

*“As well as the ownership of the banks and the establishment of a series of linked companies that worked in concert to obtain fraudulent loans, review of email data recovered from the Three Moldovan Banks demonstrated that the Shor Group centrally controlled and coordinated loan applications within the Three Moldovan Banks and maintained close communication with senior employees at the Banks.*

*In addition, account opening documentation and other correspondence has confirmed that the accounts at Latvian Bank 2 were affiliated to and/or controlled by the Shor Group and that Mr. Shor dealt directly with Latvian Bank 2 and he provided purported explanations for the purpose of the multiple accounts and the millions of dollars transiting through them. Disclosure has not yet been obtained from Latvian Bank 1.*

*However, accounts in the names of both Mr Shor and other individuals affiliated with him received funds originating from the fraud into accounts held at Latvian Bank 1, suggesting a similar mechanism.”*

### 2.7 Other fund flows by jurisdiction

93. Kroll 2 further asserts that:

*“Given the mixing of funds, layering and other money laundering schemes, the methodology used for tracing funds involved tracing whole amounts if any onward payments that originated from the fraud were included in those amounts. This means that the final amount of funds that have been traced to end destinations is significantly larger than the USD 600 million that has been identified as leaving the Core Laundering Mechanism. **Kroll has identified end transactions totalling approximately USD 1.0 billion of funds which originated at least in part from the suspected fraudulent loans.**”*

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

94. This methodology has the effect of continuing to advance as credible the USD 1 billion ‘headline’ sum as having been “stolen” from the collapsed Moldovan banks. Kroll’s admitted confusion of Moldovan bank monies with any other components of the international and inter-bank transactions and the previously referenced findings of the Moldovan court’s cast substantial, fair and reasoned doubt on this approach.<sup>39</sup>

### 3.1 Statement of Mr Shor

95. Kroll 2 asserts that:

*“Kroll was made aware of the existence of a statement that has been uploaded onto the internet, which purports to be Mr. Shor’s statement to the Public Prosecutor, providing an explanation for some of the events that took place within the Three Moldovan Banks. Kroll has not been provided with an official copy of Mr. Shor’s statement and has not had the opportunity to meet with Mr. Shor. As such we are not at this stage in a position to confirm the authenticity of the document and do not comment on its content within this report.”*

96. This section of the Kroll report falls short on several counts:

96.1. Kroll attempt to downgrade the statement by Ilan Shor to a dubious online entity the veracity and provenance of which is somehow in doubt. In fact, the statement to which they refer has been formally admitted in evidence in no less than three Moldovan court rulings directly related to the case; those of Mr Platon, Mr Shor and Mr Filat. **Annexes C, I & J** refer.

96.2. Not only is no mention of the court rulings made in this section of Kroll 2 but, indeed, they are not mentioned in Kroll 2 at all. Nor do the names Filat or Platon appear, despite their convictions being arguably integral to the case, and on any view relevant.

96.3. Enquiries with Ilan Shor and his counsel reveal that Kroll made no effort to contact either party in relation to this point, or any other part of the ‘investigation’. Given that Ilan Shor is the only person named as responsible within Kroll 2 and has already been tried in Moldova for the alleged crimes, one might assume that any investigation would have sought a statement from him, or at least referenced one of the statements he has made to the courts in the three sets of proceedings in which his evidence has been formally admitted or sought a statement, information or assistance from his Moldovan counsel.

96.4. I have been unable to identify or discern any explanation for this failure.

---

<sup>39</sup> Rulings vs Filat, Platon and Shor.

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

### 3.2 Caveat

97. Kroll 2 states that:

*“In conducting this investigation, Kroll has relied upon information and analysis conducted by NBM, supplemented by analysis of source data provided by external regulatory authorities as well as from open source and public record research. External, investigative research has been conducted into relevant individuals and entities as the investigation has progressed in order to identify the extent to which transactions might be associated and individuals linked, as well as the likely legitimacy of beneficiaries of transactions.”*

*“Due to the significant complexity of the transactional web and the prevalence of coordinated money laundering across multiple jurisdictions, it has not been possible during investigations to date to trace the entirety of the loan funds that were dissipated, or to demonstrate links between every organisation that received funds. Not all potentially relevant information available has been analysed, which may lead to the identification of further relevant parties and transactions as the investigation continues.”*

*“Kroll has not been provided with all documentation requested to date as multiple document requests were made from various sources, not all of which have been fulfilled.”*

98. This caveat would suggest that:

98.1. As with Kroll 1, the report effectively narrates an NBM investigation rather than an independent external investigation. Had Kroll started with only the evidence and carried out their own analysis and investigation, treating the NBM as a potential source of information rather than an investigative partner (with a considerable stake in the outcome and under pressure both from in-country elements and from their own part in the events described), a very different report is likely to have resulted.

98.2. Kroll admit that the report is the product of an incomplete investigation of a complex situation based on a partial dataset. That admission needs no emphasis or gloss.

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

#### 4. Increase in the loan exposure 2011 – 2014

99. Kroll 2 states that:

*“The Scoping Phase report highlighted that the related party loan exposure of the Three Moldovan Banks to Shor Group companies increased from USD 10.4 million to USD 951 million in the period between September 2010 and 24 November 2014, which ultimately resulted in the collapse of the Three Moldovan Banks.”*

100. The natural question in relation to this statement is how was the analysis undertaken which resulted in this conclusion and how has the the Kroll analysis superior to that for the criminal trial process.

101. As already observed, Kroll 1 was a scoping report based on the NBM’s opinion which *claimed* these allegations to be true. The fact that Kroll 2 appears to be based on the assumptions drawn in Kroll 1 which, in turn, were based on the NBM narrative, compounds the lack of evidential rigour which characterises each of the key factual assertions advanced by Kroll on behalf of the NBM.

##### 4.1.1 Shor Group companies

102. Kroll 2 asserts that:

*“The NBM previously identified 39 companies as being related to the Shor Group, as detailed in the Scoping Phase report. In addition to these, further analysis by the NBM and Kroll has identified a total of 77 companies linked to Shor. Of these, 50 Shor Group companies received loans from the Three Moldovan Banks during the Review Period. A list of the Shor Group companies, which **appear to have worked in concert to fraudulently embezzle money from the Three Moldovan Banks** before transferring it to the Core Laundering Mechanism, is included in the Detailed Report.”*

##### 4.1.2 Loan exposures – 2012 to 2014

103. Kroll 2 further asserts that:

*“The value of the Shor Group exposure increased by 70% between 1-24 November 2014, from USD 554 million to USD 951 million”*



Table 2 : Total loan exposure at the Three Moldovan Banks 2011-2014

Loans and advances	BEM (USD millions)	BS (USD millions)	UB (USD millions)	TOTAL	Of Which Shor Group <sup>5</sup>	
					USD millions	% of total
31 December 2011	258	199	34	491	124	25%
31 December 2012	200	166	52	418	119	28%
31 December 2013	118	232	266	616	294	48%
31 October 2014	261	257	298	816	554	68%
24 November 2014	994	128	59	1,181	951	80%

*“An analysis of the ageing of the loan balance as at 31 October 2014, which was then further increased in the month of November (across the Three Moldovan Banks) indicates that a significant portion (85%) of the loan exposure at that date related to loans issued between 2012 and 2014. Only 15% of the loan exposures related to loans issued before 2012. This indicates that the majority of the loans issued pre-2012 were repaid by the end of October 2014. Analysis to date has not identified significant transfers from Shor Group accounts to companies that held pre-2012 loans at the Three Moldovan Banks, therefore it does not appear that the pre-2012 loans were paid off to a significant level by Shor Group loans issued by the Three Moldovan Banks.”*

104. It is significant that Kroll are now considering a wider timeframe but maintain their focus on the still unidentified and undefined ‘Shor Group of companies’.

#### 4.1.4 Quantification of the loss in the Three Moldovan Banks

105. Kroll 2 asserts that:

*“Based on the analysis conducted to date, the loss suffered as a result of the suspected fraud at the Three Moldovan Banks amounts to at least USD 600 million.”*

*“Funds which were not transferred to the Core Laundering Mechanism totalling USD 0.3 billion have been traced where possible. **These funds were predominantly used to repay other loans at the Three Moldovan Banks and other Moldovan Banks.** Combined with the USD 600 million identified above, the total loss could be as much as USD 900 million, taking this into account. Further disclosure would be needed to clarify this.”*

106. Kroll appear to claim that \$300m were traced and that these funds were *predominantly used to repay other loans at the banks*. Despite this, Kroll has added the whole amount of \$300m to their assessment of the potential loss to the banks. Absent an explanation which I cannot presently identify or deduce, this is not a permissible or reliable way to assess the actual sum unaccounted for.

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

#### 4.2 Events which allowed a significant increase in lending to occur – November 2014

107. Kroll 2 asserts that:

*“A series of events took place in the Three Moldovan Banks that allowed the extraordinary increase in exposures to the Shor Group to occur **in what appears to have been a concerted effort to strip the Three Moldovan Banks of all liquidity before their inevitable collapse.**”*

108. This un-evidenced and over-stated allegation is not consistent with a questioning analysis of the NBM narrative provided to Kroll by way of instructions.

109. It should be remembered that Kroll’s client is not an unrelated party but the national banking regulator which, if Kroll’s allegations are sound, should have identified a series of events over several years involving a concerted effort to strip liquidity which led to the ‘inevitable’ collapse of 3 of the country’s leading banks.

110. Further and in any event, the decision to place the three banks into administration rather than assist them through the crisis as going concerns is widely considered in Moldova to have been a political decision rather than an inevitable regulatory and legal consequence.

#### 4.2.5 Coordinated loan applications at the Three Moldovan Banks

111. Kroll 2 states that:

*“A review of electronic documentation obtained from the Three Moldovan Banks has identified that throughout 2014, employees involved in the loan issuing process (mainly the Credit Departments) at BEM and BS were communicating via email with representatives of the loan applicants, whose email addresses contained the domain “@shorholding.com”. Despite this, BEM employees stated that they did not suspect that the borrowing companies were legally owned by Mr. Shor, as it was not evident that these representatives were also the owners of the borrowing companies. Further details of communication between employees at the Three Moldovan Banks and individuals using a “@shorholding.com” e-mail address are provided in the Detailed Report.”*

112. Neither quantity nor quality is covered in this statement. Was all of the email correspondence assessed with “@shorholding.com” e-mail addresses? If not, why are no other domain names discussed?

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

#### 4.3 Switch of the entire loan portfolio on 25-26 November from BEM to BS

113. Kroll 2 states that:

*“Kroll traced the movement of funds involved in the Switch and confirmed the involvement of at least 17 accounts held at a Latvian bank that acted as a transit for the funds between Shor Group companies at BEM and BS. **Loans totalling USD 956 million were issued by BS on the 25 and 26 November 2014 to five companies in the Shor Group.** These loan funds were then transferred to five accounts held at a Latvian bank.”*  
*“From these accounts, the funds were moved through a network of other accounts held at the Latvian bank, in an apparent attempt to disguise the fund flows. The laundering mechanisms for the Switch transaction included issuing a “technical overdraft” facility by the Latvian bank to one company, with a corresponding amount being simultaneously repaid to the Latvian bank from another purportedly unrelated account. **The funds were then used to repay loans at BEM totalling USD 916.4 million.** In addition, USD 39.2 million was transferred to BS from one of the Latvian accounts. This was transferred to the account at BS, before being transferred to an account in the name of Fortuna United LP, the company which purchased the entire loan portfolio. Details are provided in Figure 4 below.”*

114. When considered alongside Ilan Shor’s statement, this would appear to be activity consistent with someone attempting to keep the banks, at least nominally, liquid.

#### 8. Identification of beneficiaries / perpetrators

115. Kroll 2 asserts that:

*“A proportion of the fund flows which have been traced to date have revealed **a number of individuals** who appear to have either been part of the administration of the suspected fraudulent activity, or to have obtained some benefit from the outflow of the funds. This benefit was identified partly through the flow of funds to companies with known affiliations to individuals. Receipts into personal accounts or into companies known to be linked to these individuals totalled approximately USD 50 million.*  
*As stated in the introduction to this report, **in order to protect due process** with regards to ongoing or future civil or criminal procedures, it is important that the apparent beneficiaries are kept confidential except in cases which can contribute to any ongoing procedures. **Details will be provided to the relevant authorities under separate cover.**”*

116. While the need to protect due process in order to protect ongoing or future legal and regulatory process is understood, it is still unusual for an investigative report not to discuss concluded in-country judicial rulings which are on any view pertinent to the case and cannot now be prejudiced by their inclusion in reporting.



117. The approach adopted is also counter-intuitive. Reporting of the only name that Kroll presumably do not think will prejudice any ongoing or future procedures is that of Ilan Shor. He is mentioned throughout the report which suggests that Kroll see him as not likely to be involved in any future legal or regulatory process.

118. Of interest is the statement:

*“...a number of individuals who appear to have either been part of the administration of the suspected fraudulent activity, or to have obtained some benefit from the outflow of the funds.”*

119. Kroll now appear to differentiate between individuals who were involved in the administration of the suspected fraudulent activity and those who have obtained benefit from it. Since Ilan Shor has freely admitted being an unwilling member of the former group and Mr Platon and Mr Filat have been definitively found to be members of the latter group, it is difficult to see what the Detailed Report could contain to gainsay what is now a matter of Moldovan legal record.

### **The state of the Moldovan Banking System prior to 2012**

120. Kroll 2 focuses on the period between August 2012 and November 2012, presumably because that was the information provided to them by NBM (Kroll make no secret of this and routinely refer to the sole reliance on data provided to them by their client). As now noted by multiple parties the issues at BEM started long before 2012.

121. The movement of payments between the banks (from 2008 onwards) resulted in a significant lack of liquidity across the group. Something that doesn't seem to have been noted by the auditors, and not considered in the Kroll 2.

### **The Expert-Grup Analysis – June 2015**

122. A report provided by Expert-Grup, an independent Moldova Think Tank who worked with the World Bank and The European Commission<sup>40</sup>, determined that one fundamental cause of the crisis at the Banks was poor administration. In stark contrast to Kroll 2 they note that the origin of the crisis should be considered from at least 2009<sup>41</sup>. With the increased timeframe considered, the results demonstrate that the share of Non-Performing Loans (NPL's) against total loans increased from just 9.1% in Q1-2011 to 31.9% in Q4 – 2011. The Expert-Grup report is attached at **Annex K**.

<sup>40</sup> <http://www.expert-grup.org/en/despre-noi>

<sup>41</sup> A., Lupusor., V., Gribincea and A. Buzu. *Decoding the Kroll Report – Analysis on basic factors which led to the decapitalisation of Banca de Economii, Banca Sociala and Unibank*, (June 2015) Expert-Grup

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

123. At the end of 2012 NPLs stood at 53%, 2013 – 58.4% and 2015 72.6%. This demonstrates an existing upwards trend long before the participation of the ‘Shor Group Companies’<sup>42</sup>. This is not to say that the Shor Group Companies were not part of the increase in exposure, but that the practice was well established through third parties to compensate for the toxic loan portfolios that existed in 2009. Expert-Grup correctly questioned why the authorities and the NBM have not requested the investigation of this period (2010-2011) as well<sup>43</sup>.

124. Furthermore, the report states that the NBM, as the regulator, was itself at fault, having been asleep at the wheel as ultimate financial regulator in Moldova:

*“NBM did not apply all its available instruments to counter the fraud committed by BEM, BS and UB. Dubious transactions and fraud simultaneously committed by the 3 systemic banks could not remain unnoticed by the NBM. Most likely, NBM knew or at least suspected the illegalities committed by the three banks, though it has not applied the necessary instruments prescribed by law.”*

**Table 1. Measures that could have been taken de jure and which have been de facto undertaken by NBM**

What could NBM have done?	What has NBM done?
Issue a warning <sup>5</sup>	Accomplished
Enforce and undoubtedly impose a fine to bank/banks and/or to shareholders <sup>6</sup>	Not accomplished
Withdraw the given confirmation to the bank's administrators <sup>7</sup>	Not accomplished
Limit or suspend the bank's activity <sup>8</sup>	Not accomplished
Withdraw licence or authorization <sup>9</sup>	Not accomplished
Require remedial measures from the bank <sup>10</sup>	Not accomplished
Block the activity of shareholders acting in concert <sup>11</sup>	Not accomplished
Set up a special supervision <sup>12</sup>	Accomplished , but with delay

Source: Law on Financial Institutions No. 550-XIII of 21.07.1995

**Table 1 from the Expert-Grup Report<sup>44</sup>**

125. This may, in part, explain what would appear to be NBM’s drive to vilify Ilan Shor in order to deflect negative attention from its own failings.

126. The criticism of NBM is echoed by the judge in sentencing Ilan Shor on 21<sup>st</sup> June 2017 when he states:

*“The National Bank of Moldova is running the SWIFT FINInform Service, due to which there are being monitored flows of cross-border payments. The payment flows performed by the*

<sup>42</sup> Kroll Report – Project Tenor – Scoping Phase Final Report, , 02 April 2015

<sup>43</sup> A., Lupusor., V., Gribincea and A. Buzu. Decoding the Kroll Report – Analysis on basic factors which led to the decapitalisation of Banca de Economii, Banca Sociala and Unibank, (June 2015) Expert-Grup

<sup>44</sup> A., Lupusor., V., Gribincea and A. Buzu. Decoding the Kroll Report – Analysis on basic factors which led to the decapitalisation of Banca de Economii, Banca Sociala and Unibank, (June 2015) Expert-Grup

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

*BANCA DE ECONOMII JSC, “Unibank” JSC and “Banca Sociala” JSC were known by the NBM, but without intervening, by issuing such measures as: warnings, restricting activity or as the case may be stopping loan activities etc.”<sup>45</sup>*

### The IMF Report October 2012

127. In October 2012 the IMF released a report on the Moldovan Banking sector<sup>46</sup>. The report examined the environment of the Moldovan banking sector after the 2009 crisis. It noted that discussions were held with Prime Minister Filat amongst other between 3<sup>rd</sup> and 17<sup>th</sup> May, 2012. Section C -*Preserving Financial Stability* (Para. 16) recognised that the banking sector was “broadly sound” with the exception of BEM. It noted that between the 2009 recession and September 2011, the effects of NPL’s had largely dissipated. The increase between September 2011 to June 2012 of 15.3 percent was mainly due to the following two factors:

127.1. A methodological change (the addition of fully provisioned off-balance sheet items), which added 2 percentage points;

127.2. The deterioration of the BEM’s asset portfolio, which accounted for 3 percentage points.

The IMF Report is attached at **Annex L**.

128. The report goes on to state that the serious situation at BEM needed to be promptly addressed. The report highlighted risky lending practises and poor governance as the contributing factors to the banks poor position. The IMF reported that the newly elected board of directors would be attempting further measures, including loan restructuring, to seek minimization of the cost to the public purse<sup>47</sup>.

129. The IMF report contains a Risk Assessment Matrix<sup>48</sup> (see below). This matrix suggests a deterioration in the stability of the Moldovan banking system contrary to the “broadly sound” headline. This is linked to a likelihood (Medium) that increasing non-performing loans and shareholder conflicts could undermine the banks. The assessed impact (High) of this is that credit supply would dwindle, and the government might need to intervene to resolve bank failures.

<sup>45</sup> Sentencing of Ilan Shor – 21<sup>st</sup> June 2017.

<sup>46</sup> 2012 Republic of Moldova Staff Report for the 2012 Article IV Consultation.pdf

<sup>47</sup> 2012 Republic of Moldova Staff Report for the 2012 Article IV Consultation.pdf, pg. 14

<sup>48</sup> IMF Report Page 7.

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

130. Press coverage at the time noted that *“The IMF leaned toward winding up the bank, but the situation at BEM was eased by the sale of a swathe of non-performing loans in May, and August’s closed share issue may have been a secret part of the same agreement.”*<sup>49</sup> Paragraph 26 discusses plans to privatise BEM

131. The same IMF report detailed that the bank needed urgent measures to repair its balance sheet and improve risk management.

132. The IMF report was released in October 2012. Ilan Shor’s purchase of the Banks’ debts were *“done at the end of March-April 2013”*<sup>50</sup>.

---

<sup>49</sup> <https://grahamstack.wordpress.com/2013/09/05/unseen-forces-wrest-control-over-top-moldovan-banks/>

<sup>50</sup> RECORD witness Ilan Sor 13 10 2015 filat ENG.pdf, pg. 4, para 6



Source of Risks	Relative Likelihood <sup>2</sup>	Impact if Realized
1. Strong intensification of the euro area crisis	<b>Medium</b> Heightened financial stress could worsen the outlook for the euro area. Fiscal tightening in major EA countries could have stronger-than-expected adverse effects on growth.	<b>High</b> Lower export demand, falling remittances, dearth or reversal of trade credit and other private financial inflows would induce a recession, high and difficult-to-finance budget deficit, exchange rate pressures, rising NPLs, and falling confidence in the banking sector.
2. Slowdown of world growth affecting Moldova's CIS trading partners	<b>Medium</b> Slowing worldwide demand could impact world commodity prices, affecting growth in CIS commodity-exporting countries.	
3. Sharp increase in world oil prices	<b>Medium</b> Geopolitical risks could lead to a sharp increase in oil prices.	<b>Medium</b> Higher energy prices could depress demand and raise inflation.
4. Deterioration of Moldova banking system's soundness.	<b>Medium</b> Soaring nonperforming loans and shareholder conflicts can undermine banks' soundness.	<b>High</b> Credit supply would dwindle, and the government might need to intervene to resolve bank failures.
5. Stall or reversal of structural reforms	<b>Low</b> Intensifying political competition and rent-seeking could delay or reverse structural reforms thus affecting growth potential and competitiveness.	<b>Medium</b> Deteriorating growth prospects and business climate would harm investment, halt poverty reduction, and complicate fiscal sustainability.
6. Decline in official external assistance	<b>Low</b> Budget cuts in Europe or setbacks in Moldova could curtail donor aid.	<b>Medium</b> Scaling down of development projects and budget financing.

*IMF Report Risk Assessment Matrix*

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

### Grigore Gacichevici

133. What is now clear is that the state of BEM’s NPL portfolio was no secret amongst the Banks and the public. Former BEM head, Mr Grigore Gacichevici, was detained in February 2013, at Chisinau Airport, while returning from Moscow<sup>51</sup>. The Central Bank then announced that during the 2010-2011 periods when Mr Gacichevici held the position of chairman of the Bank, the Bank offered the “most dubious loans” which could not be repaid. There can be no doubt that even if Ilan Shor had not received the independent financial advice upon which he says he purchased<sup>52</sup>, the purchase at an inflated value of an openly distressed NPL portfolio, makes no business sense.

134. The lack of reference to these findings (or the IMF at all) by Kroll in their primary report results in a distorted narrative as to the wealth of the banks, particularly BEM, at the beginning of 2013. As noted by multiple parties in 2013 BEM was severely impaired due to poor administration and sometimes corrupt loan agreements in respect of which Ilan Shor had absolutely no involvement.

135. Important evidence may rest in the criminal case<sup>53</sup> against the former Chairman of BEM, Grigore Gacichevici. He has been charged with issuing bad loans since 2007/8 (this appears to be akin in Moldova to a criminal professional negligence charge). The significance of this charge is that it demonstrates a dispute surrounding the existence of bad loans long prior to Ilan Shor’s involvement.

### Administration Considerations

136. The Special Administrator of the bank was Mr Matei Dohotaru , Director of Banking Supervision Department of the NBM. He has provided a witness statement hostile to Ilan Shor. Mr Dohotaru is also accused in Moldova of criminal negligence<sup>54</sup> in his former position as compliance monitor of the Bank. It is understood that he was held in custody for an extended period and the charges are still outstanding. Despite this he is now believed to be working for the World Bank in Washington DC. <sup>55</sup>

<sup>51</sup> Ibid

<sup>52</sup> RECORD witness Ilan Sor 13 10 2015 filat ENG.pdf, pg. 4, para 2

<sup>53</sup> <http://www.jurnal.md/ro/justitie/2016/5/30/fostul-presedinte-al-bem-grigore-gacichevici-va-ramane-dupa-gratii/>

<sup>54</sup> <https://anticoruptie.md/ro/dosare-de-coruptie/ex-viceguvernatorul-si-alti-trei-angajati-din-conducerea-bnm-retinuti-in-dosarul-spalatoria-ruseasca-au-fost-trimisi-in-judecata>

<sup>55</sup> <https://www.linkedin.com/in/matei-dohotaru-ba92a016/>

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

### National Committee for Financial Stability

137. The Kroll reports fail to explore the likely political influences in play. The collapse of the banks was an obvious cause for political concern however the narrative presented by the Kroll reports fails to acknowledge key actors who appear to have had direct influence on the crisis. Most prominent is the influence of the National Committee for Financial Stability (NCFS) created under the Decree of the Government of the Republic of Moldova no. 449 of 2<sup>nd</sup> June 2010.<sup>56</sup>

138. In 2015 the Governor of the NBM tendered his resignation “to prevent the NBM’s becoming a scapegoat for Politician’s trying to delay the second stage of the bank-fraud<sup>57</sup> investigation”. One Politician he was referring to was Mr. Strelet<sup>58,59</sup>. In the same statement drawing upon the issue at BEM, Mr. Dragutanu said:

*the perception that the billion was stolen in 2013-2014 or even in November 2014 was created artificially as the stealing began long before 2009 and after 2009, when the bank was under state control.*

*The central bank is attacked with the aim of diverting attention from those who stole and of finding a scapegoat so that they remain with the money and with no blame.*<sup>60</sup>

139. At the time of this statement Strelet claimed the delay in the instruction of Kroll to carry out its second stage investigation was allegedly due to the fact that they had insisted on a 60% “reward fee” for any assets seized. Strelet gave an example that if 100,000 lei were recovered Kroll would demand 60,000 in fees<sup>61</sup>. Whether this has been accurately reported by Strelet is not yet substantiated, but if true, it would be a source of considerable concern. Terms were evidently agreed, but they have not yet been made public This raises some important questions:

1. During the negotiations conducted by Strelet, were the terms of the investigation confined only to Ilan Shor?
2. Were NBM consulted on this instruction or did it come directly from Government?

<sup>56</sup> <https://www.bnm.md/en/content/financial-stability>

<sup>57</sup> <http://country.eiu.com/article.aspx?articleid=523526036&Country=Moldova&topic=Politics&subtopic=Recent+developments>

<sup>58</sup> <http://www.ipn.md/en/politica/71861>

<sup>59</sup> <https://www.reuters.com/article/moldova-cenbank/update-2-head-of-moldovas-central-bank-quits-amid-street-protests-over-banking-swindle-idUSL5N11R24E20150921>

<sup>60</sup> Ibid

<sup>61</sup> <http://jurnal.md/ro/economic/2015/9/9/strelet-kroll-cere-60-din-banii-care-ar-urma-sa-fie-recuperati/>



3. What was the ultimate agreement and what, if anything was the degree of conclusion-linked incentive?

140. Further commentators describe the relationship between Strelet and Filat. *“Even through Strelet, unlike his predecessor Chiril Gaburici, has a certain political base and clout in the party, as prime minister he will definitely be subordinate to Filat”*<sup>62</sup>. Further reporting goes on to state that a vote of no confidence on Strelet’s government was passed in the Moldovan parliament on 29<sup>th</sup> October 2015. The reasons included suspicions that Strelet had *“been involved in corrupt practices”* and *“unclear political and business connections with Vlad Filat”*<sup>63</sup>

141. In a witness statement by Gherman Artur it is reported that he was aware of the additional issue of shares in BEM. In August 2013 Mr Artur received a call from Mr. Filat *“with a harsh tone”* telling him that the issuance was a *“political decision and he should not comment on it, he doesn’t need to interfere with his opinions in this subject”*. Kroll I asserted that these shares were entirely taken up by ICS *“Sisteme Informationale Integrate SRL”*<sup>64</sup>. Mr Artur is of the view that Filat directed this issue of shares.

142. From January 2011 to December 2014 Victor Bodiou was the head of the State Chancellery of the Government of the Republic of Moldova (General Secretary of the Government) and from September 2009, he had served as State Minister under Filat. Between February and April 2011 he was also a deputy in the Parliament for the PLDM. He was referred to in the press as *“the right hand”* of Filat.<sup>65</sup>

143. According to the witness statements made by Victor Bodiou prior to Filat’s trial, it was Vlad Filat who proposed him as president of the BEM Board of Directors in 2012. In February 2013, Filat arranged for him to meet what he described as prospective purchasers of shares in BEM.<sup>66</sup>

144. As directed by Filat, Bodiou met with what he understood at the time to be representatives of *“PetroComerțBank”*. The talks were preliminary in nature but Bodiou understood that the proposal was to purchase some of BEM’s distressed loans.

145. Mr Bodiou goes on to say that as alarm increased about the situation at BEM, a proposal was tabled to issue new shares and to reduce the Moldovan government’s holding. A meeting between Deputy Finance Minister Victor Bărgăneagră, Victor Bodiou and Vlad Filat was

<sup>62</sup> Moldova\_A new prime minister, the old order\_OSW.pdf

<sup>63</sup> Moldova\_the fall of Valeriu Strelet’s government\_OSW.pdf

<sup>64</sup> Kroll\_Project Tenor\_Candu\_02.04.15 pg. 10

<sup>65</sup> [http://adevarul.ro/moldova/actualitate/victor-bodiou-ramana-mana-dreapta-premierului-vlad-filat-1\\_50ad69e07c42d5a66394af06/index.html](http://adevarul.ro/moldova/actualitate/victor-bodiou-ramana-mana-dreapta-premierului-vlad-filat-1_50ad69e07c42d5a66394af06/index.html)

<sup>66</sup> <https://deschide.md/ro/stiri/politic/4215/EXCLUSIV-DOC--Victor-Bodiou-a-recunoscut-INDICA%C5%A2IILE-primate-de-la-Filat-%C3%AEn-privin%C5%A3a-BEM.htm>

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

convened to plan this strategy. Filat convinced Barbaneagar that the Moldovan government's holding should be reduced.

146. Bodiú's account is reflected by the court in sentencing Mr Filat:

*"Filat Vladimir Vasile, having the position of the chairman of the Liberal Democratic Party from the Republic of Moldova, in the period of the months June-September 2013, stating to Ilan Shor that he has influence on persons with a position of public dignity and on the public persons within the Government of the Republic of Moldova and namely on the Prime-Minister Iurie Leanca, the vice-Minister of finances Victor Barbaneagra, who is the member of the Commission for the performance of commercial and investment contests of privatization of public property, the head of the State Chancellery Victor Bodiú, as well as on other persons with position of public dignity within the Government, in order to determine them to organize, support and perform the additional issue of shares at "Banca de Economii" JSC"<sup>67</sup>*

*"Thus, Filat Vladimir Vasile, acting for the goal of realization of his criminal intention, through the ex-Head of the State Chancellery, Victor Bodiú, determined the ex vice-Minister of finances Victor Barbaneagra who also held the position of a member of the Commission for the performance of commercial and investment contests of privatization of public property to accept and promote the taking-over of 22% of shares of "Banca de Economii" JSC"<sup>68</sup>*

147. The reference to "**Mr Ionita**" is to Veaceslav Ioniță, the former Deputy and President of the "Parliamentary Committee on Economy, Budget and Finance". He is a member of the PLDM and has been a member of the Parliament of Moldova since 2009.

148. In September 2014, Ionita announced at a press conference<sup>69</sup> that he had documents showing that Filat had unlawfully stripped 450 million Lei from the banks. In October 2015, he announced to the press<sup>70</sup> that Filat did not want a credible parliamentary investigation in the case of BEM and had effectively told Deputies who were lobbying for one to back-off.

<sup>67</sup> Sentencing of Vlad Filat dated 27th June 2017.

<sup>68</sup> Sentencing of Vlad Filat dated 27th June 2017.

<sup>69</sup> <https://point.md/ro/noutati/politika/ionita-58-filat-a-mai-furat-330-de-milioane-de-lei>

<sup>70</sup> [http://www.prime.md/ro/ionita-filat-nu-si-a-dorit-o-investigatie-serioasa-in-cazul-bem\\_26871.html](http://www.prime.md/ro/ionita-filat-nu-si-a-dorit-o-investigatie-serioasa-in-cazul-bem_26871.html)

	Moldova Banking Crisis	Doc No: MOLDOVA_REPORT_001
	Subject to Legal Privilege	

## Conclusion

149. My conclusion may be stated shortly;

150. A fair analysis of the evidence does not support the assertions in Kroll 1 and Kroll 2. An evidence-based analysis appears to have been objectively undertaken by Judge Andrei Niculcea culminating in his ruling on 21<sup>st</sup> June 2017. That ruling appears to me to be a fair assessment of Ilan Shor's culpability, but in one important sense my view of its fairness is immaterial. It is the finding of the Moldovan courts, which however inconvenient to those who set out to profit from the unlawful manipulation of the Banks, cannot be ignored.

151. Similarly, those key stakeholders and political actors that were complicit in the collapse of the banks cannot properly be allowed to continue to promote their own narrative as "evidence" or "fact". They are in a position of obvious conflict of interest having been key custodians and decision makers prior to, during and after the collapse of the Banks.

152. Each of those key players is of course entitled to fight their corner and to argue that they were not culpable. What they cannot do is publish or allow publication of material that may appear to many as objectively assessed, evidence-based conclusion, but which is in truth no more than their own assertion. Assertion that many may regard, when they are properly informed of the facts, as substantially self-serving.

**James Ramsden QC**

**81 Chancery Lane  
London WC2A 1DD**

**Investigative Support Provided By  
Quintel Intelligence Ltd  
London**