

**MARCIDES
MARCIDES & CO
LAW OFFICE**

Nicosia, 14 December 2015

His Excellency the President of the Republic of Cyprus
Mr. Nicos Anastasiades

Presidential Palace, Nicosia

Your Excellency Mr. President

OPEN LETTER

I act as a legal consultant of the ultimate beneficial owners of FBME BANK LTD, Messrs. Ayoub-Farid Michel Saab and Fadi Michel Saab and I have instructions to address you this letter as the Head of the State and by invoking the relevant provisions of the Constitution, which provide that you should ensure the executive authority (Article 46 of the Constitution).

It is known that the Central Bank of Cyprus (the "CBC") decided, in its capacity as the Resolution Authority, in view and based on an announcement issued by the Financial Crimes Enforcement Network of the U.S.A. ("FinCEN") around July of 2014 concerning the Branch of FBME BANK LTD in Cyprus (the "Branch"), to immediately place the Branch under resolution in order to sell its operations, by issuing the Decree 356/2014 (the "Decree") with the consent of the Minister of Finance.

The main purpose of the Decree was the sale of the Branch's operations. Although it was foreseen right from the outset and all were warned that this would be impossible to achieve, the Central Bank continued to insist, in its capacity as the Resolution Authority, in the implementation of the Decree. Although the Decree intended to protect the Branch's depositors, who were not at risk at the time, it has, however, caused enormous damage to them.

Before the issuance of the Decree and following the issuance thereof, FBME BANK LTD and its ultimate beneficial owners have repeatedly made representations, both to the U.S.A. competent authorities as well as to the Central Bank, challenging the accuracy of FinCEN's conclusions, on the basis of reports prepared on its behalf by reputable firms of international reputation (Ernst & Young and KPMG Germany).

It is further noted that FBME BANK LTD challenged the legality of the above referred to decision of FinCEN before the American Court, and as a result, an interim judicial order was issued on 27.08.2015, suspending FinCEN's decision until the said American Court issued its final decision in the said case. Despite this, the CBC, always acting as the Resolution Authority, did not at all differentiate its attitude and conduct.

By considering that FinCEN's decision was legally and factually wrong, the ultimate beneficial owners of FBME LTD repeatedly tried to come to an agreement with the CBC and put proposals and recommendations before the same in order to deal with the situation, which not only affected the credibility of the Cyprus banking system and its economy in general, but it also affected a large number of the Branch's customers, who are active in Cyprus. Unfortunately, the CBC, as the Resolution Authority, not only refused and dismissed any conciliation attempt, which would, in any event, reduce the amount of damage already caused, but it excluded any route of communication, by acting in an oppressive and blackmailing manner, threatening at the same time to obtain administrative sanctions and fines and commence criminal proceedings.

In view of the above referred to described conduct of the CBC, as the Resolution Authority, the ultimate beneficial owners of FBME BANK LTD, who are Lebanese citizens, filed an arbitration request against the Republic of Cyprus before the International Arbitral Tribunal in Paris (ICC Paris). The basis of this request is the Bilateral Agreement between Cyprus and Lebanon on the protection of investments. The two claimants/ultimate beneficial owners of FBME BANK LTD inter alia claim, with this request, for compensation against the Republic of Cyprus for huge damages sustained due to the actions of the CBC, as the Resolution Authority.

The Attorney General represents the Republic of Cyprus in the above arbitration. An opposition of the Republic of Cyprus, that the said International Arbitral Tribunal did not have jurisdiction to adjudicate the request, was dismissed and the proceedings proceed for adjudication on its merits.

The International Arbitral Tribunal called upon the Republic of Cyprus, with Procedural Order No. 3 issued on 13.05.2015 within the context of these proceedings:

“.... to abstain from taking any measures that would destroy irrevocably the business of FBME Cyprus pending completion of this arbitration, and ordered to notify one month in advance the Arbitral Tribunal, Claimants, their Counsel, Mr. Mafuru and all other concerned authorities and/or entities of any such measure”

Further, the said Arbitral Tribunal called upon the Republic of Cyprus with a new Procedural Order thereof dated 10.12.2015:

“.... to ensure that the measures regarding FBME Cyprus are taken by the Respondent only after careful assessment of their necessity and urgency in full compliance with Respondent’s international obligations arising out of the Cyprus-Lebanon BIT.”

Your Excellency Mr. President,

Despite the existence of the above Arbitral Proceedings and its Procedural Orders, the interim decision of the American Court and the other facts, the CBC, as the Resolution Authority, insists and continues to act and behave in an arbitrary, illegal and injurious manner to the ultimate beneficial owners of FBME BANK LTD, the Branch’s depositors, the Republic of Cyprus and its taxpayers. As a result, the Republic of Cyprus will be the one, who will pay any damages that may be adjudicated by the Arbitral Tribunal, damages which may come up to a huge amount, its citizens/taxpayers being burdened, as a result, for the umpteenth time.

All the more, the implementation of the rumored decision of the CBC, to revoke the Branch’s licence to operate, will constitute an event of unforeseen consequences. The deadlock, i.e. the failure of selling the Branch is now admitted by the Resolution Authority itself, which it so happens, by coincidence, to be the CBC itself. Consequently, instead those issuing the Decree being courageous to express their failure and revoke the same, they proceed in order to cover their liabilities by revoking the Branch’s licence, which will lead to unfortunate results for all and especially the Bank’s depositors.

Your Excellency Mr. President,

You are the Head of the State, mandated by the Constitution to ensure the executive authority. The actions did not, in this case, derive from the CBC, in the said capacity thereof, but they derived from the CBC in its capacity as the Resolution Authority, such a conferred power not being provided to the same by the Constitution, but by a simple State law, which was also amended from time to time. The tragedy, which began with the issuance of the initial Decree, which for the time being continues to be in force, was issued with the consent of a minister of the government. Such a decree could not have been issued without this consent, which was expressed by a simple signature under the verb “I agree”.

Further, the defence, of the Republic of Cyprus in the above Arbitral Proceedings, is not within the conferred power of the CBC, but it is within the conferred power of the government of the Republic of Cyprus, of which you are the head. The Attorney General is indeed an independent officer of the State, but he is subjected to the instructions of the Government of the Republic of Cyprus concerning facts and merits of any defence he will raise while handling cases against the State.

We hereby request that you convene, in view of the above, a meeting of all interested parties (the Minister of Finance, the members of the Resolution Authority and the beneficial owners of FBME BANK LTD) under your presidency in order to discuss the possibility of finding constructive solutions for the protection of the interests of all parties involved, including the Branch's depositors, in the name of protecting those against whom this catastrophic Decree was issued.

With highest consideration

Alecos Marcides
Lawyer-Legal Consultant