

**Q1:** In May 2011, Cyprus lost access to international markets due to the significant deterioration in public finances as well as the large exposure of the Cypriot banking sector to the Greek economy. Eventually, in June 2012, Cyprus has requested a financial assistance programme and on March 25 2013, after a long period of hard negotiations, Cyprus and the Troika (European Commission, European Central Bank, International Monetary Fund) agreed on a €10 billion financial assistance which featured an unprecedented haircut on uninsured deposits in a bid to recapitalize the Bank of Cyprus, the island's largest lender. The bail-in also provided that Cyprus Popular Bank, the island's second largest bank would be wound down with its good part absorbed by the Bank of Cyprus. The Memorandum of Understanding signed between the Cypriot authorities and the troika also includes an ambitious fiscal consolidation plan and a series of structural reforms aiming at bringing back the Cypriot economy in a path of sustainable growth and development.

**Q2:** The Central Bank of Cyprus was heavily involved in the negotiation and the design of the financial assistance program. CBC staff from the Economic Research Department had meetings with the technical teams working on the macroeconomic aspects of the MoU and provided their views on the macroeconomic forecasts. Regarding the provisions of the MoU for the financial sector, these were discussed between the Troika technical teams and the Bank Supervision Staff before they were discussed with and approved by the Governor. The discussions with the Bank Supervision staff were facilitating Troika's understanding of the situation in the financial sector and the impact of the MoU requirements. Also the discussions concerned the capacity of the Bank Supervision department to comply with the requirements of the MoU regarding the reform of the regulatory and supervisory framework and to set the various timelines taking this into consideration were feasible. The CBC Governor co-signed the MoU with the Minister of Finance.

**Q4:** As a macro team we found difficulties in convincing the Troika representatives about our assumptions on macroeconomic developments as well as about the developments in certain sectors of the economy. We also found difficulties in convincing the Troika against certain measures we considered as not so helpful in tackling specific economic issues as Troika was assuming.

**Q6:** There was a satisfactory level of cooperation despite our disagreement with the Troika institutions about certain issues regarding economic developments and measures needed to tackle specific economic problems and rigidities.

**Q8:**

### **Civil actions**

Several civil actions have been filed by creditors before the Cyprus District Courts against Bank of Cyprus («BoC») and/or or Cyprus Popular Bank («CPB») claiming damages for losses sustained due to breach of their contractual obligations towards the creditors<sup>1</sup>, as well as

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<sup>1</sup> So far most civil actions concern the resolution measures adopted in accordance with the Decree 103/2013 and Decree 104/2013 and/or the Decrees amending these Decrees.

against the Republic of Cyprus and the Central Bank of Cyprus («CBC») and/or the Governor of the CBC being the authorities that caused the infringement of the credit institutions' obligations through the issuance of the decrees for the implementation of resolution measures.

The main complaint of the plaintiffs against the CBC and/or the Governor of the CBC is that, in accordance with the plaintiffs allegations, the Decrees for the implementation of resolution measures to CPB and BoC that caused the infringement of the concerned credit institutions' obligations towards them are contrary to the CY Resolution Law of 2013 and to the Constitution of the Republic of Cyprus.

The previous shareholders of BoC and/or CPB have filed civil actions claiming damages before the District Courts against BoC and/or CPB as well as against the Republic of Cyprus and the CBC and/or the Governor of the CBC being the authorities that caused the infringement of the credit institutions' obligations through the issuance of the decrees for the implementation of resolution measures.

Until now three hundred fifty nine (359) civil actions filed by creditors and previous shareholders before the Cyprus District Courts have been served to the CBC and/or the Governor.

### **Injunctions**

Recent applications for injunctions before the District Courts ordering CPB or BOC and/or the CBC and/or the Republic and/or the Governor to abstain from implementing the resolution measures in relation to their accounts were rejected by the District Courts. The District Courts stated that the resolution measures have already been implemented and rejected the applications.

Previous injunctions granted by the District Courts (injunctions granted before the ruling of the Supreme Court on 7.06.2013 on the preliminary objections raised during the hearing for the first 53 recourses challenging the Resolution Decrees) are not permanent; they are short term and returnable.

### **Recourses**

Recourses filed by depositors

A hearing for fifty three (53) recourses filed by depositors before the Supreme Court took place between the 23 - 30 of April 2013 before the full bench of the Supreme Court. The main complaint of all applicants was that the Decrees for the implementation of resolution measures to CPB and BoC were contrary to the provisions of the Constitution of **the** Republic of Cyprus, mainly Articles 23, 25, 26 and 28. A preliminary objection was raised to the applications stating that the Decrees in question constitute an act of government (acte de gouvernement) and as such not subject to judicial review under Article 146 of the Constitution. The Supreme Court, on its own motion, also raised an issue as to whether the Decrees in question constitute public regulatory acts or executory acts.

The Supreme Court, having heard arguments of the lawyers on behalf of the applicants as well as the lawyers appearing for the respondents, reserved its decision in relation to the preliminary objections. The Supreme Court issued its ruling on the preliminary objections raised on 7 June 2013.

In its decision by majority, the Supreme Court dismissed the recourses on the grounds that the plaintiffs did not have a legitimate right to challenge the Decrees. The Supreme Court stated that the Decrees concern CBP and BOC and not the plaintiffs, who only have a contractual relation with the concerned credit institutions. Therefore, the case lies in the context of private, and not public, law. Any interests of the depositors and/or other creditors, if they were adversely affected, can be examined in the course of civil actions filed against the concerned credit institutions and based on their contractual agreements with the credit institutions or the process of resolution. The proceedings could be further turned against the Republic of Cyprus, the Central Bank of Cyprus as well as against any involved European institutions or other bodies.

The Supreme Court in its observations stressed, inter alia, that the subject matter of the civil actions shall be the financial loss of the depositors which shall be determined based on whether depositors of the concerned credit institutions are financially worse off, on account of the implementation of the resolution measures compared to the position that they would have been if the credit institutions were instead, put into liquidation (in accordance with the legal principles laid down in section 3(2)(d) of the CY Resolution of Credit and Other Institutions Law of 2013).

#### **Recourses filed by shareholders**

Several previous shareholders have filed recourses before the Supreme Court, in accordance with Article 146 of the Constitution of the Republic of Cyprus, challenging the legality and constitutionality of the Decrees and the constitutionality of the CY Resolution Law (so far most recourses concern Decree 103/2013 and Decree 104/2013 and/or the Decrees amending these Decrees).

The plenary of the Supreme Court convened a meeting on the 12th of September 2013 with all lawyers involved in order to decide on how to deal with all the applications of the shareholders of Bank of Cyprus that have been filed so far. An expedited process was decided upon. The Supreme Court has instructed the lawyers of the applicants to submit in writing which cases they wish to promote as pilot cases. The hearing of the pilot cases that have been selected by the lawyers of the applicants will start on the 23rd of January 2014.

Following the issuance of the Supreme Court ruling a large number of recourses challenging the legality and constitutionality of the Decrees and the constitutionality of the CY Resolution Law has been withdrawn.

One thousand fifteen (1015) recourses by previous shareholders and depositors<sup>2</sup> have been served to the CBC and/or the Governor until the 4th of December 2013.

**Q9:** The program, which is updated every three months for evaluation purposes, aims at addressing the challenges of the economy in three key pillars: the financial sector, public finances and the pillar of structural changes. Based on the progress of the program, our economy is given the necessary funding so that it can recover and return on a sustainable development path.

The fact is that the program includes radical structural measures, many of which are unprecedented for the island's reality and are implemented within an environment of extremely high unemployment. However, the program although rigorous and painful, is the only way that will enable the country's exit from the crisis, while offering the opportunity to correct many structural distortions that exist in the economy and hence create the conditions for returning to full employment and sustainable growth.

Although there is no room for any relaxation, the satisfactory progress made in the implementation of the MoU reforms in the three pillars mentioned above and under such difficult circumstances, should be recognized. Regarding public finances, the budgetary targets have so far been achieved by significant margins, reflecting the prudent implementation of the state budget, as well as the smaller scale of deterioration in economic activity than originally anticipated for 2013. The 2014 budget remains conservative and aims at an earlier implementation of some part of the additional fiscal adjustment needed in the years 2015-2018 in accordance with the MOU. The objective is to achieve and maintain a primary surplus of 4% of GDP in the long run, so that the debt is driven in a stable and sustainable downward path.

As regards structural reforms, a progress was made regarding social security reforms, with the planned introduction of a Minimum Guaranteed Income system in order to provide financial assistance to those in real need. It should also be noted that the roadmap for the privatization program has also been prepared, which aims at raising at least € 1 billion by the end of 2016 and an additional € 400 million by 2018 at the latest.

Regarding the banking sector, the strict implementation of the MoU is a guarantee for the gradual reversal of the negative developments that have occurred in recent years due to the debt crisis in the euro area, the high exposure of our banking system in the Greek economy and the fiscal deterioration in our country. The primary objective is to fully restore the credibility and stability of the financial sector, so that the real economy can recover. The efforts made so far is great. Specifically, the Bank of Cyprus has exited the consolidation regime and after the bail in process has now a strong capital base. The same bank has also proceeded to the election of a new Board and a new Executive Director, while the restructuring plan is progressing at a satisfactory pace. Meanwhile, the Cooperative Bank is

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<sup>2</sup> In several cases, the lawyers of depositors argued that the recourses of their clients deal with issues other than those examined by the Supreme Court in its ruling of 6 June 2013.

in the process of recapitalization, which includes € 1,5 billion provided by the MoU. Based on the restructuring plans of the above financial institutions, the sector is expected to reduce operating costs as well as its staff and the number of branches, so as to become more efficient and profitable in the future. A significant and positive development was also the successful raising of private funds by Hellenic Banks in order to satisfy the MOU capital requirements. As a result of the recapitalization process, the banking sector is expected to have appreciable funds in the near future that may be used to absorb any further shocks.

It should be stressed that in recent evaluations of the program, positive deviations were recorded both in public finances as well as in the financial sector. Such positive deviations give our country the ability to better address any adverse developments that may occasionally appear from unforeseen or/and external factors. They also reinforce our credibility in international markets (e.g the recent upgrade of the creditworthiness of the Republic of the S & P's).