

AVELLUM PARTNERS

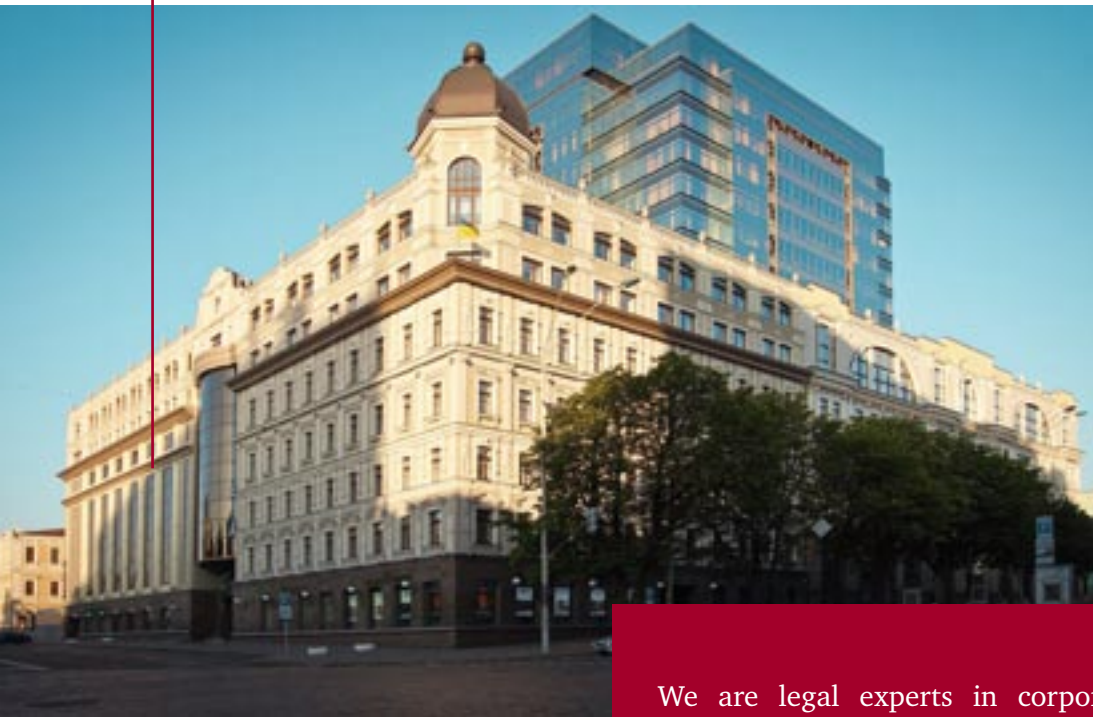
• Internationally Ukrainian •

2011: ANNUAL REPORT

Index

Preface	5
Corporate Finance	7
Arbitration.....	8
Banking and Finance	10
Capital Markets.....	12
Competition.....	14
Corporate/M&A	16
Real Estate.....	18
Restructurings	20
Recent Legislation.....	22
Our team	25
About us	27
Recognitions.....	31

Reliable Reliable



We are legal experts in corporate finance, covering arbitration, banking and finance, capital markets, competition, mergers and acquisitions, real estate, and restructurings.

Preface

Preface

One more year passed since the establishment of Avellum Partners in 2009. We would like to share this moment with you and thank you for your support and enthusiasm throughout this year. It was a truly remarkable year of tremendous achievements for our Firm.

- Our team has grown to 17 attorneys and 7 support staff
- Our partners keep enjoying an international and Ukrainian reputation as the leading attorneys in certain practices

We are very proud to have become a member of the American Chamber of Commerce in Ukraine, the British Business Club in Ukraine, the British-Ukrainian Chamber of Commerce, and the European Business Association. We believe that these memberships give us great opportunities to explore new horizons, to share our ideas with the business community, and to contribute to further development of Ukrainian legislation.

Over the last year Avellum Partners strengthened its leading position as a corporate finance firm in Ukraine. We have been honored to work with the leading Ukrainian and foreign corporations on their landmark corporate finance transactions in all key sectors of Ukrainian economy:

- We have worked in M&A transactions with total value of over USD1 billion in such industries as agriculture, banks and financial institutions, FMCG, food and beverages, oil and gas, real estate, retail, spirits, and telecommunications
- We have advised on numerous IPOs and Eurobond issuances by Ukrainian issuers over the last year for the total amount of approximately USD1,6 billion
- Despite the complicated situation in the banking and finance sector, our team managed to advise on numerous landmark Banking and Finance transactions for the amount of over USD1 billion, mostly in connection with loan

facilities from major international banks and institutions, as well as 3 acquisitions of banks and financial institutions in Ukraine

- Our Real Estate practice has been actively developing over the past year. We have advised real estate investors and funds, real estate holding companies, major Ukrainian and regional developers in several landmark transactions for the total amount of approximately USD600 million
- We are very proud of the achievements of our Competition practice. We have advised international and Ukrainian companies on obtaining merger control clearances from the Antimonopoly Committee of Ukraine in numerous remarkable transactions. We also helped some of our clients in clearing antitrust violations that occurred during the process of groups (holdings) formation, in order to bring them in compliance with Ukrainian antimonopoly law
- We also started to develop our Arbitration practice by helping one of our clients to successfully win a complex multijurisdictional arbitration case under UNCITRAL rules

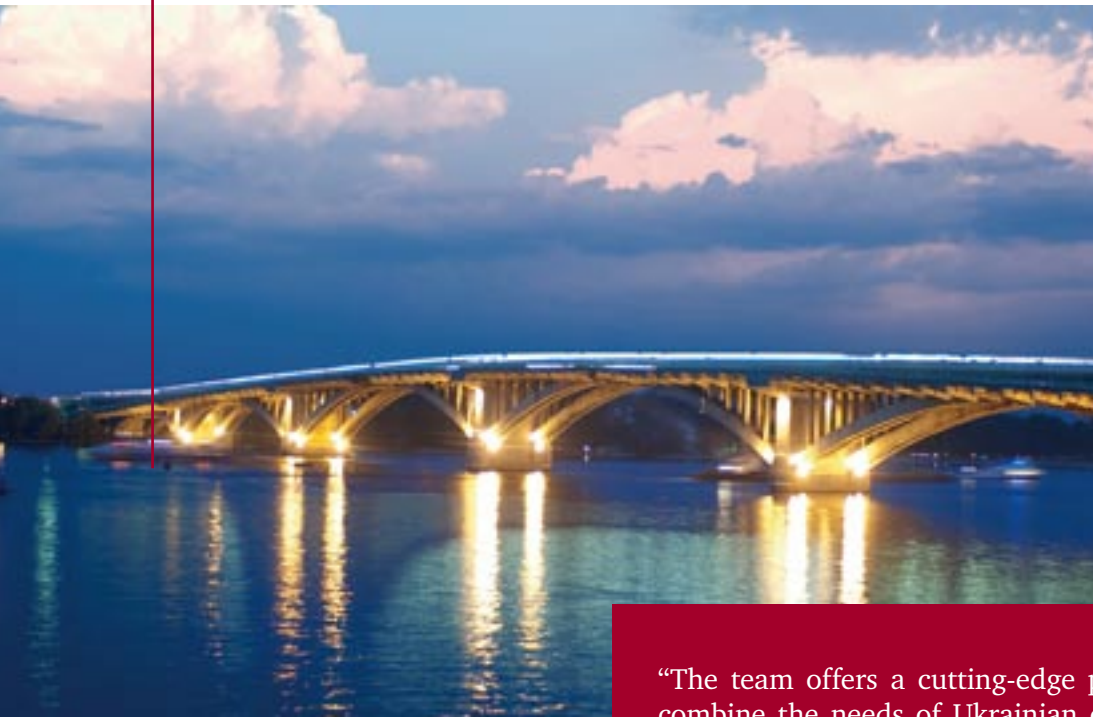
We are proud to announce that over the past year we were recognized as one of the top corporate finance law firms in Ukraine by various international legal directories and Ukrainian legal editions.

For all of the above we would like to thank our people for their hard work and devotion, our clients for their trust to Avellum Partners, and our friends in the advisory, auditing, banking, investment, and legal community, who believed in our good goal and supported us throughout this year!



Mykola Stetsenko
Managing Partner

Qualified Qualified



“The team offers a cutting-edge practice, and is able to combine the needs of Ukrainian clients with a Western-style approach. The lawyers are goal oriented and able to work under pressure.”

Chambers Europe 2011

Corporate Finance

By Mykola Stetsenko
Managing Partner



In the course of the last year there has been a lot of positive corporate finance activity in Ukraine.

In the area of capital markets, the end of 2010 saw several large corporates, namely PrivatBank and Avangard, raising successfully USD200 million each through Eurobond offerings. In January 2011 Metinvest successfully established a USD1 billion Guaranteed MTN Program and issued USD750 million notes within this program. On the IPO front, Avangard, Milkiland, Agroton, and Sadovaya successfully did their public offerings in 2010, followed by KSG, IMC, Ovostar, Coal Energy, and Westa, which debuted on the Warsaw Stock Exchange in May and June this year. MHP and Kernel did secondary offerings at the end of 2010. Prior to the recent turmoil on financial markets in August and September 2011, we expected to see at least six other agricultural companies to try IPOs in 2011. The Eurobond activity has not been very active in 1H 2011, but we expected more Eurobond issuers in 2H 2011. The potential second wave of financial crisis significantly altered the plans of many issuers, most of whom postponed their plans until 2012. This notwithstanding, several companies hope to do listings still in 2011, if the markets provide them with a good “window” opportunity.

We also saw a slow, but reassuring trend in bank lending. Admittedly, mostly large corporates were able to attract bank financing, but the pool of such borrowers is gradually increasing. We have also seen a strong trend for trade financing covered by national export credit agencies, as well as some pre-export financing emerging. International financial

institutions, namely IFC and EBRD, remain very active on the market.

Finally, in the M&A area the activity has picked-up in many sectors, with agriculture, FMCG, and financial services being the leading ones. The agricultural sector has experienced a lot of consolidation, especially in the sugar industry, where major sugar producers (Dakor, Rise, and UkrRos) have changed owners in early 2011. The financial institutions sector has seen the sale of VAB Bank and Renaissance Credit, as well as investment by Horizon Capital into UkrFinance Group, one of the largest debt purchase and collection businesses in Ukraine. We expect more consolidation and deal flow in the banking sector and FMCG.

Ukrainian government has been recently undertaking some reforms in the banking and regulatory sectors, as well as pushing the land reform in Ukraine. It has become easier to establish and to run a company in Ukraine.

While foreign investment stayed low in the last 12 months, a lot of investment came from local investors. We also see substantial interest from Middle Eastern investors, especially in the agricultural sector. Russian investors are also quite active, as well as private equity. Horizon Capital alone invested into approximately 3-4 companies in the course of the last 12 months, while Advent International made its first investment into a healthcare company Isida.

We expect M&A activity to pick up at the end of 2011 and in early 2012, as some businesses will continue to consolidate, while others will continue selling off their non-core assets. We also expect more joint ventures in those companies, which failed to attract capital through IPOs and Eurobonds earlier this year, but continue to experience the need for additional capital. Ukrainian government is expected to kick-off the privatization processes, which will lead to additional deal flow and even some acquisition finance transactions.

Arbitration

Arbitration

By Kostiantyn Likarchuk
Partner



Choice of an adequate mechanism of dispute resolution is an essential aspect of each transaction. Contractual provisions concerning dispute resolution are sometimes ironically called “midnight clauses”, as frequently such provisions are negotiated and set out in transactional documents at the last turn, frequently after midnight. Nevertheless, provisions on dispute resolution are vital and special attention must be paid when negotiating and drafting such clauses. Furthermore, in transactions, which go beyond ordinary trade relations (in particular, in corporate finance transactions), it is critical to tune up an effective dispute resolution mechanism.

As a law firm specializing in corporate finance, Avellum Partners provides legal support to its clients in their most significant transactions. Contractual documents in such deals, for example, complex share purchase agreements, shareholders agreements, guarantees and indemnities, etc., are distinguished by their high level of sophistication. Accordingly, the choice of a dispute resolution mechanism for such instruments is an exceptionally diligent and responsible task. In most situations in our practice we are inclined to advise our clients to use arbitration, as a dispute resolution mechanism for differences arising out of agreements. However, the determination of specific features of arbitration becomes almost an art when sophisticated transactional documentation is concerned, and standard solutions are not always fit for such situations.

In order to choose an appropriate forum, it is necessary to think about qualities (expertise and experience), which the members of an arbitration tribunal must possess, in order to appreciate and protect rights and legitimate interests of the client to the fullest extent possible. First of all, there is a choice between an ad hoc tribunal, which may be created for resolution of a particular dispute, and an arbitration court, which is set up and operates under

the auspices and within the framework of specialized organizations (for instance, the London Court of International Arbitration, the Arbitration Institute of the Stockholm Chamber of Commerce, the International Arbitration Court of the International Chamber of Commerce, and the International Commercial Arbitration Court at the Ukrainian Chamber of Commerce and Industry). Contracting parties may also require assistance in choosing the jurisdiction for arbitral proceedings. This may predetermine effectiveness of injunctions, fairness of arbitration, and viability of the arbitral award. Moreover, when a dispute arises and arbitration proceedings are initiated, special attention must be given to the appointment of an arbitrator and when doing so, his/her experience in previous cases should be closely scrutinized. Special significance is attributable to the interaction preceding the arbitration, when it is obvious that the dispute is going to be tried in arbitration, but there is still a possibility to improve the evidentiary base, in order to increase the chances of the successful outcome.

Avellum Partners provides legal support to its clients at every stage of dispute resolution, in particular,

ARBITRATION EXPERTISE

We regularly act on behalf of clients in arbitration with focus on corporate finance and related disputes. We represent clients in both institutional and ad-hoc arbitration proceedings providing broad range of services related to international arbitration. We have considerable experience in corporate finance disputes in various spheres of business.

during preparation of transactional documentation and determination of dispute resolution mechanism, at the pre-arbitration stage, in arbitration proceedings, as well as after the final arbitral award is rendered by the tribunal and its recognition and enforcement are sought on the territory of Ukraine and abroad.

When drafting transactional documents, we, ordinarily, advise our clients to opt for London as a venue for arbitration. Such recommendation is based on several considerations. Firstly, the major part of transactional documentation we are dealing with is governed by English law; accordingly, London is a natural place for resolution of disputes arising out of such instruments. Secondly, as Englishmen say, they adhere to the objective approach to dispute resolution, and there is no room for corruption, which may exist in other jurisdictions. Thirdly, mode of thinking of English lawyers differs from that typical for continental law attorneys: English lawyers (including, arbitrators and judges) tend to address the nature of the problem and commercial causes of its occurrence, without limiting themselves to solely formal issues.

Our specific areas of expertise include:

- Selection of adequate arbitration forum
- Structuring and drafting arbitration agreements in complex corporate finance transactions
- Handling arbitration cases in multi-jurisdictional corporate finance and related disputes
- Assisting clients in recognizing and enforcing foreign arbitral awards in Ukraine
- Advising clients on diverse aspects of international arbitration

Banking and Finance

By Glib Bondar
Partner



“Glib Bondar was named as a leading individual for banking and finance and capital markets in Ukraine, and he is regarded as a “very strong financing lawyer with a good grasp of financing both loans and debt capital markets.”

Legal500 2011

The consequences of the global financial crisis were more severe for Ukrainian businesses than for other more developed economies due to difficult circumstances in the country, such as political instability, volatile exchange rates, and currency inflation, among others. The banking and finance markets in Ukraine continue to be rather weak, but the economy shows signs of recovery and there is an obvious improvement in the banking and finance environment.

Unlike last year when banks tried to resolve the liquidity and deposits outflow problems, this year there is a clear lending appetite which banks have difficulty to satisfy due to the lack of creditworthy borrowers. Additionally, trade finance (in particular, ECA (export credit agency) supported financing) is back, with European banks being the most active lenders. There is also activity in project finance in infrastructure sector as well secured syndicated lending and pre-export financing.

Russian investors and banks continue to be the most active players on the Ukrainian market. Although European and US investors are still very cautious, their interest to Ukraine is steadily returning.

It seems that export-driven industries are back on track. Agricultural sector was the leader last year. This year steel production and machinery showed some dynamics as well.

Increase in banks lending is likely to be the main

characteristic of the Ukrainian finance sector in the coming months. The deposit base is constantly growing and major Ukrainian banks need to think what to do with over-liquidity. Accordingly, it would be logical to expect the increasing lending by Ukrainian banks to corporate clients. However, since the pool of good solvent and disciplined corporate clients significantly shrank during the financial turmoil, the competition for such clients is likely to be tough.

As to the legislative initiatives, following the hit of financial crisis, the Parliament of Ukraine and the National Bank of Ukraine adopted a number of changes to legislation and regulations in the sector aimed to overcome its consequences. As example, the Parliament passed anti-crisis legislation tightening up Ukrainian currency control rules and introduced certain changes to the Ukrainian banking and commercial legislation improving rules for financial recovery of Ukrainian commercial banks. In addition, the regulator introduced a number of restrictions on the activities of commercial banks with the aim of stabilising Ukrainian banking sector and neutralising the impact of external financial crisis. The efficiency of such anti-crisis measures in a long-term perspective still remains to be seen, but nevertheless, in terms of legislative developments, the last year and the first half of this year could be viewed as a remarkable step forward towards accepted best practices in the developed jurisdictions, in particular in the area of corporate governance, securities and banking regulation.

BANKING AND FINANCE EXPERTISE

We offer our clients exceptional banking and finance market knowledge and a dedicated first class service. Our focus on advising public and private sector borrowers and leading financial, commercial and industry players gives us a wide perspective of the market and up-to-the-minute knowledge of the latest Ukrainian market and legal developments. We have an extensive banking and finance expertise working on transactions, which cover a broad range of industries.

Our specific areas of expertise include:

Loan finance of all kinds from “plain vanilla” credit agreements to highly structured cross-border financings
 Public and private debt offerings
 Securitisation and structured finance
 Aircraft and ship financings
 Acquisition finance
 Project finance
 Debt restructurings



Term loan facility from a leading European bank
USD100 mln
Legal Advisor to Kernel Group



Syndicated secured loan facility from a major US-based bank
USD60 mln
Legal Advisor to UPD Holdings Ltd.



Syndicated secured term loan facility
USD600 mln
Legal Advisor to Ukrlandfarming PLC



Loan facility from EBRD
USD50 mln
Legal Advisor to MHP Group



Pre-export revolving loan facility to MHP
USD70 mln
Legal Advisor to ING Bank N.V.



Conversion into a senior loan of subordinated loan to Megabank
USD10 mln
Legal Advisor to International Finance Corporation



Loan facility from Deutsche Bank AG
EUR17.4 mln
Legal Advisor to MHP Group



Atradius-covered export credit facilities to MHP Group
EUR18 mln
Legal Advisor to Rabobank



SERV-covered export loan facilities from Swiss Bank
USD15.3 mln
Legal Advisor to MHP Group

Syndicated loan facility for the leading Russian mobile telecommunications operator
USD470 mln
Legal Advisor to a syndicate of foreign lenders



Credit facility from a leading European bank
USD80 mln
Legal Advisor to Kernel Group



Four credit facilities from Landesbank Berlin AG
Legal Advisor to MHP Group

Capital Markets

Capital Markets

By Iryna Nikolayevska
Associate



Despite the fact that Ukrainian securities legislation changed substantially in recent years, share placements by Ukrainian issuers (“Issuer”) on foreign stock exchanges remain poorly regulated. This, together with a number of currency control restrictions, forces Issuers to resort to alternative ways of capital raising, e.g., placements of global depositary receipts (“GDRs”) on international stock exchanges.

The increasing demand for GDRs has been driven by significant benefits realised by both Issuers and investors.

Benefits for Issuers

- no approval from the National Commission on Securities and the Stock Market for the share placement abroad is needed
- unlike local shares, which can only be denominated in Hryvnia, GDRs may be denominated in U.S. dollars or Euros
- access to capital outside of the Issuer’s home market is gained through global offerings (e.g., on the London Stock Exchange)
- Issuer’s visibility, status and profile among international investors and consumers is increased
- opportunities for raising additional equity capital in an easy way

Benefits for investors

- permit investors to trade securities of Ukraine-based companies denominated in U.S. dollars or Euros
- reduce or eliminate trading, clearing, currency control and settlement difficulties associated with direct investment in Ukrainian securities
- provide investors with ability to acquire underlying shares upon cancellation of GDRs
- enable investors to diversify their portfolios

“Glib Bondar of Avellum Partners provides “practical” counsel and has wide ranging experience advising borrowers and lenders on Eurobond issues, corporate debt offering transactions, securitisation and structured finance.”


Who’s Who Legal 2011: Capital Markets in the CIS

CAPITAL MARKETS EXPERTISE

We have unique experience advising major Ukrainian issuers and leading investment banks on most Ukrainian initial public offerings (IPOs) and complex Eurobond issuances by Ukrainian companies. We have worked on transactions, which cover a broad range of industries, including agriculture, financial services, FMCG, heavy industry and retail.


Our specific areas of expertise include:

- IPOs on world's major stock exchanges
- Private placements of securities by Ukrainian issuers
- Issuance of Eurobonds by Ukrainian issuers
- Corporate restructurings prior to private placements or IPOs



Eurobond Offering of
the City of Kyiv
USD300 mln

*Legal Advisor to
Dealers*



IPO on Warsaw Stock
Exchange
USD30 mln

*Legal Advisor to
Industrial Milk Company*



Issuance of 11.4 mln
GDRs by
WTI Trading Limited
USD188.6 mln

*Legal Advisor to
MHP Group*



Establishment of
MTN Programme
USD1 bln

*Legal Advisor to
Dealers*



Eurobond issuance
under MTN
Programme
USD750 mln

*Legal Advisor to
Dealers*



Eurobond issuance
USD200 mln

*Legal Advisor to
Avangard*



Eurobond issuance
USD200 mln

*Legal Advisor to
Privatbank*



Eurobond issuance
USD330 mln

*Legal Advisor to
MHP Group*



Eurobond Exchange
Offer
USD250 mln

*Legal Advisor to
MHP Group*



IPO on London Stock
Exchange
USD208 mln

*Legal Advisor to
Avangard*

Competition

Competition

By Volodymyr Solohub
Associate



Under Ukrainian law, the approval of Antimonopoly Committee of Ukraine (the “AMC”) is required for any transaction contemplating acquisition by any means of 25% or more or 50% or more of the voting rights of the entity, only if all of the following financial or market share thresholds are exceeded:

Financial Thresholds:

(1) the aggregate worldwide value of assets or sales for all parties to the transaction, including related by control entities/persons (i.e., purchaser and target and entities/persons related to each of them by relations of control), exceeds EUR 12 million; and

(2) the aggregate worldwide value of assets or sales for each of at least two parties to the transaction, including related by control entities/persons (i.e., each, purchaser and entities/persons related to it by relations of control on the one hand, and target and entities/persons related to it by relations of control on the other), exceeds EUR 1 million; and

(3) the aggregate value of assets or sales in Ukraine of at least one party to the transaction, including related by control entities/persons (i.e., purchaser and entities/persons related to it by relations of control, or target and entities/persons related to it by relations of control), exceeds EUR 1 million.

OR

Market Share Thresholds:

The AMC approval is also required for any transaction, if the market share of any party or combined market share of all parties to the transaction including related by control entities/persons on any product market exceeds 35 percent, and the transaction takes place on this or adjacent product market.

In some cases acquisition or lease of assets also requires obtaining prior approval of the AMC.

The competition law of Ukraine has an extraterritorial effect, thus, even if the transaction is performed outside of Ukraine, it is still regulated by Ukrainian competition law if the proposed transaction has nexus to Ukraine (i.e. the parties to the transaction are present in Ukraine directly or indirectly by way of sales or by way of assets in excess of above indicated thresholds), and is subject to AMC approval if foregoing thresholds are met by the parties to the transaction and their related by control entities.

Procedure of Obtaining Approval

In order to obtain AMC approval the parties shall file to the AMC an application. Once the application is filed to the AMC, the review of the application consists of two periods: (i) the initial period lasting for 15 calendar days during which the AMC reviews the application on technical grounds, i.e., makes sure that the application is complete; and (ii) the subsequent period lasting for 30 calendar days, during which the AMC reviews the application on substantive grounds.

If during/at the end of the initial review period the AMC does not reject the application as incomplete, the application is accepted for subsequent substantive review. Therefore, the overall review period shall consist of 45 calendar days unless the AMC (i) rejects the application as incomplete during/at the end of

the initial review period, in which case parties will have to file the application to the AMC again and the timing for review will start from the beginning; or (ii) opens an investigation on the basis of the application if during the review of the application the AMC discovers that the transaction may lead to significant competition restraints, in which case the overall review of the application will be 3 months starting from the date the parties have submitted to the AMC all requested information.

Failure to obtain AMC approval on concentration may result in fines being imposed on parties to transaction and their related by control entities in the amount of up to 5% of annual group turnover of parties and their related by control entities for the year preceding the year when fine is imposed.

In all cases the AMC approval shall be obtained prior to completion of the transaction.

COMPETITION EXPERTISE

We advise international and Ukrainian businesses on all aspects of obtaining merger control clearances from the AMC. We also regularly advise a diverse range of clients on competition law aspects during the structuring process of M&A, as well as pre-IPO and pre-private placement corporate restructurings.

Our specific areas of expertise include:

- Merger Clearance
- Concerted Practices
- Abuse of Dominance
- Unfair Competition
- Clearance of past violations of antitrust laws



Concentration approval in connection with group restructuring

Legal Advisor to Royal Hospitality Group



Representation in connection with the AMC investigation of violations of antitrust laws of Ukraine

Legal Advisor to Royal Hospitality Group



AMC advice regarding sale of Ukrainian operations to Johnson & Johnson

Legal Advisor to J. B. Chemicals & Pharmaceuticals Ltd.



Merger control clearance for beer producer

Legal Advisor to Buyer



Merger control clearance

Legal Advisor to UkrFinance Group



Merger control clearance

Legal Advisor to all parties



Concentration approval in connection with group restructuring

Legal Advisor to New Products Group



Representation in connection with the AMC investigation of violations of antitrust laws of Ukraine

Legal Advisor to New Products Group

Corporate/M&A

By Mykola Stetsenko
Managing Partner



Best Mergers and Acquisitions Law Firm of the
Year in Ukraine

Legal Awards 2011

HOW TO CLOSE AN M&A DEAL IN UKRAINE SUCCESSFULLY?

With M&A activity picking up in Ukraine, it could be useful to reiterate a few basic aspects of investing in Ukraine:

Any serious deal in Ukraine is done under English law

English law gives choice of legal instruments (e.g., warranties and indemnities), which are unavailable in Ukraine. Option agreements are also difficult to structure and enforce in Ukraine.

Legal due diligence

When performing legal due diligence in Ukraine one should expect various corporate law and real estate law violations. Public registers are not fully reliable and easily accessible yet.

Seller's lawyers

Insist on Ukrainian seller having its own legal advisor, since otherwise, buyer and its legal counsel

may spend days explaining mechanics of an English law agreement to the seller.

Disclosure letter

Request a disclosure letter from Ukrainian seller early in negotiations, as it could flush out any "skeletons in closet", which were not disclosed to buyer in course of legal due diligence.

Non-compete clauses

Non-compete arrangements are not easily enforceable in Ukraine as they may require a prior approval of Ukrainian antitrust authorities.

Antitrust approvals and deal structuring

Because of low financial thresholds under Ukrainian competition law, literally any decent acquisition in Ukraine is likely to require a prior approval of Ukrainian antitrust authorities. This, together with any required deal structuring, may take some time to complete.

CORPORATE/M&A EXPERTISE

We are legal experts in Corporate and M&A in Ukraine. Our Corporate/M&A practice is very diversified and versatile, since we provide top-quality legal services to purchasers and sellers, both strategic and financial, and we work on transactions in all key sectors of the Ukrainian economy.

Our specific areas of expertise include:

Cross-border private and public acquisitions
Mergers, spin-offs, split-offs, split-ups, and other types of reorganizations
Private equity acquisitions and disposals
Corporate restructurings
Corporate governance advice



KERNEL

Conditional acquisition
of 100% stake in
Enselco
USD51.3 mln

*Legal Advisor to
Kernel Group*



KERNEL

Acquisition of 100%
stake in Russian Oils
USD60 mln

*Legal Advisor to
Kernel Group*



Acquisition of 100%
stake in Radomyshl
Brewery

*Legal Advisor to
Oasis Group*



Investment into
Aisi from SECURE
Management

*Legal Advisor to
SECURE Management*



Acquisition of the
majority stake in
News Outdoor

*Legal Advisor to
VTB Capital*



Sale of Ukrainian
operations to
Johnson & Johnson

*Legal Advisor to
J. B. Chemicals &
Pharmaceuticals Ltd.*



Sale of "Schekavitskiy"
business centre to 1+1
TV channel

*Legal Advisor to
Seller*



Private equity
investment by the
Europe Virgin Fund

*Legal Advisor to
Founder*



Sale of substantial stake
to Horizon Capital

*Legal Advisor to
UkrFinance Group*



Sale of Ukrainian
operations to
SCM Group

*Legal Advisor to
Renaissance Credit*



Acquisition of 84%
stake in VAB Bank
from Kardan N.V.

*Legal Advisor to
Buyer*



Acquisition of 100%
stake in Rise Group

*Legal Advisor to
Ukrlandfarming PLC*



Acquisition of 100%
stake in
Dakor Agro Holding

*Legal Advisor to
Ukrlandfarming PLC*



Sale of shares and
establishment of joint
venture with Hartwall
Capital and Horizon
Capital

*Legal Advisor to
Seller*



Private equity
investment by
Horizon Capital in
Datagroup
USD40 mln

*Legal Advisor to
Datagroup*



Sale of the majority
stake in Rosinka

*Legal Advisor to
Orangina Schweppes Group*



Acquisition of the
minority stake
in Ukrainian
International Airlines

*Legal Advisor to the
Ukraine-based investor*



Acquisition of 50%+1
share in Sky Mall

*Legal Advisor to
Buyer*



Sale of Vik Oil Group
to TNK-BP
USD313 mln

*Legal Advisor to
Vik Oil Group*

Real Estate

Real Estate

By Gennadii Roschepii
Associate



Ukraine's real estate sector has been in crisis since 2008. The country suffered a fiscal crisis, most transactions were stopped and construction was almost at standstill. However, there has been an increasing number of the real estate transactions lately, especially in retail real estate.

Unlike pre-crisis period, when most transactions were made with regard to completed and leased assets with a high rate of capitalization, in the last 12 months investors focused on buying stakes in development projects, such as USD 100 million investments in the Kiev "Hilton Hotel" development, purchase of 50%+ 1 share in the "Sky Mall" retail centre, purchase of 35% of shares in Arricano Trading and purchase of "Park Horkogo" office and retail centre.

We also see certain activity in transactions for acquisition of the real estate by ultimate users. For example, a number of large corporations, namely "1+1" TV channel, "INGO" Insurance Company, Bank "Russian Standard", successfully purchased several office buildings in Kyiv. Raben-Ukraine purchased a part of Class "A" logistic complex with an adjacent land plot.

Also, a number of substantial leases of office premises has been completed on the market. In particular, TNK has leased 6,000.00 sq.m., Unilever has leased 2,130.00 sq.m., Coca-cola has leased 1,170.00 sq.m., Samsung has leased 1,500.00 sq.m. However, we do not see any substantial changes in the rent rate.

Finally, construction also demonstrates a slow positive trend. Several developers have attracted financing and re-started construction. Unlike construction and acquisitions of buildings/premises, land acquisitions are still rather rare in Ukraine and most deals are connected with lease of state/municipal or private land.

Ranked in Real Estate. "Kostiantyn Likarchuk heads the "exceptionally high-quality" team at Avellum Partners."

Legal500 2011

Following the crisis, a Ukrainian government initiated a reform of the real estate sector. Within the last 6 months the Parliament of Ukraine, the Cabinet of Ministers and the President adopted a number of significant changes to the real estate legislation.

Major changes were connected with:

(1) simplification of a construction process, including approval of a design documentation and obtainment of building permits;

(2) establishment of unified authority for registration

of rights and encumbrances to the real estate, as well as establishment of unified real estate register;

(3) change of title documents to the real estate; and

(4) establishing a new procedure of the land cadastre operation.

Despite such important legislative developments, the legislation is still underdeveloped. Many laws are still to be supplemented by relevant regulations and a number of currently effective regulations are to be amended.

REAL ESTATE EXPERTISE

We have extensive experience in real estate and construction. We advise on all aspects of real estate financing, development, construction, leasing, acquisition and disposal in the office, retail, warehousing, industrial and residential sectors.

Our specific areas of expertise include:

Real estate acquisition and disposal, including both “share deals” and “asset deals”
 Real estate lease
 Property management
 Construction



Joint venture and additional investment into the project

Legal Advisor to Shareholders



Syndicated secured loan facility from a major US-based bank
USD60 mln

Legal Advisor to UPD Holdings Ltd.



Investment into Aisi from SECURE Management

Legal Advisor to SECURE Management



Sale of “Schekavitskiy” business centre to 1+1 TV channel

Legal Advisor to Seller



Acquisition of 50%+1 share in Sky Mall

Legal Advisor to Buyer

Restructurings

Restructurings

By Yuriy Nechayev
Associate



CROSS-BORDER RESTRUCTURING OF THE UKRAINIAN BUSINESS

Development of efficient tax and corporate structure from the shareholders' and potential investors' perspective are key issues in the business restructuring. Each cross-border restructuring usually involves several jurisdictions. Below are most frequently asked questions and answers on the cross-border restructuring of the Ukrainian business:

Which jurisdiction should be chosen for the holding company?

The most commonly used jurisdictions for the holding company (the "Holding") are Cyprus, Luxembourg and the Netherlands. Each jurisdiction has its own advantages and disadvantages and the choice of a particular jurisdiction will depend on several factors, including, in case of an IPO, the stock exchange where the Holding's shares will be listed.

How beneficial owner's ownership of the business should be structured?

Depending on the person's readiness to disclose his/her identity as a beneficial owner of the business, such ownership may be either personal or through a trust. In any event, beneficial owner's identity will need to be disclosed to the servicing banks and, in case of an IPO, to public investors. We usually recommend that for tax efficiency purposes the beneficial owner should own (personally or through trust) the Holding indirectly – through a separate company (Subholding).

Which companies of the business should be included into a post-restructuring group?

It is usually a commercial decision as to which companies are core for the business and which

"Mykola Stetsenko is an expert on Corporate Reorganisations and Equity Capital Markets, and he is praised by clients for showing a flexible approach and total respect of deadlines."

Chambers Europe 2009

companies should be excluded as non-core. All of the core companies must be controlled by the Holding, in order to avoid any leakage of funds from the group that will be outside the control of prospective investors.

Which consents are necessary for the restructuring?

In certain circumstances the restructuring may require the obtaining of an individual licence of the National Bank of Ukraine, an approval of the Antimonopoly Committee of Ukraine and lenders' consents and waivers.

At which price should the Ukrainian companies be purchased by the foreign Holding?

If the Holding (directly or indirectly – through special companies) purchases the core companies (non-purchase options may also be available) such purchases need to be made at the market value in order to avoid the risk of the restructuring being challenged by the tax authorities.

How long does the restructuring take?

Generally, the restructuring takes from 3 up to 6 months, depending on the size of the group, number of involved jurisdictions and necessity to obtain regulatory approvals.

RESTRUCTURINGS EXPERTISE

We are proud of our significant experience in restructurings, which helps us to develop the most efficient corporate structures of any complexity, taking into account the industry specifics of your business. Our attorneys are able to give complex solutions of any legal issues and achieve objects pursued by our clients. Besides, we are able to provide advisory and coordination support to in-house legal departments of the clients' companies, thus, minimizing costs during such resource-intensive exercise as restructuring.

Our specific areas of expertise include:

- Analysis of our client's existing corporate structure
- Development of a new optimal tax and corporate structure
- Preparation of a detailed memorandum, timeline and organizational step plan
- Establishment of a foreign holding company
- Coordination of restructuring
- Corporate governance issues
- Obtaining foreign investment license from the NBU
- Preparation and filing to obtain approval from the AMC

 <p>Corporate group restructuring</p> <p><i>Legal Advisor to Rise Group</i></p>	 <p>Corporate group restructuring</p> <p><i>Legal Advisor to Industrial Milk Company Group</i></p>	
 <p>Corporate group restructuring</p> <p><i>Legal Advisor to Loture Group</i></p>	 <p>Corporate group restructuring</p> <p><i>Legal Advisor to New Products Group</i></p>	 <p>Corporate group restructuring</p> <p><i>Legal Advisor to Kalyna Group</i></p>

Recent Legislation

Recent Legislation

By Anna Gorkun
Associate



10 MOST IMPORTANT CHANGES IN UKRAINIAN LEGISLATION IN 2011

Within the first nine months of 2011 a number of important amendments have been introduced into Ukrainian law. Below is the chronological summary of the biggest changes, which will take or already took effect this year.

- Starting from 7 May 2011 the certificate on the state registration of legal entities and individual entrepreneurs was abolished. Now an excerpt (vypyska) from the Unified State Register of Legal Entities and Individual Entrepreneurs is regarded to be the document confirming state registration. The validity period of such excerpt was repealed and requirement to replace an excerpt in case of change of information contained therein was abolished
- Starting from 30 May 2011 the National Bank of Ukraine allowed Ukrainian banks to use the currency swaps (i) in the domestic currency market (i.e., in dealings between Ukrainian banks) – for sale-purchase and exchange of foreign currency and (ii) in the international currency market – only for exchange of foreign currency, in both cases with foreign currencies of the 1st group NBU classifier (i.e., freely convertible currencies, including USD, EUR, GBP, etc.). The maximum tenor of the currency swaps is limited up to 365 calendar days
- Starting from 6 June 2011 there have been a number of amendments made to the corporate legislation. These amendments result in: (i) elimination of a minimum amount of the charter capital of a limited liability company (“LLC”), (ii) abolishment of a requirement for an LLC to have a portion of the charter capital paid up prior to its incorporation, (iii) abolishment of a need to open a temporary bank account for the formation of the charter capital with monetary contributions prior

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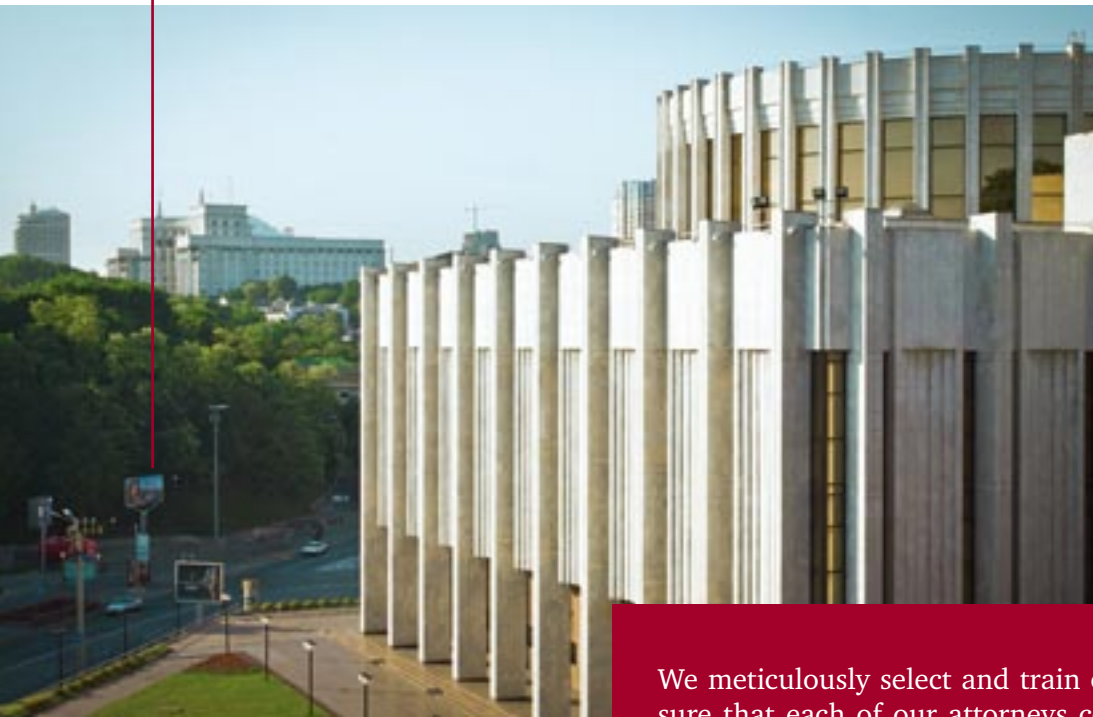
Chambers Global 2011

- to its establishment, (iv) cancelation of the mandatory notary certification of the founders' (participants') signatures on the constituent documents, and (v) easement of notary certification requirements for copies of certain documents, which are submitted to the state registrar. Starting from 12 September 2011 legislation establishes procedure for on-line registration of legal entities and individual entrepreneurs
- Starting from 11 June 2011 the permitted maximum of participants in an LLC has increased from 10 to 100. LLCs are obliged to bring their charters in compliance with the requirements of the law in respect of the maximum number of participants by 1 January 2012
 - Starting from 28 August 2011 legal entities may be established and exist under the model charter approved by the Cabinet of Ministers of Ukraine. The law provides legal entities with an option to switch from their original constituent documents to the model charter and vice versa
 - Starting from 5 September 2011 cross-border foreign currency payments by Ukrainian surety providers (guarantors) to a foreign lender under a surety agreement (guarantee), which secures obligations of a Ukrainian borrower under a foreign currency loan agreement with such foreign lender, became exempt from the individual licensing requirement
 - From 1 October 2011 the law on pension reform came into operation, which provides for gradual elevation of retiring age for women from 55 to 60 years with its annual elevation by 6 month, introduction of notional defined contribution insurance system, changes certain conditions of the "pay-as-you-go" pension scheme, clarifies the provisions of the second level of the defined contribution insurance system and also determines the conditions of pension funds participation on such second level
 - Starting from 28 November 2011 the issuers of securities (except for equities) obtain the possibility to register a base prospectus in the course of open (public) offerings. By registering a base prospectus, which includes information relating to the issuer and other invariable information, for the registration of new offerings the issuer subsequently submits a prospectus containing only information relating to new securities to be issued, and information which was not disclosed in the base prospectus. The registration requirements for the prospectus and amendments to the prospectus for closed (private) placements of securities are introduced. At the same time the issuer will not be obliged to publish the registered prospectus, but will merely deliver it to persons participating in the placement pursuant to the resolution of the issuer
 - Starting from 1 January 2012 the registration of rights to land, apartments, buildings and other permanent structures and the registration of mortgages and other encumbrances to the real property will be carried out by the State Registration Service of Ukraine and local departments of the Ministry of Justice of Ukraine. Thus, the registration functions currently carried out by the Bureau of Technical Inventory, departments of land resources and notaries will be effectuated by a single authority. Starting from the same date, the new law will come in force, thereunder the State Land Cadastre is created. There will be a unified system of data in respect of land, its designation, restrictions in usage, data on quantitative and qualitative characteristics of land plots, land valuation, etc. The law also repeals state acts confirming ownership to land plots
 - Ukrainian public joint stock companies, banks, insurance companies, as well as other financial market participants, have to prepare their financials, as well as consolidated accounts based on the IFRS. Other companies may voluntarily apply IFRS

We regularly produce various educational brochures and articles on specific legal topics in the areas of banking and finance, capital markets, competition, corporate/M&A, and restructurings. If you are interested in receiving any of those materials, please kindly contact either one of our partners directly or by e-mail info@avellum.com

We also regularly track all significant changes in Ukrainian legislation to update you on what may affect your business. To subscribe to our mailing list please contact info@avellum.com

Experienced Experienced



We meticulously select and train our employees to make sure that each of our attorneys could become a partner in the future. Our employees received their education from the top Ukrainian and Western universities and are admitted to practice law both in Ukraine and abroad.

Our team

Our team

Glib Bondar is a Partner of Avellum Partners. Glib works primarily on banking and finance matters, particularly in the areas of capital markets, bank and corporate lending, securitization and structured finance, project finance and debt restructuring. He has worked on nearly all Eurobond offerings from Ukraine, including sovereign, municipal, bank and corporate debt offering transactions. Glib has significant experience in advising borrowers and lenders on various types of credit facilities, securitization and structured finance. Glib obtained his Master of Laws degree with honors from the Law Department of Taras Shevchenko Kyiv National University (Ukraine) in 2000. He received his Master of Laws (LL.M.) degree from Columbia School of Law (USA) in 2001. Glib Bondar is admitted to practice law in Ukraine since 2000. Prior to joining Avellum Partners, Glib was a partner at the Kyiv office of international law firm Baker & McKenzie. Previously, he worked at the Kyiv office of international law firm Altheimer & Gray.



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Kostiantyn Likarchuk is a Partner of Avellum Partners with a major specialization in mergers and acquisitions, competition/antitrust law, and arbitration and commercial litigation. Kostiantyn also provides general corporate legal consultancy, advice on electric energy and heat generation and distribution, project finance and tax. He represents international and domestic sellers and buyers in major M&A and private equity transactions, as well as major foreign corporations on their investments in Ukraine and the CIS. Kostiantyn obtained his Master of International Law degree with honors from the Kyiv Institute of International Relations (Ukraine) in 2000. He received his Master of Laws (LL.M.) degree from Columbia Law School (USA) in 2005. Kostiantyn is a member of Kyiv City Bar since 2003 and is admitted to practice law in Ukraine since 2000. Prior to founding Avellum Partners, Kostiantyn headed Melnychenko & Likarchuk, Attorneys at Law, which he established in 2000.



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Mykola Stetsenko is a Managing Partner of Avellum Partners. Mykola's primary focus is mergers and acquisitions, capital markets and private equity. Mykola's additional expertise spans over general corporate matters, real estate, and hotels, resorts and tourism. He represents interests of foreign and domestic sellers and buyers in mergers and acquisitions and private equity transactions, as well as major Ukrainian issuers and investment banks in equity and debt capital market transactions. Mykola obtained his Master of International Law degree with honors from the Kyiv Institute of International Relations (Ukraine) in 2000. He received his Master of Laws (LL.M.) degree with honors from the Georgetown University Law Center (USA) in 2004. Mykola is admitted to practice law in Ukraine since 2000 and in the State of New York (USA) since 2005. Prior to founding Avellum Partners, Mykola was a partner at the Kyiv office of international law firm Baker & McKenzie. Previously, he worked at number of Ukrainian law firms.



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Devoted Devoted



We help foreign and Ukrainian investors to close complicated corporate finance transactions successfully and promptly. We reach this goal using the most advanced Western methods and practices coupled with our broad experience in Ukraine and everyday practice.

About us About us

We are legal experts in corporate finance, covering arbitration, banking and finance, capital markets, competition, mergers and acquisitions, real estate and restructurings.

We help foreign and Ukrainian investors to close complicated corporate finance transactions successfully and promptly.

We reach this goal using the most advanced Western methods and practices coupled with our broad experience in Ukraine and everyday practice.

We are truly internationally local since we use top international standards in our legal practice. Moreover, most of our lawyers have been trained at international law firms, which enables us to use best international practices in our work.

Our goal is to be the firm of choice for clients with respect to their most significant business transactions in the above mentioned areas. We specialise in

matters that require special attention, extensive experience and industry expertise, a high level of sophistication, and the reputation of our partners.

Our associates are client dedicated. We provide prompt and thorough responses to the clients requests and strive to meet and when possible surpass the deadlines.

With the utmost commitment to the principle of legality we always search for practical and unique business-oriented solutions for our clients.

We offer our clients a highly individualized focus on their matters with precise understanding of the tasks, regular reporting on the assignment status and comprehensive approach in providing information.

We work seamlessly with our correspondent/partner premier law firms in other jurisdictions, including the UK, the USA, and EU jurisdictions.

Traditional Traditional



“In terms of observed boom of activity from the side of domestic agribusinesses in attracting finance on international capital markets and cross-border lending, the young Ukrainian law firm Avellum Partners demonstrated a solid list of representations over the past year.”

Ukrainian Law Firms 2011

About us About us

OUR BRAND

The word “avellum” derives from the letter “A” (Alpha) and the word “vellum”.

Alpha (uppercase A, lowercase α; Greek: Αλφα) is the first letter of the Greek alphabet. Alpha, both as a symbol and term, is used to refer to or describe a variety of things, including the first or most significant occurrence of something.

“A” stands for A-class services and Absolute top quality. In the context of our Firm, “A” denotes delivering first-class legal services in a first-class way.

Vellum (from the Old French Vélin, for “calfskin”) is mammal skin prepared for writing or printing on, to produce single pages, scrolls, codices or books. In Europe, from Roman times, the term vellum was used for the best quality of prepared skin. Vellum can be far more durable than paper. For this reason, many important documents are written on animal vellum, such as diplomas. British Acts of Parliament are still printed on vellum for archival purposes, as are those of the Republic of Ireland. Some brands of writing-paper and other sorts of paper use the term “vellum” merely to suggest quality.

In the context of Our Firm, Vellum denotes our commitment to conservative legal traditions and stability.

Our core practice areas are:

- Arbitration
- Banking and Finance
- Capital Markets
- Competition
- Corporate/M&A
- Real estate
- Restructurings

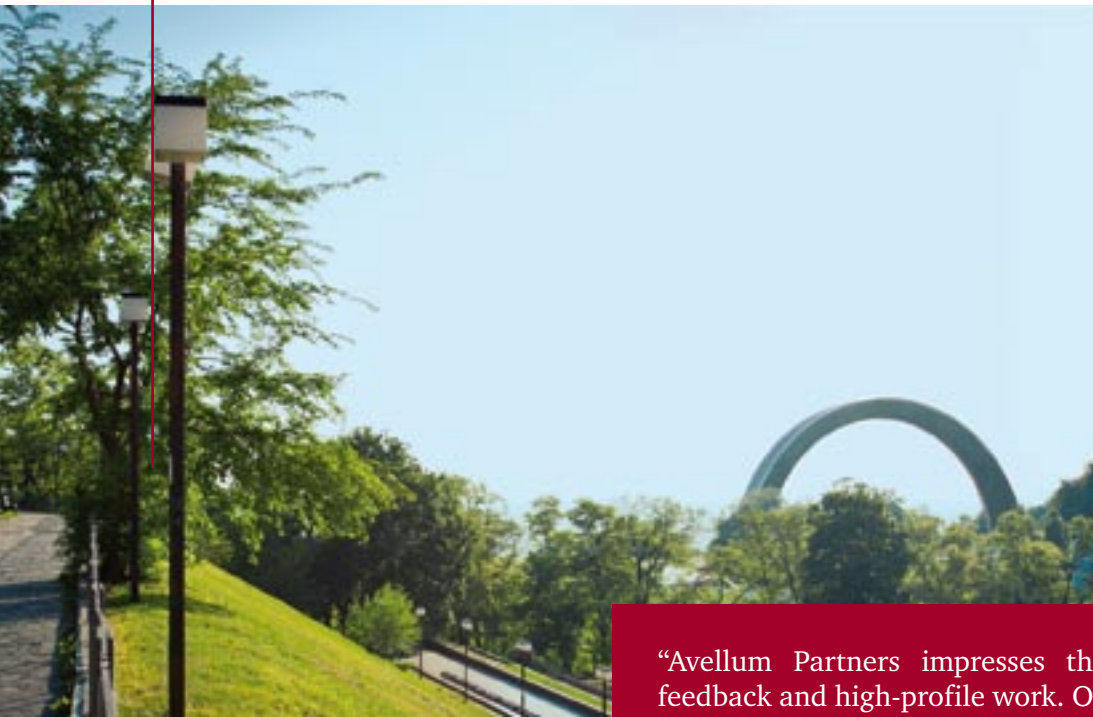
We also provide top quality legal services in the following ancillary practice areas:

- Customs and Currency Control
- Taxation

Our expertise covers various industry sectors, namely:

- Agriculture
- Banking and Insurance
- Climate Change
- Consumer Goods
- Heavy Industry
- Oil and Gas
- Real Estate and Retail
- Telecoms and Media

Flexible Flexible



“Avellum Partners impresses through some excellent feedback and high-profile work. One major client reports: “this is a dynamic young firm that has already built up a very strong team of partners and associates. It provides high quality commercial advice in a challenging environment.”

Legal500 2011

Recognitions

Recognitions

Acquisition International Legal Award 2011

Ukrainian Law Firm of the Year

IFLR1000 2012

Named as one of the leading law firms for M&A and for Banking and Finance in Ukraine

Legal Awards 2011

Best M&A Law Firm of the Year in Ukraine

PLC Which Lawyer?

Recommended for Corporate/M&A in Ukraine

Chambers Europe 2011

Ranked Band 3 in Banking and Finance

Chambers Europe 2011

Ranked Band 3 in Corporate/Commercial

Legal500 2011

Ranked Tier 2 in Banking, Finance and Capital Markets

Legal500 2011

Ranked in Corporate/M&A

Legal500 2011

Ranked in Real Estate

Ukrainian Law Firms 2011

Leading law firm for Capital Markets in Ukraine

Ukrainian Law Firms 2011

Glib Bondar is a leading individual for Capital Markets in Ukraine

Chambers Global 2011

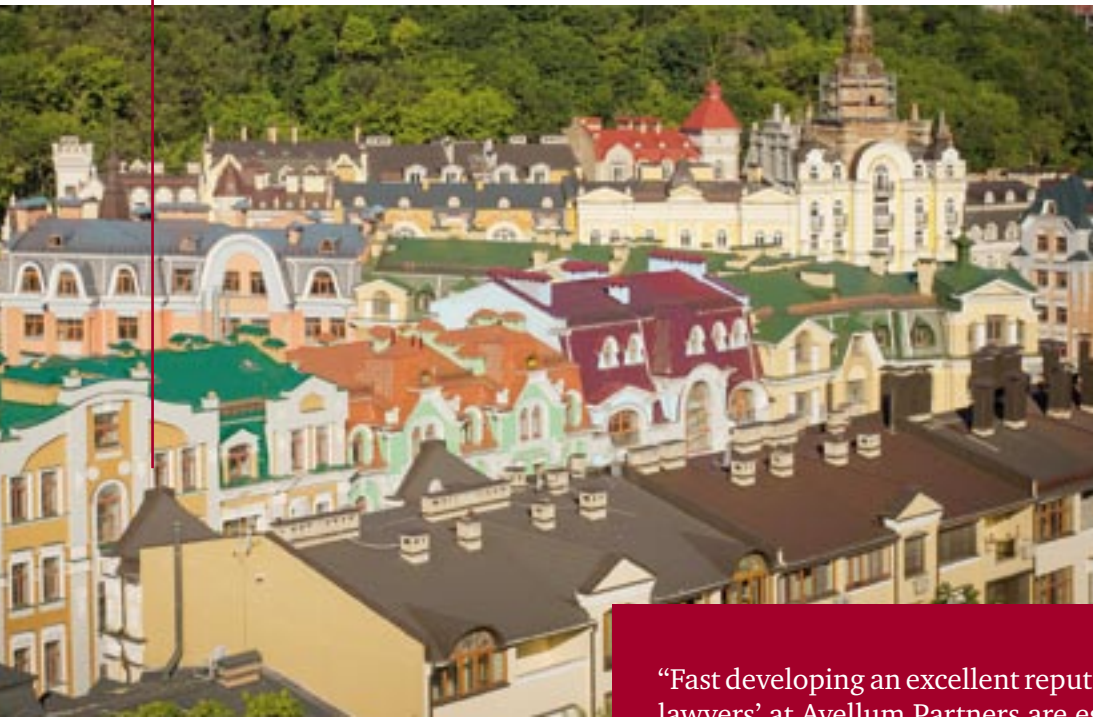
Ranked Band 3 in Corporate/Commercial and Banking and Finance

“This small but impressive Kyiv firm has forged an excellent reputation in a number of practice areas since being established in 2009. It comes particularly highly recommended in the fields of corporate/commercial law, but its impressive team of attorneys is equipped to help local and international clients across a broad range of issues. Clients speak enthusiastically about the firm, and describe it as a “cutting-edge practice in the western style - goal oriented, helpful, and always available.”

Chambers Global 2011

“Clients praise managing partner Mykola Stetsenko as a “highly experienced practitioner who is fantastic in negotiations”. Sources champion his high standards of professionalism and extensive experience in the sector.”

Creative Creative



“Fast developing an excellent reputation, the ‘bright, young lawyers’ at Avellum Partners are especially noted for their capital markets expertise, and are referral favorites for the major international firms.”

Legal500 2011

Recognitions

Recognitions

Chambers Global 2011

“Partner Glib Bondar is praised by sources as “a very good lawyer in the sector.” His banking and finance practice is complemented by his capital markets expertise.”

Who’s Who Legal 2011: Project Finance in the CIS

“Avellum Partners’ Mykola Stetsenko is “impressive and commercially tuned in.”

Who’s Who Legal 2011: Capital Markets in the CIS

“Glib Bondar of Avellum Partners provides “practical” counsel and has wide ranging experience advising borrowers and lenders on Eurobond issues, corporate debt offering transactions, securitisation and structured finance.”

Legal Market Research Program (Yurydychna Gazeta) 2010

Glib Bondar is recognized as one of the leading lawyers in banking and finance and capital markets

Legal Market Research Program (Yurydychna Gazeta) 2010

Mykola Stetsenko is recognized as one the leading lawyers in Corporate/M&A

PLC Which Lawyer?

Recommended for Capital Markets in Ukraine

PLC Which Lawyer?

Mykola Stetsenko and Glib Bondar are endorsed in Capital Markets: debt and equity

Expert Guides 2010

Glib Bondar is recommended by the Emerging Markets Practitioners Guide in the area of Capital Markets

PLC Which Lawyer? 2011

Recommended for Banking and Finance in Ukraine

PLC Which Lawyer? 2011

Glib Bondar is endorsed in Banking and Finance

Chambers Global 2010

“Commentators appreciate Glib Bondar’s talent for structuring deals in a way that avoids conflict.”

Chambers Europe 2010

“Market sources single out Mykola Stetsenko as an impressive practitioner.”

Chambers Europe 2010

“Clients cite Glib Bondar as “a dedicated, business-oriented lawyer.”

Best Lawyers 2010

Glib Bondar has been recognized as a leading individual in the area of Capital Markets, and as one of the leading individuals in the areas of Banking and Finance and Project Finance and Development in Ukraine

Best Lawyers 2010

Mykola Stetsenko has been recognized as one of the leading individuals in the area of Capital Markets

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We also regularly track all significant changes in Ukrainian legislation to update you on what may affect your business. To subscribe to our mailing list please contact info@avellum.com

www.avellum.com

Avellum Partners are the legal experts in corporate finance. We provide legal advice to our clients with respect to their most significant business transactions in banking and finance, capital markets, mergers and acquisitions, and restructurings. We specialize in matters that require special attention, extensive experience and industry expertise. Avellum Partners have one of the largest professional teams of lawyers on the Ukrainian legal market specializing in corporate finance. The team consists of highly qualified attorneys trained in leading international law firms on most sophisticated transactions.

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