



**Independent Joint Anti-Corruption  
Monitoring & Evaluation Committee**

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**Update on Kabul Bank; What has been achieved so far?**

The Kabul Bank scandal, which became public in autumn of 2010, was the largest cases of fraud, forgery and embezzlement in Afghanistan, and shocked even those accustomed to the high levels of corruption and impunity in the country. The circle of those involved in the systematic robbery of the largest financial institution of the country included several national business people, international experts who assisted in the sophisticated forgery and concealment, politicians, power brokers and family members of the then President and Vice President.

The National Unity Government was quick to condemn the scandal, and to open an investigation. President Ghani reopened the case on his second day in office through Presidential Decree Number 3 in September 2014; instructing the Attorney General to have the involved people arrested, prepare the indictment and all other institutions to support in recovering the stolen public money through identification and freezing of the perpetrator's assets. The Ministry of Foreign Affairs was instructed to assist in the cross-border recovery of assets through diplomatic means and the Ministry of Finance was instructed to draft a plan for the privatization of the successor New Kabul Bank (NKB) within 10 days.

So, two years after the issuance of Presidential Decree Number 3, what has been the result? The National Unity Government states that the follow up has been successful, "*we have jailed the two key culprits of the Kabul Bank and ... we have recovered \$250 million back.*" (President Ghani May 16<sup>th</sup> 2016). MEC has followed this case very closely, having issued a detailed public analysis of the Bank's collapse in November 2012 (see <http://www.mec.af/files/knpir-final.pdf>), and an update in October 2014 (see [http://www.mec.af/files/2014\\_10\\_02\\_Kabul\\_Bank\\_Follow-Up\\_Report.pdf](http://www.mec.af/files/2014_10_02_Kabul_Bank_Follow-Up_Report.pdf)). This update is the result of a further analysis of the state of the Government's follow up.

**MEC conclusion:**

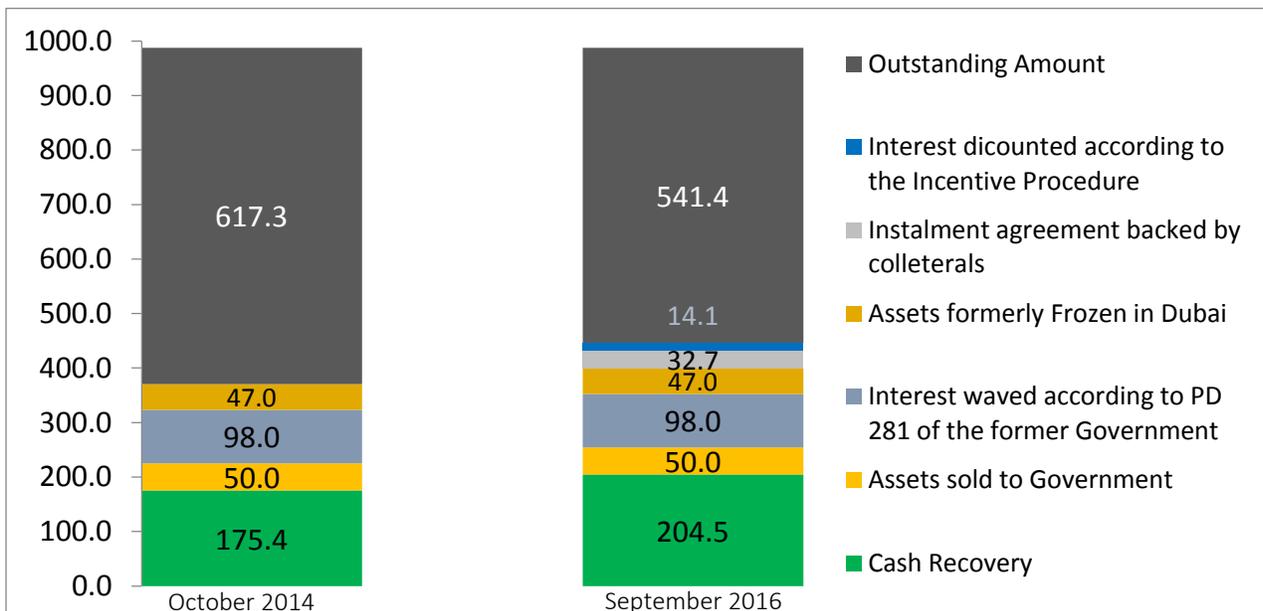
Much less progress has been made since the initial burst of effort. Since October 2014, only 29.1 million USD of "buddy loans" has been recovered in cash, and repayment agreements amounting to 32.7 million USD have been signed with the debtors. We provide an update below on each of the three main elements of Presidential Decree Number 3.



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**The recovery of assets**

The charts below show a comparison of the status of recovery of the 987.7 million USD embezzled at the beginning of the NUG and two years later. Until October 2014, a total of 225.4 million USD had been recovered or obtained as assets. Since then, only a further 61.8 million USD has been recovered - 29.1 million USD of “buddy loans” recovered in cash and repayment agreements amounting to 32.7 million USD that have been signed with the debtors.



The ‘Incentive Procedure’ that was developed by the Kabul Bank Settlement Commission and endorsed by the Cabinet in February 2014 to accelerate the recovery process had only a small effect. Only 34 debtors made use of the Procedure, who paid back 29.1 million USD in cash and signed repayment agreements amounting to 32.7 million USD.

Worse, the Incentive Procedure paved the way for the former CEO and main shareholder of Kabul Bank to be released from jail, to reassume his businesses and even to sign a construction contract with the Government. The inauguration ceremony of this construction project called Smart City project was broadcasted on several TV stations, where the main perpetrator of Kabul



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Bank's assets received warm and cordial words from the President's Special Representative for Reform and Good Governance and praise from the President's Legal Advisor for signing the contract with the Government. This was a major setback. Although the Smart City construction project was eventually cancelled by the president and the former CEO/shareholder of Kabul Bank was sent back to jail, this seriously damaged the reputation of the National Unity Government.

**Criminal proceedings**

Initial success was followed by disappointment. In November 2014, the Kabul Province Appeal Court issued its verdict in the Kabul Bank Case and sentenced the two main convicts, both shareholders and managers of the Bank, to 10 years imprisonment for embezzlement and additional 5 years for money laundering.<sup>1</sup> Sentences for nine former employees of Kabul Bank and the Central Bank of Afghanistan ranged from modest fines to one year in prison. The Court also ordered that the assets of 12 persons and eight companies—those who “had an active role in the embezzlement of Kabul Bank's assets,”— be frozen and blocked until they pay their debts. It called a group of 15 former board members and advisors of Kabul Bank who were not present at the appeal court to be investigated. The Appeal Court verdict was confirmed by the Supreme Court after some amendments in December 2014.

MEC had several concerns about the verdict and its enforcement and possible situation of impunity for the connected persons. For example, the 12 individuals who according to the court had an “active role in the embezzlement of Kabul Bank's Assets” were not sentenced for embezzlement and money laundering. These 12 individuals included the brothers of the former president and vice president who were both shareholders of the Bank and issued themselves buddy-loans to finance their other businesses. Further, the verdict did not specifically order confiscation and seizure of the convicts' assets; it merely required identification and freezing of the assets. This specifically makes it difficult for other institutions to seek international cooperation.

Regarding the enforcement of the verdict, no institution was clear about its responsibility and the concrete steps it was required to take. The INTERPOL's National Central Bureau (NCB) for

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<sup>1</sup> The whole sentence is ten years according to the Afghan law since the most severe term is applied.



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Afghanistan which is under the command of the Ministry of Interior did not seek international assistance to arrest and investigate the accused people.

The Kabul Bank Receivership was representing Afghanistan in a litigation in Dubai to freeze and sell the property of the former CEO and Shareholder of Kabul Bank. However, it turned out just recently that according to the Mutual Legal Assistance Agreement, the responsible body on the Afghan side is the Ministry of Justice. As a result, the case to recover part of the assets in Dubai was lost in a court.

**Privatisation of the New Kabul Bank**

The privatization process, the third pillar of the Presidential Decree Number 3, has been sluggish and has had to be restarted from scratch several times. The MOF developed several plans for dealing with the Bank, including a liquidation plan, a merger with the other two public banks (Pashtany Bank and Bank E Millie), and a privatization plan. None of the plans seemed feasible so the Bank kept running at a loss for the past years. According to the financial statements of the New Kabul Bank, the bank has accumulated losses of 50 Million USD. Additionally, the bank has a gap of equity of 41 million USD since the establishment of the NKB which the Afghan Government (MOF) took responsibility to fill.

Although the MOF announced in July 2016 that a competitive bidder was identified who is buying the bank for 51 million USD (20 million USD will be invested in the bank and the remaining 31 million USD is the selling price), no further details have been provided, nor of how the government will fill the remaining equity gap of the bank.

Overall, this Bank scandal is one of the most shameful events in Afghanistan's history. Lack of cooperation and coordination among national entities and lack of transparency in the conduct of the involved institutions resulted in slow recovery of the stolen assets. The criminal prosecution of the fugitive perpetrators and seeking international assistance in this regard was not even envisaged due to unknown reasons. As the process of prosecutions, recovery of assets, and sale of the NKB go forward, MEC would expect transparency in all these areas.