

<p>1 Wednesday, 10 April 2019 2 (9.08 am) 3 Housekeeping 4 THE CHAIRMAN: Good morning, welcome back. We'll be having 5 a couple of witness examinations today and I would like 6 to mention some things before we ask the first witness, 7 Mr Lundahl to come in. 8 Like we've said before, this is not the criminal 9 procedure code which is applicable to this hearing, so 10 therefore certain things are different when it comes to 11 the witness examination. For example, the question of a 12 witness oath, it's optional, but the point of the 13 question there is that this should be taken. Our point 14 of departure is that the counsels want the witnesses to 15 take an oath; is that right? 16 MR GUTERSTAM: Yes. 17 THE CHAIRMAN: This is one issue. 18 And I would like to remind the parties, otherwise 19 there will be no provision, and so the procedural code 20 is still in force and you are not allowed to ask leading 21 questions. And if it might happen then the court will 22 take into consideration when assessing the evidence. So 23 it would be good for the sake of the parties to think 24 about that when you ask the questions; so to make sure 25 that you don't ask leading questions.</p> <p style="text-align: center;">Page 1</p>	<p>1 MR LENNART LUNDAHL (called) 2 THE CHAIRMAN: You have been asked to testify in a case 3 which was appealed from the enforcement agency, and 4 you know that we have what someone we will call the 5 investors and their counsel. And on the other side we 6 have the counsel for both the appellants, ie the 7 counsels for the Republic of Kazakhstan and the National 8 Bank. And they have called you and here we have three 9 members of the court. My name is Thomas Stromgren, I'm 10 the chief judge and the presiding judge at this hearing. 11 We have judge Bjorn Malmqvist on my right hand side, and 12 judge Mikael Grenefalk on the other side, and Gustav 13 Sandberg(?) who is keeping the record. 14 This examination will be recorded, so this is 15 recorded with audio visual, and if you turn this 16 microphone and hopefully there are no issues with other 17 equipment. 18 MR LENNART LUNDAHL (sworn) 19 THE CHAIRMAN: So you have to take an oath, so repeat after 20 me. Let's get started. I Lennart Lundahl promise and 21 affirm on my own conscience that I will say the whole 22 truth and not conceal, change or add anything. This 23 means that you have taken the oath, which means that you 24 have an obligation to speak the truth and the there is 25 penalties. If there's anything you don't remember</p> <p style="text-align: center;">Page 3</p>
<p>1 And the question of the compensation to the 2 witnesses: have the parties decided, the 3 Republic of Kazakhstan and the bank, have they decided 4 how the compensation will be dealt with? 5 MR GUTERSTAM: Only with respect to Aliya Moldabekova, 6 because normally once they have given their statement 7 they can claim compensation from the court. 8 THE CHAIRMAN: Have you thought about this? 9 MR GUTERSTAM: We have said that they should submit their 10 claims to the court and they want the court to stipulate 11 the state of the compensation. 12 When it comes to Ms Moldabekova, she's aware of that 13 and she will not request that from the courts. So we 14 will not be asking her, because when you come from 15 a different legal system, she might be confused. So you 16 don't have to ask her. 17 THE CHAIRMAN: So any claim for legal costs, this will 18 include the compensation to the witnesses and no 19 objections from the counsel for the applicants. 20 MR NILSON: If we have any objections, then we will present 21 our objections. 22 THE CHAIRMAN: We will receive the witnesses' compensation. 23 Okay this, is what I wanted to focus on, I like to 24 ask claimant Lennart Lundahl to enter the courtroom. 25 Are you Mr Lundahl? Please sit down in the middle.</p> <p style="text-align: center;">Page 2</p>	<p>1 please indicate that to the court. We will start the 2 recording. Please, counsel, thank you. 3 Examination-in-chief by MR GUTERSTAM 4 MR GUTERSTAM: I will start by passing exhibit 148 and our 5 two binders with evidence and this is found -- 6 THE CHAIRMAN: My apologies. Do you need the presentation 7 equipment? 8 MR GUTERSTAM: No, we'll just stick to the documents in the 9 binders. 10 MS ISAKSSON: Which page -- was that our binder evidence? 11 MR GUTERSTAM: Page 219. It's exhibit 141. 12 <b>A. This is a letter or email. Do you expect me to look</b> 13 <b>through the binders.</b> 14 Q. I'll tell you when to. 15 THE CHAIRMAN: Page 219? 16 MR GUTERSTAM: Yes. This is not my first question, but 17 I will inform you when we have to open the relevant tab 18 just to make sure that the binders are in place. 19 THE CHAIRMAN: Okay. 20 MR GUTERSTAM: Right. Could you state your professional 21 background and your position at SEB? 22 <b>A. I started as a junior judge and then I was a corporate</b> 23 <b>counsel in an insurance company. Basically I have been</b> 24 <b>working as a counsel in SEB for a division called</b> 25 <b>companies and private individuals, from consumers up to</b></p> <p style="text-align: center;">Page 4</p>

<p>1 <b>medium sized enterprises who are the customers of the</b>                  2 <b>division, the largest customers are listed companies.</b>                  3 Q. So I understand you are familiar with this type of                  4 attachment cases?                  5 <b>A. No, it's quite usual in our division, the attachment</b>                  6 <b>cases in the context with the enforcement agency.</b>                  7 Q. What part did you play in this particular case?                  8 <b>A. The risk. One part of entry, the enforcement agency,</b>                  9 <b>has one point of contact to the bank with their requests</b>                  10 <b>and decisions et cetera which has been forced with</b>                  11 <b>respect to the bank. The group which works with the</b>                  12 <b>decisions and requests from the enforcement agency, they</b>                  13 <b>contact us at the legal department where I work if they</b>                  14 <b>have any questions, queries, and this is how I got into</b>                  15 <b>contact with this case.</b>                  16 Q. I'd like -- I'll move onto the material, that is when                  17 I say "deposit and cash account", you know which                  18 accounts I'll be referring to?                  19 <b>A. I don't know the numbers but I know what you're talking</b>                  20 <b>about.</b>                  21 Q. Who is the holder of the cash account and the deposit,                  22 securities deposit in SEB?                  23 <b>A. I found out internally at the bank that it was BoNY who</b>                  24 <b>was our customer and the holder.</b>                  25 Q. Do you know if SEB has any knowledge about who the</p> <p style="text-align: center;">Page 5</p>	<p>1 <b>historic views for shares and cash, current and future</b>                  2 <b>planned use.</b>                  3 <b>So this was the order of the enforcement agency and</b>                  4 <b>this is what I'm referring to.</b>                  5 Q. And what were you trying to say with this email?                  6 <b>A. Well, basically that they had to contact BoNY and they</b>                  7 <b>can contact their customer, you know, to get the answers</b>                  8 <b>to this information. We don't have the answers to these</b>                  9 <b>questions.</b>                  10 Q. I'd like to go to specific sentence and this the last                  11 paragraph, the first sentence:                  12 "An order should there be sent to Bank of New York                  13 to get information regarding the assets in question and                  14 the customer Republic of Kazakhstan". Could you explain                  15 what you meant by saying just that?                  16 <b>A. They were their alleged customer. This is the on the</b>                  17 <b>basis of the order from the enforcement agency, which</b>                  18 <b>stated according to the enforcement agency that the</b>                  19 <b>assets belonged to RoK. I don't have any knowledge of</b>                  20 <b>my own. I could have been clear, I could have said</b>                  21 <b>their "alleged customer".</b>                  22 Q. These were my questions regarding this email. If we                  23 have a look at this sheet of paper which I've provided                  24 you with, page 219 from the claimants' binders of                  25 evidence.</p> <p style="text-align: center;">Page 7</p>
<p>1 underlying customers of BoNY are?                  2 <b>A. No, we don't, as far as I have been informed.</b>                  3 Q. Moving on to the correspondence between the enforcement                  4 agency and the bank, as part of this case and before                  5 I move on to the specific messages I'd like to ask you                  6 two general questions. Did SEB make any statements                  7 about who is the underlying owner of the assets on those                  8 accounts?                  9 <b>A. No, for the simple reason that we don't know.</b>                  10 Q. Did SEB make any statement about where the securities                  11 are located physically?                  12 <b>A. Not me and not anyone else, as far as I know.</b>                  13 Q. I'd like you to open the first email which is in our                  14 binder 1, tab 34.                  15 Binder 1, page 234.                  16 As you can see here, this is an email from yourself                  17 sent on 29 August 2017 to Gustav Taube(?) at the                  18 enforcement agency, copied to a number of individuals.                  19 Could you start by explaining the background to what                  20 you're answering to.                  21 <b>A. The bank received an order from the enforcement agency</b>                  22 <b>where the enforcement agency started by saying that they</b>                  23 <b>have found assets which belong to the Republic of</b>                  24 <b>Kazakhstan. And now the bank was ordered to respond to</b>                  25 <b>how the property was used, so they wanted to know</b></p> <p style="text-align: center;">Page 6</p>	<p>1 This is an email from you, September 21, 2017, to Mr                  2 Junson(?) at the enforcement agency, and this is about                  3 the tax agency's decision to repay the taxes and the tax                  4 agencies have stated that this will be sent to RoK and                  5 the money will be deposited at BoNY's general customers'                  6 account at SEB, and you're requesting this email, how                  7 you should deal with this. So have you seen the                  8 applications to the tax authority which resulted in this                  9 payment?                  10 <b>A. No, you haven't seen them.</b>                  11 Q. When this attachment took place, by the time the money                  12 has already been paid out from the tax authority to an                  13 SEB account, which account the money in SEB was paid to?                  14 <b>A. I don't remember this today. It was clear that the</b>                  15 <b>money was paid out.</b>                  16 Q. The money this email is referring to, do you remember                  17 where this money was sent?                  18 <b>A. Yes. The reason why I read this email, I wasn't certain</b>                  19 <b>where whether this was covered by the earlier banning</b>                  20 <b>order. Therefore I asked the enforcement agency whether</b>                  21 <b>this was included in the previous order or not to avoid</b>                  22 <b>making any mistakes. We were informed that it was</b>                  23 <b>covered with the previous order when this money was paid</b>                  24 <b>to a specific account. Once the attachment or once</b>                  25 <b>these measures have been taken, we made sure that the</b></p> <p style="text-align: center;">Page 8</p>

<p>1 <b>deposit here received a separate account, so we could</b></p> <p>2 <b>deal with dividends, tax payments et cetera, because</b></p> <p>3 <b>they are covered by the decision of the enforcement</b></p> <p>4 <b>agency, to keep it separate from everything else which</b></p> <p>5 <b>has to do with BoNY's account.</b></p> <p>6 Q. Who is the customer for that particular account?</p> <p>7 <b>A. It's BoNY.</b></p> <p>8 Q. Right. Thank you. Moving on to the next message, our</p> <p>9 binder number 2, tab 70.</p> <p>10 This is an email from you, September 29, 2017, to my</p> <p>11 colleague Marcus Axlyrd. This is a very brief email,</p> <p>12 but could you explain what you wanted to say with this</p> <p>13 email?</p> <p>14 <b>A. Probably I received the question about whether I, the</b></p> <p>15 <b>bank, will know who the right owner of the securities</b></p> <p>16 <b>and account is, and my answer is the same as the answer,</b></p> <p>17 <b>is the same as I gave to the enforcement agency: we</b></p> <p>18 <b>don't know who the customers of BoNY are.</b></p> <p>19 Q. Moving on to tab 84 in the same binder. This is</p> <p>20 a document called "Report issued by SEB". Were you</p> <p>21 involved in drafting this document?</p> <p>22 <b>A. Well, I wasn't involved in the drafting. It's</b></p> <p>23 <b>Mr Axlesson who wrote this report, but I believe I saw</b></p> <p>24 <b>a draft before it was finalised because we were working</b></p> <p>25 <b>together with this case, the two divisions which --</b></p> <p style="text-align: center;">Page 9</p>	<p>1 <b>Nils Clausen. We needed to have back-up all the time</b></p> <p>2 <b>because other things were happening in this case. And</b></p> <p>3 <b>in the second division was Mr Axlesson, Martin, and his</b></p> <p>4 <b>colleague, Ms Charlotte Viaprin(?) and</b></p> <p>5 <b>Ms Catharina Buresten. They were the ones who were in</b></p> <p>6 <b>contact with BoNY.</b></p> <p>7 Q. Could you mention that this was not one of your run of</p> <p>8 the mill attachment cases?</p> <p>9 <b>A. No, extremely unusual.</b></p> <p>10 Q. How?</p> <p>11 <b>A. The amount and that this had to do with the customer in</b></p> <p>12 <b>the other division, because normally the other division</b></p> <p>13 <b>doesn't deal with enforcement agency cases.</b></p> <p>14 Q. The fact that this was a foreign customer, is that usual</p> <p>15 or unusual?</p> <p>16 <b>A. Well, for me it's not particularly unusual.</b></p> <p>17 Q. And I believe that you said you didn't have any contacts</p> <p>18 with BoNY Mellon before this case started but you became</p> <p>19 involved.</p> <p>20 <b>A. Yes, I became involved because of this case and our</b></p> <p>21 <b>legal unit and our division were used to working with</b></p> <p>22 <b>the enforcement agency cases, so it started with us. We</b></p> <p>23 <b>couldn't find anything with us. Therefore I was asked</b></p> <p>24 <b>to assist the lawyers at the other decisions with the</b></p> <p>25 <b>management, so we handled this together.</b></p> <p style="text-align: center;">Page 11</p>
<p>1 <b>because this case is with a different division, not the</b></p> <p>2 <b>division I'm working at.</b></p> <p>3 Q. Do you know if SEB planned to provide information about</p> <p>4 the El Nobli(?) assets through this report of the</p> <p>5 statement?</p> <p>6 <b>A. Well, the bank is saying over and over again our</b></p> <p>7 <b>customer is BoNY. We don't have any insight into the</b></p> <p>8 <b>customers of this bank. Like we've seen before, this is</b></p> <p>9 <b>something we have to repeat over and over again.</b></p> <p>10 MR GUTERSTAM: Thank you. No, further questions.</p> <p>11 THE CHAIRMAN: Kazakhstan, any questions? No. Okay.</p> <p>12 Cross-examination by MS ISAKSSON</p> <p>13 MS ISAKSSON: We have some questions.</p> <p>14 I'll think I start where you finished. My name is</p> <p>15 Therese Isaksson. You said that this case is handled by</p> <p>16 a different division.</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. What's the name of the division?</p> <p>19 <b>A. In Swedish it is called Large Companies and Financial</b></p> <p>20 <b>Institutions.</b></p> <p>21 Q. There's different name in English?</p> <p>22 <b>A. Large Corporate and Financial Institutions, called LCFI.</b></p> <p>23 <b>And this is where Mr Axlesson works as a lawyer.</b></p> <p>24 Q. Who was working on this case?</p> <p>25 <b>A. At the legal unit where I was working was me and</b></p> <p style="text-align: center;">Page 10</p>	<p>1 Q. What was complicated? Because first it came to the</p> <p>2 regular point of contact, they contacted your legal</p> <p>3 department which tried --</p> <p>4 <b>A. Well, we couldn't -- the enforcement agency, to get it</b></p> <p>5 <b>in a context, if I'm allowed to elaborate in some</b></p> <p>6 <b>detail. It starts on a Tuesday, August 22, in the</b></p> <p>7 <b>evening we received a request from the enforcement</b></p> <p>8 <b>agency about which assets which the embassy of</b></p> <p>9 <b>Kazakhstan holds in the bank.</b></p> <p>10 <b>The next day, on Wednesday, August 23, 2017, we</b></p> <p>11 <b>respond and we said that the embassy has these four</b></p> <p>12 <b>accounts at the bank. We have no obligation to answer</b></p> <p>13 <b>to these questions and later the same day the four</b></p> <p>14 <b>accounts were sequestered by the enforcement agency.</b></p> <p>15 <b>This is once they --</b></p> <p>16 Q. So were you involved already at this stage?</p> <p>17 <b>A. No, this was -- this was managed by the one point of</b></p> <p>18 <b>entry. This is the group which receives all the</b></p> <p>19 <b>requests.</b></p> <p>20 Q. It's a bit unusual that this is a Wednesday.</p> <p>21 <b>A. So they secured this on Wednesday. Thursday, with the</b></p> <p>22 <b>head of my group, Nils Clausen, contacted the</b></p> <p>23 <b>enforcement agency. He called them and emailed them</b></p> <p>24 <b>because we've had similar situations before and for us</b></p> <p>25 <b>it looks like accounts which are exclusive for the</b></p> <p style="text-align: center;">Page 12</p>

<p>1 <b>operations of the embassy, and therefore they should be</b></p> <p>2 <b>protected by diplomatic immunity.</b></p> <p>3 Q. So you were involved because this got a bit more</p> <p>4 complicated?</p> <p>5 <b>A. Right, the unit which the back office unit --</b></p> <p>6 THE CHAIRMAN: I'm sorry, we'll just -- shall we please</p> <p>7 proceed.</p> <p>8 <b>A. This unit which deals with the request for the</b></p> <p>9 <b>enforcement agency believed that there it was a bit</b></p> <p>10 <b>strange that they would secure the regular operational</b></p> <p>11 <b>account by the embassy, and that's why the contacts at</b></p> <p>12 <b>the legal department where I work, at Nils and myself.</b></p> <p>13 <b>And Nils Clausen was in touch with the enforcement</b></p> <p>14 <b>agency during the first half of Thursday. Later same</b></p> <p>15 <b>day, Thursday, we received at banning order regarding</b></p> <p>16 <b>these shares, a list from Euroclear regarding a number</b></p> <p>17 <b>of shares and there were a number of aggravations, and</b></p> <p>18 <b>it's very difficult for me to place this. I couldn't</b></p> <p>19 <b>find this in our division. I couldn't find a customer</b></p> <p>20 <b>who would match this and obviously I started with</b></p> <p>21 <b>somebody to assist me. Friday morning, I guess, the</b></p> <p>22 <b>25th, I had to go back -- get back to the enforcement</b></p> <p>23 <b>agency and ask them for help. They would do these</b></p> <p>24 <b>operations, maybe I cannot find anything et cetera. And</b></p> <p>25 <b>the explanation I received that this was about BoNY and</b></p> <p style="text-align: center;">Page 13</p>	<p>1 <b>a lot of accounts, a lot of underlying customers in SEB.</b></p> <p>2 Q. Have you seen this before?</p> <p>3 <b>A. No, the list I'm talking about is the list that was sent</b></p> <p>4 <b>to me by the enforcement agency.</b></p> <p>5 Q. But are you aware that BoNY has a large number of</p> <p>6 underlying customers and lot of deposits accounts in</p> <p>7 your bank. Is that correct.</p> <p>8 <b>A. Well, I don't work with these customers at all. It's</b></p> <p>9 <b>Ms Buresten does that, but I understood when I spoke</b></p> <p>10 <b>with her and understood that BoNY has a lot of</b></p> <p>11 <b>customers. And these customers, Swedish securities, are</b></p> <p>12 <b>kept by BoNY and us at SEB. We help them with the</b></p> <p>13 <b>Swedish securities but I don't work with these issues.</b></p> <p>14 Q. Did you assist in performing the searches in the other</p> <p>15 divisions or they did it by themselves?</p> <p>16 <b>A. No, they did it. I don't get access to the systems.</b></p> <p>17 Q. Do you know how come they found this deposit account</p> <p>18 which pertains to Kazakhstan?</p> <p>19 <b>A. Well, I believe that this corresponded to the list which</b></p> <p>20 <b>the enforcement agency provided us with, so we can</b></p> <p>21 <b>identify a large number of shares with the privations.</b></p> <p>22 Q. And it took a day, and so finally you have realised what</p> <p>23 the account structure was with your bank, and then you</p> <p>24 continued to be the point of contact with enforcement</p> <p>25 agency?</p> <p style="text-align: center;">Page 15</p>
<p>1 <b>in some way Republic of Kazakhstan. And then we found</b></p> <p>2 <b>out that this was in the different division, a different</b></p> <p>3 <b>computer system, which I didn't have access to.</b></p> <p>4 <b>So they were blocked and secured on Friday and the</b></p> <p>5 <b>discussions continued with the enforcement agency</b></p> <p>6 <b>regarding the accounts belonging to the embassy, and we</b></p> <p>7 <b>believed that we managed to show that these accounts</b></p> <p>8 <b>were protected by diplomatic immunity. This was only</b></p> <p>9 <b>for the embassy's operations, and about two weeks after</b></p> <p>10 <b>the order to secure the embassy's accounts they were</b></p> <p>11 <b>released by the enforcement agency.</b></p> <p>12 Q. You said the reason why your division wasn't able to</p> <p>13 find this is because you have separate computer systems,</p> <p>14 so we cannot perform searches in the customer registers</p> <p>15 of the other divisions. Is that correct?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Once you realised that this customer is with the</p> <p>18 different division, then they can search their</p> <p>19 registers.</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. And then you found this customer pretty quickly.</p> <p>22 <b>A. Yes. Well, we found these shares and we saw that it was</b></p> <p>23 <b>BoNY who was our customer and it matches these shares.</b></p> <p>24 <b>We have seen these lists of shares as part of this case.</b></p> <p>25 <b>We have seen the custodian list and we saw that BoNY has</b></p> <p style="text-align: center;">Page 14</p>	<p>1 <b>A. Yes, for a long time. A security deposit is liable to</b></p> <p>2 <b>dividends and tax being paid back, so it never goes on</b></p> <p>3 <b>holiday.</b></p> <p>4 Q. And when you say that you received internal information</p> <p>5 in the bank, the information which you were responsible</p> <p>6 for, have you received information from these people,</p> <p>7 from the second division?</p> <p>8 <b>A. Catharina Buresten and Martin Axelsson and</b></p> <p>9 <b>Charlotte Webber(?), the two lawyers.</b></p> <p>10 Q. SEB have requested -- received requests to repay the</p> <p>11 taxes, the tax and dividends. Did you know about this?</p> <p>12 <b>A. Regarding Kazakhstan, I have no knowledge of that issue</b></p> <p>13 <b>myself, but this is what I found out from</b></p> <p>14 <b>Catharina Buresten that tax money is being paid back,</b></p> <p>15 <b>because something is being changed here to a double</b></p> <p>16 <b>taxation agreement, so the deposit shouldn't be taxed at</b></p> <p>17 <b>the rate of 30 per cent but 15 per cent. And apparently</b></p> <p>18 <b>BoNY filled out some tax returns, which I haven't seen,</b></p> <p>19 <b>and sent them to us for us to forward them to the tax</b></p> <p>20 <b>agency, but this is what Catharina told me.</b></p> <p>21 Q. But in the emails between yourself and the enforcement</p> <p>22 agency, you are answering the questions about taxes so</p> <p>23 this information from Catharina Buresten.</p> <p>24 <b>A. Absolutely. We decide to keep one person in the bank,</b></p> <p>25 <b>myself, as a point of contact, not to create more</b></p> <p style="text-align: center;">Page 16</p>

1 **disorder and then Mr Clausen could assist me.**  
 2 Q. But Catharina had responded to the enforcement when it  
 3 comes to signature rights. So she's been in touch with  
 4 the enforcement agency?  
 5 **A. Well, might have been in the court at that time and Nils**  
 6 **might have been somewhere else, so someone had to**  
 7 **answer, and then Catharina would answer, but normally**  
 8 **then I would be the point of the contact to the**  
 9 **enforcement agency.**  
 10 MS ISAKSSON: Thank you.  
 11 THE CHAIRMAN: Any questions from members of the court? No.  
 12 So your testimony is concluded. Thank you. Any costs?  
 13 **A. No.**  
 14 **(The witness withdrew)**  
 15 **MS CATHARINA BURESTEN (called)**  
 16 THE CHAIRMAN: Good morning, Catharina Buresten.  
 17 **A. Yes.**  
 18 THE CHAIRMAN: Catharina Buresten, please take a seat here  
 19 in the middle. You have been summonsed to give evidence  
 20 in a case that was necessitated by the enforcement  
 21 agency. Do you know what this about?  
 22 **A. Yes.**  
 23 THE CHAIRMAN: We have applied for attachment from the  
 24 enforcement agency. On this side they're the investors  
 25 with their counsel. On the other side we have counsel

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1 for the ones who have objected to the enforcement order.  
 2 This is the Republic of Kazakhstan and the National  
 3 Bank, and this is the court. Also there are three  
 4 judges, my name is Thomas Stromgren, I am the presiding  
 5 judge at this meeting.  
 6 This examination learned counsel recorded  
 7 audiovisually. We have a camera up here that will  
 8 record you and there is a microphone in front of you, so  
 9 it's good if you could speak into that as clearly as  
 10 possible.  
 11 MS CATHARINA BURESTEN (sworn)  
 12 THE CHAIRMAN: You also have to take an oath before we begin  
 13 the examination, and if you repeat after me, please. I,  
 14 Catharina Buresten, promise and affirm on my honour and  
 15 conscience that I will tell the whole truth and not  
 16 conceal add or change anything. You have an obligation  
 17 to speak the truth under penalty of law. If there is  
 18 anything you don't know and you don't remember  
 19 something, you have to tell us that.  
 20 You have been called by -- it will Kazakhstan's side  
 21 that will begin the examination.  
 22 Examination-in-chief by MR GUTERSTAM  
 23 MR GUTERSTAM: Thank you very much. Hello.  
 24 Can we start by telling us a bit about your  
 25 professional background and your position in SEB?

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1 **A. Today I work in the division corporate and financial**  
 2 **institutions in a business area called industry**  
 3 **services, and my position is head of risk management.**  
 4 Q. Have you had the position since the summer of 2017 or  
 5 has it changed?  
 6 **A. No, I've been in that position since the summer of 2017**  
 7 **and have I been working in this business before for**  
 8 **a long period of time, for nearly 20 years.**  
 9 Q. And just a bit more concrete, what does head of risk  
 10 management mean? What do you do?  
 11 **A. Well, I worked on the first line. I work with the --**  
 12 **I analyse risks in our business.**  
 13 Q. I move on to some questions about SEB's relationship  
 14 with BoNY, Bank Mellon. Can you tell us about the  
 15 relationship?  
 16 **A. Yes, I can speak for all of SEB, but I can speak about**  
 17 **my own business area in investor services and, we are**  
 18 **sub-custodian deposit bank in Sweden for BoNY Mellon.**  
 19 **This means that Bank New York SA NV, either it's the**  
 20 **Belgian part of BoNY have appointed SEB to manage their**  
 21 **foreign customer securities. I do not have a concrete**  
 22 **role in that customer relationship.**  
 23 Q. Can you tell us a bit about the sub-custodian agreement,  
 24 the agreement between SEB and Bank New York Mellon? In  
 25 general, what kind of an agreement is it?

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1 **A. So generally speaking we always have a deposit account**  
 2 **between the bank and our customer. In this case it's**  
 3 **Bank of New York Mellon SA NV, and this governs the role**  
 4 **between SEB as a deposit bank, sub-custodian, and Bank**  
 5 **New York Mellon.**  
 6 Q. Now, what is that you do?  
 7 **A. So they keep their Swedish securities with us and being**  
 8 **a sub-custodian means that you come in what we call**  
 9 **post-trade, that post a financial transaction, first at**  
 10 **the trade in the securities, when that has taken place.**  
 11 **This is then to be closed down and when it's done after**  
 12 **post-trade and we do, we settle the deal -- sorry, we**  
 13 **don't close it but we settle it, and we then keep the**  
 14 **securities in a deposit.**  
 15 Q. So this sub-custodian agreement between SEB and  
 16 Bank Mellon, do you have a separate agreement for each  
 17 of their clients or just one with the bank of New York  
 18 Mellon?  
 19 **A. We have just one with BoNY Mellon.**  
 20 Q. This agreement, this sub-custodian agreement, does that  
 21 refer only to BoNY Mellon's underlying customers, or is  
 22 it also for BoNY and Mellon itself?  
 23 **A. They can open deposits on account of their customers and**  
 24 **also themselves according to this agreement.**  
 25 Q. I'll move on to questions about the omnibus account.

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<p>1 Can you tell us what an omnibus account is?</p> <p>2 <b>A. When you open a deposit, a security deposit, when BoNY</b></p> <p>3 <b>Mellon opens security deposit, they can choose if they</b></p> <p>4 <b>want to open an omnibus deposit where they can gather</b></p> <p>5 <b>for several underlying customers, BoNY Mellon's</b></p> <p>6 <b>customers, because it's important that our customer is</b></p> <p>7 <b>BoNY Mellon and that they have turn have their</b></p> <p>8 <b>customers. So that is how an omnibus deposit works</b></p> <p>9 <b>because it is securities that you keep in a deposit.</b></p> <p>10 Q. How does an omnibus account work, that is a cash work</p> <p>11 not --</p> <p>12 <b>A. Do you mean in general or for this specific case?</b></p> <p>13 Q. We can start generally.</p> <p>14 <b>A. Our customers choose whether they want to link one</b></p> <p>15 <b>account to their deposits or a number of accounts to</b></p> <p>16 <b>their deposits. This is not something that is decided</b></p> <p>17 <b>by SEB.</b></p> <p>18 Q. Okay, I understand. And what about this case?</p> <p>19 <b>A. BoNY Mellon opened thousands of deposits with us and</b></p> <p>20 <b>they have one account, one Swedish Kronor account, and</b></p> <p>21 <b>they also have a euro account. Which is -- which are</b></p> <p>22 <b>linked to all deposit up until August 2017.</b></p> <p>23 Q. We'll come back to that, what happened in August.</p> <p>24 When a customer deposits money into an omnibus</p> <p>25 account, does SEB -- can they dispose of that?</p> <p style="text-align: center;">Page 21</p>	<p>1 Q. And it is this account that we have called the cash</p> <p>2 account, so that everybody knows what we're talking</p> <p>3 about.</p> <p>4 So who was the account holder of this cash account,</p> <p>5 the one that was opened in 2017?</p> <p>6 <b>A. Bank of New York Mellon on behalf of clients.</b></p> <p>7 Q. If we move onto the securities deposit, we have given</p> <p>8 you two binders. If you look at binder 2 under tab 65.</p> <p>9 <b>A. Tab 65.</b></p> <p>10 Q. Do you recognise this document?</p> <p>11 <b>A. Yes, I do.</b></p> <p>12 Q. This is statement of securities, so on the right page.</p> <p>13 Can you start by describing what kind of a document this</p> <p>14 is?</p> <p>15 <b>A. This is a statement of holdings in the deposit number</b></p> <p>16 <b>011261 -- sorry, I didn't quite catch the numbers there.</b></p> <p>17 Q. What kind of a deposit is this?</p> <p>18 <b>A. This is a segregated deposit, a safe custody account.</b></p> <p>19 Q. Can you see from this who is the holder of this safe</p> <p>20 custody account?</p> <p>21 <b>A. No, you can't. Our customer is SEB and BNY Mellon</b></p> <p>22 <b>SA NV. They write -- send to us a written request to</b></p> <p>23 <b>open a deposit and where they tell us what we're -- how</b></p> <p>24 <b>we're going to describe the custody account.</b></p> <p>25 Q. Who owns the account?</p> <p style="text-align: center;">Page 23</p>
<p>1 <b>A. That is when a deposit remains the bank can dispose of</b></p> <p>2 <b>it, but have to repay it when the customer asks for</b></p> <p>3 <b>that.</b></p> <p>4 Q. So if the bank can dispose of the money in the very</p> <p>5 unlikely scenario that SEB would go into liquidation,</p> <p>6 what would happen then?</p> <p>7 <b>A. I really can't answer that, because I don't work with</b></p> <p>8 <b>that.</b></p> <p>9 Q. So this deposit guarantee, what does that mean?</p> <p>10 <b>A. Deposit guarantee, I cannot answer in detail what that</b></p> <p>11 <b>means.</b></p> <p>12 Q. If we move back to what you were saying, that the</p> <p>13 omnibus account that was linked to thousands of accounts</p> <p>14 and that was changed; how come it was changed?</p> <p>15 <b>A. We have an account that is linked to thousands of</b></p> <p>16 <b>deposits, segregated deposits and one account. And the</b></p> <p>17 <b>reason that it was changed was that we had blocked one</b></p> <p>18 <b>deposit at the end of August 2017 at the request of the</b></p> <p>19 <b>Swedish enforcement agency.</b></p> <p>20 Q. What did you do then?</p> <p>21 <b>A. For practical reasons, to be able to handle this blocked</b></p> <p>22 <b>deposit administratively and the assets that were in the</b></p> <p>23 <b>deposit, we asked our customer BoNY Mellon to open</b></p> <p>24 <b>an account and link that account specifically to the</b></p> <p>25 <b>blocked deposit.</b></p> <p style="text-align: center;">Page 22</p>	<p>1 <b>A. Our account is Bank of New York Mellon.</b></p> <p>2 Q. Can you in some way from this list, whether Bank of</p> <p>3 New York Mellon have these securities on account of</p> <p>4 somebody else?</p> <p>5 <b>A. The account that Bank of New York Mellon has named.</b></p> <p>6 Q. So if we move on from that, if you see at the top right,</p> <p>7 it says account holder, Bank of New York Mellon, and it</p> <p>8 says "Account description". This is correct -- do you</p> <p>9 say that this is an account description?</p> <p>10 <b>A. It is in the name of the safe custody account.</b></p> <p>11 Q. And who used or came up with this account description</p> <p>12 with Bank New York Mellon. Can you describe it as</p> <p>13 anything you like?</p> <p>14 <b>A. Yes, you can.</b></p> <p>15 Q. And what can you -- what do you know about this from</p> <p>16 this description? Can you tell about the company?</p> <p>17 <b>A. I can see what it reads here, but it is still Bank of</b></p> <p>18 <b>New York Mellon that has named its depositors.</b></p> <p>19 <b>I mentioned, they have nearly 6,000 segregated deposits</b></p> <p>20 <b>with us and they named them or described them, all of</b></p> <p>21 <b>them, when they opened them with a written request to</b></p> <p>22 <b>open a deposit and how they wanted to describe it.</b></p> <p>23 Q. So what information does SEB have about the underlying</p> <p>24 customer?</p> <p>25 <b>A. He we have no information about that. There's only Bank</b></p> <p style="text-align: center;">Page 24</p>

6 (Pages 21 to 24)

<p>1 <b>of New York Mellon.</b></p> <p>2 Q. About this -- or this deposit, who is given</p> <p>3 instructions; is it BoNY Mellon? So if the central</p> <p>4 National Bank was going to contact SEB about this</p> <p>5 deposit, wouldn't you follow these instructions?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Has the Republic of Kazakhstan instructed you ever?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Okay, and then if we move on to some questions about</p> <p>10 SEB's handling, we have -- you've already mentioned what</p> <p>11 you actually do on behalf of Bank of New York Mellon.</p> <p>12 Does SEB ever acquire securities in their name on behalf</p> <p>13 of New York Mellon?</p> <p>14 <b>A. No, not as far as I know.</b></p> <p>15 Q. Can you explain what you do with the funds in the</p> <p>16 omnibus account that you say is linked to all of these</p> <p>17 deposits? How are these funds used?</p> <p>18 <b>A. The account that is linked to the deposits, it is Bank</b></p> <p>19 <b>of New York Mellon's account, but they have linked to</b></p> <p>20 <b>all the deposits with SEB. And when they buy and sell</b></p> <p>21 <b>securities for -- against liquid, they move securities</b></p> <p>22 <b>from one deposit, they then deposit cash or the other</b></p> <p>23 <b>way round, and they buy securities and you pay for them.</b></p> <p>24 <b>And Bank of New York Mellon, they have one account where</b></p> <p>25 <b>all these transactions go.</b></p> <p style="text-align: center;">Page 25</p>	<p>1 What function does it have -- SEB has as</p> <p>2 sub-custodian in relation to Bank New York Mellon in</p> <p>3 relation with Euroclear?</p> <p>4 <b>A. SEB as a legal entity, you can be appointed as a nominee</b></p> <p>5 <b>in -- or custodian and nominee in Euroclear Sweden and</b></p> <p>6 <b>they have a nominee account where they keep -- will hold</b></p> <p>7 <b>all our customers' securities.</b></p> <p>8 Q. And now we have this list of securities in front of us,</p> <p>9 and this is a number of Swedish companies that are</p> <p>10 listed here. Who's registered in the share register?</p> <p>11 <b>A. SEB has an agreement with Bank of New York Mellon that</b></p> <p>12 <b>we, in our nominee reporting and nominee register, that</b></p> <p>13 <b>we're going to state what Bank of New York Mellon has --</b></p> <p>14 <b>the name they have given.</b></p> <p>15 Q. But in the share register ledger it says that SEB is the</p> <p>16 nominee.</p> <p>17 <b>A. I don't know -- can't say anything about the share</b></p> <p>18 <b>ledger. This is something that you will have to ask</b></p> <p>19 <b>Euroclear Sweden about, because as a nominee you don't</b></p> <p>20 <b>really have any control of that.</b></p> <p>21 Q. So you mentioned this public list of nominees. This is</p> <p>22 the list that you have to report if you hold more than</p> <p>23 500 shares and nominee then reports who their customer</p> <p>24 is that they have to give to Euroclear, who keeps this</p> <p>25 register. What do you and SEB do concretely when it</p> <p style="text-align: center;">Page 27</p>
<p>1 Q. Could it be the case that there is reregistration</p> <p>2 between different deposits without there being</p> <p>3 a transaction in the omnibus account?</p> <p>4 <b>A. You can transfer securities free of payment without</b></p> <p>5 <b>cash, but everything requires written instruction by</b></p> <p>6 <b>Bank of New York Mellon.</b></p> <p>7 Q. Could it be the case that you receive an instruction,</p> <p>8 for example, about acquiring a thousand shares in</p> <p>9 Handelsbanken with funds in the omnibus account and then</p> <p>10 registered the securities in five different deposits?</p> <p>11 <b>A. We only act on instruction by Bank of New York Mellon.</b></p> <p>12 <b>When they send us a written instruction and, in this</b></p> <p>13 <b>world we work with the SWIFT system, there are large</b></p> <p>14 <b>volumes. Bank of New York Mellon, they sent a SWIFT to</b></p> <p>15 <b>SEB, they give an exact instruction what they have</b></p> <p>16 <b>bought or sold, and how this transaction is to be</b></p> <p>17 <b>settled. And we follow that. There's usually STP</b></p> <p>18 <b>flows, straight through processing.</b></p> <p>19 Q. Could it be the case that you buy a large amount of</p> <p>20 securities that are about to be distributed to different</p> <p>21 deposits?</p> <p>22 <b>A. I have no knowledge how Bank of New York Mellon, how</b></p> <p>23 <b>they do that, but theoretically it would be possible.</b></p> <p>24 Q. I'd like to ask some questions about Euroclear and SEB's</p> <p>25 relationship with them.</p> <p style="text-align: center;">Page 26</p>	<p>1 comes to this public register of nominees?</p> <p>2 <b>A. In this case, when we talk about Bank of New York</b></p> <p>3 <b>Mellon, we have an agreement that we report in the way</b></p> <p>4 <b>that Bank of New York Mellon has opened their deposit</b></p> <p>5 <b>with SEB. That is how we reported in nominee reporting</b></p> <p>6 <b>to the -- sorry.</b></p> <p>7 Q. So if we talk about the cash account, we've already</p> <p>8 talked about this, which was open there. Can you</p> <p>9 confirm who was the underlying customer of that</p> <p>10 segregated account?</p> <p>11 <b>A. The account that was opened in September 2017, it is</b></p> <p>12 <b>Bank of New York Mellon SANV on behalf of client.</b></p> <p>13 Q. And which parties have the right to give instructions</p> <p>14 about that account?</p> <p>15 <b>A. It is Bank of New York Mellon.</b></p> <p>16 Q. Anybody else?</p> <p>17 <b>A. No.</b></p> <p>18 Q. On the front of all the information that SEB has</p> <p>19 received from the enforcement agency and Bank of New</p> <p>20 York Mellon, have you been able to ascertain who is the</p> <p>21 owner of the securities?</p> <p>22 <b>A. Our customer is Bank of New York Mellon SANV, and, as</b></p> <p>23 <b>I said earlier, they have thousands of deposits with SEB</b></p> <p>24 <b>that they name or describe, and we open our deposits</b></p> <p>25 <b>based on the instructions that we receive from Bank of</b></p> <p style="text-align: center;">Page 28</p>

<p>1 <b>New York Mellon.</b></p> <p>2 Q. But have you been able to draw any conclusions on who</p> <p>3 their customers are?</p> <p>4 <b>A. It's not my job to draw any conclusions on who are the</b></p> <p>5 <b>customers of Bank of New York Mellon.</b></p> <p>6 Q. Had a been some correspondence between SEB and the</p> <p>7 Swedish enforcement agency. Have you been involved in</p> <p>8 that correspondence?</p> <p>9 <b>A. Not as far as I can remember. This is a case that has</b></p> <p>10 <b>been going on a long time. My colleagues at the bank</b></p> <p>11 <b>have been communicating with the Swedish enforcement</b></p> <p>12 <b>agency. I may have sent an email possibly, but, as</b></p> <p>13 <b>I say, it's not something that I can recall.</b></p> <p>14 MR GUTERSTAM: Thank you very much.</p> <p>15 THE CHAIRMAN: No further questions from that side, and the</p> <p>16 other side?</p> <p>17 MS ISAKSSON: Yes, we have a couple of questions. Good</p> <p>18 morning.</p> <p>19 Cross-examination by MS ISAKSSON</p> <p>20 MS ISAKSSON: I'm just going to go back over my notes.</p> <p>21 Again, with what you were saying about your</p> <p>22 background, you were asked a question about your role in</p> <p>23 relation to BoNY Mellon. You said that you cannot have</p> <p>24 a concrete role in that customer relationship today.</p> <p>25 Have you had that before?</p> <p style="text-align: center;">Page 29</p>	<p>1 Q. And then you were saying that it was linked and you said</p> <p>2 it was BoNY Mellon on behalf of clients.</p> <p>3 <b>A. Yes, they wrote -- sent as a written request to open the</b></p> <p>4 <b>account and they asked us to describe the account as</b></p> <p>5 <b>Bank New York Mellon SA NV on behalf of clients.</b></p> <p>6 Q. What does that mean? So you don't have that in your</p> <p>7 system, it was Mellon that decided that.</p> <p>8 <b>A. Yes, it was Bank of New York Mellon that decided this</b></p> <p>9 <b>too.</b></p> <p>10 Q. Okay, thank you. And I heard you say that it is only</p> <p>11 BoNY Mellon who decide on the account description. Does</p> <p>12 SEB have any requirements on what it has to say on</p> <p>13 account description?</p> <p>14 <b>A. No. No, customers who choose to segregate their</b></p> <p>15 <b>deposits, we have agreements with the specific customer,</b></p> <p>16 <b>in this case Bank New York Mellon and they state in</b></p> <p>17 <b>their written opening or deposit request what they want</b></p> <p>18 <b>to describe the deposit as.</b></p> <p>19 <b>In this case, where it is a customer, you have many</b></p> <p>20 <b>segregated security deposits for their accounts and</b></p> <p>21 <b>an omnibus account for the cash for those account</b></p> <p>22 <b>deposits.</b></p> <p>23 Q. You described that what happens if there's a change in</p> <p>24 the shareholdings and that is done through cash from the</p> <p>25 omnibus accounts, but other things like subscription</p> <p style="text-align: center;">Page 31</p>
<p>1 <b>A. I was responsible for the Swedish sub-custody operations</b></p> <p>2 <b>where financial customers, in my role as that I have had</b></p> <p>3 <b>contacts with BoNY Mellon and I have met them.</b></p> <p>4 Q. What part of Mellon was that then?</p> <p>5 <b>A. Bank of Mellon SA NV, the Belgian branch.</b></p> <p>6 Q. And who in the bank were you in contact with then? Can</p> <p>7 you recall?</p> <p>8 <b>A. My main contact at Bank of New York Mellon was</b></p> <p>9 <b>Maria Cruz.</b></p> <p>10 Q. And where is she?</p> <p>11 <b>A. She is in network management function in BoNY Mellon</b></p> <p>12 <b>SANV. She has been in their office in London and now</b></p> <p>13 <b>she's in their office in Madrid.</b></p> <p>14 Q. Thank you. Then you were saying that when we talked</p> <p>15 about this cash account that was open in August 2017,</p> <p>16 that that was linked to a securities account but only</p> <p>17 for the deposit that BoNY Mellon has for this account</p> <p>18 description. I understood that correctly didn't I?</p> <p>19 <b>A. Yes, when we blocked this specific deposit at the end of</b></p> <p>20 <b>August 2017, Bank of New York Mellon opened an account</b></p> <p>21 <b>in September 2017 which was in Swedish Kronor which was</b></p> <p>22 <b>specifically linked to the blocked deposit in this in</b></p> <p>23 <b>order for us to be able to handle this practically when</b></p> <p>24 <b>it came to dividends on the assets on the deposit, among</b></p> <p>25 <b>other things.</b></p> <p style="text-align: center;">Page 30</p>	<p>1 rights, dividends, tax on dividends, for example, how is</p> <p>2 that handled when you have an omnibus account and</p> <p>3 separate deposits?</p> <p>4 <b>A. In the books of SEB and Bank New York Mellon, they</b></p> <p>5 <b>choose to open one account that they have linked to</b></p> <p>6 <b>thousands of deposits.</b></p> <p>7 <b>So all the flows go via that account and then</b></p> <p>8 <b>reports are made from other systems, they're done</b></p> <p>9 <b>automatically, to Bank New York Mellon systems where</b></p> <p>10 <b>they in turn follow up on this, and I have no knowledge</b></p> <p>11 <b>of how they work on their side.</b></p> <p>12 Q. How do you know which subscription rights are to go to</p> <p>13 which deposit?</p> <p>14 <b>A. Well we get written instructions on the deposit level,</b></p> <p>15 <b>what Bank of New York Mellon asks us to do, and it is in</b></p> <p>16 <b>the deposit where there is the whole -- something that</b></p> <p>17 <b>we follow the instructions from, Bank of New York Mellon</b></p> <p>18 <b>and it's linked to those account.</b></p> <p>19 Q. So all instructions when it comes to the subscription</p> <p>20 rights, dividends, and that's linked to instructions for</p> <p>21 a specific deposit?</p> <p>22 <b>A. There is no difference because a securities deposit that</b></p> <p>23 <b>Bank of New York Mellon has, if we look at the -- all</b></p> <p>24 <b>the deposits, all of them are linked to the one and same</b></p> <p>25 <b>account. If there are company transactions that take</b></p> <p style="text-align: center;">Page 32</p>

<p>1 <b>place or if it is the settlement of securities, it is</b></p> <p>2 <b>done in the same way against this account. Then Bank of</b></p> <p>3 <b>New York Mellon, they handle this themselves and we no</b></p> <p>4 <b>have knowledge of that.</b></p> <p>5 Q. But also subscription rights are registered at</p> <p>6 a specific deposit or possibly several.</p> <p>7 <b>A. In the deposit that Bank of New York Mellon instructs</b></p> <p>8 <b>us.</b></p> <p>9 Q. Is this also done via the SWIFT system?</p> <p>10 <b>A. Yes, that's correct.</b></p> <p>11 Q. You were saying at the beginning -- let's see -- that</p> <p>12 you were asked to tell us in detail what you were</p> <p>13 working with and you said that you worked with the</p> <p>14 identification and mitigation of risks in the business</p> <p>15 area.</p> <p>16 <b>A. In the investor services, correct.</b></p> <p>17 Q. What does that mean, more concretely?</p> <p>18 <b>A. Well, what it means in concrete, they work on three</b></p> <p>19 <b>lines, first line of defence, which is the business or</b></p> <p>20 <b>the dealing where I work as a first line and then</b></p> <p>21 <b>a second line of defence, which is group risk and</b></p> <p>22 <b>compliance, and then third line of defence, which is the</b></p> <p>23 <b>internal audit. Risks are the -- this could be</b></p> <p>24 <b>liquidity risks and operational risks.</b></p> <p>25 Q. And we've seen a lot on money laundering on TV in the</p> <p style="text-align: center;">Page 33</p>	<p>1 Q. I'll just make sure -- the International Securities</p> <p>2 Services Association, and that large international and</p> <p>3 Swedish banks are part of security depositories and</p> <p>4 SWIFT, Asset Bank(?) and Nordea, Handelsbanken, BNY</p> <p>5 Mellon and other, does that sound likely, incredible?</p> <p>6 <b>A. Yes, it does, yes, but have I have no role on behalf of</b></p> <p>7 <b>the bank. It's other people in the bank, SEB, who work</b></p> <p>8 <b>with ISSA.</b></p> <p>9 Q. You don't know who takes part in that work? SEB?</p> <p>10 <b>A. No, I don't.</b></p> <p>11 Q. Do you know that ISSA has produced something called</p> <p>12 Compliance Principles for Securities Custody and</p> <p>13 Settlement. This is from May 2017.</p> <p>14 <b>A. No, I do not.</b></p> <p>15 Q. The -- that document contains amongst other things</p> <p>16 guidelines for custodians and sub-custodians, for crime</p> <p>17 compliance, financial crime compliance principles for</p> <p>18 security, custody and settlement and those are</p> <p>19 principles on how to work, and one of these principles,</p> <p>20 when it comes to segregated client accounts and --</p> <p>21 MR GUTERSTAM: But aren't we quite far from my question and</p> <p>22 the theme of this?</p> <p>23 MS ISAKSSON: No, this is how they handle the segregated</p> <p>24 deposits.</p> <p>25 MR AXELRYD: She is here to explain what they're doing.</p> <p style="text-align: center;">Page 35</p>
<p>1 last couple of weeks, and to know where the money comes</p> <p>2 from and who is your customer, and the customer of your</p> <p>3 customer. Is that part of your work?</p> <p>4 <b>A. No, that's not part of the work that I do. This is done</b></p> <p>5 <b>in a different place in the bank.</b></p> <p>6 Q. Where is it done?</p> <p>7 <b>A. It's on a group level in -- it's done in our division</b></p> <p>8 <b>between the bank, but the bank has systems processes for</b></p> <p>9 <b>monitoring all the transactions coming -- going in and</b></p> <p>10 <b>out.</b></p> <p>11 Q. You were saying that you have an instruction from BNY</p> <p>12 Mellon to report the public nominee register that the</p> <p>13 description is to be registered. Why does Mellon want it</p> <p>14 that way?</p> <p>15 <b>A. I've do not know, actually.</b></p> <p>16 Q. You've no idea?</p> <p>17 <b>A. No.</b></p> <p>18 Q. So do you know anything about International Securities</p> <p>19 Services Association?</p> <p>20 <b>A. I know that it exists.</b></p> <p>21 Q. Do you know what that is? Can you describe it briefly?</p> <p>22 <b>A. It is an organisation in the securities industry.</b></p> <p>23 <b>I don't know any more about that because I am not part</b></p> <p>24 <b>of any working groups or any meetings. But if I tell</b></p> <p>25 <b>you that this is a large organisation --</b></p> <p style="text-align: center;">Page 34</p>	<p>1 THE CHAIRMAN: We here your objection but we want to hear</p> <p>2 the question and the answer. I've been thinking -- do</p> <p>3 not forget this, but it has to be linked to the main</p> <p>4 examination, because otherwise -- I mean, you can</p> <p>5 involve this examination to.</p> <p>6 MS ISAKSSON: It's very much linked to the knowledge.</p> <p>7 THE CHAIRMAN: (Swedish spoken) So it has to be --</p> <p>8 MS ISAKSSON: So here there's a principal.</p> <p>9 "The principal account holder opens a segregated</p> <p>10 account for a third party with the custodian, the</p> <p>11 account must be associated with the name of that third</p> <p>12 party."</p> <p>13 So where the account holder opens an account for</p> <p>14 their third party, the account has to be associated with</p> <p>15 a name of that third party. There there's also</p> <p>16 a principle that says:</p> <p>17 "It must declare to the custodian the ultimate</p> <p>18 ownership of the assets deposited on the segregated</p> <p>19 account holder's account."</p> <p>20 That is that in the segregated deposit you have to</p> <p>21 state the ultimate asset ownership.</p> <p>22 Do you recognise this with an account descriptions</p> <p>23 that you're working on?</p> <p>24 <b>A. I'm not working as a securities lawyer in the bank, so</b></p> <p>25 <b>I cannot say anything about legal matters. As I was</b></p> <p style="text-align: center;">Page 36</p>

<p>1 <b>saying earlier, we act on instructions from Bank of New</b>  2 <b>York Mellon, and they describe their deposit and we open</b>  3 <b>the deposit based on the request from Bank of New York</b>  4 <b>Mellon.</b>  5 Q. It sounds very similar to the system that Bank of New  6 York Mellon have for their description of deposits.  7 <b>A. Well, I cannot answer that. I'm sorry, I cannot answer.</b>  8 <b>I've no view on that or opinion on that.</b>  9 Q. I was going to move on to the tax on dividends that we  10 have asked BNY Mellon and Kazakhstan to be repaid. Have  11 you been involved in that?  12 <b>A. No, I've not been directly involved. SEB does not</b>  13 <b>assist its customers in this. We pass on the</b>  14 <b>information to the tax agency.</b>  15 Q. That's what I meant by help, I suppose because you have  16 contacts with the tax agency.  17 <b>A. We forward the documentation that we get from our client</b>  18 <b>to the tax agency, that is correct.</b>  19 Q. How do you handle tax on dividends and tax refunds for  20 international cost clients?  21 <b>A. If you open a deposit, it can be opened with 30 per cent</b>  22 <b>tax. You could also get direct reduction and based on</b>  23 <b>a dual taxation agreement. But if you don't have</b>  24 <b>a direct reduction, you can apply directly from the tax</b>  25 <b>agency, and there SEB has an agreement with Bank of New</b></p> <p style="text-align: center;">Page 37</p>	<p>1 <b>A. She works in the investor services.</b>  2 Q. And so when you forwarded these documents, how does the  3 tax agency know where the money is going to be paid to?  4 <b>A. They're paid to SEB's account or Plusgiro account and</b>  5 <b>then, as SEB pays it to our clients, so the tax agency</b>  6 <b>credits SEB's Plusgiro account. This is one account</b>  7 <b>where all the disbursements from the tax agency</b>  8 <b>administer our international clients have asked for</b>  9 <b>a tax refund.</b>  10 Q. How do you know which client is it that sends that on  11 the tax agency's note to SEB?  12 <b>A. I've never worked with this myself, so I every step of</b>  13 <b>this, but tax agency repays, refunds SEB, and they in</b>  14 <b>turn then paid to their clients.</b>  15 Q. How do you know which tax rate is applicable, or which  16 dual tax agreement is applicable?  17 <b>A. Our client tells us that and then we check that, based</b>  18 <b>on whether a client says that they want a direct</b>  19 <b>reduction on their tax deposit and then they refer to</b>  20 <b>a dual taxation agreement and then SEB checks that the</b>  21 <b>dual taxation agreement and what our client has asked</b>  22 <b>for, a direct reduction of matches. This particular</b>  23 <b>deposit, it was opened with 30 per cent at the</b>  24 <b>beginning, when it was opened, I think it was in</b>  25 <b>August 2015. I don't remember exactly, but the deposit</b></p> <p style="text-align: center;">Page 39</p>
<p>1 <b>York Mellon where Bank of New York Mellon sends the</b>  2 <b>documentation -- sends it to SEB as a representative of</b>  3 <b>their client, and they send a certificate of residence,</b>  4 <b>they send in a power of attorney between themselves and</b>  5 <b>their client, and they send in a tax voucher that shows</b>  6 <b>how tax has been paid to their underlying clients, and</b>  7 <b>they also fill in a form from the tax agency, where they</b>  8 <b>apply for a refund of dividends, tax. And this</b>  9 <b>documentation SEB forwards to the tax agency. The tax</b>  10 <b>agency makes a decision and communicates their decision.</b>  11 Q. And do you know what happened in the specific case of  12 Bank of New York Mellon?  13 <b>A. Yes, if they ask for a refund on tax, as I said, they</b>  14 <b>have thousands of deposits, they have this agreement</b>  15 <b>with SEB where they send in the documentation to us and</b>  16 <b>we forward this documentation to the tax agency.</b>  17 Q. Is it correct that this is handled by investor services,  18 the same business area that you're in?  19 <b>A. It is handled by investor services with our operations</b>  20 <b>which is part of SEB AB.</b>  21 Q. We have seen the document that are currently submitted  22 and documents that were forwarded. Is this the same  23 Caroline, the surname?  24 <b>A. The surname, sorry?</b>  25 Q. It's Caroline Sharlander(?).</p> <p style="text-align: center;">Page 38</p>	<p>1 <b>was opened in 2015, and then at the end of 2016 they</b>  2 <b>referred to a dual taxation agreement between Sweden and</b>  3 <b>Kazakhstan and asked for a direct reduction of the</b>  4 <b>deposit of 15 per cent, or to 50 per cent.</b>  5 Q. And on whose behalf was this tax refund made for?  6 <b>A. Bank New York Mellon, they fill in the tax agency form</b>  7 <b>as a representative of their sub-client.</b>  8 Q. What did it say in this case --  9 <b>A. They write beneficial owner and then it has said</b>  10 <b>Minister of Finance, the Republic of Kazakhstan.</b>  11 Q. And this means that it is the -- that it is that unit or  12 that entity that has paid the tax and has also to have  13 their tax refunded?  14 <b>A. I cannot say anything about this, because this is Bank</b>  15 <b>New York's underlying client, because our customer is</b>  16 <b>Bank New York Mellon and I have never seen any</b>  17 <b>agreements between Bank New York Mellon and their</b>  18 <b>sub-clients. But when they fill in the form to apply</b>  19 <b>for a tax refund, they have said that they are</b>  20 <b>representatives of -- and then they have given this name</b>  21 <b>as the beneficial owner.</b>  22 Q. But you can see that when you forward the documents and  23 you also check which dual taxation is applicable, you  24 have that information?  25 <b>A. Yes, we check the dual taxation agreement, sure we do.</b></p> <p style="text-align: center;">Page 40</p>

<p>1 <b>But since I never have done this job myself, I didn't</b>  2 <b>say anything about it, but I would like to say that we</b>  3 <b>looked at documentation before we forwarded it to the</b>  4 <b>tax. Yes, I would hope so.</b>  5 THE CHAIRMAN: Was that a question?  6 MS ISAKSSON: I apologise.  7 I have no further questions.  8 THE CHAIRMAN: No additional questions from your side.  9 MR AXELRYD: Just one brief question. This dual taxation  10 agreement: can you just clarify what it is that you  11 double check when you get this form?  12 <b>A. Since I do not work in this myself, I have never been</b>  13 <b>part of the process, but when one of our customers opens</b>  14 <b>the segregated deposit, if they stop at the specific</b>  15 <b>one, it was opened at 30 per cent to begin with and then</b>  16 <b>we get a written request from Bank New York Mellon that</b>  17 <b>they want a reduction to 15 per cent, and they refer to</b>  18 <b>a dual taxation agreement between Sweden and Kazakhstan.</b>  19 <b>And then we look that there is one of these dual</b>  20 <b>taxation agreements between Sweden and Kazakhstan and</b>  21 <b>the direct reduction that is now there, it's</b>  22 <b>15 per cent. We check then with Bank New York Mellon</b>  23 <b>with their written instruction. They ask for</b>  24 <b>15 per cent with the deposit. This is what we check.</b>  25 MR AXELRYD: Thank you.</p> <p style="text-align: center;">Page 41</p>	<p>1 counsel.  2 We have the members of the court, three members of  3 the court, and my name is Thomas Stromgren. I am the  4 presiding judge and the chief judge on this case. Your  5 testimony will be recorded with the audio and video,  6 there is a camera in front of you and the audio is the  7 microphone in front of you, so please use the  8 microphone. It's not the small microphone on the table  9 but the fixed microphone.  10 Having said that, I would like to ask you to take  11 the oath. So you repeat after me: I, Mats Gunnarsson  12 promise and affirm on my honour and conscience that  13 I will say the whole truth and not conceal, change or  14 add anything.  15 Now you've taken the oath, which means that you have  16 an obligation to speak the truth under the penalty of  17 perjury. If there's anything you don't recall, please  18 indicate that to the court.  19 <b>A. I understand.</b>  20 THE CHAIRMAN: We'll starting recording and you'll get  21 questions from the parties.  22 Examination-in-chief by MR AXELRYD  23 MR AXELRYD: Thank you. Could you say something about your  24 professional background.  25 <b>A. Yes, I can. My name is Mats Gunnarsson. I work at</b></p> <p style="text-align: center;">Page 43</p>
<p>1 THE CHAIRMAN: So that concludes the examination. Have you  2 any costs coming?  3 <b>A. No, I'm from work.</b>  4 THE CHAIRMAN: Thank you very much.  5 You don't have to stay.  6 (The witness withdrew)  7 MR GUTERSTAM: So we're running a bit late but I would like  8 to propose that we take a short break and I can check  9 with the witness if the witness has any objection --  10 Could I just check quickly with the witness that he has  11 no --  12 MR AXELRYD: If I could use the opportunity of the  13 presentation, I would like to use the equipment for the  14 next examination.  15 THE CHAIRMAN: We'll break for 15 minutes until 20 to.  16 (10.25 am)  17 (A short break)  18 (10.41 am)  19 MATS GUNNARSSON (called)  20 THE CHAIRMAN: Welcome, Mr Gunnarsson. You have been called  21 as a witness in the case, regarding the enforcement  22 agency. This is an attachment order which has been  23 appealed, and the investors are on your left-hand side,  24 and then the appellants, ie the Republic of Kazakhstan  25 and the National Bank, are on your right-hand side, the</p> <p style="text-align: center;">Page 42</p>	<p>1 <b>Euroclear Sweden AB, something which was called VPC AB,</b>  2 <b>which is the central securities deposit in Sweden. I've</b>  3 <b>been working for there more almost 19 years and during</b>  4 <b>the entire time I've been working with the joint stock</b>  5 <b>companies, our customers.</b>  6 <b>The shares for the account, something which we'll be</b>  7 <b>discussing later and the major part of this work is to</b>  8 <b>deal with the share ledgers, information from custodians</b>  9 <b>on the customers which act as custodians. And in the</b>  10 <b>last, say, ten plus years I have been presenting this to</b>  11 <b>other parties, other -- to law firms and on the</b>  12 <b>Ministry of Finance and the Ministry of Justice, they</b>  13 <b>need experts regarding the central security deposits.</b>  14 <b>I've been also teaching seminars at universities.</b>  15 Q. We have submitted an affidavit from you dated  16 28 January. Could you confirm that you have this  17 exhibit still with you?  18 <b>A. Yes.</b>  19 Q. Do you still support what you said there? Would that  20 change anything or add anything?  21 <b>A. No.</b>  22 Q. Could you please describe Euroclear's role and task as a  23 central security deposit, and here I would like to  24 present slide number 7.  25 <b>A. I would like to start -- our history is that we started</b></p> <p style="text-align: center;">Page 44</p>

<p>1 in 1971, being the central securities deposit in Sweden,                  2 we were keeping share ledgers for the companies who were                  3 our customers and at the time shares were represented by                  4 the stock certificates, which were physical. But from                  5 1989, there were reconciliation accounts in accordance                  6 with the Act on the central securities deposit and                  7 financial instruments operators, LKF.                  8 When we discuss account keeping, like I've mentioned                  9 before, this is something which is regulated in the LKF                  10 for Swedish joint stock companies or companies which                  11 keep shares, thus -- or we keep records of the owners of                  12 the shares. The LKF interacts a lot with the Companies                  13 Act because we are keeping the share ledgers of the                  14 companies in accordance with the Operations Act, so the                  15 accounts, they are linked intimately to the share                  16 ledgers. And if we look at this slide, then this                  17 describes in a simple manner how the accounts and the                  18 account keeping operates in the registry.                  19 At the bottom we have something called the owner's                  20 account and the custodian's account. These are two                  21 different types of accounts which are part of the                  22 reconciliation registry.                  23 The law says that the reconciliation account for                  24 owners and for custodians. This is what the Companies                  25 Act says with respect to the contents of the share</p> <p style="text-align: center;">Page 45</p>	<p>1 administers the account for the shareholders. Between                  2 the shareholders you have so-called deposits, which is                  3 not a CSD. However, this is a securities account, but                  4 it's not part of the registers which we keep, being the                  5 central security deposit, but they are kept with each                  6 custodian in their respective systems.                  7 But the shareholders could choose, either they can                  8 open an ownership account which is part of the registry                  9 we keep for the companies or they can open a deposit                  10 with a custodian which in its turn is linked to us.                  11 Q. You say that you keep -- do you eventually keep the                  12 accounts, the financial instruments -- do you keep the                  13 shares and the financial instrument?                  14 A. No, everything which I have this at these account, you                  15 can say that these are electronic notes, and the account                  16 keeping means that you keep the rights on the account,                  17 the proprietary rights and the special rights which are                  18 on the CSDs as it fell from the M curve.                  19 So there are no documents, for example, stock                  20 certificates or promissory notes, you're not even                  21 allowed to issue these for the financial instruments                  22 which are kept at the accounts.                  23 There is an order which says that guilty(?)                  24 materialise the financial instruments in Sweden, meaning                  25 that whatever's kept at the accounts, it's only in</p> <p style="text-align: center;">Page 47</p>
<p>1 ledgers where the owner and the custodian should be                  2 indicated.                  3 Here a reconciliation account, like a                  4 reconciliation, actually it's administered and                  5 technically managed by a financial institute which plays                  6 a special role and this role is regulated in the law.                  7 It's called the Account Keeping Institute.                  8 So through this Accounts Keeping Institute, I or                  9 another private individual or a legal entity could open                  10 an account, arbitrate and administrate an account, if                  11 you change your address or something like that.                  12 Like I mentioned before, there are accounts for                  13 owners. There are accounts for something we call                  14 custodians, and I will go into the concept of custodian                  15 in more detail. We could say that simply speaking this                  16 is a legal entity. Its regulated in chapter 3 in LKF,                  17 who could be nominated as custodians, nominated by us.                  18 And there's a special type of reconciliation                  19 account, which is not mentioned in the reconciliation                  20 register on behalf of the owner, but it's -- normally                  21 you say instead of the owner, so the custodian keeps the                  22 account and whatever is kept at the account for someone                  23 else.                  24 So if you move two steps, so you have the account,                  25 then we have the account keeping situation, which</p> <p style="text-align: center;">Page 46</p>	<p>1 electronic form and cannot be represented by a document.                  2 So we don't have any documents.                  3 You can say that a share is such in a stock company.                  4 It is not on the account, it just a right to the share                  5 which is noted at the CSD.                  6 Q. If there were 1,000 shares of the same kind in                  7 a company, could the differentiate one share and a                  8 different share?                  9 A. Not within the same series. Let's say we have 1,000                  10 A series shares, then all the thousand shares look all                  11 the same, because, when you keep accounts, just like                  12 I said before, you don't have any share certificates,                  13 and therefore you don't have the individual numbering of                  14 the shares like would you have in the share certificates                  15 back in the good old days. But the shares which we keep                  16 are fungible, all are individually replaceable within                  17 the same series.                  18 Q. Let's say that an owner wants to invest into shares                  19 using a custodian, what kind of information on the owner                  20 could be found in the Euroclear's register?                  21 A. None at all regarding the owner of the shares in our                  22 registry. Like I said before, if there is information                  23 about the custodian, because it's the custodian which                  24 holds the -- sees the account.                  25 Q. Let's look at a public share ledger. You have two</p> <p style="text-align: center;">Page 48</p>

<p>1 binders in front of, one is number 1 and the other one 2 is number 2. Tab 2 -- sorry, binder 2, tab 66. 3 There is a page number, so let's move on to 4 page 779. 99, sorry, correction. 799. 5 <b>A. Which tab?</b> 6 MR AXELRYD: 69, 22. 7 THE CHAIRMAN: 779. 8 MR AXELRYD: Yes. 9 THE CHAIRMAN: Tab 69. 10 MR AXELRYD: No, 66. 11 <b>A. Yes. So I'm on page 799.</b> 12 Q. What is the document we see here? 13 <b>A. This looks like a share ledger which we have published</b> 14 <b>per the registration date, 29 December 2017, for the</b> 15 <b>company Svenska Handelsbanken.</b> 16 Q. Is this a document which is representative for share of 17 the public share ledgers, what they look like in the 18 registers? 19 <b>A. Yes.</b> 20 Q. What does it mean by this ISIN code which you find in 21 the second column? 22 <b>A. ISIN is an abbreviation. It says it's international</b> 23 <b>securities identification number. So it's</b> 24 <b>an identification number for a financial instrument. So</b> 25 <b>what you can see here on the right where it says "Basic</b></p> <p style="text-align: center;">Page 49</p>	<p>1 <b>them at the end of each quarter.</b> 2 <b>So we request from all our agents we ask them to</b> 3 <b>inform us who are the nominees, the owners of the shares</b> 4 <b>are according to our systems and registers.</b> 5 <b>The shares which you keep and --</b> 6 Q. So is this a reflection of the information you received 7 from the custodians? 8 <b>A. Yes.</b> 9 Q. Is this list part of Euroclear's reconciliation 10 register? 11 <b>A. No, the reconciliation registry, if we go back to the</b> 12 <b>slide, this is -- it only covers the CSDs for the owners</b> 13 <b>or for the custodians. So this is the information</b> 14 <b>coming from the custodian regarding this account. So</b> 15 <b>this is not part of our reconciliation registry.</b> 16 Q. Page 789. We have an item here at the bottom of the 17 page regarding the owner of shares. Could you explain 18 the contents of column 1 and 2 with respect to this 19 item? 20 <b>A. The first one was called as a personal number,</b> 21 <b>organisation number.</b> 22 <b>And it says that the -- whether the shareholder has</b> 23 <b>been registered as a custodian.</b> 24 <b>Second column, we have name and postal address and</b> 25 <b>this is something which was prescribed in the laws under</b></p> <p style="text-align: center;">Page 51</p>
<p>1 <b>information", it says "Securities", it says AKA, AK</b> 2 <b>represents shares in our system. So this is shares of</b> 3 <b>A series and it has a separate ISIN code with starts</b> 4 <b>with SE, Sweden. Then you have the number and</b> 5 <b>a control, maybe. This is the identification number of</b> 6 <b>a share. So if there are 1,000 A shares then all 3,000</b> 7 <b>shares, they have the same ISIN number.</b> 8 Q. If we flip the page to page 800, we can see that SEB are 9 registered as a custodian for about 1633 in A shares. 10 So does it mean that they are completely replaceable? 11 <b>A. You could replace them with any other A shares. The</b> 12 <b>other A shares are similar matter, which account they</b> 13 <b>are held at.</b> 14 Q. Let's have a look at -- sorry, at another document under 15 tab 66, page 754. 16 Could you describe this document? 17 <b>A. So instead of being a public share ledger, so this is</b> 18 <b>a public list of custodians, and this is not a list of</b> 19 <b>custodians but this is a list of who the owners are.</b> 20 <b>This is information provided to us by the custodian.</b> 21 Q. How is this document produced? 22 <b>A. It is produced in accordance with the -- with LKF,</b> 23 <b>chapter 3, paragraph 13. It's written that a public</b> 24 <b>nominee registered should be produced every quarter or</b> 25 <b>it cannot be older than three months, so we produced</b></p> <p style="text-align: center;">Page 50</p>	<p>1 <b>which it should be done and this is what follows from</b> 2 <b>the item.</b> 3 Q. Could you read who the owner of these shares are? 4 <b>A. Well, what it says, it looks like to be in a relation of</b> 5 <b>some kind and, given my experience, I could speculate it</b> 6 <b>would be NYM or BNY could stand for Bank of New York.</b> 7 <b>Now they're together with Mellon so it would be Bank of</b> 8 <b>New York Mellon. But this is speculation on my part</b> 9 <b>because this is not what the text expressly says. But</b> 10 <b>if I would be asked to guess, then this is what --</b> 11 Q. Is there any procedure of what the information is given 12 by the custodians in this list is? 13 <b>A. Well, obviously it is -- they try to state the owners as</b> 14 <b>the law prescribes. But from the comments to the Act,</b> 15 <b>you can see that a custodian can -- and therefore this</b> 16 <b>is what they took -- is that they could state the</b> 17 <b>deposit holders had, because they state the name of the</b> 18 <b>deposit customers or the deposit holders. And it's not</b> 19 <b>always the case that this is the actual ultimate owner,</b> 20 <b>but this is what the custodian could represent to us and</b> 21 <b>this is what they do. This is describing the comments</b> 22 <b>of that.</b> 23 Q. Do you know the reasons why this has been developed in 24 this manner? 25 <b>A. Because a custodian who is -- who has the mandate to be</b></p> <p style="text-align: center;">Page 52</p>

<p>1 a custodian, they don't have the jurisdiction in                  2 accordance with the LKF, they don't have the                  3 jurisdiction to request information. Let's call it                  4 a deposit customer. Let's say a foreign legal entity.                  5 The custodian doesn't have the jurisdiction to                  6 demand that this foreign legal entity should provide                  7 information on the underlying owners in their system and                  8 this is why this is the case.                  9 Q. At Euroclear do you have any information about the                  10 ultimate owners?                  11 A. Did no, the information we receive, this is the                  12 information we received from the custodians who are                  13 registered with us as custodians.                  14 Q. In section C in your witness statement, you said there                  15 are normally custodian chains with original custodians,                  16 sub-custodians. Could you present this to the court and                  17 could you help the court how this is reflected in your                  18 registries? I know that under paragraphs 11 and 12,                  19 I know you have some pictures, if you want us to show                  20 them on this screen, please inform us.                  21 A. Let's show 11 on the screen. Just like you said before,                  22 today we have 26 legal entities who have the authority                  23 to be a custodian. There are many more institutions                  24 which act as custodians. But, like I've mentioned                  25 before, they're not bound by the LKF act. So here the</p> <p style="text-align: center;">Page 53</p>	<p>1 a custodian status and who are bound by the LKA Act.                  2 Q. Is this regular, this kind of chains?                  3 A. Yes, it is and it becomes more and more common and the                  4 development as well is moving towards this kind of                  5 structure in the last five years, but this has been                  6 common for a period.                  7 Q. Let's move onto the next -- yes, please to move onto the                  8 next shot, which is a detailed description of the                  9 previous chart.                  10 A. I'll try to follow. Maybe it's not the clearest                  11 picture, but I know at the top this is the relationship                  12 to us and the owner of the shares at the bottom. So we                  13 have flipped the chart compared to the previous image.                  14 So at this slide at the top, you have SCD accounts,                  15 where we start, and there are three difference types of                  16 SCD accounts. What I mean is that they're still owners'                  17 accounts and the custodian accounts but the owner could                  18 be a physical person, a legal person and then we also                  19 have a custodian account.                  20 All these three types of CSD accounts are                  21 represented in the share ledger, because the share                  22 ledger collects the information from the accounts, not                  23 all the information but the information which is                  24 described in 511 in the Companies Act.                  25 So we have a custodian's account and here, in this</p> <p style="text-align: center;">Page 55</p>
<p>1 owner, the actual owner, of this is at the top. This is                  2 in this shot, that the owner has a deposit or                  3 a securities account, not a CSD. They have a deposit                  4 with the original custodian and use the term custodian,                  5 although if they don't have this status or this role                  6 with us, but they act in the same manner. I hope that                  7 this is clear enough.                  8 So the original custodian is the custodian with the                  9 respect to the owner. From our perspective it's not                  10 an original custodian but from the point of view of the                  11 owner. So a legal entity who doesn't hold the status of                  12 a custodian with us, but still want to offer their                  13 customers to hold the shares in, for example,                  14 Svenska Handelsbanken, for example, this original                  15 custodian needs somehow to create a link which goes all                  16 the way to Euroclear Sweden, and they do that using one                  17 or several others, other financial institutions, till                  18 they reach an institution which has the custodian                  19 status.                  20 For example in this chain you can have an original                  21 custodian. There could be so-called sub-custodians,                  22 which is a step on the way towards Euroclear Sweden, and                  23 that's assume that at the bottom where it says                  24 sub-custodians in Sweden, let's say that this is                  25 represented by the legal entity in Sweden who has</p> <p style="text-align: center;">Page 54</p>	<p>1 example, it holds 550 shares in a company. That's                  2 called the custodian ABC.                  3 So under that envelope we have the representation of                  4 ABC's deposit system, so the securities account which                  5 are not CSD accounts. So this 550 shares are divided                  6 between the three different deposits, 25, 25 and 500.                  7 The split could be of any kind, but this is the                  8 situation, this example.                  9 Then below the time, which is 500 in one deposit,                  10 you have a another custodian which is not directly                  11 connected to us, which holds the deposit system overseas                  12 in this case and in a corresponding manner they                  13 represent their holdings of 500 in three different                  14 deposits, 100, 100, 300.                  15 Here you could assume that the actual owner, that's                  16 where the actual owner is, which holds the deposit, say,                  17 with 300.                  18 Q. Let's assume that a transaction is made between the                  19 deposit holders on level 2 in the middle level, 25, 25                  20 500, say 25 shares, a move from one deposit or another                  21 or swap, change owners, how does that affect the                  22 custodian's account?                  23 A. In no way. The amount of the custodian's account is                  24 still the same, is still 550, and you cannot even see                  25 a change on the custodian's account because the total</p> <p style="text-align: center;">Page 56</p>

<p>1 <b>amount is the same.</b></p> <p>2 <b>You may get a report from the custodian about the</b></p> <p>3 <b>underlying owners. Then you might see a difference.</b></p> <p>4 Q. If you move to the 203, the level at the bottom, and</p> <p>5 there is a change in the deposit between those two</p> <p>6 levels, how is that reflected on the underlying assets?</p> <p>7 <b>A. It won't be visible at all, not in the registry and not</b></p> <p>8 <b>in the reporting which the custodian makes in the</b></p> <p>9 <b>list -- in the custodian's registry at the middle level.</b></p> <p>10 <b>Since the total amount is still 500 on that deposit how</b></p> <p>11 <b>the merit 100, 100, 300 on the level below. It's not</b></p> <p>12 <b>reflected.</b></p> <p>13 MR AXELRYD: Okay. Thank you. I have no more questions.</p> <p>14 THE CHAIRMAN: No. Thank you.</p> <p>15 Cross-examination by MS ISAKSSON</p> <p>16 MS ISAKSSON: I have a couple of brief questions. Hello, my</p> <p>17 name is Theresa Isaksson.</p> <p>18 Let me ask you question. I did not follow from your</p> <p>19 report, have you seen any documents which have to do</p> <p>20 with this particular case before you wrote the report or</p> <p>21 which documents have you seen, if any, before you wrote</p> <p>22 your report?</p> <p>23 <b>A. Before I wrote my report, I did not any documents at</b></p> <p>24 <b>all, as far as I remember.</b></p> <p>25 Q. So this is a general description based on the general</p> <p style="text-align: center;">Page 57</p>	<p>1 Q. You were answering the questions about the contents of</p> <p>2 the columns. So under the first column, personal or</p> <p>3 organisational member, you will see that this is</p> <p>4 registered with the custodian?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. In column number 2, you said that you have the name and</p> <p>7 the postal entries of whom?</p> <p>8 <b>A. Of the holder of the deposit at the custodian.</b></p> <p>9 Q. But you referred to 312, 313 in the LKF Act. What does</p> <p>10 it say?</p> <p>11 <b>A. It says that you will have the name of the owner who had</b></p> <p>12 <b>the custodian register their shares with them.</b></p> <p>13 Q. No, my question is what does the --</p> <p>14 MR GUTERSTAM: Maybe you should ask the witness.</p> <p>15 THE CHAIRMAN: Please repeat the question?</p> <p>16 MS ISAKSSON: What does the law say? Who should the</p> <p>17 custodian report to?</p> <p>18 <b>A. I don't have the law next in front of me, but I remember</b></p> <p>19 <b>it pretty well. It says that you should state the name</b></p> <p>20 <b>of the owner who has registered its shares with the</b></p> <p>21 <b>custodian and the address.</b></p> <p>22 Q. Name and address of the owner the shares and the</p> <p>23 personal and the organisation number?</p> <p>24 <b>A. Yes, sounds reasonable.</b></p> <p>25 Q. And then you then refer to the comments to the actor or</p> <p style="text-align: center;">Page 59</p>
<p>1 knowledge, is that correct?</p> <p>2 <b>A. Yes. This is how I remember this.</b></p> <p>3 Q. And prior to the examination today, have you seen any</p> <p>4 documents?</p> <p>5 <b>A. Yes, I've seen this public nominee register. I've seen</b></p> <p>6 <b>that before.</b></p> <p>7 Q. One question before I move to another line of questions.</p> <p>8 We have discussed tax on dividends in this case and it</p> <p>9 was unclear who takes the tax on dividends from the</p> <p>10 accounts registered with the custodian?</p> <p>11 <b>A. It's done with the custodian.</b></p> <p>12 Q. Which custodian?</p> <p>13 <b>A. The custodian which is registered as a custodian with</b></p> <p>14 <b>us. If we look at the Tax Act, if we should talk about</b></p> <p>15 <b>tax on dividends, let's say we're talking about</b></p> <p>16 <b>dividends at the company, say Handelsbanken in this</b></p> <p>17 <b>case, they ask us to distribute these dividends, then</b></p> <p>18 <b>we're responsible for the tax and dividends for the</b></p> <p>19 <b>owner's accounts, we're the ones we saw on the first</b></p> <p>20 <b>slide. But the custodians, no matter whether the</b></p> <p>21 <b>custodian is a Swedish or a foreign entity, there are</b></p> <p>22 <b>two, the two, both alternatives are present responsible</b></p> <p>23 <b>to report the tax dividends to the tax agency.</b></p> <p>24 Q. You said -- which slide? If you open page 789.</p> <p>25 <b>A. Yes, I have it in front of me.</b></p> <p style="text-align: center;">Page 58</p>	<p>1 to the customs and you says it's not normally -- it's</p> <p>2 not always to benefit of an actual owner, which is</p> <p>3 reported by the custodian, but there are no areas for</p> <p>4 the custodian to report in information correctly, as the</p> <p>5 law says, even if there are several links to this chain?</p> <p>6 <b>A. No, there are no barriers to the custodian. If the</b></p> <p>7 <b>custodian has access to the information -- to that</b></p> <p>8 <b>information, correction -- then as far as I understand,</b></p> <p>9 <b>nothing would be -- there would be no barrier to them</b></p> <p>10 <b>stating this information.</b></p> <p>11 Q. So in this column here, this is BNYM SA and VRA SA and</p> <p>12 VLON(?) are a ministry of -- and then there's something</p> <p>13 else and then there's an address in Kazakhstan?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. We happen to know that this is the address of</p> <p>16 Ministry of Finance in Kazakhstan and not the address of</p> <p>17 BoNY Mellon. So is this the information which was</p> <p>18 reported to Euroclear by the custodian?</p> <p>19 THE CHAIRMAN: Sorry, what's the question? I didn't</p> <p>20 understand the question?</p> <p>21 MS ISAKSSON: My question is could this be a situation where</p> <p>22 they have reported something else rather than the</p> <p>23 deposit holder with the custodian.</p> <p>24 <b>A. Well, once again, you're asking me to speculate and if</b></p> <p>25 <b>we will start doing that, I cannot know because I have</b></p> <p style="text-align: center;">Page 60</p>

<p>1 <b>no insight into the systems of the custodians. So, to</b>  2 <b>speculate for me, all the items could be that. If</b>  3 <b>I receive the information from the custodian, and the</b>  4 <b>custodian has to follow the LKF Act, and we cannot</b>  5 <b>validate in any way that the information we have</b>  6 <b>received, that it corresponds to the names of the</b>  7 <b>deposit, but this is all the point of departure. So</b>  8 <b>this is information we have received and this is why we</b>  9 <b>have printed this in this list.</b>  10 MS ISAKSSON: No further questions. Thank you.  11 THE CHAIRMAN: Thank you. No additional questions?  12 Your examination is concluded. We'll turn off the  13 recording. Any costs?  14 <b>A. Transport costs the party, the bank.</b>  15 THE CHAIRMAN: What kind of costs?  16 <b>A. I took a taxi from the office and I plan to travel back</b>  17 <b>by tax. It was 244 SEK to get her. I don't know how</b>  18 <b>much it will cost to get back, but something more or</b>  19 <b>less this amount.</b>  20 THE CHAIRMAN: Is that reasonable? Yes. So the court  21 doesn't have to try a decision now. Right? Thanks for  22 coming.  23 So you can stay if you want to but if you have other  24 things to do you don't have to stay here.  25 <b>A. No, I think my employer would appreciate if I would come</b></p> <p style="text-align: center;">Page 61</p>	<p>1 Then we have the Republic and the National Bank of  2 Kazakhstan around that side, and their counsel. So they  3 appealed the enforcement agency's decision.  4 <b>A. Okay.</b>  5 THE CHAIRMAN: We are representing the court. There's three  6 judges and then we have a gentleman who is keeping  7 a record. My name is the Thomas Stromgren. I won't  8 introduce the others. I am head of the section here at  9 District Court and I'm the presiding judge at this  10 meeting.  11 <b>A. Okay. Thank you very much for the introductions.</b>  12 THE CHAIRMAN: So this examination will be recorded on  13 video.  14 <b>A. Okay.</b>  15 THE CHAIRMAN: There is a camera here and you have the  16 microphone, just as I do.  17 <b>A. Okay.</b>  18 Q. So it's nice if you can remember to speak into the  19 microphone.  20 THE INTERPRETER: I think it should be a little -- yes.  21 <b>A. Okay.</b>  22 THE INTERPRETER: So we have to share.  23 THE CHAIRMAN: Before examination begins you're to take an  24 oath. You repeat after me, please. I shall try and  25 pronounce your name the best I can.</p> <p style="text-align: center;">Page 63</p>
<p>1 <b>back to the office.</b>  2 THE CHAIRMAN: Thank you.  3 Now it's 11.20, so the question is what will we do  4 about lunch? We are slightly behind schedule, about  5 half an hour. So the question is how do you want to --  6 do you want to break for lunch now?  7 MR GUTERSTAM: Yes, so we can do it in one sitting. We hope  8 that the examination won't take as much time as we have  9 planned and so that the counterparty will have time to  10 ask questions, because the counterparty had many more  11 questions than we had. They indicated beforehand so --  12 THE CHAIRMAN: So how much time?  13 MR GUTERSTAM: But this is the nature of the things. But in  14 any case it's better that we break for lunch, that we  15 take it in one sitting. So we'll break for lunch for an  16 hour. 12.25.  17 (11.20 am)  18 (The luncheon adjournment)  19 (12.25 pm)  20 MS ALIYA MOLDABEKOVA (sworn)  21 (Answers given in English)  22 THE CHAIRMAN: Over this side we have the investors and the  23 counsel for the investors over there.  24 They're the ones who applied for attachment with the  25 enforcement agency.</p> <p style="text-align: center;">Page 62</p>	<p>1 Sorry, before we begin, Ms Moldabekova, the former  2 representative of the bank -- no, for the Republic of  3 the National Bank in that case.  4 (Discussion in Swedish)  5 THE CHAIRMAN: It's whether you're to take an oath or no.  6 I had gathered that was not the case, but it was their  7 right in asking the question.  8 So now that we have sorted that out, you are to take  9 the oath. If you repeat after me, please: I,  10 Aliya Moldabekova, promise and affirm on my honour and  11 conscience that I will tell the whole truth and not  12 conceal or add anything or change anything.  13 <b>A. I don't change anything.</b>  14 THE CHAIRMAN: So now you have taken the oath. That means  15 under penalty of the law you have an obligation to speak  16 the truth, and if there is anything that you do not  17 recall or you do not know, then you have to tell us that  18 because then that is the truth. And I would just like  19 to say that we have access to this witness statement  20 that you have written and you know that we have it  21 during the examination.  22 So just reminding counsel that there are a number of  23 things that are undisputed and just keep that in mind.  24 So we start the recording now.  25 MR GUTERSTAM: Just to clarify, we have decided to ask the</p> <p style="text-align: center;">Page 64</p>

<p>1 questions in English, and I think we emailed and the 2 parties agreed that the questions would be asked in 3 English, and the answers will be interpreted into 4 Swedish.</p> <p>5 THE CHAIRMAN: So we have received this request, the 6 questions have to be translated into Swedish, but the 7 questions will be posed in Swedish and they will be 8 translated into English. There can be a number of 9 reasons for this. Court hearings have to be done in the 10 Swedish language.</p> <p>11 MR GUTERSTAM: I'm sorry, did I not get that message, but 12 the questions will be asked in Swedish and then 13 translated. 14 (Discussion in Swedish)</p> <p>15 THE CHAIRMAN: The important thing is that the witness 16 understands and that they understand you. 17 Examination-in-chief by MR GUTERSTAM</p> <p>18 MR GUTERSTAM: Okay. Let's start. Hello. So could you 19 start by telling us a bit about your professional 20 background and your position with the National Bank.</p> <p>21 <b>A. Okay. So I'm the director of monetary operations 22 department. Our department is responsible for 23 implementing the monetary policy and managing the 24 assets. So I started my career at the National Bank in 25 2001. So I was the analyst and then I was the portfolio</b></p> <p style="text-align: center;">Page 65</p>	<p>1 <b>country. It's the same, like, Riksbank in Sweden. As a 2 Central Bank, we are responsible for price stability.</b></p> <p>3 <b>It means that the money retains its value through 4 the time and it is very similar to the mandate of 5 Swedish Central Bank, and we have several main functions 6 that we perform. So we are developing and implementing 7 the monetary policy. We are responsible for stable work 8 of the systems and also we are responsible for the 9 stability on financial market. Also we are responsible 10 for currency regulation and control. So that's the main 11 functions.</b></p> <p>12 Q. Is the National Bank part of any international 13 organisations?</p> <p>14 <b>A. Yes, of course. As the Central Bank we are the part of 15 many international organisations. I could give a few 16 examples.</b></p> <p>17 Q. Yes. Please do.</p> <p>18 <b>A. So we are the member of IMF, 19 International Monetary Fund. As far as I know, Sweden 20 is also the member of IMF. Also we are the member of 21 IOSCO. This, the International Organisation for 22 Securities Commission.</b></p> <p>23 <b>As far as I know, Swedish regulatory authorities 24 also are the member of IOSCO. Also we are the member of 25 BIS under the Basel consultative committee.</b></p> <p style="text-align: center;">Page 67</p>
<p>1 <b>manager. Later on in 2007 I was promoted as the head of 2 analysis and risk at the same department, and later on 3 in 2012 I became the deputy director and later director 4 of this department.</b></p> <p>5 Q. Thank you. And what are your responsibilities as 6 director of the monetary operations department?</p> <p>7 <b>A. Right. So, as I said, our department is responsible for 8 implementing the monetary policy and managing the 9 assets. So on a day-to-day basis I'm totally involved 10 operating on the internal market, so implementing the 11 monetary policy and also myself and my colleagues, we 12 are managing the assets. So we are taking the decisions 13 which instruments we need to buy or we need to sell, and 14 also we are trying to analyse the external market and 15 the internal market to make the right decisions.</b></p> <p>16 Q. So in this matter, witness statements were submitted on 17 7 December and 21 May, 2018. Is there anything in these 18 witness statements that you would like to change or 19 clarify?</p> <p>20 <b>A. No, I don't want to change or clarify anything.</b></p> <p>21 Q. Then I would like to move on to some general questions 22 about the National Bank. Could you tell us something 23 about what the National Bank does and its main 24 functions?</p> <p>25 <b>A. Okay, so the National Bank is the Central Bank of our</b></p> <p style="text-align: center;">Page 66</p>	<p>1 <b>So we are also the member of international 2 organisation for pension supervising, and also 3 international organisation for insurance supervising.</b></p> <p>4 Q. Is the National Bank a member of these organisations in 5 their capacity as a Central Bank?</p> <p>6 <b>A. Yes, it is, as a Central Bank.</b></p> <p>7 Q. Now I'd like to move on to questions about the National 8 Fund. 9 Can you start by telling us when the National Fund 10 was created?</p> <p>11 <b>A. So the National Fund was created back in 2000. It was 12 the President decree and the -- kind of the idea of 13 creation of this fund was to stabilise our economy and 14 reduce the kind of influence of unfavourable external 15 factors.</b></p> <p>16 Q. Do you know who were involved in the creation of the 17 National Fund and the establishment of the 18 National Fund?</p> <p>19 <b>A. Okay, so I don't know the exact name, because at that 20 time I wasn't with NBK, but I know that there were a lot 21 of experts involved, including my colleagues from the 22 Central Bank and the civil servants, and of course 23 international experts.</b></p> <p>24 Q. Which international experts took part?</p> <p>25 <b>A. Okay. So we took the Norwegian model as the good</b></p> <p style="text-align: center;">Page 68</p>

<p>1 <b>example for the creation of National Fund. So we had</b>                  2 <b>a lot of consultative work with Norwegian colleagues and</b>                  3 <b>Permanent Fund of Alaska as well.</b>                  4 Q. So at the Central Bank, have you continued your -- or                  5 kept up your contact was Norwegian fund?                  6 <b>A. Yes, of course. We have very active contact with them.</b>                  7 <b>So, as I said, we used the experience, their model, at</b>                  8 <b>the very beginning, and later on we kept the contact and</b>                  9 <b>we communicated on our sides, other areas of our</b>                  10 <b>activities. So, for example, in 2012 I was in Oslo. We</b>                  11 <b>were communicating, we were sharing experience, how to</b>                  12 <b>choose, how to evaluate, how to work with external</b>                  13 <b>managers. And also my colleagues, the part of my team,</b>                  14 <b>was in Norway last year. We are selecting the IT system</b>                  15 <b>and I think we will select the same system that the</b>                  16 <b>Norwegian Central Bank uses.</b>                  17 Q. Now I'd like to move on to questions about the purpose                  18 of the National Fund. Can you describe the overall                  19 purpose of the National Fund?                  20 <b>A. So the purpose of the National Fund is to ensure the</b>                  21 <b>stable social and economic development of our country</b>                  22 <b>and to reduce the influence of unfavourable external</b>                  23 <b>factors.</b>                  24 Q. So what do you mean when you say reduce the dependence                  25 on unfavourable external factors?</p> <p style="text-align: center;">Page 69</p>	<p>1 <b>and the savings portfolio gives us opportunity to fulfil</b>                  2 <b>the stabilisation function in the future.</b>                  3 Q. Can the bank transfer money from the savings portfolio                  4 to the stabilisation portfolio and vice versa?                  5 <b>A. Yes, of course, NBK is able to transfer money from</b>                  6 <b>stabilisation portfolio to savings and vice versa.</b>                  7 Q. Just for the record, when you say NBK, you refer to the                  8 National Bank of Kazakhstan?                  9 <b>A. Yes. Yes.</b>                  10 Q. Why would there be a reason for transferring money                  11 between the funds?                  12 <b>A. Between the portfolios, because the fund is one fund.</b>                  13 <b>Okay. So, for example, during the bad years when the</b>                  14 <b>oil prices are lower, we do not have much inflows to the</b>                  15 <b>fund but we have outflows to the budget. So the part</b>                  16 <b>which we invest in the shorter term instrument,</b>                  17 <b>stabilisation part, become smaller and smaller. So it</b>                  18 <b>means that we need to transfer some money from longer</b>                  19 <b>term instruments, I mean from savings portfolio to</b>                  20 <b>stabilisation and vice versa during the good years.</b>                  21 <b>With the higher oil prices we have a lot of contribution</b>                  22 <b>to the fund. It means that the stabilisation portfolio</b>                  23 <b>becomes kind of very big and National Bank of Kazakhstan</b>                  24 <b>makes a decision to transfer the part of stabilisation</b>                  25 <b>into savings.</b></p> <p style="text-align: center;">Page 71</p>
<p>1 <b>A. So because we are the big oil exporter, our economy</b>                  2 <b>depends very much on the oil prices, and oil prices are</b>                  3 <b>really very volatile. That is the external factor that</b>                  4 <b>we couldn't control, and for example when the oil prices</b>                  5 <b>are high, we can have the inflows in our fund which we</b>                  6 <b>could use during the bad times when the oil prices are</b>                  7 <b>low.</b>                  8 Q. In the Presidential decree 383 and in the Budget Code --                  9 385, sorry, it reads as follows:                  10 "The National Fund has both a savings and                  11 stabilisation responsibilities."                  12 And in the annual reports of the National Bank it                  13 reads -- it says that there is a savings and                  14 stabilisation portfolio.                  15 So can you tell us what these two portfolios are?                  16 <b>A. Okay. So, as I told, we have the main function of the</b>                  17 <b>fund to ensure the stable social, economic development</b>                  18 <b>of the country, but we need to have the ability to</b>                  19 <b>maintain this function in the future as well. So that's</b>                  20 <b>why we decided to have two portfolios within the</b>                  21 <b>National Fund. Our stabilisation portfolio which</b>                  22 <b>invested in more shorter term instruments, and savings</b>                  23 <b>portfolio which we invest in more longer term</b>                  24 <b>instruments. So stabilisation portfolio gives us the</b>                  25 <b>opportunity to fulfil the stabilisation function now,</b></p> <p style="text-align: center;">Page 70</p>	<p>1 Q. So what is the reason for the National Bank separating                  2 these portfolios in its annual statement?                  3 <b>A. Okay. It was our decision, as I said to show separately</b>                  4 <b>the shorter term instruments and longer term</b>                  5 <b>instruments.</b>                  6 Q. So can you know what the National Fund's assets are in                  7 the National Bank of Kazakhstan? Can you learn about                  8 that from the annual statement?                  9 <b>A. From National Bank's annual statement, right? Okay. So</b>                  10 <b>we do not show the assets of the National Fund in our</b>                  11 <b>annual statement because, according to the Kazakh Civil</b>                  12 <b>Code, we need to show separately the assets which we</b>                  13 <b>managed because of trust.</b>                  14 Q. So the assets of the securities that this case is about,                  15 or this matter is about, and the money that this                  16 matter -- this case concerns, is that money part of the                  17 savings portfolio or the stabilisation portfolio?                  18 <b>A. Okay, so the Swedish assets that we are discussing now,</b>                  19 <b>this is a part of savings portfolio.</b>                  20 Q. Can transfers be made from both these portfolios to the                  21 government?                  22 <b>A. So the transfers, we have two types of transfers. So</b>                  23 <b>guaranteed transfers, which are part of the state budget</b>                  24 <b>and also targeted transfers which also go to the budget,</b>                  25 <b>if the value of stabilisation portfolio is enough to</b></p> <p style="text-align: center;">Page 72</p>

<p>1 fulfil these transfers.</p> <p>2 So usually we transfer assets from stabilisation</p> <p>3 portfolio because the assets in this portfolio are short</p> <p>4 term, very liquid. We could sell them very quickly and</p> <p>5 we could -- so sell them, convert money into local</p> <p>6 currency, tenge, and execute the transfer. But if, for</p> <p>7 example, we need to make a very big transfer it means</p> <p>8 that the value of stabilisation portfolio could not be</p> <p>9 enough. So in this case we will be forced to sell some</p> <p>10 of the assets in savings portfolio, move them to</p> <p>11 stabilisation portfolio and then execute the transfer.</p> <p>12 Q. I would like to move on to the structure of the</p> <p>13 National Fund and I will distribute an organisational</p> <p>14 chart which has been filed in this matter as</p> <p>15 organisational chart number 1, but this is a translation</p> <p>16 of that chart to English.</p> <p>17 And the reason why this is translated into English,</p> <p>18 this is to make sure that everyone understands who the</p> <p>19 parties are and what the agreements are.</p> <p>20 So could you start by telling with your own words</p> <p>21 about the structure of the National Fund?</p> <p>22 A. So, according to the law and according to the Budget</p> <p>23 Code of our country, so Kazakhstan, in our case the</p> <p>24 government of Kazakhstan, transfers the income from oil</p> <p>25 sector to the account of the government at the National</p> <p style="text-align: center;">Page 73</p>	<p>1 National Bank has the kind of power to possess, use and</p> <p>2 dispose the National Fund. So as soon as we convert</p> <p>3 local currency, tenge, into foreign currency, we invest</p> <p>4 these assets from our own name.</p> <p>5 Q. So once you have acquired the assets, what kind of</p> <p>6 rights does the state have for the assets?</p> <p>7 A. So from this moment the state does not have the rights,</p> <p>8 with the exception that they have the right to the</p> <p>9 guaranteed and targeted transfers. So when the state</p> <p>10 needs the transfer we are selling that part of the</p> <p>11 assets converting into local currency, tenge, and</p> <p>12 execute the transfer.</p> <p>13 Q. So who says which kind of assets will be sold when</p> <p>14 a guarantee that a targeted transfer will take place?</p> <p>15 A. NBK decides.</p> <p>16 Q. My questions are in English, this is why it takes --</p> <p>17 THE CHAIRMAN: It would have been difficult for the court to</p> <p>18 translate.</p> <p>19 MR GUTERSTAM: Could you describe what role does the state</p> <p>20 play in terms of which investment decisions are to be</p> <p>21 taken?</p> <p>22 A. Okay. So when the state was moving the National Fund</p> <p>23 into the trust management, the government produced</p> <p>24 a decree after the consultation with NBK, and this</p> <p>25 decree has the least of permitted asset classes where</p> <p style="text-align: center;">Page 75</p>
<p>1 Bank of Kazakhstan, because, according to the</p> <p>2 Budget Code, National Fund is the assets which</p> <p>3 accumulated by the government on the account at the</p> <p>4 National Bank of Kazakhstan. Usually, in the most cases</p> <p>5 the government accumulates money in local currency,</p> <p>6 tenge, at our account, at NBK. When NBK converts this</p> <p>7 local currency, tenge, into foreign currencies and move</p> <p>8 to the accounts of NBK within the global custodians.</p> <p>9 And I want to clarify this chart -- I want to clarify,</p> <p>10 sorry. So the government has the accounts at NBK and</p> <p>11 after we convert the local currency, tenge, into foreign</p> <p>12 currencies, we place this foreign currency at National</p> <p>13 Bank of Kazakhstan accounts with the global custodian,</p> <p>14 and later on we invest this foreign currency in the</p> <p>15 different financial instruments like stock and bonds.</p> <p>16 Q. So I have some follow up questions regarding the chart.</p> <p>17 So if we look at the relationship between the</p> <p>18 Republic of Kazakhstan and the National Bank, what's the</p> <p>19 role of the National Bank in this relationship? What's</p> <p>20 your agreement?</p> <p>21 A. Okay. Yes, we have the agreement between government of</p> <p>22 Kazakhstan and National Bank, trust management</p> <p>23 agreement. It states that Kazakhstan transfer money to</p> <p>24 us for trust management and according to the local law</p> <p>25 and according to the trust management agreement,</p> <p style="text-align: center;">Page 74</p>	<p>1 NBK can invest the National Fund.</p> <p>2 Q. Could you give an example of these classes?</p> <p>3 A. Yes, it is very broad list of asset classes. It is</p> <p>4 almost all asset classes that we have on the market. So</p> <p>5 these are bonds, equities, gold, deposit, cash, money</p> <p>6 market instruments.</p> <p>7 Q. Within the framework of the National Fund, could the</p> <p>8 state give instructions or could the state direct which</p> <p>9 specific assets are to be invested into?</p> <p>10 A. No, they can't.</p> <p>11 Q. How is the reporting done regarding what the NBK does</p> <p>12 with the National Funds?</p> <p>13 A. So according to the trust management agreement between</p> <p>14 the government and our bank, we need to report on</p> <p>15 a quarterly basis to the government. This report</p> <p>16 contains the all outflow and inflow to the fund. So</p> <p>17 when did we receive these contributions and when we did</p> <p>18 the transfers to the budget, and also we include some of</p> <p>19 the results, how we manage the fund.</p> <p>20 So, for example, if National Bank chose some</p> <p>21 external managers, we are putting their names into the</p> <p>22 report and also we put the results, so the return of the</p> <p>23 National Fund, the return of stabilisation portfolio,</p> <p>24 the return of savings portfolio and their respective</p> <p>25 benchmarks, and also we produce the yearly report to the</p> <p style="text-align: center;">Page 76</p>

<p>1 <b>government with pretty much the same structure that</b>  2 <b>I described.</b>  3 Q. Just to clarify, are any specific assets mentioned in  4 any of these reports?  5 <b>A. No, we do not give the specific assets, so we are not</b>  6 <b>disclosing, or we are not putting which kind of shares</b>  7 <b>or which kind of bonds are in the National Fund. It is</b>  8 <b>just general information.</b>  9 Q. So moving to the next component in this chain, so that's  10 the relationship between the National Bank and BoNY  11 Mellon, and you have entered a so-called Global Custody  12 Agreement with them?  13 <b>A. Yes.</b>  14 Q. So in accordance with this Global Custody Agreement,  15 which parties can give instructions to BoNY Mellon?  16 <b>A. So the National Bank of Kazakhstan could give the</b>  17 <b>instructions, but also the external managers, the</b>  18 <b>National Bank, could choose and give the opportunity to</b>  19 <b>external managers to manage part of the assets. So</b>  20 <b>external managers appointed by the National Bank are</b>  21 <b>also able to give the instructions to the BoNY Mellon.</b>  22 <b>But I need to clarify that NBK could give the</b>  23 <b>instructions for any of the assets with BoNY Mellon, and</b>  24 <b>the external managers could give the instructions only</b>  25 <b>related to the part of the National Fund which they</b></p> <p style="text-align: center;">Page 77</p>	<p>1 <b>on which price we bought them, from which brokers we</b>  2 <b>bought them. Also BoNY Mellon reports or account</b>  3 <b>information have all the information about all the</b>  4 <b>securities, cash, details, when the maturity, when the</b>  5 <b>coupon payment, when the dividend payment. So all type</b>  6 <b>of information in a very detailed or it could be on</b>  7 <b>an aggregated basis.</b>  8 Q. And in whose name does BoNY Mellon hold these assets?  9 <b>A. At NBK's, National Bank of Kazakhstan's name.</b>  10 Q. Are there any exceptions as to when BoNY Mellon doesn't  11 have to register NBK as the holder?  12 <b>A. As the owner.</b>  13 Q. As an owner?  14 <b>A. Yes, according to the Global Custody Agreement, because</b>  15 <b>of the market practice in the local markets, the assets</b>  16 <b>could be registered on the name of nominee, and I will</b>  17 <b>explain. So BoNY Mellon holds NBK's accounts, NBK</b>  18 <b>assets. But on a particular local market, global</b>  19 <b>custodian uses sub-custodians. For example, in your</b>  20 <b>chart, SEB, it's sub-custodian, and sub-custodians could</b>  21 <b>use the depository systems on the local market, like</b>  22 <b>Euroclear, for example. So according to the Global</b>  23 <b>Custody Agreement, on the sub-custodian level, or on the</b>  24 <b>depository level, the register could be on nominee's</b>  25 <b>name. For example, on CEB accounts, the owner could be</b></p> <p style="text-align: center;">Page 79</p>
<p>1 <b>manage.</b>  2 Q. Which parties have the rights to the assets at capital  3 BoNY Mellon London branch?  4 <b>A. NBK has the rights.</b>  5 Q. So what does BoNY Mellon do for NBK?  6 <b>A. So BoNY Mellon is the global custodian of NBK. It means</b>  7 <b>that they fulfil three main functions. So they are</b>  8 <b>safekeeping the assets, they make the transactions on</b>  9 <b>the different local markets. To be precise, they settle</b>  10 <b>the transactions and also, as the global custodian,</b>  11 <b>they're responsible for tax reclaiming.</b>  12 Q. How many accounts does NBK have with BoNY Mellon?  13 <b>A. So I think we had more than 40 accounts but, to be</b>  14 <b>precise, for Sweden market we have seven accounts.</b>  15 Q. What kind of accounts are these? Are these securities  16 accounts or cash accounts?  17 <b>A. Okay, within these seven accounts, two accounts, they</b>  18 <b>are cash accounts, and five accounts, they are mixed</b>  19 <b>cash and securities.</b>  20 Q. What kind of information about the Swedish assets could  21 be read or could be collected from these accounts in  22 BoNY Mellon London branch?  23 <b>A. Okay. So we can have all the information about these</b>  24 <b>accounts, about the securities. So we can have the</b>  25 <b>information when the particular securities were bought,</b></p> <p style="text-align: center;">Page 78</p>	<p>1 <b>BoNY Mellon because sub-custodian faces BoNY Mellon.</b>  2 Q. According to the GCA, which rights does the National  3 Bank have with respect to a specific security?  4 <b>A. According to the GCA, we have the right not for specific</b>  5 <b>security but for the security of the same type, issue,</b>  6 <b>number, class. That's the standard market practice.</b>  7 <b>For example, Electrolux has, let's say, 100 shares and</b>  8 <b>NBK owns ten shares of these thousand. It doesn't mean</b>  9 <b>that we own shares number 20, 21, et cetera, 29. So it</b>  10 <b>means that we own ten of those shares. So that's stated</b>  11 <b>in the Global Custody Agreement, that we are not kind of</b>  12 <b>claiming the specific securities but the securities of</b>  13 <b>the same type, class, number et cetera.</b>  14 Q. So we are halfway through, so maybe we should take  15 a break?  16 THE CHAIRMAN: We'll take a 15 minutes break.  17 <b>A. Okay. Thank you.</b>  18 <b>(1.30 pm)</b>  19 <b>(A short break)</b>  20 <b>(1.46 pm)</b>  21 THE CHAIRMAN: And we start the recording again.  22 MR GUTERSTAM: So then I would like to move on to the  23 National Bank's relationship with asset managers. So  24 can you start by describing who are the parties in this  25 cost relation.</p> <p style="text-align: center;">Page 80</p>

<p>1 <b>A. So the parties in this relation is National Bank of</b>  2 <b>Kazakhstan and particular external manager, particular</b>  3 <b>asset manager. So we choose external managers, we do</b>  4 <b>kind of a tender. So the different external managers</b>  5 <b>could submit their proposal to NBK and we try to choose</b>  6 <b>the most efficient, the most well-known names, and we</b>  7 <b>sign the agreement between National Bank and external</b>  8 <b>manager and there is a special part in this agreement,</b>  9 <b>also called investment guidelines. These development</b>  10 <b>guidelines represent kind of the benchmarks, the limits,</b>  11 <b>the minimum credit rating, for example, for different</b>  12 <b>types of assets. So it means that the investment</b>  13 <b>guidelines, this is a guideline to the manager, how he</b>  14 <b>should manage our assets.</b></p> <p>15 Q. So who has the right to give instructions to these asset  16 managers?</p> <p>17 <b>A. So NBK has the right.</b></p> <p>18 Q. So now we look to the next part of the structure, the  19 one between Bank New York Mellon and SEB.  20 Have you seen the sub-custodian agreement that was  21 entered into between Bank New York Mellon and SEB?</p> <p>22 <b>A. No, we didn't see.</b></p> <p>23 Q. Have you asked for it?</p> <p>24 <b>A. Yes, we asked when these kind of court, the Stati</b>  25 <b>parties started, we asked.</b></p> <p style="text-align: center;">Page 81</p>	<p>1 <b>of money if we have a lot of assessment in one take</b>  2 <b>company.</b></p> <p>3 Q. So it is spreading a risk.</p> <p>4 <b>A. Spreading the risks, yes, right.</b></p> <p>5 Q. Does the National Bank, within the framework of the  6 National Fund, does it invest in gold?</p> <p>7 <b>A. So we are able to invest in gold because I think I said</b>  8 <b>that in the list of the assets where we could invest,</b>  9 <b>there is a gold. But we do not invest in gold because</b>  10 <b>it is very risky, it is very volatile, yes, because, if</b>  11 <b>you look, for example, for gold prices for the last,</b>  12 <b>let's say, 20 years, it went up to 2,000 per ounce down</b>  13 <b>to 1,100 per ounce. So it really is very risky, because</b>  14 <b>that price of the gold is changing a lot. So we call it</b>  15 <b>volatility, high volatility.</b></p> <p>16 Q. So can the National Bank use assets for the purpose  17 of -- for monetary purposes?</p> <p>18 <b>A. You mean the asset of the National Fund?</b></p> <p>19 Q. Yes.</p> <p>20 <b>A. Yes, we can use the assets of the National Fund for</b>  21 <b>monetary purposes. As I mentioned at the very</b>  22 <b>beginning, our department is responsible for</b>  23 <b>implementing the monetary purposes, monetary policy and</b>  24 <b>manage the assets. So in this case these two things are</b>  25 <b>linked to each other. According to the law,</b></p> <p style="text-align: center;">Page 83</p>
<p>1 Q. And did you get an explanation as to why you were not  2 allowed to see the agreement?</p> <p>3 <b>A. No, I don't think that we got the explanation. Probably</b>  4 <b>for confidentiality reason, I don't know.</b></p> <p>5 Q. Does the National Bank have any right to give  6 instructions to SEB?</p> <p>7 <b>A. No, we give instructions to BoNY Mellon and BoNY Mellon</b>  8 <b>deals with sub-custodians, including SEB.</b></p> <p>9 Q. So if we move back to what you said about benchmarks and  10 investments, what type of assets does the National Bank  11 invest?</p> <p>12 <b>A. Okay. So usually benchmarks, this is the market indexes</b>  13 <b>which includes many types of the securities, which is</b>  14 <b>good for investors who want to be diversified. We use</b>  15 <b>the different benchmarks, for example for our equity</b>  16 <b>portfolio. We use very well-known benchmark, MSCI</b>  17 <b>index. That index consists of thousands of particular</b>  18 <b>stocks, and coming back to the investments, our main</b>  19 <b>goal to be very diversified. So it means that we don't</b>  20 <b>want to be concentrated in a particular market or in</b>  21 <b>a particular company.</b></p> <p>22 Q. And why do you not want that?</p> <p>23 <b>A. Because it is kind of putting all eggs in one bucket.</b>  24 <b>So for example, if something will be wrong with</b>  25 <b>a particular company, it means that we could lose a lot</b></p> <p style="text-align: center;">Page 82</p>	<p>1 <b>Central Bank, I mean NBK, can conduct the number of</b>  2 <b>operations as the monetary policy. We can accept</b>  3 <b>deposits, we can make foreign currency interventions.</b>  4 <b>We can give loans, we can issue Central Bank notes. So</b>  5 <b>the foreign currency interventions are the important</b>  6 <b>part of monetary policy, because we could stabilise our</b>  7 <b>local currency, tenge, exchange rate and when we execute</b>  8 <b>the transfers or when the contributions come into the</b>  9 <b>National Fund, we execute foreign currency operations.</b>  10 <b>So we convert local currency, tenge, into US dollars</b>  11 <b>and vice versa. So it influences to our local currency</b>  12 <b>exchange rate. So it means that we, during these</b>  13 <b>conversions between tenge and US dollars. So that's the</b>  14 <b>part of our monetary policy implementation.</b></p> <p>15 Q. I'd like to move on to the state's use of funds in the  16 National Fund. So what type of assets can be  17 transferred to the state?</p> <p>18 <b>A. To the state, we can transfer only cash in local</b>  19 <b>currency, tenge, because all the transfers we should</b>  20 <b>make to the state budget and state budget is in tenge.</b></p> <p>21 Q. As you have already mentioned, there can be two types of  22 transfers: guaranteed transfers and targeted transfers.</p> <p>23 <b>A. Right.</b></p> <p>24 Q. So can you tell how guaranteed transfers work and who  25 decides when and how much is to be transferred?</p> <p style="text-align: center;">Page 84</p>

<p>1 <b>A. Okay, so on a yearly basis we have a special law on</b>  2 <b>guaranteed transfer. So we -- at the beginning of the</b>  3 <b>year we know what will be the size of guaranteed</b>  4 <b>transfer. So the amount of guaranteed transfer, because</b>  5 <b>we transfer money to the budget, that's the part of</b>  6 <b>state budget. So it means that it should be -- so it</b>  7 <b>means that it should be approved by the Parliament.</b>  8 Q. So targeted transfers, what are they and who decides  9 that?  10 <b>A. According to the law and according to the Budget Code,</b>  11 <b>targeted transfers, these are transfers from</b>  12 <b>National Fund to the state budget for the purposes</b>  13 <b>approved by the President. But the purposes could be</b>  14 <b>only kind of two types of purposes, so until crisis</b>  15 <b>purposes and social purposes. Before it was the ability</b>  16 <b>to use target transfers for infrastructure projects, but</b>  17 <b>since December 2016, when the new concept of the</b>  18 <b>National Fund was approved, it is not the case when we</b>  19 <b>could use targeted transfers for infrastructure</b>  20 <b>purposes, with the exception that this infrastructure</b>  21 <b>projects are state important and there is no other</b>  22 <b>sources for this infrastructure projects. It means that</b>  23 <b>we are talking only about non-commercial infrastructure</b>  24 <b>projects, because if they are commercial, of course it</b>  25 <b>will be another source to fund it.</b></p> <p style="text-align: center;">Page 85</p>	<p>1 <b>A. Okay. So coming back to the first half of your question</b>  2 <b>regarding the beneficial owner, so NBK put</b>  3 <b>Ministry of Finance name as the beneficial owner,</b>  4 <b>because we thought that the beneficial owner of the</b>  5 <b>trust is the state, and so --</b>  6 Q. The question was did they believe -- when you used the  7 word "believe", do you mean that they believed or that  8 they considered that -- when you used the word  9 "believe", did you mean that they thought so or that  10 they were of the opinion that that was the case or --  11 <b>A. So it wasn't the legal opinion, it was our source,</b>  12 <b>I mean, NBK. I was thinking -- because the founder of</b>  13 <b>the trust is the state and the kind of final beneficiary</b>  14 <b>of the National Fund is the state, people of Kazakhstan,</b>  15 <b>we decided to put the Ministry of Finance name as the</b>  16 <b>beneficial owner. So we can't put the Government,</b>  17 <b>because government, it is not the body you should put</b>  18 <b>the concrete minister or whatever. So we decided to put</b>  19 <b>Ministry of Finance. So probably it is a confusion</b>  20 <b>because we don't think that the Ministry of Finance is</b>  21 <b>owner of the assets, but because ultimate beneficiary of</b>  22 <b>the National Fund is the state. And coming back to the</b>  23 <b>second part of your question regarding power of</b>  24 <b>attorney, the power of attorney is the standard form</b>  25 <b>which BoNY distributes among the different clients.</b></p> <p style="text-align: center;">Page 87</p>
<p>1 Q. Can the state receive any transfers from the  2 National Fund for any other purpose than the ones that  3 you have mentioned?  4 <b>A. No, only guaranteed and targeted transfers.</b>  5 Q. So now I would like to move to the repayment of  6 coupon tax, or tax on dividends.  7 So when an application is made for a tax refund, to  8 which account is that refund to be made?  9 <b>A. So the same NBK's account where the stock which dividend</b>  10 <b>was kind of taxable. So we receive the repayment of tax</b>  11 <b>to the same NBK's account.</b>  12 Q. So what do you do with the money that is repaid?  13 <b>A. Usually we invest this money. So as the usual</b>  14 <b>investment process.</b>  15 Q. Which right or what rights does the state have to that  16 account?  17 <b>A. The state has no right to this account.</b>  18 Q. So as part of this case some forms regarding the  19 repayment of taxes have been submitted and on those  20 forms, at Bank New York Mellon the London branch has  21 applied for the repayment of tax and has named the state  22 as the beneficial owner of the securities. This is  23 accompanied by a power of attorney signed by the  24 minister of finance.  25 Can you explain why this took place?</p> <p style="text-align: center;">Page 86</p>	<p>1 <b>So we were not drafting this power of attorney, we</b>  2 <b>were just filling it, and it was the paragraph in this</b>  3 <b>power of attorney -- so it was the signer of this power</b>  4 <b>of attorney, and we decided, because this power of</b>  5 <b>attorney is purely for the tax reasons, we decided to</b>  6 <b>sign this power of attorney by the Ministry of Finance,</b>  7 <b>because we already put the Ministry of Finance name as</b>  8 <b>the ultimate beneficiary in all tax documents.</b>  9 Q. So just to clarify, has the state of Kazakhstan had any  10 contact with Bank New York Mellon in this regard or in  11 any other regard?  12 <b>A. No, the state does not have any contact with BoNY in any</b>  13 <b>regards.</b>  14 MR GUTERSTAM: That's it. Thank you very much.  15 <b>A. Okay.</b>  16 THE INTERPRETER: They would like a break before they start  17 their cross-examination.  18 THE CHAIRMAN: So 15-minute. 15-minute break.  19 <b>A. Thank you.</b>  20 <b>(2.14 pm)</b>  21 <b>(A short break)</b>  22 <b>(2.30 pm)</b>  23 THE CHAIRMAN: So I think everyone is back. We'll start the  24 recording.  25 Cross-examination by MR NILSSON</p> <p style="text-align: center;">Page 88</p>

<p>1 MR NILSSON: My name is Bo Nilsson.                  2 <b>A. Nice to meet you.</b>                  3 Q. As you know, I'm the counsel for the counterparties and                  4 I have a couple of questions for you.                  5 <b>A. Okay.</b>                  6 Q. What kind -- the assets which you manage at your                  7 department, what are the assets?                  8 <b>A. So we manage the different assets. We manage Central</b>                  9 <b>Bank reserves, we manage National Fund. Also we manage</b>                  10 <b>the assets of unified pension fund.</b>                  11 Q. When it comes to your management of the assets in the                  12 other funds, do you have similar agreement with them as                  13 you have with the state of Kazakhstan regarding the                  14 National Fund?                  15 <b>A. We do not have any agreement on the Central Bank</b>                  16 <b>reserves but, for example, for unified pension fund we</b>                  17 <b>have the agreement that we manage the unified pension</b>                  18 <b>money at NBK. But it is not trust management agreement.</b>                  19 Q. Can I ask you some questions about your personal                  20 background?                  21 <b>A. Yes. Sure.</b>                  22 Q. What are your academic qualifications?                  23 <b>A. Okay. So I graduated at Kazakh state National</b>                  24 <b>University on applied mathematics area. I hold PhD in</b>                  25 <b>mathematics. My second background is finance. So</b></p> <p style="text-align: center;">Page 89</p>	<p>1 fundamental law is the National Bank Act; is that                  2 correct?                  3 <b>A. Yes. Right, so we have the special law. It's called on</b>                  4 <b>the National Bank.</b>                  5 Q. And I think you've mentioned that the Civil Code governs                  6 the activities of the bank in different respects.                  7 <b>A. I think I mentioned Civil Code, probably when</b>                  8 <b>I explaining some general things. I am not sure that we</b>                  9 <b>have a direct linkage in Civil Code on the National</b>                  10 <b>Bank, so I don't know really.</b>                  11 Q. What about the law of state property? Does that apply                  12 to the bank?                  13 <b>A. I don't know, sorry.</b>                  14 Q. Fair enough. Do you know whether NBK could be an owner                  15 of assets which do not belong to the state? Whether NBK                  16 can own assets which are not assets of the state?                  17 <b>A. Yes, of course, because NBK is independent entity. It</b>                  18 <b>has its own balance. It could have some daughter</b>                  19 <b>companies in the structure. Of course, taking this into</b>                  20 <b>account, I think that the National Bank could have some</b>                  21 <b>property kind of separated from the state.</b>                  22 Q. I understand your understanding. When it comes to the                  23 status of the National Funds, the National Fund is --                  24 the Republic of Kazakhstan owns the National Fund, but                  25 the National Fund has been transferred for -- into trust</p> <p style="text-align: center;">Page 91</p>
<p>1 <b>actually --</b>                  2 Q. So when did you conclude your academic studies?                  3 <b>A. So right after the university, I was teaching at the</b>                  4 <b>university and I was doing my PhD. Then I moved to the</b>                  5 <b>Central Bank in 2001 and I finished my PhD in 2003, when</b>                  6 <b>I was with the Central Bank.</b>                  7 Q. Have you been employed by anyone else apart from the                  8 university and the National Bank?                  9 <b>A. No.</b>                  10 Q. Have you been a member of the board of any other                  11 company?                  12 <b>A. Yes, currently I am the member of the board of NIC,</b>                  13 <b>National Investment Corporation. So NIC is 100 per cent</b>                  14 <b>owned daughter company of the National Bank of</b>                  15 <b>Kazakhstan.</b>                  16 Q. Have you been involved in the stock exchange in                  17 Kazakhstan?                  18 <b>A. I think I was the member of one of the committees of the</b>                  19 <b>Kazakh stock exchange before.</b>                  20 Q. I would like to move on to the legal regulations of the                  21 bank's activities. I appreciate that you are not                  22 a lawyer but you have a vast experience of the bank's                  23 activities.                  24 <b>A. Okay. Yes, I am not the lawyer, so -- but --</b>                  25 Q. As I understood from your statement earlier, the</p> <p style="text-align: center;">Page 90</p>	<p>1 management, is that correct?                  2 <b>A. Yes, that's correct.</b>                  3 Q. So moving on to the management of the National Fund, my                  4 initial question, and I think you've mentioned this                  5 earlier, but if you could be a bit more specific: where                  6 do the revenues to the National Fund come originally                  7 from?                  8 <b>A. So contributions are to the National Fund comes from the</b>                  9 <b>government to the account of the government at NBK,</b>                  10 <b>because usually --</b>                  11 Q. Maybe I was a bit unclear. Not the transfers to the                  12 National Bank, but what is the source of the money which                  13 comes to the government which is later given to them?                  14 <b>A. Understood. So according to the law the source of this</b>                  15 <b>money, mostly these are tax from the oil industry. But</b>                  16 <b>we have other sources as well. It could be the</b>                  17 <b>privatisation of some state entity or state objects,</b>                  18 <b>state -- and it could be taxes not only from oil</b>                  19 <b>industry but from other commodities as well.</b>                  20 Q. According to the trust management agreement, the                  21 government, together with the NBK, makes decisions on                  22 the activities of the fund. Is that correct?                  23 <b>A. No. I think you've mentioned this in a very broad way.</b>                  24 <b>To be concrete, as I already mentioned, government</b>                  25 <b>responsible to make a decree after the consultants with</b></p> <p style="text-align: center;">Page 92</p>

<p>1 <b>the National Bank, and this decree contains the list of</b>                  2 <b>permitted asset classes where we can invest. That's</b>                  3 <b>I think all the involvement of the government to the</b>                  4 <b>process of managing the assets.</b>                  5 Q. But this list with the permitted asset classes, this is                  6 something which is decided by the government after                  7 consulting the National Bank?                  8 <b>A. Yes, right.</b>                  9 Q. What is the management council in this respect?                  10 <b>A. Yes, this is a management council for the National Fund.</b>                  11 <b>This is a consultative body, so they can't give the</b>                  12 <b>decrees or concrete directions. According to the</b>                  13 <b>Budget Code, the council of the National Fund, they can</b>                  14 <b>consider issues and make recommendations, only</b>                  15 <b>recommendations.</b>                  16 Q. What's the composition of the management council now?                  17 <b>A. I think according to the legislation, the head of</b>                  18 <b>management council is the President of the country.</b>                  19 <b>Then we have the Central Bank governor. Then we have</b>                  20 <b>the minister of finance, minister of economy, and</b>                  21 <b>I think the heads of upper and lower chamber of the</b>                  22 <b>Parliament.</b>                  23 Q. So outside the internal organisation of the National                  24 Bank, are there any other committees or commissions who                  25 provides consultations or advice with respect to the</p> <p style="text-align: center;">Page 93</p>	<p>1 <b>management council.</b>                  2 Q. So what kind of proposals or what kind of comments are                  3 provided by the management council?                  4 <b>A. Okay. So, as so far as I know the most of the kind of</b>                  5 <b>recommendations from the management council was</b>                  6 <b>regarding the transfers, the purchases where we are</b>                  7 <b>going to use the targeted transfers.</b>                  8 Q. But it's not entirely clear. If I understood you                  9 correctly, the targeted transfers go to the state                  10 budget?                  11 <b>A. Yes, that's right, that's right. But it is in the</b>                  12 <b>Budget Code that the guaranteed transfers go from the</b>                  13 <b>National Fund to the state budget for the purposes</b>                  14 <b>defined by the President or defined by the management</b>                  15 <b>council. So usually management council decides what</b>                  16 <b>will be the purposes of targeted transfer.</b>                  17 Q. But the role of the National Bank is to just to transfer                  18 the funds. The National Bank has no influence on how                  19 the funds are used in the National Bank; isn't that                  20 correct?                  21 <b>A. No, the governor of the National Bank, as you mentioned,</b>                  22 <b>he is the member of management council, so he could make</b>                  23 <b>the proposals as well.</b>                  24 Q. So if we look at the flow in the other direction, how                  25 money comes in. And you said that the majority of the</p> <p style="text-align: center;">Page 95</p>
<p>1 operation of the National Fund?                  2 <b>A. No, there is no other committees outside of the National</b>                  3 <b>Bank.</b>                  4 Q. So just the management council?                  5 <b>A. Yes, the management council, yes.</b>                  6 Q. "High profitability with moderate risk": is this the                  7 object of the management.                  8 <b>A. No, this goal, the high return with the moderate level</b>                  9 <b>of risk, is the statement from our investment strategy.</b>                  10 <b>So we develop the investment strategy and this is a goal</b>                  11 <b>not for the National Fund, this is the purpose of</b>                  12 <b>investing the savings part of the National Fund. So it</b>                  13 <b>is not the direction of use, it is the goal of</b>                  14 <b>investing. It's the goal of investing.</b>                  15 <b>In this case we need to consider that these are</b>                  16 <b>different things: usage of the assets and investing of</b>                  17 <b>the assets. So we invest the assets till they will</b>                  18 <b>be used.</b>                  19 Q. (Swedish spoken).                  20 <b>A. Okay.</b>                  21 Q. So the task of the management council is to obtain                  22 efficient investments and they provide proposals to this                  23 effect. Is this correct?                  24 <b>A. So I think the effectiveness of the functioning of the</b>                  25 <b>fund -- we never received any investment advice from the</b></p> <p style="text-align: center;">Page 94</p>	<p>1 money comes in from the taxes on the oil sector,                  2 industry.                  3 <b>A. Oil industry, yes.</b>                  4 Q. In which currency are those taxes paid? By the oil                  5 companies?                  6 <b>A. Yes. So the most of these taxes are paid in local</b>                  7 <b>currency, tenge, but we have some exemptions. We have</b>                  8 <b>a few companies which could pay the taxes in US dollars</b>                  9 <b>as well.</b>                  10 Q. I will move to a different subject.                  11 So is it about cooperation with Mellon or BoNY? But                  12 I will call it Mellon to make it easier.                  13 <b>A. Okay.</b>                  14 Q. And as we have seen this is governed by the GCA; is that                  15 correct?                  16 <b>A. Yes.</b>                  17 Q. And we know that initially the GCA was entered into with                  18 other parties, with Boston and with Mellon separately.                  19 The material provisions in the GCA, have they been the                  20 same from the creation of the agreement, or have any                  21 major changes to these provisions, have they been                  22 achieved?                  23 <b>A. No, we didn't change GCA. Even the party was changed</b>                  24 <b>because of the merge of Mellon and BoNY, we didn't</b>                  25 <b>change the provisions.</b></p> <p style="text-align: center;">Page 96</p>

<p>1 Q. So when it comes to the relationship with Mellon,                  2 I believe that you said when you started the discussion                  3 with my colleague and I made my note in English, so                  4 we'll say it in English:                  5 "That we are managing assets and decide which                  6 instruments to buy and sell."                  7 Is this true in general or does this apply to the                  8 relationship between -- is this correct in general or                  9 does it apply to the relationship with Mellon?                  10 <b>A. It is correct in general. For example, if we have                  11 another custodian, not BoNY Mellon, it works with                  12 another custodian as well, because custodian is not                  13 involved in the investment process, and I will explain                  14 why.</b>                  15 <b>The custodian is responsible for settling the                  16 transactions and National Bank of Kazakhstan, all the                  17 managers are appointed by NBK, decides which assets                  18 should be sold or should be bought.</b>                  19 Q. And this applies to all the assets in Mellon, that asset                  20 managers decide on the investments?                  21 <b>A. Yes, right, the asset managers decide to the investments                  22 and Mellon just settles the transactions.</b>                  23 Q. So does it mean that the contact between your department                  24 and Mellon are about technical issues, such as                  25 settlement but not about the investment decisions?</p> <p style="text-align: center;">Page 97</p>	<p>1 correct?                  2 <b>A. No, the external managers do the decision where to                  3 invest and BoNY Mellon should settle the transactions                  4 that they did.</b>                  5 <b>So BoNY Mellon is not involved in any investments                  6 decisions.</b>                  7 Q. Okay, I think we'll drop this issue for now and then                  8 your other counsel might come back to this if it's                  9 unclear.                  10 You're probably aware that Mellon were involved in                  11 litigation in England.                  12 <b>A. Yes.</b>                  13 Q. Were you personally involved?                  14 <b>A. I wasn't directly involved but I think I was in December                  15 of 2017 during the hearings between us and BoNY Mellon.                  16 So BoNY Mellon was the part of the hearings, and also                  17 I provided a witness statement for these hearings.                  18 I was asked to describe our relationship with BoNY                  19 Mellon London branch.</b>                  20 Q. Then you're probably aware that during the course of the                  21 litigation Mellon stated that the Republic of Kazakhstan                  22 has significant possibilities to control or to influence                  23 the management of the funds. Do you know about that?                  24 <b>A. No, I didn't see the actual submissions from BoNY                  25 Mellon, but it is not the case. I mean, it is not the</b></p> <p style="text-align: center;">Page 99</p>
<p>1 <b>A. No, we have another department who settle the trades,                  2 who worked with the BoNY to settle the trades. So my                  3 department is purely responsible for the investments.</b>                  4 <b>So our department can buy or sell the assets and we                  5 kind of put this information to our back office, that's                  6 another department. So we transfer all the details                  7 about the transactions to the back office and back                  8 office deals with Mellon to settle the transactions. So                  9 our department, when we deal with the BoNY Mellon, we                  10 usually, for example, open the accounts for the new                  11 external managers. We work with Mellon when Mellon put                  12 the prices, because BoNY Mellon are responsible for                  13 market pricing of our assets, and also we deal with BoNY                  14 Mellon for the tax reclaim issues.</b>                  15 Q. I don't generally understand. So the individual                  16 transactions, transactions, isn't it so that they're                  17 initiated by an asset manager who decides what to sell                  18 or what to buy?                  19 <b>A. So we managed assets, both of us. So our internal team,                  20 so our department, manage the biggest part of the assets                  21 where we take decision by ourselves. But for the part                  22 of the assets, we use the external managers. So --</b>                  23 Q. Well, when it comes to Mellon as a custodian, they deal                  24 with assets where the decisions are made by asset                  25 managers about what to do and what not to do. Is that</p> <p style="text-align: center;">Page 98</p>	<p>1 <b>case that the state has big influence to BoNY Mellon,                  2 because, as I explained before, BoNY Mellon doesn't have                  3 any relationship with the state.</b>                  4 Q. Do you have any idea why Mellon would make this                  5 statement?                  6 <b>A. I don't know.</b>                  7 Q. Fair enough. I'm about to conclude my cross-examination                  8 of you. But maybe my last question is: how do you                  9 believe that the sequestration measures and the                  10 enforcement measures have affected the National Fund and                  11 the National Bank?                  12 <b>A. I think the effect was really very bad, because these                  13 enforcements, these sequestrations, just broke the whole                  14 investment process, in particular for Sweden case, we                  15 were not able to invest in new Swedish stocks. We were                  16 not able kind of to change the structure of the                  17 portfolios according to the changing benchmark, so the                  18 influence of this sequestration was quite destructive.</b>                  19 Q. We've seen that very many transactions were made with                  20 the Swedish shares, and obviously this was made                  21 impossible after the sequestration order and the                  22 attachment also were issued.                  23 <b>A. Yes, that's right.</b>                  24 Q. Would you normally conduct something called day trading                  25 where you buy and sell very short term and make through</p> <p style="text-align: center;">Page 100</p>

<p>1 these operations?</p> <p>2 <b>A. No, usually we do not make day trading, so-called day</b></p> <p>3 <b>trading, because, as I said, we invest according to the</b></p> <p>4 <b>benchmark. For Sweden case, this is MSCI world index</b></p> <p>5 <b>and Sweden is the part of this index. And, for example,</b></p> <p>6 <b>in MSCI it were about 60 or 40 Swedish shares,</b></p> <p>7 <b>companies, yes. So we invested in these shares many</b></p> <p>8 <b>years ago and we were selling stocks only if some</b></p> <p>9 <b>particular company went out from the index, or we were</b></p> <p>10 <b>buying some particular stock if there is a kind of</b></p> <p>11 <b>included to the index. And of course we were</b></p> <p>12 <b>reinvesting when the tax dividends were coming to the</b></p> <p>13 <b>portfolio or when we increased the equities share of the</b></p> <p>14 <b>National Fund overall, then we were investing in the new</b></p> <p>15 <b>Swedish shares. So we do not practice day-to-day</b></p> <p>16 <b>trading when, for example, you buy when the stock price</b></p> <p>17 <b>is down or when you sell when the price stock is up. So</b></p> <p>18 <b>we were not speculating.</b></p> <p>19 Q. But Mellon still does thousands of transactions in</p> <p>20 Swedish shares?</p> <p>21 <b>A. No, I don't think there are thousands of transactions,</b></p> <p>22 <b>because we do not do any transactions in Sweden now.</b></p> <p>23 <b>I think that's the case since end of 2017. Probably the</b></p> <p>24 <b>transactions that are you talking about, that's the tax</b></p> <p>25 <b>reclaim or dividends on the shares that we had before.</b></p> <p style="text-align: center;">Page 101</p>	<p>1 <b>Our investment strategy with a very moderate level of</b></p> <p>2 <b>risk and, as I mentioned before, we are, for example,</b></p> <p>3 <b>not even buying gold, because it is volatile.</b></p> <p>4 Q. So the fact that the value of the fund has decreased in</p> <p>5 the past years must mean that the outflows have been</p> <p>6 high, doesn't it?</p> <p>7 <b>A. It is the mixture of reasons. The first reason, yes,</b></p> <p>8 <b>for some years the withdrawal from the fund was higher</b></p> <p>9 <b>than the contribution, because, as you remember, in 2015</b></p> <p>10 <b>it was very low oil prices. It was the period for the</b></p> <p>11 <b>very low oil prices. So for 2014, '15, and '16 we had</b></p> <p>12 <b>really very moderate contributions because the oil</b></p> <p>13 <b>prices fall from 100 to almost 27, 27 dollars</b></p> <p>14 <b>per barrel. And another reason, as I said, it were some</b></p> <p>15 <b>years with negative return, and 2018 is the example</b></p> <p>16 <b>of it.</b></p> <p>17 <b>So in 2018 the contributions to the fund were much</b></p> <p>18 <b>bigger than the withdrawals of the transfer, but we had</b></p> <p>19 <b>a negative return in 2018 because negative performance</b></p> <p>20 <b>of stock markets and because US dollar increased against</b></p> <p>21 <b>the main currencies. We calculate our market – we</b></p> <p>22 <b>calculate the market value of the fund in US dollars and</b></p> <p>23 <b>when US dollars appreciates against the other</b></p> <p>24 <b>currencies, it means that we could have less in</b></p> <p>25 <b>US dollars.</b></p> <p style="text-align: center;">Page 103</p>
<p>1 <b>It shouldn't be any transactions now because, as far as</b></p> <p>2 <b>I know, our Swedish assets were sold.</b></p> <p>3 Q. So it's clear that there are no transactions now. I'm</p> <p>4 talking about the situation before these measures.</p> <p>5 <b>A. I think that it was the tax reclaims and dividends. We</b></p> <p>6 <b>were not transacting any new things.</b></p> <p>7 Q. But in addition to the shares, do the asset managers</p> <p>8 trade in options, futures, warrants, other derivatives?</p> <p>9 <b>A. So our external managers will not trade derivatives very</b></p> <p>10 <b>often because in the investment guidelines we prefer to</b></p> <p>11 <b>include derivatives only for hedging purposes. Hedging</b></p> <p>12 <b>means decreasing the value of risk.</b></p> <p>13 Q. So what about the results of the management of the</p> <p>14 National Fund, say in the past five years? Has the</p> <p>15 value increased or decreased?</p> <p>16 <b>A. Yes, we do calculate the historical performance of the</b></p> <p>17 <b>fund since inception. So the average yearly return of</b></p> <p>18 <b>the National Fund is between 3.5, 3.6 per cent, on</b></p> <p>19 <b>a yearly basis. But this is in average. It could be</b></p> <p>20 <b>the bad years, when the return is negative, but we had</b></p> <p>21 <b>only a few years of negative return. But of course the</b></p> <p>22 <b>most the years were with positive return and, as you can</b></p> <p>23 <b>see, this figure, 3.5 per cent, on average, since</b></p> <p>24 <b>inception, it's quite moderate return, because I can't</b></p> <p>25 <b>say that we have the aggressive investment strategy.</b></p> <p style="text-align: center;">Page 102</p>	<p>1 Q. This is my last question. What is the size of the</p> <p>2 compensation you had to pay to the state when the</p> <p>3 returns were negative?</p> <p>4 <b>A. Unfortunately my department is not involved to this</b></p> <p>5 <b>compensation issue, but I know it is the clause in the</b></p> <p>6 <b>trust management agreement that we need to compensate</b></p> <p>7 <b>the state if we have the negative return.</b></p> <p>8 Q. But you don't know any details?</p> <p>9 <b>A. No, I don't know any details, because we are more</b></p> <p>10 <b>responsible for investments.</b></p> <p>11 THE INTERPRETER: Clarification from the --</p> <p>12 Re-examination by MR GUTERSTAM</p> <p>13 MR GUTERSTAM: When you calculate the returns at 3.5 per</p> <p>14 cent, do you take into consideration the withdrawal from</p> <p>15 the fund?</p> <p>16 <b>A. Yes, of course we take into the consideration</b></p> <p>17 <b>contributions and withdrawals, so that's the pure</b></p> <p>18 <b>investment return.</b></p> <p>19 Q. So one thing which --</p> <p>20 So let's do it again.</p> <p>21 So one thing I want to make clear: BoNY Mellon holds</p> <p>22 about 22 billion USD. The question comes now. So out</p> <p>23 of 22 billion, is there any share which is not</p> <p>24 administered by asset managers?</p> <p>25 <b>A. No, when we talk about this 22 billion, that's the</b></p> <p style="text-align: center;">Page 104</p>

<p>1 <b>amount under external managers' management.</b></p> <p>2 Q. Last question. When you were answering one of my</p> <p>3 questions you said that the state doesn't own any</p> <p>4 specific assets in the National Fund. And when you</p> <p>5 received the question from the opposing counsel about</p> <p>6 whether the state owns the part of the National Fund</p> <p>7 which is managed by the National Bank, you said yes --</p> <p>8 no, sorry, which is transferred by the National Bank,</p> <p>9 you said yes. Could you explain how this fits together?</p> <p>10 <b>A. Yes, sure. So the state owns the National Fund but when</b></p> <p>11 <b>we consider the specific assets that NBK bought, so the</b></p> <p>12 <b>assets, the particular assets in the National Fund,</b></p> <p>13 <b>belongs to NBK, and I explained why and I will repeat</b></p> <p>14 <b>it. Because the state owns the assets which they</b></p> <p>15 <b>transferred to the account of the National Bank, and</b></p> <p>16 <b>when we convert this money into foreign currency and we</b></p> <p>17 <b>buy the assets we do it from our own name, because the</b></p> <p>18 <b>state, I mean Kazakhstan, could claim the -- just only</b></p> <p>19 <b>the equivalent of market value of these assets. They</b></p> <p>20 <b>can't claim the particular assets, because they belong</b></p> <p>21 <b>to NBK.</b></p> <p>22 MR NILSON: No further questions.</p> <p>23 <b>A. Okay, thank you.</b></p> <p>24 THE CHAIRMAN: Your testimony is concluded.</p> <p>25 Thank you, and I understand that your costs will be</p> <p style="text-align: center;">Page 105</p>	<p>1 THE CHAIRMAN: So 9 o'clock on Friday. Thank you.</p> <p>2 (3.28 pm)</p> <p>3 (The hearing adjourned until 9.00 am on Friday,</p> <p>4 12 April 2019)</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">Page 107</p>
<p>1 covered by -- you have discussed this with them.</p> <p>2 Thank you. You can stay if you want to. Maybe you</p> <p>3 want to leave as soon as possible?</p> <p>4 <b>A. Thank you, I will stay.</b></p> <p>5 <b>(The witness withdrew)</b></p> <p>6 THE CHAIRMAN: So we have done everything we were supposed</p> <p>7 to do today. We were finished a bit earlier even and we</p> <p>8 will continue on Friday at 9.00 am, same time.</p> <p>9 So we'll continue on Friday at 9 o'clock, and I'm</p> <p>10 not so sure if -- can you leave your things here?</p> <p>11 Because nobody else is going to use this courtroom</p> <p>12 tomorrow, so you can leave your things in here.</p> <p>13 Anything else?</p> <p>14 MR NILSON: Sorry, I wasn't paying attention. This means</p> <p>15 that we can leave our things tomorrow?</p> <p>16 What about the time schedule? Will we use all the</p> <p>17 time and can we start at 9.30?</p> <p>18 THE CHAIRMAN: We set aside two hours for each closing</p> <p>19 argument. National Bank, two hours, then the republic</p> <p>20 two hours, and then we have now a lunch break for an</p> <p>21 hour and 15 minutes but then we continue until 4.30.</p> <p>22 What do you think yourselves? How long will it</p> <p>23 take?</p> <p>24 MR AXELRYD: I think we might as well keep the 9 o'clock</p> <p>25 start. It's nicer to finish earlier.</p> <p style="text-align: center;">Page 106</p>	<p>1 I N D E X</p> <p>2 Page</p> <p>3</p> <p>4 Housekeeping .....2</p> <p>5 MR LENNART LUNDAHL (called) .....4</p> <p>6 Examination-in-chief by MR GUTERSTAM .....5</p> <p>7 Cross-examination by MS ISAKSSON .....11</p> <p>8 MS CATHARINA BURESTEN (called) .....18</p> <p>9 MS CATHARINA BURESTEN (sworn) .....19</p> <p>10 Examination-in-chief by MR GUTERSTAM .....19</p> <p>11 Cross-examination by MS ISAKSSON .....30</p> <p>12 MATS GUNNARSSON (called) .....43</p> <p>13 Cross-examination by MS ISAKSSON .....58</p> <p>14 MS ALIYA MOLDABEKOVA (sworn) .....63</p> <p>15 Examination-in-chief by MR GUTERSTAM .....66</p> <p>16 Cross-examination by MR NILSSON .....90</p> <p>17 Re-examination by MR GUTERSTAM .....105</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">Page 108</p>

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