



Bankruptcy Amsterdam Trade Bank N.V. (2022)



Table 7: Profile of ATB at point of failure on 22 April 2022

| Total employees | Total depositors | Total assets | Total liabilities | Total equity |
|-----------------|---|---------------------------------------|------------------------------------|-------------------------------------|
| 93 | 20,000 active accounts 23,000 dormant accounts ⁷⁴ | €953.8 million (\$1,028.8 million) | €737.7 million (\$795.7million) | €216.1 million (\$233.1 million) |

Background and context

Amsterdam Trade Bank (ATB) has been operating in the Netherlands since 1994 with over 23,000 private account holders. During the early years, ATB was mainly involved in international commodity finance, including grain, metals and energy, as well as in shipping. ATB is a subsidiary Alfa-Bank JSC (Alfa-Bank), the largest private bank and fourth largest financial institution in Russia.

Alfa-Bank was sanctioned by the Council of the EU, UK and US Treasury on 25 February, 24 March and 6 April 2022 respectively. At the point of bankruptcy, Alfa-Bank held 78.3% shares in ATB, and some of the ultimate beneficial owners of ATB are sanctioned natural persons. The remaining shares in ATB were held by ATB Holdings S.A. (10.3%), ABH Holdings S.A. (5.8%) and ATB ESPP B.V. (5.6%).

⁷⁴ Dormant accounts are terminated accounts by ATB before the bankruptcy due to long-term inactivity, but on which (often small) claimable amounts are still held

Criminal investigation under the Money Laundering and Terrorist Financing (Prevention) Act

Between 2016 – 2017, ATB faced challenges from non-compliance with obligations under the Money Laundering and Terrorist Financing (Prevention) Act, and was subject to a criminal investigation.⁷⁵ Consequently, ATB parted ways with a majority (70%) of its then corporate clients which led to significant losses.

ATB then adjusted its business model. It transitioned from commodities and shipping finance, to focus on delivering digital banking services to SMEs across the EU and UK. While ATB continued to record losses from 2019 to 2021, its bankruptcy was not caused by financial insolvency, but was triggered by geopolitical turmoil / sanctions packages from Russia's invasion of Ukraine.

Impact from sanctions on Russia

Owing to connections with its Russian parent bank, ATB was heavily impacted by sanctions. In addition to sanctions imposed on Alfa-Bank, ATB itself was officially sanctioned by the US Treasury. Certain companies and individuals from the UK and US were also not permitted to do business with ATB. Moreover, ATB could not rely on financial aid and / or operational assistance from its Russian shareholders and management.

Crucially, near its failure, major ICT and software licence providers terminated or threatened to cut-off their services to ATB. These areas related to internal systems used for financial, loan and customer administration. ATB's digital records were also barred from being accessed by its staff.

Resolution actions

Bankruptcy order

In the period leading up to its bankruptcy, ATB had sought other alternatives, including its sale to a potential acquirer. On 14 April 2022, ATB also requested for a prospective bankruptcy trustee. Two main reasons were behind this early request – first, ATB was not convinced that negotiations with the potential purchaser could go through or be completed in the short term. Secondly, the presence of the bankruptcy trustee could smoothen the process of ATB's possible liquidation.

On 21 April 2022, ATB decided to file for bankruptcy, after the deal to acquire ATB fell through. On 22 April 2022, the Amsterdam District Court declared ATB bankrupt and appointed A. van Hees & J.E.P.A. Van Hooff as Bankruptcy

Table 8: Snapshot of ATB's financial record, 2019-2021

| Year | Sales | Profit & Loss | Balance Sheet Total |
|------|-----------------------|-------------------------|-----------------------------|
| 2019 | €24.5 M (\$27.4 M) | -€21.1 M (-\$23.6 M) | €1,400.2 M (\$1,568.1 M) |
| 2020 | €25.2 M (\$27.4 M) | €37.3 M (\$42.5 M) | €1,216.5 M (\$1,386.8 M) |
| 2021 | €19.1 M (\$22.6 M) | -€21.6 M (-\$25.6 M) | €1,242.6 M (\$1,470.0 M) |

ATB was later disengaged from all payment systems including its accounts with fellow banks and the Single Euro Payments Area (SEPA) system. Payment orders were not executed, and payments orders to ATB were blocked. Without these ICT services, ATB was not able to carry on its core daily banking business and operations.

ATB's bankruptcy... is a direct consequence of the sanction packages announced by various jurisdictions in response to Russian invasion of Ukraine

Stibbe N.V, The Netherlands

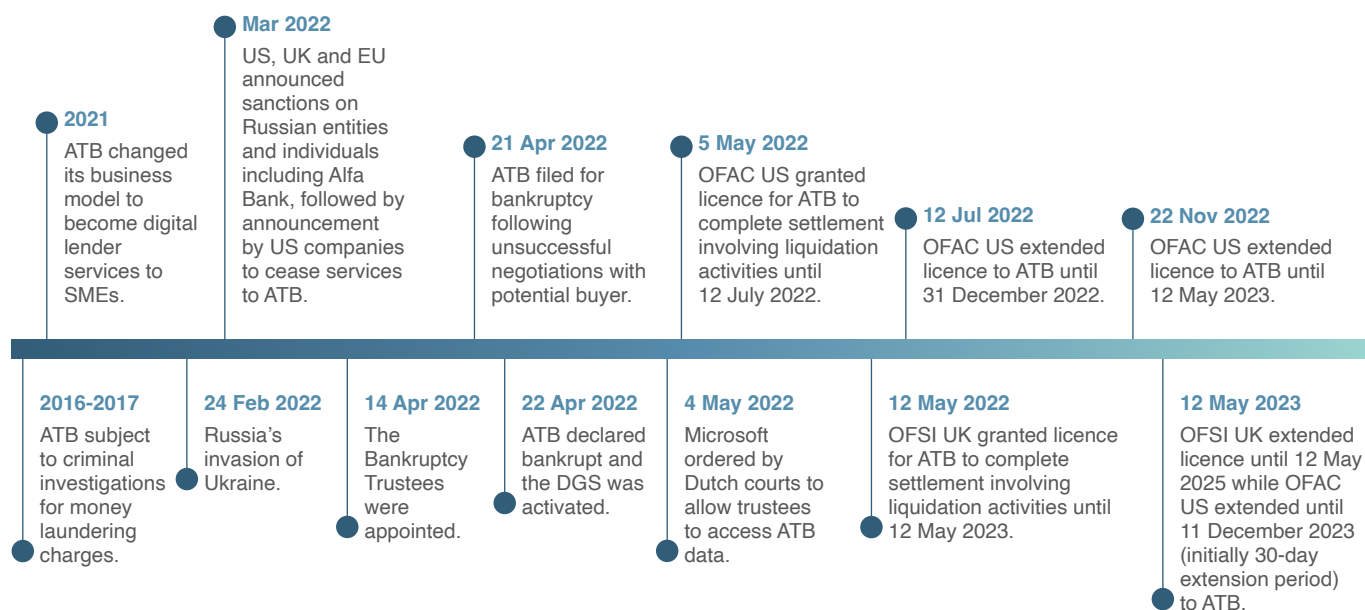
Trustees (Trustees).⁷⁶ At the point of its failure, ATB had outstanding liabilities of around €737.7 million (\$795.7 million) and total assets of €953.8 million (\$1,028.8 million). Prior to the outbreak of the Ukraine war, ATB's assets stood at €1.4 billion (\$1.6 billion) and nosedived by almost one third in the following two months until its bankruptcy.

At the same time, the Dutch central bank – De Nederlandsche Bank N.V. (DNB) – activated the Deposit Guarantee Scheme (DGS) for account holders of ATB. DNB administers the DGS on behalf of the Dutch government, and the total amount of guaranteed deposits in ATB was approximately €700 million (\$755 million).

⁷⁵ On 12 December 2022, The Public Prosecution Service (OM) decided to drop the criminal case against ATB (which has ceased to exist)

⁷⁶ A. van Hees was replaced by D.D. Nijkamp after his retirement end-2022

Resolution of ATB – Timeline of Key Events



Deposit Guarantee Scheme

In the case of ATB, the DGS automatically protects retail depositors and almost all firms and other organisations up to €100,000 per person / entity.⁷⁷ The scheme also offered additional protection for accounts with temporarily high balance related to the purchase or sale of real estate.⁷⁸

Dutch-based banks had been contributing to the DGS Scheme since 2016 and as at 22 April, the DGS fund had a balance of over €3 billion (\$3.2 billion).

The reimbursement of the DGS was conducted based on the customer's data provided by ATB to DNB one working day after the bankruptcy was declared. As a result, about

€624 million (\$675 million) was reimbursed to 18,000 account holders within the first week. As of 17 May 2023, the DGS had distributed a sum of €669.6 million (\$725.8 million) to a total of 24,070 eligible account holders of ATB. Meanwhile, for account holders with balances above the protection limit of €100,000, the Trustees have made distributions of approximately €20.6 million (\$22.3 million) to 1,356 account holders as of 23 February 2023.

In addition, ATB provided cross-border financial services to almost 6,000 customers from Germany. Since ATB had no branch in Germany, those depositors were repaid directly by DNB.

Liquidation

The Trustees encountered many challenges from legal complexities surrounding the sanctions regulations of the US, UK and EU. While waivers from the sanctions were provided in order to perform the settlement of the estate, the timeframe provided was often inadequate.

The Trustees sought to sell as many assets as possible within the term of the waivers granted by the sanction administrators – Office of Foreign Assets Control (OFAC) for the US, Office of Financial Sanctions Implementation (OFSI) for the UK and the EU. Eventually, most of ATB's

loan portfolio were sold or early repayment agreements with borrowers were negotiated. In doing so, the Trustees granted discounts in the range of 2-15%. This depended on liquidity of the loans involved, the currency, agreed interest rate, quality of the debtor, security provided, and other factors. As at May 2023, ATB had limited amount of loans to be served. In terms of other assets, ATB had balances of about €17 million (\$18 million) in accounts with three different banks (which have been blocked in connection with the sanctions). In total, the Trustees have realised proceeds from the sale of assets of approximately €575 million (\$623.3 million).

⁷⁷ As for joint account holders, the combined protection amounts for two would be up to €200,000. Dormant/ closed accounts with balances more than €5 are also eligible for reimbursement under the DGS

⁷⁸ For those who have more than €100,000 in their account(s) related to the purchase or sale of residential property, they are eligible to additional protection of up to €500,000 per person, for a total of €600,000. The additional protection applies for three months and is linked to the amount of the purchase agreement

Key takeaways

The case of ATB offers us several unique and contemporary learnings, including geopolitical and technological risks relating to bank failures.

Failures can happen unexpectedly

First, bank failures can originate from highly unexpected sources. The bankruptcy of ATB was unique, in that it was triggered by geopolitical events in Europe instead of typical solvency or liquidity issues that precipitated the failure of other banking institutions.

ATB had attempted to distance itself from the Russia-Ukraine conflict. It held out the position of being ‘a Dutch bank acting independently and separately governed from its shareholders’. In addition, it was solvent at the time of bankruptcy. However, sanctions imposed on its parent Russian bank as well as directly on ATB (by the US Treasury on 6 April 2022) led to a loss of confidence in the bank. In turn, a majority of its counterparties expressed doubts and unwillingness to continue doing business with ATB.

ATB's demise was the first instance of a Dutch bank being bankrupted by sanctions rather than financial insolvency

Sebastian Bennink, Sanctions Specialist and Legal Practitioner

Dependency on technology

A second vital point is the criticality for banks to ensure operational resilience and crisis preparedness, as it relates to technological risks. In ATB's case, such risks were intertwined with, and crystallised upon the imposition of sanctions. Before its bankruptcy, it was reported that Microsoft prevented ATB from accessing systems such as e-mail and cloud services, and Amazon had intended to follow suit. Such untenable circumstances ultimately led ATB to petition for bankruptcy.

Challenges relating to technology and operations not only contributed to ATB's failure, but also hampered its liquidation process. On 4 May 2022, Microsoft was ordered by a Dutch court to provide Trustees with access to ATB's data or risked being fined €10 million per day, or up to a maximum of €100 million. Additionally, the Trustees ended up terminating almost all existing IT contracts and creating a simplified IT system to facilitate liquidation processes (the new system was built with the assistance of employees of ATB with continued employment for this purpose). In summary, the Trustees acknowledged how sanctions complicated these and other operational issues for ATB's liquidation.

Planning matters

Thirdly, ATB's case showed the importance of planning for multiple scenarios in a rapidly worsening situation. While ATB was working out a sale of business to an acquirer, it also prospectively requested the court to provide a bankruptcy trustee. As a result, pre-bankrupt preparations were made, including safeguarding available data and navigating the complexities of sanctions-related issues with US and UK experts, e.g. exemptions from sanctions for liquidation, if necessary. These efforts culminated in more effective execution of actions by the Trustee upon declaration of the bankruptcy.

The Deposit Guarantee Scheme was effective in achieving its objective

Last but not least, the DGS scheme worked well in resolving the failure of ATB and protecting the interests of its depositors. DNB took swift action with clear communications to guide affected ATB customers. It also executed timely reimbursement of monies to most of ATB's depositors, including directly to those living in Germany.