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B4Ukraine 

August 22, 2024

RE: (1) Opportunity to respond before publication; and (2) Information on the growing risks of operating in Russia

Dear Mr. Jun and the ICBC Leadership Team,

As [B4Ukraine](#), we write to provide you with an opportunity to: (1) comment on facts concerning ICBC's financial contributions in Russia that we intend to publish as part of an upcoming report; and (2) inform you of the growing landscape of financial, legal, and reputational risks your financial institution is facing by continuing its operations in the country.

B4Ukraine is a coalition of Ukrainian and international civil society organizations that works to curtail the financial resources enabling the Russian invasion of Ukraine. In the spirit of respect for the fundamental rights of all people, the rules-based international order, and a prosperous global economy, we expect companies to demonstrate public support for the people, democracy, and territorial integrity of Ukraine, opposition to Russia's war of aggression, and alignment with the UN Guiding Principles on Business and Human Rights ("UNGPs").

1. Opportunity to Comment on Facts Concerning ICBC's Financial Contributions in Russia

B4Ukraine, in collaboration with the Kyiv School of Economics, is planning to publish a report containing information regarding your company's financial contributions in Russia. We maintain high standards of information verification before publishing, and thus, would like to provide you with an **opportunity to respond** concerning the facts we wish to present in the report. Given the report's publication is imminent, we would request your response **by September 5, 2024**. If we do not receive a response from you, we will indicate this lack of response in our publication.

First, we would like to formally enquire about whether the following information is correct:

- **Data shows that ICBC paid \$64 million in profit tax to Russia in 2023.¹**
- **This data indicates that ICBC is among the highest contributors of profit taxes in Russia in 2023.**
- **In 2022, ICBC paid \$47 million in profit tax to Russia.²**

Second, we would welcome your response to the following questions:

- **What was the company's total revenue in Russia for the year 2023?**
- **What was the total amount of tax the company paid in Russia in 2023?**

¹ Data sourced from the Central Bank of the Russian Federation.

² Ibid.

We would appreciate it if you could confirm the accuracy of this information or provide corrections if necessary, along with any supporting documents. Additionally, we would welcome any context or comments ICBC wishes to provide regarding these figures and its operations in Russia.

2. Growing Risks of ICBC's Continuing to Operate in Russia

We would like to formally notify ICBC about the serious and increasing legal, financial, and reputational risks that the company faces by continuing its operations in Russia. Under some circumstances, operations that facilitate or support – including financially – human rights abuses and international crimes³ committed by Russia in Ukraine may amount to complicity in these acts and could lead to liability under national and international laws.⁴ **Accordingly, we urge you to immediately:**

- Cease all operations and presence in Russia and completely exit the Russian market;
- Refrain from any future business, trade, investment, or other financial services in Russia until Russia ends its war in Ukraine, territorial integrity of Ukraine is restored, and accountability imposed for war crimes and the destruction of Ukrainian infrastructure and property; and
- Establish and implement comprehensive human rights due diligence measures for any responsible exit from or re-engagement with Russia.

a. ICBC's Ongoing Operations in Russia

It has been over two years since Russia invaded Ukraine and the devastating impacts continue to shock the global conscience and shake the global economy. Russia is violating international humanitarian law (“IHL”) and international criminal law (war crimes and crimes against humanity) through attacks on civilians and civilian infrastructure (*e.g.*, mass executions, sexual violence, torture, and forcible transfer of civilians). More than 30,000 Ukrainian civilians have been killed or injured, and millions more have been forced to flee their homes, creating one of the largest humanitarian and refugee crises of modern times. In recognition of the severity of these abuses, in March 2023, the International Criminal Court issued an arrest warrant for Vladimir Putin for war crimes.⁵

In response to this unprovoked and unjustified war⁶ many other companies have already left Russia. According to the Kyiv School of Economics Institute's #LeaveRussia [company tracker](#), ICBC has decided to stay and continue its business operations in Russia.

In 2022, ICBC Bank's assets reportedly grew by 2.3 times, reaching 214.7 billion rubles as of December 31. Media reports indicate that the volume of client funds in the bank more than doubled,

³ Under the Rome Statute of the International Criminal Court, international crimes are war crimes, crimes against humanity, genocide, and the crime of aggression.

⁴ See, *e.g.*, [Judicial investigation of BNP Paribas \(France\)](#) (2020) (A judicial investigation was opened into the bank's alleged role in mass atrocities in Sudan before the financial crimes and war crimes units (*pôle crimes contre l'humanité, crimes et délits de guerre*). In 2019, two French civil society organizations and nine Sudanese victims filed a criminal complaint against the bank for its provision of financial services to the government of Sudan.); [In re Chiquita Brands International, Inc. \(US\)](#), Case No. 0:08-md-01916-KAM (2024) (A jury in a US federal court in Florida found the multinational fruit company liable for financing a brutal paramilitary death squad in Colombia.)

⁵ International Criminal Court, [“Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova,”](#) March 17, 2023.

⁶ The UN General Assembly condemned Russia's "aggression against Ukraine" and demanded that Moscow “unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders.”

with deposits from credit institutions growing by 40% to 64.3 billion rubles, while deposits from non-bank clients surged by 255% to 123.8 billion rubles.⁷ The bank's profit increased nearly 17 times year-over-year, reaching 13.3 billion rubles compared to 793.5 million rubles in 2021. This significant growth was driven by a threefold increase in net interest income, rising to 3.6 billion rubles, and a more than sevenfold increase in net income from financial asset operations, reaching 9.2 billion rubles. Consequently, the bank's capital doubled over the year, amounting to 25.8 billion rubles.⁸

In September 2023, the Financial Times reported that ICBC, together with Bank of China, China Construction Bank and Agricultural Bank of China, increased their combined exposure to Russia from \$2.2bn to \$9.7bn since the start of the full-scale invasion.⁹

b. Expanding Universe of Risks for ICBC

On September 21, 2022, President Vladimir Putin escalated the war by announcing a "partial mobilisation" of the Russian population. The accompanying legislation ([Article 9 of Federal Law No. 31-FZ](#)) mandates all organisations, including the more than 1,500 international companies that are currently operating on a full or limited scale in Russia, to conduct military registration of the staff if at least one of the employees is eligible for military service.¹⁰ They must also assist with delivering the military summons to their employees, ensure the delivery of equipment to assembly points or military units, and provide information, buildings, communications, land plots, transport, and other material means of support to the war effort.

Furthermore, a decree, issued by President Vladimir Putin on March 3, 2023, enables the Russian government to suspend shareholders' rights and implement external management in companies that do not fulfil state defence contracts under conditions of martial law. In practice, the decree effectively creates an opportunity for "partial nationalization."

With legislation introducing partial mobilisation, nationalisation, and potentially, martial law in Russia, it is highly likely that corporations will not be able to prevent or mitigate negative human rights impacts, as prescribed by the UNGPs. As such, continuing to conduct business in Russia entails serious and ever-increasing risks for companies, including potential legal liability under comprehensive sanctions regimes, anti-money laundering laws, and international criminal law. International companies remaining in Russia are now at a greater risk of violating sanctions regimes, as implementation of Russia's legislation will likely involve transacting with sanctioned individuals or entities.

Moreover, in recent years, multinational corporations, including financial institutions, and their directors and officers have faced criminal accountability in national courts, *e.g.*, under the principle of universal jurisdiction, for complicity in human rights abuses and international crimes (war crimes

⁷ Ilya Usov, "Chinese Spurt: Major Chinese Banks Sharply Increase Business in Russia," April 17, 2023, *Frank Media*, <https://frankmedia.ru/120387> (accessed August 19, 2024).

⁸ *Ibid.*

⁹ Owen Walker and Cheng Leng, "Chinese lenders extend billions of dollars to Russian banks after western sanctions," September 3, 2023, *Financial Times*, <https://www.ft.com/content/96349a26-d868-4bd1-948f-b17f87cc5c72> (accessed August 19, 2024).

¹⁰ Federal Law No. 31-FZ of February 26, 1997 "On mobilization training and mobilization in the Russian Federation" (as amended), <https://base.garant.ru/136945/> (accessed November 14, 2022).

and crimes against humanity) committed abroad.¹¹ Many companies have also faced civil liability for these abuses and crimes, leading them to pay millions of dollars in compensation.¹²

In addition, financial institutions continuing to operate in Russia have added exposure under anti-money laundering and other financial crime laws,¹³ particularly in jurisdictions where international crimes are predicate offences to money laundering.¹⁴ A recent report shows that Russia poses a “real threat to global financial integrity, as well as to national security more broadly.”¹⁵ President Putin has also confirmed that the notorious paramilitary organisation, the “Wagner Group”, is funded by the Russian government. This fact brings to light further alarming risks for financial institutions, not only concerning money laundering but also terrorist financing.¹⁶ It is now a distinct possibility that financial institutions continuing their operations and paying taxes in Russia may be providing financial support to the Wagner Group.

Lastly, companies continuing to operate in Russia may be exposed to financially material risks through operational restrictions, such as limitations of future government contracts.¹⁷

c. Questions for ICBC Regarding Its Ongoing Presence in Russia

Considering the aforementioned risks and the company’s ongoing presence in Russia, we would like to pose the following questions to ICBC and await your response **by September 5, 2024**:

¹¹ [Judicial investigation of BNP Paribas \(France\)](#) (2020) (A judicial investigation was opened into the bank’s alleged complicity in genocide, torture, and crimes against humanity committed by the Sudanese government in Darfur.); [Criminal Case against Lundin Energy \(Sweden\)](#) (2023) (The oil company’s former executives are being tried for complicity in war crimes in Sudan between 1999 and 2003.); [Judicial investigation and charging of Lafarge \(France\)](#) (2024) (In June 2024, the French Supreme Court confirmed the [charge of complicity in crimes against humanity](#) against the French cement manufacturer. Between 2012 and 2014, Lafarge allegedly paid up to 13 million euros to several armed groups in Syria, including the Islamic State, to keep its cement factory running in the midst of the Syrian civil war and its atrocities.).

¹² [In re Chiquita Brands International, Inc. \(US\)](#), Case No. 0:08-md-01916-KAM (2024) (A jury in a US federal court in Florida found the multinational fruit company liable for financing a brutal paramilitary death squad in Colombia); [Nevsun Resources Ltd. v. Araya \(Canada\)](#) (2020) (The Supreme Court of Canada held that a lawsuit against the Canadian company could go forward for violations of customary international law in Eritrea, including slavery, forced labour, cruel, unusual, or degrading treatment, and crimes against humanity.).

¹³ [Criminal complaint against Booking.com \(The Netherlands\)](#) (2024) (Four civil society organisations filed a criminal complaint to the Dutch Public Prosecution Service to hold Booking.com to account for profiting from the commission of war crimes in the occupied Palestinian territory.); [Application of World Uyghur Congress v. National Crime Agency \(UK\)](#) (2024) (UK Court of Appeal ruled that the National Crime Agency’s refusal to investigate Uyghur forced labour cotton imported from China was unlawful; companies that knowingly, or with suspicion, import goods made in criminal circumstances could be prosecuted under the UK Proceeds of Crime Act for trading in criminal property); [Judicial investigation of BNP Paribas \(France\)](#) (2020) (In addition to investigating the bank for alleged complicity in international crimes, the French investigating judges are also investigating it for money laundering and concealment.).

¹⁴ See, e.g., like the anti-money laundering laws in The Netherlands, France, and the UK.

¹⁵ Themis, “Russia; Country Risk Report,” June 2023, <https://themisservices.co.uk/country-risk-report-russia> (accessed June 26, 2023).

¹⁶ Telegram, “Встреча Путина с военными и его заявления по поводу ЧВК “Вагнер,” June 27, 2023, https://t.me/rian_ru/207202 (accessed July 3, 2023).

¹⁷ Venable LLP, “Do You Contract with State Governments? If So, Beware of Emerging State Sanctions’ Obligations Related to Russia and Belarus,” *JD Supra*, June 3, 2022, <https://www.idsupra.com/legalnews/do-you-contract-with-state-governments-6537229/> (accessed November 14, 2022).

1. Is ICBC willing to provide details regarding its current position in Russia? Has ICBC considered exiting the Russian market in light of the aforementioned risks and the increasing number and severity of human rights abuses?
2. Is ICBC observing a conflict-sensitive, heightened human rights due diligence with regards to its continued operations in Russia? How is ICBC ensuring that its practices are in compliance with the UNGPs, the OECD guidance, and other internationally recognised standards on business and human rights?
3. How has the company applied heightened human rights due diligence to its operations in Russia considering the new Russian legislation requiring businesses to help conduct military registration, deliver the summons to its employees, and provide resources where required? Has ICBC received any such requests, and if so, how has the company responded to them? What is ICBC doing to safeguard its employees from mobilisation? Have any of your employees been mobilised and, if so, what was ICBC's role in the process?

As mentioned above, B4Ukraine maintains high standards of information verification before publishing. As your enterprise is acknowledged worldwide, we draw your attention to Principle 17 of the UNGPs, which urges companies to conduct human rights due diligence in cases of actual and potential human rights impacts. This includes communicating how impacts are being addressed with relevant stakeholders.

We will be awaiting your response to our questions **by September 5, 2024**. If we do not receive a response from you, we will indicate your lack of response in our publication. Please respond to the B4Ukraine Coalition at contact@b4ukraine.org.

Finally, if representatives of ICBC wish to discuss the aforementioned facts or concerns in more detail, we are open to scheduling an online call. Any such meeting would be held under Chatham House rules.

Please note that this letter and any response provided by ICBC will be published on B4Ukraine webpages.

Sincerely,

The B4Ukraine Coalition