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FOREIGN EXPERIENCE IN FUNCTIONING OF THE DIFFERENT MEGAREGULATOR MODELS AND THE WAYS OF THEIR IMPLEMENTATION IN UKRAINE

Abstract. The lack of historical experience in suppression of the financial risks and the inefficiencies of the models of opposition to the threats lead to the inability of the state to influence the processes of support, protection and improvement the bank's financial security properly. Thereby the role of providing the financial security of banking in Ukraine increases. The article researches various megaregulator models and their functioning in the foreign states, where the financial sector of the economy is considered as stable. Defined the advantages and the disadvantages of these models, as well as the possibilities to use one of them in Ukraine. Proved the necessity to reform the domestic financial market by creating the megaregulator of the financial market as well as the reformation of the financial market as the main part of the development of the financial sector. Counting the reduction of the number of central bank's staff it is proposed to use the released staff and the technical base during the creation of the megaregulator based on the central bank, or in case of the creation of a separate supervision institution and dividing the supervision functions between them.

Keywords: financial market, security, megaregulator, state regulators, central bank.

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ЗАРУБІЖНИЙ ДОСВІД ФУНКЦІОНУВАННЯ МОДЕЛЕЙ МЕГАРЕГУЛЯТОРА РИНКУ ФІНАНСОВИХ ПОСЛУГ ТА ШЛЯХИ ЙОГО ВПРОВАДЖЕННЯ В УКРАЇНІ

Анотація. Статтю присвячено дослідженню функціонування різних моделей мегарегулятора в зарубіжних країнах. Визначено переваги і недоліки таких моделей та можливості їх впровадження в Україні. Доводиться необхідність реформування вітчизняного фінансового ринку шляхом створення мегарегулятора ринку фінансових послуг.

Ключові слова: фінансовий ринок, безпека, мегарегулятор, державні органи регулювання, центральний банк.

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ЗАРУБЕЖНЫЙ ОПЫТ ФУНКЦИОНИРОВАНИЯ МОДЕЛЕЙ МЕГАРЕГУЛЯТОРА РИНКА ФЫНАНСОВЫХ УСЛУГ И ПУТИ ЕГО ВНЕДРЕНИЯ В УКРАИНЕ

Аннотация. Статью посвящено исследованию функционирования различных моделей мегарегулятора в зарубежных государствах. Определены преимущества и недостатки таких моделей и возможности их использования в Украине. Доказывается необходимость реформирования отечественного финансового рынка путем создания мегарегулятора рынка финансовых услуг.

Ключевые слова: финансовый рынок, безопасность, мегарегулятор, государственные органы регулирования, центральный банк.

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Introduction. Financial problems that have arisen in Ukraine in the recent years require a complete overhaul of the functioning of public authorities regarding the safety of financial markets. The main institutions that govern the financial market in Ukraine, in addition to the National Bank of Ukraine, are The State Commission on Securities and Stock Market and the State Commission for Regulation of Financial Services. Today we can state the inefficient functioning of the securities market, lack of orderliness of credit unions and rather weak insurance market. This leads to the conclusion that the system of regulation of the financial market is not fulfilling its tasks. This situation also negatively affects the state of the banking sector, which is closely related to the other financial market participants. One of the reasons for the ineffectiveness of the financial market are undeveloped and obsolete legislation, lack of the unified regulatory, informative and hardware base and lack of coordination of the state agencies which ensure the functioning of financial markets.. To solve these problems in Ukraine, the "Concept of reforming the banking system of Ukraine for 2020" [1] was proposed, in which one of the main points is the creation megaregulator, which will be responsible for prudential supervision and regulation of all financial markets. In our view, this approach can contribute to solving these problems.

The analysis of the research and problem definition. Questions of feasibility of megaregulator, its models and possible ways to improve it are regarded by many domestic and foreign scientists, including: G. Davis, A. Dzyun', V. Kremen, D. Kremers, V. Mishchenko, A. Pinchuk, I Ponomarev, D. Shoenmaker. However, it should be noted that the studies of the Ukrainian scientists are focused on the broad analysis of megaregulator of the financial sector as a fundamentally new institute for the Ukrainian financial market, its advantages and disadvantages and possible threats. The works of foreign scientists reflect the current state of the financial sectors of the states which use the model of megaregulator.

The article aims to study the international experience in implementation and operation of effective megaregulator as one of the main factors in increasing the stability of the banking system and the financial markets in general.

The results of the research. The wave of the crisis in Ukraine shows the need for public authorities to take unprecedented measures to ensure the ability of the banking system to withstand the destabilizing factors and threats. However, the lack of a historical experience in combating risks and inefficiencies of the models of countering the threats lead to failure of the state properly influence the process of maintaining, protecting and improving the financial security of banks. Due to this the role of ensuring the financial security of banks in Ukraine increased. Organization of providing the financial security as a management function in the rule of law must balance the interests of all public financial businesses. In turn, the state management of the financial flows without the administrative reform prevents the effective provision of financial security in the country.

Formation of financial market megaregulator in Ukraine is not a new idea. Back in 2010, a reform of the financial sector was discussed at the initiative of the National Bank of

Ukraine. Thus, in the Green Paper it is noted that the purpose (mission) of financial regulation and supervision is to increase the efficiency of the financial sector, maintaining market confidence, promoting competition, protecting the interests of consumers of financial services and enhancing the system stability. The crisis of confidence in the financial institutions because of their inability to fulfill its obligations, causes the "escape" of investors, and the resulting disruption of the monetary sector and growing social tension. The effectiveness of the regulation and supervision of the financial sector depends largely on how well defined the tasks facing the regulation and oversight of how well these objectives are understood and supported by the agencies that are developing the economic policy and are responsible for its implementation [2, p. 3]. As we can see, since the declared goal was not achieved, and a new wave of distrust in the banking system started in Ukraine. Therefore, we would like to explore the possibility of creating a megaregulator of financial services market in Ukraine, and describe the ways of reforming the state agencies for this purpose.

O.B. Dzyun reviewed the basic models and theoretical aspects of the megaregulator of the financial market [3]. He highlighted the main advantages of the megaregulator model over the sectoral model and generalized the experience of the states which have a centralized supervisor of the financial market. V. Mishchenko presented the megaregulator as one of the main factors in increasing the effectiveness of supervision over the financial market and held a classification of possible models megaregulator [4]. The author identified four options for solving the problem of the inefficiency of the modern model of regulation of the financial market: the systematic development of the existing regulator, creation of a separate regulator, creating the megaregulator based on the National Bank of Ukraine (NBU) and the introduction of "Twin Peaks" model, which features the megaregulator functions divided between the two institutions. A. Pinchuk explored the experience of the megaregulator of the financial services markets in countries such as Britain, Singapore and Australia, which gave him the opportunity to expose the main disadvantages of foreign megaregulators [5]. G. Davis compares the performance and experience of megaregulator in Europe and draws conclusions on the slowdown of the integration processes in the financial regulators of foreign countries [6]. B. Kremen' highlights the prospects and disadvantages of creating a consolidated regulator of the financial market [7]. D. Kremers and D. Shoenmaker highlighted the inability of centralized financial regulator to adequately respond to the crisis in the country and the world economy. As an example was taken a bad experience in the creation of the UK financial megaregulator and his opposition of the United States, Australia and the Netherlands [8].

Today we can say that the models of the national structures to provide the regulation and supervision in various sectors of the financial services in the state are different. For example, some regulators and supervision authorities of banks, non-bank financial institutions and securities market operating in Greece, Spain, Italy, Kirpa, Lithuania, Poland, Portugal, Slovenia and France. Special authority of regulation and supervision of banks and securities market along with a special supervisor for the insurance and non-banking financial institutions are operating in Belgium, Luxembourg and Finland. In the Czech Republic and Slovakia regulation and supervision of banks the central bank, while a special supervisor controls other sectors of financial services. In the EU the single body of regulation and supervision of all financial services sector operates in Austria, Hungary, Germany, of Denmark, Latvia, Malta, Sweden and Estonia. The central banks in Ireland and the Netherlands oversee all the sectors of the financial services.

In general, the research shows that the megaregulator model is an integrated financial sector supervision, when the activities of all financial institutions are controlled by a single institute based on the central bank. The formation the megaregulator aims to create a more stable financial market by increasing the efficiency of supervision and unification of the

relevant authorities, this method is widely used by the countries with strong economies as well as the developing countries. The opposite direction in the regulation of the financial market is the so-called sectoral model where each sector of the financial market is controlled by appropriate authority, currently used in Ukraine and in several other countries. On the one hand, this model is somewhat easier to control the financial institutions in the countries with a federal structure, but in Ukraine, this model proves to be ineffective in a conditions of transitional economy. Thus, it increases the relevance of changes in the approach to the regulation of financial markets, including the question of creating the megaregulator.

The main advantages of the megaregulator before the sector model of the financial sector regulation are the following: the ability to prevent the further distribution of the financial markets between individual market participants and intermediaries; more effective risk management and the development of adequate approaches in regulation of each sector of the financial market; harmonization of regulatory and supervisory authorities, creating a single informational base, forming a modern and universal legal framework; reduce the costs and optimize the organ. consolidation of human and material resources, reducing the number of required reports; flexibility in the management of the financial flows; ordering the system of responsibility for the state of the financial market [3]. Thus, the implementation of financial services megaregulator Ukraine can be considered as one of the most effective ways to deal with the current security risks of the participants of the financial services market, including banking system.

Under the current law the National Bank of Ukraine is a special central government authority [9]. According to the Concept of reforming the banking system of Ukraine for 2020 stipulates that the megaregulator is planned to be established on the basis of the NBU. Transfer of the credit unions, credit bureaus and pawnshops under the control of the NBU must be held by the end of 2014, insurance companies - to mid-2015, and the stock market - to the middle of 2016 [1]. Also, named Concept emphasized the need to increase the role of macro-prudential supervision for monitoring the systemic risks of the banking and the financial services markets as a whole.

At the same time it should be kept in mind that there are different models of the megaregulator. V. Mishchenko identifies several possible models of functioning of the megaregulator of the financial services market in Ukraine, namely:

- 1) creating a separate megaregulator;
- 2) creating megaregulator based on the NBU;
- 3) the creation of two separate regulatory authorities ("Twin Peaks" model) [4, p. 4-9].

Each of these models has its weaknesses and strengths, their use depends on the characteristics of the financial market.

The first model involves the creation of a separate regulatory authority, which is responsible for developing a policy for the financial sector and the introduction of consolidated supervision. If Ukraine adopts this model, when creating megaregulator based on the National Bank it will use its material and informational base as well as qualified personnel. This approach will significantly reduce the negative effects of transition period for the financial sector and lower the burden on the state budget in the process of creating such model of the megaregulator. This path has the disadvantage of a very dangerous transition to financial institutions in the design and initial implementation of megaregulator. Also, inadequate structure of the insitute can turn it into a "bureaucratic machine" and its ineffectiveness will only create a new challenges for the financial market.

As for the "Twin Peaks" model, there are some features, such as the creation of an another supervisor along with the central bank, whose task is to support the rights of financial market participants. Of course that this method imposes an additional burden on the budget and requires the significant revision of legislation. However, the introduction of this model still has the danger of a lack of coordination in the work of these authoirites that actually lead

to the same problems that now has the sectoral model. At the same time, this model will lead to a more stable and efficient financial system in the future[3]. However, given the reform of the central bank to reduce the staff NBU, the transition to this model makes it possible to employ the released staff and use existing technical and material resources of the NBU.

The above shows that the megaregulator model should be considered only in terms of the national economy, thus it is not possible to select the most efficient model as a universal and each model is suited for different situations in the financial services market. The creation of centralized regulation of the financial sector is a worldwide trend since the 90's. Today, these principles come to a new level of development and many countries are reassessing the model of the megaregulator of the financial services market. The pioneers in introducing the megaregulator were the Scandinavian countries, including Norway. Other countries that have implemented an effective megaregulator model of the financial market also include Singapore and Australia. The practice of introduction of a single megaregulator organ is used by Norway and Singapore, Australia's regulation of financial markets is based on the principle of "Twin Peaks" model.

The central regulator of the financial market in Norway is the Commission on banking, insurance and securities, which was established in 1986. The financial regulator of Singapore is Singapore Finance Administration (Monetary Authority of Singapore), which regulates the entire financial sector and serves as the central bank. Regulation of financial institutions going through one of its business units – the Financial Supervision Group.

"Twin Peaks" model has proved to be effective in Australia, where the financial market regulators are the Commission on Australian Investments and Securities (Australian Securities and Investments Commission) and the Australian Agency prudential regulation (Australian Prudential Regulation Authority). The first of these divisions is engaged in the supervision and regulation of the securities markets and the investment trusts. In addition, its competence includes the protection of investors. The second body oversees the activities of the banks, insurance agencies and funds and establishes prudential standards in the sector [5]. It should be noted that the financial regulators Council (Council of Financial Regulators) deals only with the coordination and does not interfere with their activities control these bodies.

On the other hand, some countries question the feasibility of the megaregulator system. In particular, G. Davies notes rather low efficiency of the megaregulator of Denmark and the UK [6]. The institutes of the megaregulation of financial sectors of these countries have experienced a harsh criticism after due to ineffective regulation of banking and securities markets a number of banks collapsed and the banking systems required immediate refinancing to rescue other large banks [10]. These events led to the fact that some countries have begun urgent restructuring of financial services regulators in order to strengthen the financial system.

In 2013, Britain gave up with a single megaregulator model and terminated this structure, which was presented by the Office of Financial Regulation and Supervision (Financial Services Authority), and the Committee on the Financial Policy, Prudential Supervision office and Financial Activities Committee took its place. These events caused a significant blow to the reputation of strategies to centralize the regulation of the financial sector and questioned their relevance at all. Today we see a new trend in the financial regulation, which is to move from a centralized control system to the model of "Twin Peaks" or so-called «objectives-based» model as a more flexible and able to withstand crises [8]. However, some countries such as Norway and Singapore do not plan to move to a new model of regulation of financial services, as with the peculiarities of these economies the single megaregulator model works quite efficiently and is able to withstand the current financial crisis.

Until now, the following problems remain unresolved in Ukraine: low level of capitalization of financial institutions, insufficient risk management, non-compliance to corporate governance of financial institutions with international standards, in particular the lack of transparency, poor quality financial services, insufficient protection of investors and consumers of financial services [2, c. 8]. No attempts to solve these problems with the global financial crisis gave significant results, which proves the need to introduce radical changes in government agencies that provide financial services market activity in Ukraine. Thus, it is important to understand that reform should take place with minimal load on the state budget, and the structure of shall meet the basic functions of the state. Today, an extensive system and hierarchy in power vertical characterize the executive bodies. Each of the executive power has the normative basis for their own activities and endowed with a number of authorities that enable to identify those bodies that directly ensure implementation of national policies in the financial sector, but there is no common strategy of cooperation between the executives to maintain and improve level of financial security by countering threats in Ukraine. Regarding the cooperation with the National Bank of Ukraine, the lawmakers generally ignore it. Regarding the management experience and coordination of domestic financial institutions, the central bank has a skilled workforce to provide normal functioning of the financial market and personnel capable of effective supervision of the financial sector of Ukraine.

Thus, the experience of different models of regulation and supervision of the financial sector of the economy is the basis for Ukraine in choosing how to reform the National Bank of Ukraine, the financial market. and financial sector of Ukraine. Foreign experience has shown that the creation of megaregulator of the financial market is not an easy path. However, the successful implementation of this model of regulation and supervision of the domestic financial sector will not only optimize the structure of government, it will also not create the additional burden on the state budget, which in our opinion is a matter of principle for Ukraine in modern conditions.

Conclusion. The analysis leads to the following conclusions:

1. The domestic financial market requires radical changes, including the development of the securities market. Effective and open market of securities allows banks to have access to the additional sources of capitalization, the development of the insurance market will reduce the number of insolvent as a result of some crisis customers, and strengthen regulation of credit unions will help stabilize market credit services. These improvements should increase the stability of the banking system as a whole and enhance the security level of the domestic financial market.

2. Ukrainian economy now requires restructuring, so changes in the financial market are a necessary component of the financial sector. Given the reduction in the number of workers released by NBU, the staff, technical and material resources can be used while creating a megaregulator based on the central bank, as well as in the creation of an additional supervisor and distribution of the functions between them.

3. Transfer to the formation of the megaregulator of the financial market of Ukraine can solve a number of problems in the domestic financial market. However, the choice of the megaregulator model must note the experience of foreign countries, as well as the peculiarities of the Ukrainian economy and the existing technical and material resources. The worldwide experience shows that the use of a single model of the megaregulator based on the central bank may be inefficient and harm the market, but the rejection of this model and selecting the "Twin Peaks" model will lead to the additional costs and transition effects before the system completes its formation. Errors in determining the organizational structure and the competence of the organs can lead to transformation of the megaregulator in a bureaucratic machine that will hinder the functioning of financial institutions that will ultimately affect the level of consumer protection and market participants.

4. The paper does not address the whole range of problems on reforming the government agencies to ensure the proper functioning of the financial services market in

Ukraine. We believe that the analysis of the implementation of models of regulation and supervision of the financial markets in the developed countries reveals the potential to implement such reforms in our country. Featured in the conclusion can be used in further studies of ways to reform the National Bank of Ukraine as well as the system of the state authorities to support of the financial market in Ukraine.

Література

1. Кубів, С. І. Концепція реформи банківської системи України до 2020 року [Електронний ресурс] / С. І. Кубів // Текст Концепції реформування банківської системи України до 2020 року. – 2014. – Режим доступу: <http://ukrks.info/medianews/tekst-kontseptsiji-reformuvannya-bankivskojji-systemy-ukrajiny-do-2020-roku.html>.
 2. Консультації щодо підвищення ефективності регулювання та нагляду за фінансовим сектором в Україні [Текст]. – К. : Зелена книга ; НБУ, 2010. – 28 с.
 3. Дзюнь, О. Б. Світовий досвід створення мегарегулятора на ринку фінансових послуг [Електронний ресурс] / О. Б. Дзюнь // Державне управління: удосконалення та розвиток : електронне наукове фахове видання. – 2014. – № 3. – Режим доступу: <http://www.dy.nayka.com.ua/?op=1&z=695>.
 4. Міщенко, В. Підвищення ефективності регулювання та нагляду за фінансовим сектором в Україні [Текст] / В. Міщенко // Вісник Національного банку України. – 2014. – № 8. – С. 4–9.
 5. Пінчук, А. П. Сучасний світовий досвід діяльності мегарегуляторів ринків фінансових послуг та можливість його застосування в Україні [Текст] / А. П. Пінчук // Ефективність державного управління : збірник наукових праць. – 2012. – № 33. – С. 363–370.
 6. Davies, H. Financial Regulators' Global Variety Show. [Electronic resource] / H. Davies // Electronic edition «Project Syndicate» – 2013. – Available at: <http://www.project-syndicate.org/commentary/seeking-the-right-model-for-financial-regulation-by-howard-davies>.
 7. Кремень, В. М. Консолідація регулювання фінансового ринку: світова практика та перспективи в Україні [Текст] / В. М. Кремень // Економіка: проблеми теорії та практики : збірник наукових праць : в 5 т. – Дніпропетровськ, 2007. – Т. IV. – С. 914–923.
 8. Kremers, J. Paulson's welcome strategy [Text] / J. Kremers, D. Schoenmaker // The Financial Regulator. – 2008. – Vol. 13. – P. 46–52.
 9. Про Національний банк України : Закон України від 20.05.1999 № 679-XIV [Текст] // Офіц. вісн. України. – 1999. – № 24. – Ст. 1087.
 10. Пономарев, И. Британия упраздняет финансовый мегарегулятор [Электронный ресурс] / И. Пономарев // ТПП-Информ. – 2013. – Режим доступа: http://www.tpp-inform.ru/analytic_journal/3328.html.
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References

1. Kubiv, S. I. (2014). *Kontseptsiiia reformy bankivskoi systemy Ukrainy do 2020 roku*. Available at <http://ukrks.info/medianews/tekst-kontseptsiji-reformuvannya-bankivskojji-systemy-ukrajiny-do-2020-roku.html>
2. *Konsultatsii shchodo pidvyshchennia efektyvnosti rehuluvannia ta nahliadu za finansovym sektorom v Ukraini*: Zelena knyha (2010). Kyiv: NBU.
3. Dziun, O. B. (2014). *Svitovyi dosvid stvorennia meharehuliatora na rynku finansovykh posluh*. Elektronne naukove fakhove vydanya «Derzhavne upravlinnia: udoskonalennia ta rozvytok». Available at <http://www.dy.nayka.com.ua/?op=1&z=695>
4. Mishchenko, V. (2014). *Pidvyshchennia efektyvnosti rehulivannia ta nahlyadu za finansovym sektorom v Ukraini*. *Visnyk Natsionalnoho banku Ukrainy*, 8, 4-9.
5. Pinchuk, A. P. (2012). *Suchasnyi svitovyi dosvid diialnosti meharehuliatoriv ryнкiv finansovykh posluh ta mozhlyvist yoho zastosuvannia v Ukraini*. *Efektyvnist derzhavnoho upravlinnia: zbirnyk naukovykh prats*, 33, 363 – 370.
6. Davies, H. (2013). *Financial Regulators' Global Variety Show. Project Syndicate*. Available at <http://www.project-syndicate.org/commentary/seeking-the-right-model-for-financial-regulation-by-howard-davies>
7. Kremen, V. M. (2007). *Konsolidatsiia rehulivannia finansovoho rynku: svitova praktyka ta perspektyvy v Ukraini*. *Ekonomika: problemy teorii ta praktyky: zbirnyk naukovykh prats*, 914-923.
8. Kremers, J., & Schoenmaker, D. (2008). Paulson's welcome strategy. *The Financial Regulator*, 13, 46-52.
9. Pro Natsionalnyi bank Ukrainy (1999): Zakon Ukrainy vid 20.05.1999 № 679-XIV. *Ofits. visn. Ukrainy*, 24, 1087.
10. Ponomarev, I. (2013). *Britaniya uprazdnyayet finansovyy megaregulyator*. Available at http://www.tpp-inform.ru/analytic_journal/3328.html

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