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PROBLEMATIC ASPECTS AND REFORMATION TRENDS OF INSURANCE MARKET STATE REGULATION IN UKRAINE

The main problematic trends in state regulation of insurance activity in Ukraine are investigated in the article, their negative impact on the formation of effective and fully functional national insurance market is revealed. Priorities in reforms of state regulation of Ukrainian insurance market are outlined.

Keywords: insurance market; government regulation; reinsurance; Tax Code.

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ПРОБЛЕМНІ ТЕНДЕНЦІЇ ТА НАПРЯМКИ РЕФОРМУВАННЯ ДЕРЖАВНОГО РЕГУЛЮВАННЯ СТРАХОВОГО РИНКУ УКРАЇНИ

У статті досліджено основні проблемні тенденції державного регулювання страхової діяльності в Україні, виявлено їх негативний вплив на формування дієвого та повноцінного вітчизняного страхового ринку. Окреслено пріоритетні напрямки реформування державного регулювання страхового ринку України.

Ключові слова: страховий ринок; державне регулювання; перестраховання; Податковий кодекс.

Літ. 11.

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ПРОБЛЕМНЫЕ ТЕНДЕНЦИИ И НАПРАВЛЕНИЯ РЕФОРМИРОВАНИЯ ГОСУДАРСТВЕННОГО РЕГУЛИРОВАНИЯ СТРАХОВОГО РЫНКА УКРАИНЫ

В статье исследованы основные проблемные тенденции государственного регулирования страховой деятельности в Украине, выявлено их негативное влияние на формирование действенного и полноценного отечественного страхового рынка. Определены приоритетные направления реформирования государственного регулирования страхового рынка Украины.

Ключевые слова: страховой рынок; государственное регулирование; перестрахование; Налоговый кодекс.

Problem setting. Competitive market economy is able to self-regulate and self-organize. However, market mechanism of the domestic economy is often characterized by "market failures" that occur because of the inefficiency in distribution and use of economic resources, imperfect competition and institutional environment, financial instability and deepening of economic and political crisis. Under these conditions, possibilities for market self-regulation are limited, so they cannot really ensure the effectiveness of economic development. Therefore there is a need for state intervention into the economic processes and their modernization, especially during crisis overcoming. In this context, particular attention is paid to the development and implementation of effective and balanced mechanisms at state regulation of the insurance market, the institutions of which are aimed at ensuring economic growth and financial stability of the state, and welfare for its citizens.

"The state should be the guarantor of market economy; the creator of formal restrictions; it should organically fit into the rules of market behavior and do not

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interfere with market mechanisms" (Jaworska, 2010: 305–309). Excessive state intervention into insurance business may lead to an increase of insurance costs, the decrease in insurance and reinsurance, lack of insurance premiums and insurance reserves formation. Imperfect government regulation contributes to weaker state control over the activities of market participants thus creating conditions for the spread of "schematic" insurance. Thereby, the interests of the state should be aimed at balancing the interests of policyholders and insurers; moreover, it is necessary "to look for economic mechanisms of their coordination and on this basis to define the separation of the state functions and market in the insurance policy of the state" (Bazylevych, 2006: 6–9).

In the insurance theory the problem of state regulation is one of the ever actual ones. On the one hand, this is due, to the insurance market instability, and on the other, due to the imperfection of contractual relationships regulation, contradictions in current insurance legislation and the need to develop the priority directions in phased adaptation to international standards.

Latest research and publications analysis. An important contribution to the study of insurance market state regulation was made by such economists as V. Bazylevych (2006), S. Chernyshov (2011), N. Dobosh (2010), O. Hamankova (2009), T. Jaworska (2010), A. Zavada (2011). However, institutional environment of the insurance market effective functioning is not yet formed, the problems of insurance operations taxation remain urgent; they require regulation modernization and insurance supervision further promotion.

The research objective is to identify the problematic trends in state regulation of the national insurance market and also to identify the priority directions in its reformation.

Key research findings. During the crisis, the problems associated with institutional shortcomings of the insurance market are escalating and the introduced anti-crisis measures are aimed at guaranteeing the financial security of the state and increasing the role of insurance in the financial stability of national economy though they didn't solve the problems of the crisis period. We have systemized the negative trends of state regulation that slow down the development of the insurance market in Ukraine.

Imperfect tax regulation of insurance processes has a negative impact on the formation of a civilized and viable insurance market. Significant changes in financial and economic activities of insurers have taken place with the introduction of the Tax Code of Ukraine as of 02.12.2010, which was supplemented and changed several times during the last 5 years.

In the transitional period of the Tax Code of Ukraine (01.04.2011–01.01.2013) the current tax system was saved, including the tax rate of 3% for insurance operations (Tax Code of Ukraine, 2.12.2010). It is needed to single out here a number of controversial points in the regulation of insurance and reinsurance activities that negatively impact the insurance market development. In particular, it concerns taxation of insurers' income, according to which insurance (reinsurance) premiums were the subject to tax both insurers and reinsurers thus leading to their double (repeated) taxation.

This tax arrangement met the interests of the state due to the use of insurance and reinsurance as a source of budget replenishment, but it contradicted the interests of insurers and reinsurers increasing their tax burden. Under these circumstances

insurers used "schematic" insurance to avoid repeated taxation of premiums. Over the time the "schematic" insurance (reinsurance) is reoriented, but its amounts are not changed significantly.

We should note that since 01.01.2013 there have been positive changes, according to which, while determining the tax base from the amount of collected insurance payments, the insurance payments are derived, that are transferred to reinsurance; this allows forming a balanced system of insurance business taxation able to optimize the interests of the state and insurers. These changes contributed to the avoidance of double taxation, and that's why allowed lowering the reinsurance rates by 3% thus satisfying the insurers' requirements. Accordingly, in 2013 the shares of insurance premiums, transferred to reinsurance, increased by 2.6 times due to the growth in domestic reinsurance by 246.6%, indicating the interest of insurers in the placement of insurance risks to reinsurers residents to protect their property interests and to obtain additional income in the form of commission (Information on the status and development of the insurance market of Ukraine, 2013).

But changes to the Tax Code as of 1 January 2013 are saved, in accordance with the standards of the Law of Ukraine # 5083-VI "On Amendments to the Tax Code of Ukraine and the State Tax Service in connection with the administrative reform in Ukraine" as of 05.07.2012, including amendments to paragraph 57.1 of Article 57 of the Tax Code regarding the timing of payment of tax liabilities that led to a change in the methods of income tax administration (Tax Code, 2.12.2010). Insurer's profit, received during tax reporting month, is not the base of taxation, but the average value of insurer's tax payment for 9 months of the previous year is. Such innovations on the procedure and methods of taxation of insurers's profits contradict and violate all principles of taxation policy, economic and social justice, the uniformity of tax load.

The tax regime of insurance and reinsurance operations has been thus changed and a new one is introduced, leading imbalance of fiscal interests of the state, social and economic interests of insurers (reinsurers). These tax reforms have purely fiscal a purpose – to save tax revenues in the budget at the level of the previous year. Thus, the state creates guarantees for replenishment of centralized funds, anticipating and deepening the negative trends of economic development. In our opinion, while determining the approaches to the development of insurance business taxation, it is appropriate, first of all, to take into account its special place in the economic system. Irrational and unfounded tax regulation determines the rising in cost of insurance products, leading to a decrease in insurance sales and insurance market capitalization. Therefore, the system of insurance taxation should focus on optimal combination of fiscal and regulatory functions of taxes to reconcile the interests of the insurance business and the state.

Since January 1, 2015 insurers face new problems connected with double taxation of their activities. Under these new changes in the Tax Code, the system of insurance premiums taxation at the rate of 3% is maintained for insurance companies and at the same time the general system of income taxation from operations (insurance) at the rate of 18% is introduced (Tax Code, 2.12.2010). Thus, insurance premiums are taxed twice: first, when reaching the insurer, and second, during the formation of gross income to calculate the profit before tax. Introducing such changes only deepens the negative trends at the insurance market.

An important problem of the national insurance market is the low quality of services on reinsurance operations, accompanied by imperfect law regulation of reinsurance contracts, no guarantees of timeliness and completeness of payments to reinsurers, poor training and low skills of market participants.

To improve contractual relations and quality of reinsurance services we suggest simplifying the registration procedure of reinsurance contracts, the introduction of which has no practical value, since it does not provide specific requirements to reinsurance contracts, but defines only the obligations of parties already stated in other legal documents. Such additional legal regulation leads to additional regulatory pressure on insurers due to the complication of insurance and reinsurance procedures state regulation.

The basic conditions for the formation of management system of insurance and reinsurance services quality are: the effective mechanism to combat dumping by developing a balanced underwriting policy at the insurance and reinsurance market; providing conditions for organization of insurance (reinsurance) pools in Ukraine; quality and transparent information supply at the market; increasing the requirements to assets types and structures, the share capital and reserves of insurers.

One of the main directions of the insurance market integration into the world economic environment is the harmonization of insurance legislation of Ukraine in the direction of its conformity with international standards, the determination of the degree of market openness to foreign insurers and increasing the volume of export-import insurance operations quality. In this context, a significant problem of the national insurance market functioning is the low quality of its information support. Data as presented in Ukrainian statistics are insufficiently transparent and traceable. Thus, it's practically impossible to reproduce the real processes at the market. This statistical information is difficult to compare with the market indices of other countries without the additional information and making some adjustments. Auditing at the insurance market requires qualitative changes. A large number of small auditing firms in Ukraine often give false conclusions with false and distorted information. For transparency promotion it is necessary to introduce the general program of transferring the insurance (reinsurance) markets to the international financial reporting standards.

Because of the common interests of the state, insurers and their professional associations in improving the legislative regulation of insurance and reinsurance markets, the Draft Law "On Amendments to the Law of Ukraine "On insurance" (19.12.2011, # 9614) has been developed. The positive aspect is that the law provides the regulation of relations at the insurance market with the introduction of European standards. The draft law aims to increase the level of insurance and reinsurance protection caused by necessary changes in the regulatory framework associated with Ukraine's accession to the WTO, the adaptation of existing insurance laws to European legislation, the need to improve the monitoring of insurers and to strengthen control over compliance of requirements regarding the insurers' capital and their ability to pay, the feasibility of introducing European standards of risk classification, the licensing procedures of insurers (reinsurers), international standards of corporate governance and prudential supervision.

Strict control over risks, more attentive of partners, raising tariffs and other global trends significantly influenced the structure and the quality of insurance business

in Ukraine. Accordingly, the tendency to increase the retention of national insurers is evident, aimed at cost savings under the conclusion of reinsurance contracts. At the same time the institute of reciprocity is especially actualized, the principles of which prevent the complete competition at the national insurance market and its effective development.

Non-residents, unlike Ukrainian reinsurers, don't hurry to post their own risks of life insurance at the reinsurance markets of other countries, trying to keep long-term investments in the national economy. We note that there's no portfolio of domestic reinsurers risk of this type of insurance. On this subject, S. Chernyshov (2011) argues that for the development of international reinsurance business companies need to organize a team of professionals able to operate at foreign markets, to have high reputation and a positive history of cooperation at foreign markets and the financial stability as according to international rating agencies.

In the current post-crisis period, national reinsurers must maintain partnerships with foreign reinsurers and keep their trust, to create a reserve of financial strength under economic downturn, to develop a clear and balanced and underwriting policy and a marketing line at the reinsurance market. Despite low capitalization and capacity, some companies have been able to gain trust and certain reputation, and also professional experience at international reinsurance markets. At the same time Ukrainian reinsurers face a number of obstacles to their successful development. In particular, it's the lack of state support for the export of reinsurance services, the lack of understanding on reinsurance effectiveness as an important tool for attracting foreign investments to the country. As a result there's an inadequate state regulation of reinsurance processes, the lack of transparent information support for reinsurers and its inconsistency with international standards of accounting and reporting.

The lack of transparent financial statements according to the international standards (IFRS), that is clear for non-residents from the position of reinsurer's solvency determination and the evaluation of reinsurance risks and capital, slows the integration of the national reinsurance market into the world insurance space. We note that in Ukraine only a few players at the reinsurance market use consolidated accounts, applying international standards and most of them are reporting in accordance with national legislation. These payments differ significantly from calculations under IFRS, causing unreliable information support of the national reinsurance market for the international community.

The situation is getting even more complicated with the introduction of a new legal regime taking into account the risk solvency standard "Solvency II" in 2013 in Europe. "An important positive aspect of Solvency II regime is the desire to instill a culture of risk management to the insurers, to encourage them to strategies targeted at higher income on the basis of risk and greater diversification of the portfolio" (Solvency II, 2011). Some positive developments regarding the implementation in practice of the insurance and reinsurance markets of the international standards for the reporting and new requirements on solvency of their participants that characterize a new draft law "On Amendments to the Law of Ukraine "On insurance" (19.12.2011, # 9614). By it the notion of regulatory capital, the calculation of its minimum size are introduced. However, the linear formula is in the basis of its calculation which differs significantly from the standard formula of Solvency II; thus creat-

ing contradictions between the indicators of national and international reporting. The use of this formula in national practice will increase the number of mergers and acquisitions agreements, as insufficiently capitalized re(insurers) compete to attract additional capital and the attention of big and enough capitalized insurers with diversified portfolios. In our opinion, the introduction of an internal model for capital formation into Ukrainian insurance and reinsurance practice is the first step towards the unification of national legislation and international norms of reinsurance business, but the introduction of Solvency II standards is premature.

Conclusions. Summarizing the investigation we can outline the priorities in the improvement of state regulation at Ukrainian insurance market in the combination with self-regulation processes: to reform the existing method of insurers taxation; to set the capital and solvency requirements for insurers basing on the harmonious combination of national practices and monitoring the Solvency I; to simplify the registration procedure of reinsurance contracts in the context of avoiding the duplication of the existing control functions of the National commission of financial services; to strengthen the control of the national regulator for unfair competition and dumping at the insurance market; to form transparent financial statements in accordance with international standards, which are clear for nonresidents from the position of key indicators of insurance and reinsurance business; to improve the quality of insurance services in order to guarantee the fulfillment of obligations under insurance contracts and timely payments of insurance compensation.

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