Welcome to the Ukraine Banking & Finance Regulatory Newsletter which gives you a selection of key developments in the Ukraine financial market, including further reforms, currency liberalizations and new perspectives.

In this issue:

- Key supervisory priorities and work programmes
- Recent supervisory trends and developments

We hope you enjoy this edition and wish you a great start to the festive season!

Please stay tuned to our periodic banking and finance updates.

Key supervisory priorities and work programmes

The comprehensive program of Ukrainian financial sector development until 2025 (link) (link)

At the present time stakeholders are finalizing the Program of the Ukrainian Financial Sector Development until 2025. The beginning of its implementation is scheduled for January 2020. The aim of the program is to replace the existing program of Ukrainian financial sector development.

The pillars of the Program as presented by the regulators are:

1. Ensuring the sustained economic development of Ukraine.
2. Ensuring macro-financial stability.
3. Increasing the reliability and technological effectiveness of the financial system.
4. Reaching European standards on the financial market.
5. Increasing trust in the financial market.

The new strategy should try to resolve the following future issues:

- A big portion of state sector scrutinise competition on the banking services market.
- Lending to the real sector of the economy is impeded by insufficient protection of creditors rights, as well as by a problem of many non-performing loans.
- State support of lending to the real sector of economy remains fragmented and inefficient.
- The other development of non-banking financial services is subject to approaching to international standards.
- Capital markets infrastructure remains insufficient and undeveloped.
The contribution of banks and other financial institutions to economic growth remains low.

According to the program, progress should be made in the five following areas:

**Ensuring financial sector stability:**

- Effective regulation and supervision:
  - improvement of model for regulation of the financial sector and enhancing of the institutional capabilities of regulators
  - harmonization of the model of financial sector regulation and regulation requirements with EU regulatory acts
  - introduction of international principles for state regulation and supervision of non-banking financial services market in compliance with IAIS and IOPS standards and EU directives, including Solvency II
  - introduction of European legislative standards related to abuse on capital markets, including MAR and MAD

- Transparency of financial sector:
  - increasing of transparency of services of the financial sector, improving standards of services and exchange of information
  - implementation of FINREP/COREP
  - implementation of disclosure of information based on Solvency II standards
  - implementation of plan of action under BEPS
  - international exchange of information

- Capacity of financial sector to withstand future challenges:
  - decreasing the level of “dollarization” of the economy
  - ensuring liquidity of the financial system
  - limitation of risk concentration by financial market participants

- High quality of corporate governance and risk management in financial sector:
  - upgrading corporate governance among market participants
  - development of risk management system among market players
  - increasing social and ecological orientation of market participants
  - improving the way NPLs are dealt with, including encouraging a sales market

**Macro-economic development**

- Ensuring macro-economic stability

- Promotion of bank lending to the real economy:
  - promotion of lending to small and medium-sized businesses, by credit guarantees, complex products, etc.
• development of syndicated lending
• takin-off mortgage lending

Development of non-banking financing:
• development of non-banking lending
• increasing the ability of businesses to use financial lease operations for renewing of capital funds

Protection of creditors’ and investors’ rights:
• improving legislation and legal and regulatory protection for exercising creditors’/investors’ rights
• introduction of compensation programs to protect investors on capital markets
• enhancing the effectiveness of court procedures and court decision enforcement

Development of conditions to attract long-term resources into the economy:
• promotion of investment funds
• development of contributory pension schemes

Financial inclusion

Enhance availability and level of use of financial services:
• development and implementation of strategy for financial inclusion
• launching financial services infrastructure for use in remote areas
• upgrading the regulatory framework to increase the effectiveness, competitiveness and security of electronic payments in the financial system

Consumer protection in financial services:
• creation of a regulatory environment to supervise the behaviour of financial markets participants
• enhancing control of adverts on financial services markets
• ensuring transparency of information with regard to commissions/fees payments charged by banks and non-banking financial institutions

Enhancing the population’s financial education:
• promotion and implementation of educational programs, events

Financial markets development

Development of non-banking financial services markets:
• stimulating insurance services development
stimulating development of financial leasing, non-state pension funds, credit unions

Effective capital markets infrastructure:
- implementation of international standards for the functioning of capital markets infrastructure (CSDR, EMIR, MiFID II, MiFIR, PFMI) adapted to the Ukrainian market
- ensuring possibility for clearing infrastructure to provide trading within usage of variance margin

Development of liquid markets of financial instruments and mechanisms/instruments for financial services risk mitigation:
- increase of liquidity of state bonds
- regulatory improvement and development of derivative financial instruments
- launching of commodity securities and assets securitization

Integration of financial services in UAH into global financial markets:
- promotion of trading with financial instruments nominated in UAH on international markets
- introducing Ukrainian securities into international indexes

Innovative development
- Development of open architecture of financial market and platforms of regulators:
  - adaptation of local legislation to PSD 2 requirements
  - new standards and payment format implementation (ISO 20022)
  - implementation in Ukraine of a national system of instant payments

- Development of fintech market:
  - development and implementation a strategy to advance fintech
  - P2P/crowdfunding development and implementation
  - development of regulatory sandbox
  - creation of regulatory framework for circulation of cryptoassets
  - introduction of GDPR standards into financial sphere

- Development of regulatory and supervisory technologies (SupTech & RegTech):
  - development of R&D in the NBU
  - digitalization of registries and introduction of electronic cabinets for consumers

- Development of digital economy:
  - promotion of the NBU's BankID
The Program involves the cooperation of major stakeholders and regulators in the field of financial markets and services, such as the NBU, the Securities Commission, the Financial Services Commission, the Ministry of Finance of Ukraine, the Deposit Guarantee Fund, the Independent Association of the Banks of Ukraine and the Banking Committee of the Parliament of Ukraine.

Standards of corporate governance for professional stock market participants in Ukraine issued by the NSSMC (link)

The NSSMC approved the Corporate Governance Standards for Professional Stock Market Participants by the Decision No. 420 dated 30 July 2019. These Standards aim to create a competitive environment on financial markets and protect investors and consumers rights.

These Standards define approaches to building a corporate governance framework and an internal control system, which includes compliance subsystems, risk management, internal audit and set out the basic principles for formulating remuneration policies for professional participants.

The Decision of the NSSMC comes into force on January 1, 2020, with a transitional period until January 1, 2022, to bring the internal procedures and documents of professional participants of the stock market up to the requirements of these standards.

Concept of the NSSMC on supervision of professional participants on the stock market (link)

This Concept aims to improve the supervision of professional participants on the stock market, by means of establishing supervision on a risk evaluation basis and aligning supervision by the NSSMC within the principles of securities regulation issued by IOSCO. The Concept establishes key principles of supervision, as well as core elements of a risk management system for professional participants on the stock market.

NBU introduced the main principles of monetary policy for 2020 and the medium-term perspective (link)

- The NBU established a target inflation rate for the medium term to be 5%, enhancing the inflation target as a "nominal anchor" of the monetary policy in Ukraine.

The NBU will continue to commit itself to inflation targeting.

NBU further liberalized currency control regulation by abolishing restrictive measures

During 2019, the NBU introduced a number of currency liberalization measures pursuant to the Law "On Currency and Currency Transactions", among those were:

- Cancellation of mandatory sale of FX proceeds
- Cancellation of all limits on repatriation of dividends abroad
- Cancellation of the limitations on transfer of funds by Ukrainian entities to the accounts of their foreign branches and representative offices
- Cancellation of the requirement to register cross-border loans with the NBU and cancellation of the NBU maximum interest rate cap
Significant changes regarding Ukrainian security documents have been introduced by the new Law “On Amendments to Certain Legal Acts of Ukraine on Resumption of Lending” which was enacted on 4 February, 2019, resulting in an overall strengthening of protection of creditors’ rights.

According to the new law, the liquidation of the borrower would not terminate the security, if the creditor has filed a claim against the surety/pledgor/mortgagor before the record of liquidation of the borrower has been entered into the register of legal entities.

According to the new rules, suretyship will not terminate anymore as a result of the increase in the debtor’s obligation (amount, term, interest rate, fines) without the surety’s consent. In such cases, the surety continues to be liable to the amount that existed until the date of the increase of the obligation secured by that surety.

At the same time, the deadline for filing claims by creditors to the surety has been extended from six months up to three years from the maturity date of the principal obligation, unless a fixed suretyship term is set out in the agreement. Failure to file a claim within the above deadline will result in termination of the suretyship.

The rights of the creditor in the process of foreclosure of the mortgaged property have been significantly strengthened. Previously, in case of extrajudicial foreclosure of the mortgaged property, all further claims of the mortgagee to the debtor ceased to be valid, even if after such foreclosure a significant portion of the loan remained unpaid. This is no longer the case.

**Code of Ukraine on Bankruptcy Procedures (link)**

The Code of Ukraine on Bankruptcy Procedures (the “Code”) sets out a new legislative framework for bankruptcy proceedings in Ukraine (except for Ukrainian banks, which have their own banking resolution regulation).

Among the key amendments of the Code as compared to the previously effective legislation are: (i) changed requirements for initiating bankruptcy proceedings; (ii) introduction of directors’ joint and several liability; (iii) extension of the hardening period to up to three years; and (iv) introduction of bankruptcy procedure for individuals.

**Law “On introduction of Amendments into Certain Laws of Ukraine for the Stimulation of Investment Activity in Ukraine” (link)**

The law introduces the concept of security trust, which widens the toolkit creditors can use to secure a borrower’s obligation, as a way of improving the investment climate in Ukraine.

- Cancellation of the prohibition on prepayment under cross-border loan agreements
- Cancellation of the requirement to obtain individual licenses for cross-border transactions, in particular, for transfer of funds to foreign accounts of Ukrainian companies; transfer of enforcement proceeds, etc.
- Permission for individuals to make foreign currency and banking metals purchases without limits
- Permission for non-residents to open and maintain current accounts in Ukrainian banks (in both UAH and foreign currency)
- Cancellation of mandatory period for settlements under certain import/export operations
- Introduction of a new hedging instrument on the currency derivatives market in Ukraine: non-deliverable forward contracts
Among the key features of the security trust are:

- Only loans can be secured by a security trust
- A security trust can be transferred to a third party that fulfils the principal obligations
- Only private property can be subject to a security trust

**Law "On the Introduction of Amendments into Certain Laws of Ukraine for the Improvement of State Regulation of Financial Services Markets" (link)**

The Split Law envisaged the liquidation, prior to 01 July, 2020, of the Financial Services Commission and the re-allocation of its functions among the NBU and the NSSMC.

**Law "On Introduction of Amendments into Certain Laws of Ukraine on Improvement of the Procedure for Financial Restructuring" (link)**

The law is aimed at optimizing and clarifying the procedure for financial restructuring. The law extends the Law "On Financial Restructuring" for a period of three years, until 19 October, 2022, and introduced several amendments to it, including:

- The possibility of conducting a common restructuring procedure for several debtors that are related parties, but have different creditors
- Easement of restructuring procedures from the perspective of the Antimonopoly Committee's approval
- Clarification of key procedural matters
- Extended period for satisfaction of claims for encumbrancers in case of lack of collateral value

**Ukrainian Parliament ratified the Agreement between the Government of Ukraine and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA (link)**

Pursuant to the Agreement, financial institutions operating in Ukraine should reveal the accounts that are governed by the obligation to file reports and the owners of which are US taxpayers (both individuals and legal entities). The Agreement shall enter into force when Ukraine serves notice to the US in connection with the completion of all national procedures required for its implementation.

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