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ORGANIZATIONAL AND LEGAL PRINCIPLES OF MANAGEMENT
OF THE INSURANCE MARKET OF UKRAINE
IN THE POST-CRISIS PERIOD

World experience of countries with developed market economies shows that effective management is the most important condition of development of insurance market. Now the insurance market in Ukraine as well as other financial and credit institutions are exposed by the global financial crisis. It requires the management of insurance companies develop appropriate institutional and legal framework and its correction, taking into account factors inherent for post-crisis period of financial instability.

On the financial market of Ukraine has considerable variety of subjects like banking and non-bank. Insurance companies belong to non-banking financial institutions sector. In conditions of financial instability and world globalization insurance market in Ukraine found itself in difficult circumstances. A lot of insurers due to lack of funds and rapid decline in the purchasing power of the currency, leading to possible impairment of insurance, refused to conclusion and extension of insurance contracts. Insurers accumulated funds were unavailable to them or if they are placed on deposit in the bank (due to the freeze on deposits and the early closure delays speculative money banks), or lose its value if were invested in securities (in connection to sharp decline in the stock market). All this leads to delays or denials in

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payments to policyholders. Due to the decline in lending banks unable to lobby within the financial group or insurance companies deal with.

On the way to raise funds is a lot of problems, including political and financial instability, high level of shadow economy, many financial frauds on the financial market in general and insurance in particular. Overcoming these challenges is possible only in a complex and at the national level. So, research of insurance market in Ukraine becomes especially important in terms of organizational forms and conditions of work, legitimacy, transparency and revenue.

A few special researches In Ukraine were devoted to issues of insurance activity in this context. It should be noted that the order of a statutory capital of insurance companies – one of the crucial preconditions for the election of a legal form of activity. Features of the insurers' own capital devoted a considerable amount of research scientists-economists. So S. Osadets considers capital insurers in terms of features and economic essence of insurance¹. N. Nahaychuk offers insurance viewed on the one hand, as an independent business and established business for profit, which may be subject to interest investors, as well as special economic institutions, on the other, which, however, can act as an insurance salesman and temporarily free money resources². Private aspects of order and creation of authorized capital of insurance companies and their organizational forms are covered in scientific works of such local scientists – N. Aleksandrova, V. Bazilevich, O. Vovchak, E. Hamankova, T. Harmaty, A. Yermoshenko, N. Tkachenko and others.

To justify selection of organizational and legal principles of management of insurance company in terms of prospects in post-crisis period is a purpose of its article. To achieve the goal in the article decided the following tasks:

- 1) Investigated and revealed the advantages and disadvantages of particular forms of insurance companies in Ukraine in accordance with applicable law;
- 2) Analysis of the country's insurance market in terms of legal forms;
- 3) Carried out study selection form of insurance in the post-crisis period.

In Ukraine, according to the part 2 of the Law of Ukraine „On insurance”, insurers are recognized financial institutions established as joint stock, limited, general partnerships or additional liability partnership. Law of Ukraine „On Business Associations” peculiarities the creation, registration, capital formation and business activity for each type of legal form of insurance

¹ S. O s a d e t s. *Insurance: Tutorial* – Kyiv: MBK 1998. – 528 pp.

² N. N a h a y c h u k. *Insurer Money Management / Finance of Ukraine*. – 2008. – N° 11.

companies. According to the state register of financial institutions, insurance companies in the form of complete communities in Ukraine³. The need for additional capital contributor to the insurer due to the requirements of the Law of Ukraine „On insurance” under which the authorized capital of insurance companies should not be less than EUR 1 million (for companies engaged in other types of insurance than life insurance) and 1.5 million (for companies engaged in life insurance). Such large volumes of share capital determined to protect our policyholders and increasing confidence in insurance institutions. Currently in legal forms for insurance companies and their comparative performance in accordance with legislative requirements reflected in Table 1.

However, it should be noted that these requirements will be changed in part concerning joint stock companies in connection with the entry into force in September this year, Law of Ukraine „On Joint Stock Companies”. In particular, the notion of open and closed joint stock companies will be replaced by public and private companies. Besides, no matter what kind of society will create, the time of registration will be required to conduct a private placement of shares between the founding pay full face value of all shares, the amount which, as already mentioned, can not be less than 1 and 1.5 million EUR. To offer a public company (i.e. shareholders other than the founders of attraction) to its campaign to they entered the Ukrainian Stock Exchange listing. It should be noted that until the listing of Ukrainian stock exchange does not include any insurance company with 44 operating in the form of joint stock companies. Also every public joint stock company must open a personal web-page on the Internet which will post all public information about their activities. Development of such a page so far cost at least \$ 1000. For research the effective choice of legal form appropriate to review insurer's warehouse market insurance companies in Ukraine at the indicated sign. (Table 2).

³ State Register of insurers and reinsurers Ukraine [electronic resource]. – Mode of access: www.dfp.gov.ua

Tab. 1. Comparative characteristics of requirements of legal forms of insurance companies in Ukraine under the Laws of Ukraine „On Business Associations” and „On Insurance”⁴

Symptom	Joint Stock Company	Closed Joint Stock Company	Company with additional liability	Limited partnership
1	2	3	4	5
Definition and scope of limiting liability of owners	Partnership, which has authorized (made) capital divided by certain number of shares of equal nominal value, and is responsible only for obligations of the Company's property.	Company authorized (made) capital divided into shares which certain statutory documents sizes. Members of this society are responsible for its debts with their contributions to the statutory (composite) capital, and with insufficient amounts of these - in addition to their private property the same for all participants to fold the amount of the contribution of each participant.	Company authorized (made) capital divided into shares which certain statutory documents sizes. Members of this society are responsible for its debts with their contributions to the statutory (composite) capital, and with insufficient amounts of these - in addition to their private property the same for all participants to fold the amount of the contribution of each participant.	The company, which together with one or more participants engaged in on behalf of company business and are responsible for the obligations of society all its property, there are one or more members, whose responsibility is limited to deposits in the property company (investors), and are not participate in the community.
	Shares may be distributed through open subscription and sale of listed shares divided between shareholders and can not be distributed by subscription, bought and sold on the exchange.			
Formation of the authorized capital of company	Founders and participants may be enterprises, institutions, organizations and citizens, except the laws of Ukraine			
	Can be created by one person, who becomes his sole member (shareholder). Founders must be holders of not less than 25% of the value of company share capital.	Participants enjoyed prior right to purchase shares of another participant, if announced its intention to implement.	For the establishment necessary at least two people – one has to bear full responsibility, the other – limited	Each participant should make at least 50% of its share, and investor – not less than 25%.

Participation in the management	Shareholders (participants) do not necessarily participate in the current administration. Directly influence the decisions of all businesses owners (shareholders) is the only opportunity for the general meeting	Owners of shares with full responsibility must take part in joint business activities of companies and owners of particles with limited such participation does not accept.
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Table 2. The structure of the insurance companies of Ukraine in the legal form⁵

Index	as on 1.01.2006		as on 1.01.2010		Deviations	
	A	%	A	%	A	%
1	2	3	4	5	6	7
Total insurance companies in the state registry, including:	426	100	459	100	33	7.75
Joint Stock Company	51	11.97	44	9.59	-7	-13.73
Closed Joint Stock Company	305	71.60	339	73.86	34	11.15
Four limited partnership	2	0.47	1	0.22	-1	-50.00
additional liability partnership	68	15.96	75	16.34	7	10.29

It should be noted that during 2009, most of the crisis, the state register of financial institutions insurance companies newly included considerably fewer than removed. However, the relative share of each legal form remains intact. Most insurance companies in Ukraine operates as a closed joint stock companies not only due to the possibility of establishing and easily generate income investors, but also lower level requirements for financial stability compared to an open joint stock company or of limited and lesser amounts of information that should be regularly made public. Therefore, this form of organization allows you to invest a certain amount of money and generate revenue without taking part in activities; keep hidden your participation in society, have a significant stake and manage the distribution of total company revenue in yours own interest.

The amount of additional liability companies increasing. Rather, this trend is due to raised level requirements to the establishment and operations of joint stock companies. The share of such companies can be expected to increase in the insurance market in Ukraine with foreign investment. So, based on the analysis can be stated that up to now to create insurance organizations are governed by the founders of the revenue sharing terms, the necessity of participation in current activities and the opportunity to influence the management of administrative decisions. 73.86% of insurers are active in Ukraine on such a basis in the form of closed joint stock companies.

In addition, part 5 of the Law of Ukraine „On Joint Stock Companies” provides that the quantitative composition of the shareholders of a private company can not exceed 100 shareholders. This requirement is due to the introduction of the Law of

⁵ State Register of insurers and reinsurers Ukraine. [electronic resource]. – Mode of access: www.dfp.gov.ua

Ukraine "On fight against corruption and combating the legalization of proceeds of crime" and Ukraine's aspirations for integration into the European economy and world capital markets.

Gradually, in Ukraine created a sufficient legal framework of insurance activities, based on the legal framework and rational management in this area of economy. This also applies to choice of legal form of insurance in which the company managed in the first place, provided that additional investments to the capital. Given the state of Ukrainian market, this motivation seems to be quite reasonable. Thus the form of private (closed) company chose the majority of insurers-residents of Ukraine and their share in recent years only increases (fig. 1).

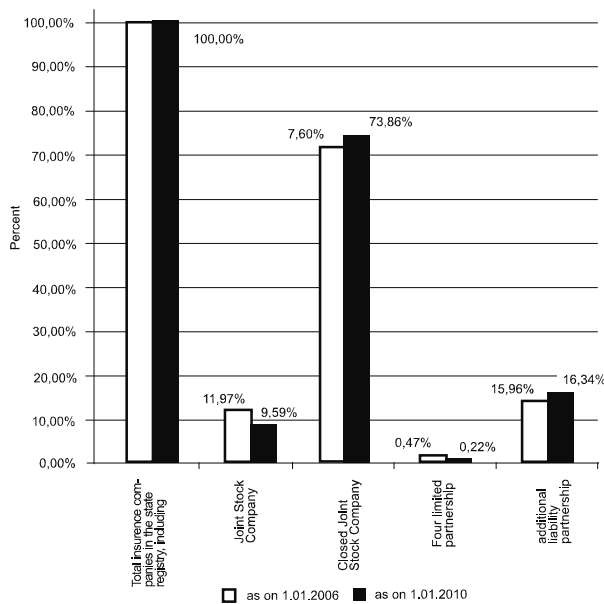


Fig. 1. The structure of the insurance companies in Ukraine in terms of organizational forms⁶

However, to attract financial assets, according to the requirements of national legislation, PPPs need to make changes to the statute, remove shares, replacing them by others for the new party. If the investor will have an alternative project, such a complicated procedure may become an obstacle to the insurer. To protect the

⁶ State Register of insurers and reinsurers Ukraine [electronic resource]. – Mode of access: www.dfp.gov.ua

interests of the domestic insurance market seems reasonable to simplify the registration of change of insurer capital, including its enlargement towards.

The problem of need compulsory property insurance in case of disaster and its role in providing insurance protection of property interests deserves special analysis.

Value of property insurance can not be overstated. So in the world in 2007 were only 142 natural and 193 technological disasters, loss of which surpassed 70 billion dollars USA⁷. Losses from catastrophic risks in the world are growing annually by 12%⁸.

The technological accidents and natural disasters in Ukraine are another confirmation of this disappointing theory. Natural disaster in western Ukraine in 2010 was one of the largest in the last decade, which once again demonstrated the vulnerability of the economy from these natural anomalies. Society sure again that the only protection against the consequences of catastrophic risk insurance should be, which is a powerful tool to minimize financial losses of people and the state in unpredictable situations. To this must be addressed the organizational and legal principles of management of insurance companies.

Urgent problem is to develop the concept of insurance system in Ukraine that would take into account the interests of the state, agricultural producers, investors and private insurers.

Ineffectiveness of direct payments to the state flood or drought shows that all risk crop yield falls to taxpayers. When building a rational organizational and legal system agricultural insurance the risk divided between farmers and the state insurance company. Countries, which care about efficient agriculture, go by this way.

International experience shows that state support for agricultural insurance, which is provided mainly in the form of compensation insurance payments are more effective for direct payments of the state in the form of grants, credits, debt relief, postponing payments and direct cash compensation. It costs the state less and, unlike direct subsidies to farmers, not inconsistent with WTO rules.

Against the backdrop of global climate change in Ukraine annually suffers increasingly agricultural enterprises, increasing their losses. Only harvest fruits and vegetables annually lost 60%. State when too large for its budget expendi-

⁷ Natural catastrophes and man-made disasters in 2008: America and Asia suffer heavy losses // <http://www.swissre.com.N°2.2009.htm>

⁸ P. S e r k o v a. *Insurance market is ready to pay moneys* // The market of Ukraine. – 2008. – N° 34. – P. 22-28.

tures in post-crisis period are able to cover no more than 10% of the job elements of damages. When Ukraine will put agricultural insurance earns a mechanism generally accepted in the calculation of the average insurance rate (insurance value) of about 7%, then, such as insurance payments of 155 million. Agricultural company in the insurance case can expect to pay about 2.2 billion (100% cover the loss). Arithmetic is: $2.2 \text{ billion} * 7\% = \text{about } 155 \text{ million USD}$. That approximates the annual cost of the contingency fund budget to cover such losses.

Until there is no clear strategy of management of agricultural companies risks In Ukraine. Two parts governing agricultural insurance in the Law of Ukraine „On State Support of Agriculture of Ukraine” is imperfect. Our country on this issue yields even CIS neighbours – Russia, Moldova, Belarus and Kazakhstan. As for building a local agricultural insurance system, the noteworthy project of the „Concept of development of agricultural insurance in Ukraine”, which is developing the „State Commission for Regulation of Financial Services of Ukraine and law number 5063 dated 21 August 2009” On the peculiarities of agricultural insurance with state support, the Verkhovna Rada adopted in first reading.

With regard to proposals that include concept and the bill number 5063, you can talk about three possible options for agricultural insurance system in Ukraine. According to the first, the state itself is the insurance of agricultural products, is responsible for all agricultural risks, and carries huge material costs not only directly with insurance, but also the creation of appropriate infrastructure. Second – the private sector assumes all risks without government support. But in this case the insurance is so expensive for farmers, they simply can not afford to allow it and, therefore, remain without insurance coverage. The third option – Combined: affiliate model – state and private sector.

Given the foregoing, the best in post-crisis period the country’s economy will be the third option.

However, the model of agricultural insurance has many problems. In particular, it is the function of Agencies (governmental body) and its relationship with the Bureau of composing „The only association of insurers”. The main functions of the latter organization procedures will transfer funds from the Compensation Agency to insurers and re-organization of a unified program. But in the proposed concept the functions of the Bureau greatly expanded. Yes, provided for the formation and management of guarantee funds and funds that are received from the Agency’s compensation insurance premiums as

insurers. There is a danger that the Bureau will become powerful financial monster that may be involved in corrupt acts.

So, we must find such a right for the legal form of association of insurers, which would combine all of the insurance market competitive interests, specializing on agricultural insurance. It should not be cumbersome structure; management will develop a methodological framework for implementing the agricultural insurance for state support. Currently, the concept of improving the agricultural insurance market, where it will be a genuine partnership between the state and insurance companies is extremely important.

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ORGANIZATIONAL AND LEGAL PRINCIPLES OF MANAGEMENT OF THE INSURANCE MARKET OF UKRAINE IN THE POST-CRISIS PERIOD

S u m m a r y

In the article a market of firms of insurance analysis is done on Ukraine in relation to a legal form, presents the prospects of dynamics of structure. Insurers authors are grounds to the choice of legal form of the offered methods of support of insurance firms in present economic terms.

Key words: Insurance, insurance market, insurance companies, management, organizational and legal forms.

ORGANIZACYJNE I PRAWNE ZASADY ZARZĄDZANIA NA RYNKU UBEZPIECZEŃ NA UKRAINIE W OKRESIE POKRYZYSOWYM

S t r e s z c z e n i e

W artykule dokonano analizy rynku firm ubezpieczeniowych na Ukrainie pod względem formy prawnej. Przedstawiono też perspektywy rozwoju struktury i dynamikę wzrostu. Autorzy dają podstawy do wyboru formy prawnej proponowanych sposobów wspierania firm ubezpieczeniowych w obecnych warunkach gospodarczych.

Słowa kluczowe: ubezpieczenie, ubezpieczeniowy rynek, ubezpieczeniowe kompanie, kierowanie, organizacyjne i legalne formy.