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ВРЕГУЛЮВАННЯ НЕПЛАТОСПРОМОЖНОСТІ ПРОБЛЕМНИХ БАНКІВ: ТЕОРЕТИКО-ПРИКЛАДНИЙ АСПЕКТ

SOLVING THE INSOLVENCY OF TROUBLED BANKS: A THEORETICAL AND APPLIED ASPECT

Алексеєнко Л. Врегулювання неплатоспроможності проблемних банків: теоретико-прикладний аспект. *Український журнал прикладної економіки та техніки*. 2023. Том 8. № 4. С. 228 – 232.

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Європейський вибір України відбувається в умовах масштабування військових конфліктів, глобальних зрушень від геоекономічної фрагментації та нових економічних викликів, які потребують визначення правового статусу учасників відносин неплатоспроможності, процедур тимчасової адміністрації, фінансового оздоровлення й ліквідації банків. Охарактеризовано методико-прикладні підходи щодо відстеження зростання зовнішньої фінансової уразливості України та питомої ваги транскордонних банківських операцій в процесі євроінтеграції. З'ясовано, що важливо визначити вплив валових потоків на фінансову стабільність, географічні та фінансові детермінанти транскордонних банківських вимог, а також вплив внутрішніх, зовнішніх та глобальних факторів. У прикладному аспекті аргументовано, що у випадку неплатоспроможності банки використовуватимуть однакові права для захисту, незалежно від того, чи були ці заходи прийняті відповідно до законодавства ЄС або національного законодавства. Констатовано, що входження України до міжнародних бізнес-циклів зумовить поширення фінансових інновацій між країнами, що сформує критичний канал для передачі фінансових шоків. На виникнення неплатоспроможності банків впливає макроекономічна волантильність економік; невизначеність макроекономічної ситуації впливає на ринкову рівновагу та ускладнює дорожні карти регулятора. Визначено, що доцільно відстежувати тренди між неплатоспроможністю та неліквідністю для формування додаткового буферу власного капіталу для покриття додаткових витрат. Встановлено, що з урахуванням сучасних реалій для врегулювання неплатоспроможності проблемних банків та фінансового оздоровлення доцільно систематизувати заходи щодо запобігання неплатоспроможності; підвищення ефективності управління фінансовими зобов'язаннями; проведення переговорів із боржниками; захисту інтересів керівників та акціонерів; консультування з питань міжнародної неплатоспроможності.
***Ключові слова**: неплатоспроможність банків, фінансова безпека, банківський нагляд, інструменти врегулювання, фінансовий сектор, фінансове оздоровлення, капітал, ризики, кредитори.*

The European election of Ukraine takes place in the context of scaling military conflicts, global shifts from geo-economic fragmentation, and new economic challenges that require the determination of the legal status of the participants in insolvency relations, procedures of temporary administration, financial rehabilitation, and liquidation of banks. Methodological and applied approaches are characterized to track the growth of Ukraine's external financial vulnerability and the specific weight of cross-border banking operations in European integration. It is found that it is essential to determine the impact of gross flows on financial stability, geographical and financial determinants of cross-border banking requirements, and the impact of internal, external, and global factors. In the applied aspect, it is argued that in the event of insolvency, banks will use the same rights for protection, regardless of whether these measures were adopted under EU or national law. It was established that Ukraine's entry into international business cycles would spread financial innovations between countries, forming a critical channel for the transmission of financial shocks. The macroeconomic volatility of economies influences the occurrence of bank insolvency; the uncertainty of the macroeconomic situation affects the market balance and complicates the regulator's road maps. It was determined that monitoring trends between insolvency and illiquidity is expedient to form an additional equity buffer to cover additional costs. It was established that it is expedient to systematize measures to prevent insolvency from resolving the insolvency of problem banks and financial recovery considering modern realities; improve the efficiency of financial liability management; negotiations with debtors; protect the interests of managers and shareholders; consulting on issues of international insolvency.
***Keywords**: bank insolvency, financial security, banking supervision, resolution tools, financial sector, financial recovery, capital, risks, creditors.*

Statement of the problem

Ukraine's European choice is taking place in the context of scaling military conflicts, global shifts from geo-economic fragmentation, and new economic challenges that can slow down convergence in the EU. The ECB deals with supervisory procedures that lead to the adoption of supervisory decisions that determine the granting or refusing permits (licenses) to supervised entities, setting capital (liquidity) requirements, applying administrative penalties, and preventing bank insolvency. Ukrainian banking legislation should determine the legal status of participants in insolvency proceedings, procedures of temporary administration, financial recovery, and liquidation of banks.

In theory and practice, a generally accepted definition of insolvency, liquidation, bankruptcy, and financial recovery has yet to be accepted. The national literature has different approaches to highlighting insolvency's organizational and legal basis. L. Prymostka focuses on the role of bank lending at different phases of the economic cycle to identify measures to mitigate the negative impact of credit expansion on the cyclicality of the economy [1, pp. 175–180].

O. Lyubich, A. Drobyazko, & O. Borschuk examine the role of state-owned banks in ensuring the stability of the banking sector under martial law [2, pp. 65-84].

S. Brana, D. Chenaf-Nicet, & D. Lahet explore the multifaceted nature of bank insolvency (the impact of cross-border banking requirements); T. Nguyen Huu, & D. Karaman Orsal – impact of geopolitical risks and financial stress; L. Raguideau-Hannotin – impact of financial and banking integration; L. Bounader, & G. Traficante – the impact of monetary policy in the behavioral environment; Papathanassiou C. – the impact of banking supervision. However, the scientific and applied aspects of the methodology of solving the insolvency of troubled banks, considering external, internal, subjective, and objective factors and threats, have yet to be comprehensively disclosed in economic studies.

The purpose of the research

The article aims to deepen the theoretical and applied foundations of bank insolvency and develop practical recommendations for its resolution, taking into account monetary policy trends. Achieving this goal necessitated solving the following main tasks: to analyze the peculiarities of financial and banking integration in the context of Ukraine's European vector of choice; to characterize the specifics of monetary policy and prudential supervision in the EU; to track trends between bank insolvency and illiquidity; to determine the policy of banks with state participation in the capital and banks with foreign capital to prevent insolvency when introducing remedial measures.

Presentation of the main research material

In the conditions of global geo-economic fragmentation, the EU faces the difficult task of restoring political and economic stability. This should be facilitated by financial stability, support for the "green growth" investment policy, and price stability in the long term.

Ukraine should consider the peculiarities of the financial and banking integration of Central, Eastern, and South-Eastern European countries as candidates for joining the EU. A characteristic feature of these countries is the growth of external financial vulnerability since the beginning of the transition period, as the specific weight of cross-border banking operations, particularly with the EU, is increasing. Empirically, based on the gravity model, the impact of gross financial flows on financial stability was determined; long-term historical, geographical, and financial determinants of cross-border banking requirements were assessed; the influence of internal (pull), external (push), and global factors were analyzed [3].

Prudential supervision in the EU has been carried out by the ECB since 2014. The main rules set clear limits on how the ECB can supervise and take measures that could adversely affect a bank. The EU Court recognizes as invalid any measure that violates fundamental human rights. Fundamental rights are a powerful counterweight to the standard of limited review established by the EU judicial system for the activities of the European Banking Supervision [4, pp. 420–431]. Banks use the same rights to protect themselves against any measures that adversely affect their activities, regardless of whether these measures were adopted under EU or national law. In a judicial procedure, it is established that higher norms of international law are subject to jus cogens. This refers to mandatory provisions on the universal protection of human rights, from which neither EU member states nor UN bodies can deviate, as they constitute inviolable principles of international law. These legal norms are essential for Ukraine regarding the use of blocked assets of bank owners of an aggressor country that violated international peace and security.

From 2023, the central banks of the EU will significantly strengthen monetary policy, and the governments of the EU will reduce budget transfers and fiscal support of the economy. A tight monetary policy increases the cost of loans and causes the deterioration of the real estate balance of households and corporations. The EU banking sector has sufficient capital reserves, but in the event of financial shocks or geopolitical competition, an unfavorable scenario may arise that will complicate lending conditions.

The diffusion of financial innovations between countries forms a critical channel through which financial shocks are transmitted between economies. Using a medium-scale DSGE model for two countries, which includes an endogenous growth mechanism, confirms the impact of innovations [3]. The model demonstrates the international diffusion of technologies. However, not technological shocks or any other shocks, but the transmission of shocks through the diffusion of new financial technologies is the key driver of international business cycles.

General, external, and internal shocks similarly affect the economic stability of banks that use the latest technologies.

The uncertainty of the macroeconomic situation affects the market balance and complicates the regulator's road maps. The financial recovery methodology of the Doing Business framework determined the expediency of studying the time, cost, and results of insolvency proceedings of domestic legal entities [5]. These variables were used to calculate the recovery rate (cents per dollar) received by secured creditors as a result of reorganization (liquidation, enforcement) (Fig. 1-2). The highest present value of the amount recovered by creditors was in the OECD, Europe, and Central Asia countries, which indicates a well-developed legal framework.

To resolve insolvency, it is worth highlighting the main internal factors that have caused problems for banks:

- unfair behavior of bank owners and top management (loan defaults);
- manipulation of the actual state of compliance with established regulations (banks falsely reflect their book value);
- abuses in forming and structuring the loan portfolio (risky transactions, underestimating borrowers' creditworthiness, and loan collateral).

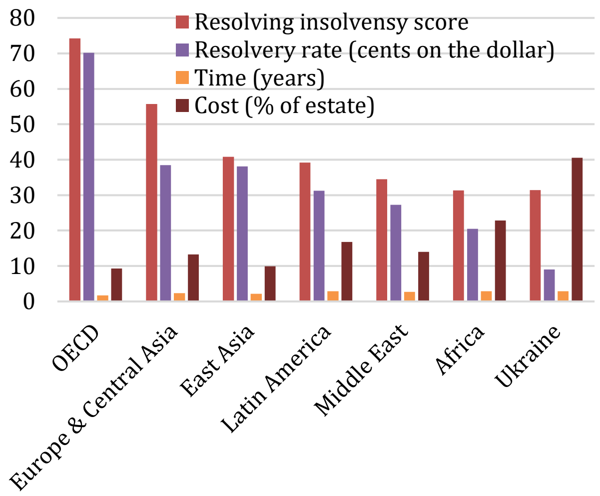

Fig. 1. Solving issues of insolvency of legal entities

**Source: [5].*

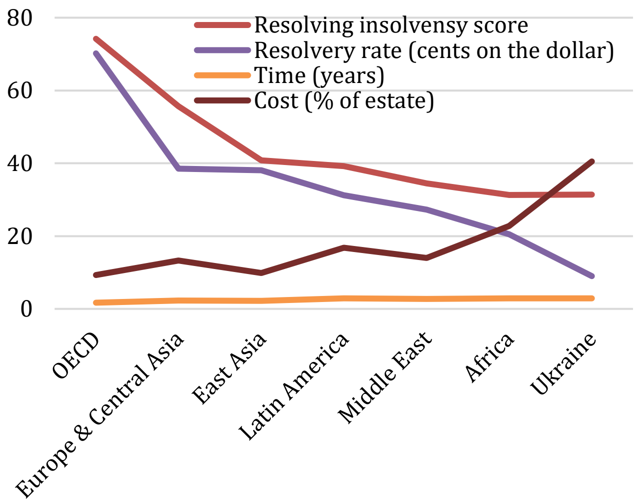

Fig. 2. Solving issues of insolvency of legal entities

**Source: [5].*

The Deposit Guarantee Fund monitors the use of criminal schemes by insolvent banks to withdraw funds (submission of false information about the bank's owners (shareholders), splitting large deposits, selling pledged property at reduced prices). It is appropriate to monitor the trends between insolvency and illiquidity because if problems arise due to illiquidity, then banks can obtain liquidity regulation from the Central Bank against the collateral of their long-term assets since the high yield of these assets will return in the future. If the problem is insolvency, then equity capital should contribute to eliminating the bank's losses. Liquidity regulation may only work if there is certainty about the definition of a bank's problems, as banks cannot obtain sufficient liquidity because collateral at risk of insolvency is no longer considered liquid. Banks must have an equity buffer to regulate liquidity to cover additional costs. Equity requirements can also be ineffective, as determining proper financial health makes owning equity capital even more expensive. As a rule, market failure is determined using compact models. This makes it possible to develop appropriate regulatory rules. The complexity of economic processes in the financial segments should be studied in collaboration so that the banking sector participants have perfect information about financial crisis phenomena and types of shocks.

In uncertain conditions, they practice applying robust-optimal monetary policy in a behavioral environment. Implementing this policy in the behavioral New Keynesian model for determining the interaction of the central bank and the private sector under the influence of price uncertainty is noteworthy [6]. Under such conditions, the central bank solves the problem of optimal robust monetary policy, and the Brainard damping principle applies, i.e., monetary policy becomes more aggressive.

Regarding interest rate regulation (IRS) under uncertainty, the use of a simple model of monetary policy implementation and quantitative easing (QE) policy shows the benefits of QE policy, as it provides central banks with a degree of freedom and improves their ability to keep money market rates in line with the target level [7].

Banks with the state's participation in the capital (BSC) play an essential role in stabilizing the financial system in conditions of military aggression [2, pp. 65-84]. A comparison of the financial results and the place of each BSC with banks of foreign financial groups and banks with private capital indicates the expediency of revising the list of critical strategic indicators of banks from the point of view of unification and convenience for measuring and comparing the performance of top management, as well as monitoring investment attractiveness.

Financial innovations make determining whether a financial institution is insolvent or illiquid is more challenging. The diffusion of financial innovations between countries forms a critical channel through which financial shocks are transmitted between economies. Using a medium-scale DSGE model for two countries, which includes an endogenous growth mechanism, confirms the impact of innovations [3]. The model demonstrates the international diffusion of technologies. However, not technological shocks or any other shocks, but the transmission of shocks through the diffusion of new financial technologies is the key driver of international business cycles.

Catastrophic events can reduce lending volumes, while banks are expected to expand lending for recovery. Natural disasters and typhoons affect the credit activity of banks, particularly Chinese banks. They are empirically proven by the method of difference coefficients based on data analysis of 161,000 bank branches of 327 Chinese banks for the period from 2004 to 2019, that on average, typhoons cause a decrease in credit volume, which is 2.8% of total bank assets [8, pp. 11-23]. This reduction occurs in commercial banks, and rural banks act as shock absorbers. Note that government ownership and political pressure moderate the reduction in lending by commercial banks affected by the typhoon.

Determining the possibility of insolvency of banks with foreign capital in Ukraine is appropriate. In general, transit markets are an attraction factor for cross-border banks and, therefore, impose special requirements for regulation. Attracting interbank loans with the participation of banks with foreign capital provides competitive advantages to national banks when approving loans for large-scale economic recovery projects.

Compliance with banking requirements is determined by the economic situation in creditor and borrower countries, that is, by traditional macroeconomic factors affecting supply and demand. It is worth considering the state of international banks that have information about cross-border banking flows and determine the tasks of subsidiaries of companies in countries with developing markets. It has been empirically established that international parent banks support their subsidiary banks. This was proven by analyzing the integration of the determinants of cross-border banking requirements on a panel of 28 developing countries and for three cases and countries with a transition economy [9]. For this, the following are taken into account:

1. The financial condition of international creditor banks and their liquidity.
2. The presence of foreign branches in countries with emerging markets.
3. Financing strategies in developing countries.
4. Compliance with prudential rules.

It is also worth monitoring the impact of geopolitical risks (GPR) on financial stress (FS). Empirically, using the panel quantile estimation method, it was established that these risks pose severe risks to the stability of the financial situation in countries with developing economies [10]. If FS equals or exceeds the average level, then APRs increase this instability. In contrast, when the financial situation is stable, APRs do not provoke stress. Developed countries (G7) suffer the adverse effects of ADR in their stock markets but have little impact on other components of their financial systems. In developing countries, foreign exchange markets, and to a lesser extent, the banking sector and the debt market, suffer from the effects of geopolitical tensions more than the stock market.

The business environment is witnessing increased shareholder lawsuits against top managers for non-compliance with corporate ethics, improper public offerings, disregard for financial security, and contributing to bank insolvency. It has been empirically proven that universal demand (UD) laws, which in practice limit shareholder lawsuits to discipline managers, affect the risks of bank holding companies [11]. The growing threat of shareholder lawsuits reduces agency problems, reconciles differences of interests between shareholders and management, and leads to reforms in bank governance.

Top management should pay attention to measures to prevent bank insolvency in the process of compliance with regulatory requirements; creation and licensing of banks, electronic money systems, payment systems; internal audit of securities issue prospectuses and other documentation; compliance with requirements for capital, reserves; refinancing, issuance of security for financial obligations; creation and registration of related creditors providing consumer loans; consulting on debt obligations; preparation of documentation in the field of acquisition financing; preparation of documentation in infrastructure and real estate lending agreements; security guarantee; tracking documentation related to financial innovations, derivatives. In the applied aspect of bank insolvency risk management, it is necessary to find innovative solutions to choose the optimal exit plan that will minimize losses and preserve reputation and business relationships. In EU practice, consulting companies are invited to accompany international and local credit transactions. External audit pays attention to compliance with regulatory requirements, granting loans and credits, and attracting funds through public issues.

It is advisable to develop measures to prevent insolvency to resolve the insolvency of troubled banks and financial recovery. Considering modern realities, improve the efficiency of financial liability management, negotiate with debtors, protect the interests of managers and shareholders, and consult on issues of international insolvency.

Conclusions and prospects for further research

In the theoretical and applied context, studying the complications of economic processes in financial segments, not in isolation, is advisable so that the banking sector participants have perfect information about the types of shocks. Solving insolvency requires regulation of all sectors, increasing requirements for interbank loans and the non-banking sector. The uncertainty of the macroeconomic situation affects the market balance and complicates the regulator's road maps. When examining bank insolvency, it is worth considering that financial innovations make it difficult to determine whether a financial institution is insolvent or illiquid. In addition, the availability of mechanisms to resolve the insolvency of troubled banks is a potential stabilizing factor that attracts foreign investors.

Banks with the state's participation in the capital have features of strategic development in the conditions of increased requirements for financial security, which requires legislative support for optimizing business models for these banks. This is important for maintaining solvency and achieving competitive advantages, as international parent banks support their subsidiary banks. Also, in the applied aspect of bank insolvency risk management, it is necessary to find innovative solutions to choose the optimal exit plan that will minimize losses but preserve reputation and business relationships.

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