



**UDC: 336.71-368.91**

[https://doi.org/10.32689/2617-2224-2020-2\(22\)-64-75](https://doi.org/10.32689/2617-2224-2020-2(22)-64-75)

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## **PECULIARITIES OF DEVELOPMENT OF THE STATE SYSTEM REGULATION OF THE INSURANCE MARKET OF UKRAINE**

**Abstract.** The features of functioning of the system of state regulation of the insurance market of Ukraine were considered. Based on the analysis of activity of subjects of insurance market scientific principles were expanded, which together can be described as the idea of the presence of direct and reverse connections between the links of different levels in the system of regulation of non-bank financial services, particularly insurance market. The scheme of interactions between public authorities, primarily of the regulator of non-bank financial services, and non-governmental institutions, self-regulatory associations, unions that unite a certain number of market members proposed in previous research works is recommended to be supplemented by connections with regional markets, as well as communi-

cation with scientists, the public and other institutions. Additions to the above scheme have been developed, which cover legally formed and informal channels of communication and interaction of insurance market entities. It is noted that the disadvantages of the insurance market include the insufficient level of responsibility of some insurance companies, insurance agents and insurance brokers to policyholders, which reduces the credibility of the market on the part of consumers of insurance services, citizens of Ukraine. Specific examples of violations of the current legislation by intermediaries in the insurance market are given. The attention is focused on the need to bring domestic legislation in the sphere of regulation of insurance mediation closer to European standards. Proposals in this direction, which take into account the European integration processes in Ukraine, were provided. The features of the new laws of Ukraine, which amended some legislative acts on the expansion of functions for state regulation of financial services markets and consumer protection, are considered. The improvement of legislation provides an opportunity to optimize the quantitative composition of regulatory bodies in the markets of non-banking services. This introduces the responsibility of financial institutions for violations of the rights of consumers of financial services. It is important that the authorized bodies have the right to apply measures of influence to economic entities and impose administrative penalties on officials. Improving the efficiency of the state regulatory policy, expanding and strengthening the mechanisms of state regulation and supervision should contribute to the termination of the activities of unscrupulous entities in the insurance market. We should expect a positive impact of the new laws on the economy of the state as a whole, since the insurance market, in particular, is one of the important segments of the financial sector of Ukraine.

**Keywords:** markets of non-bank financial services, insurance, legislation, management, state regulation, insurance mediation, problems, development.

## **ОСОБЛИВОСТІ РОЗВИТКУ СИСТЕМИ ДЕРЖАВНОГО РЕГУЛЮВАННЯ СТРАХОВОГО РИНКУ УКРАЇНИ**

**Анотація.** Розглянуто особливості функціонування системи державного регулювання страхового ринку України. На підставі аналізу діяльності суб'єктів страхового ринку розширено наукові положення, сукупність яких можна кваліфікувати як ідею щодо наявності прямого та зворотного зв'язків між ланками різного рівня у системі регулювання ринків небанківських фінансових послуг, зокрема ринку страхування. Запропоновану у попередніх наукових роботах схему взаємозв'язків органів державної влади, насамперед регулятора ринку небанківських фінансових послуг, і недержавних інституцій у вигляді саморегульованих асоціацій, союзів, спілок, які об'єднують певну кількість суб'єктів ринку, рекомендовано доповнити зв'язками з регіональними ринками, а також комунікаціями з науковцями, громадськістю й іншими інституціями. Розроблено доповнення до зазначеною схеми, яке висвітлює юридично оформлені і неформальні канали комунікації і взаємодії суб'єктів ринку страхування. Зазначено, що недоліками страхового ринку

є недостатній рівень відповідальності деяких страхових компаній, страхових агентів і страхових брокерів перед страхувальниками, що знижує довіру до ринку з боку споживачів страхових послуг, громадян України. Наведені конкретні приклади порушень діючого законодавства посередниками на страховому ринку. Зосереджена увага на необхідності наближення вітчизняного законодавства до європейських норм у сфері регулювання страхового посередництва. Надано пропозиції у цьому напрямі, які враховують євроінтеграційні процеси в Україні. Розглянуті особливості нових законів України, якими внесені зміни до деяких законодавчих актів щодо розширення функцій із державного регулювання ринків фінансових послуг і захисту споживачів. Вдосконалення законодавства надає можливість оптимізувати кількісний склад регуляторних органів на ринках небанківських послуг. При цьому запроваджується відповідальність фінансових установ за порушення прав споживачів фінансових послуг. Важливо, що уповноваженим органам надано право застосовувати до суб'єктів господарювання заходи впливу та накладати на посадових осіб адміністративні стягнення. Підвищення ефективності державної регуляторної політики, розширення і посилення механізмів державного регулювання та нагляду має сприяти припиненню діяльності недобросовісних суб'єктів на страховому ринку. Слід очікувати позитивного впливу нових законів на економіку держави у цілому, оскільки ринок страхування, зокрема, є одним із важливих сегментів фінансової сфери України.

**Ключові слова:** ринки небанківських фінансових послуг, страхування, законодавство, управління, державне регулювання, страхове посередництво, проблеми, розвиток.

## **ОСОБЕННОСТИ РАЗВИТИЯ СИСТЕМЫ ГОСУДАРСТВЕННОГО РЕГУЛИРОВАНИЕ СТРАХОВОГО РЫНКА УКРАИНЫ**

**Аннотация.** Рассмотрены особенности функционирования системы государственного регулирования страхового рынка Украины. На основании анализа деятельности субъектов страхового рынка расширены научные положения, совокупность которых можно квалифицировать как идею о наличии прямой и обратной связей между звеньями разного уровня в системе регулирования рынков небанковских финансовых услуг, в частности, рынка страхования. Предложенную в предыдущих научных работах схему взаимосвязей органов государственной власти, прежде всего регулятора рынка небанковских финансовых услуг, и негосударственных институтов в виде саморегулируемых ассоциаций, союзов, объединяющих определенное количество субъектов рынка, рекомендуется дополнить связями с региональными рынками, а также коммуникациями с учеными, общественностью и другими институтами. Разработаны дополнения к указанным схемам, которые освещают юридически оформленные и неформальные каналы коммуникации и взаимодействия субъектов рынка страхования. Отмечено, что недостатками страхового рынка является недостаточный уровень ответственности

некоторых страховых компаний, страховых агентов и страховых брокеров перед страхователями, что снижает доверие к рынку со стороны потребителей страховых услуг, граждан Украины. Приведены конкретные примеры нарушений действующего законодательства посредниками на страховом рынке. Сосредоточено внимание на необходимости приближения отечественного законодательства к европейским нормам в области регулирования страхового посредничества. Даны предложения в этом направлении, которые учитывают евроинтеграционные процессы в Украине. Рассмотрены особенности новых законов Украины, которыми внесены изменения в некоторые законодательные акты по расширению функций государственного регулирования рынков финансовых услуг и защиты прав потребителей. Совершенствование законодательства позволяет оптимизировать количественный состав регуляторных органов на рынках небанковских услуг. При этом вводится ответственность финансовых учреждений за нарушение прав потребителей финансовых услуг. Важно, что уполномоченным органам предоставлено право применять к субъектам хозяйствования меры воздействия и налагать на должностных лиц административные взыскания. Повышение эффективности государственной регуляторной политики, расширение и усиление механизмов государственного регулирования и надзора должно способствовать прекращению деятельности недобросовестных субъектов на страховом рынке. Следует ожидать положительного влияния новых законов на экономику государства в целом, поскольку рынок страхования, в частности, является одним из важных сегментов финансовой сферы Украины.

**Ключевые слова:** рынки небанковских финансовых услуг, страхование, законодательство, управление, государственное регулирование, страховое посредничество, проблемы, развитие.

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**Statement of the problem in general and its relation to important scientific or practical tasks.** Ukraine's economy is gradually moving in the European direction. Under these conditions, improving the system of state regulation of non-bank financial services and in particular insurance market, which is the most significant in the field of non-banking services acquires strategic importance. Recently the possibility and methods of state regulation of this market is growing and improving due to the adoption by the Verkhovna Rada of Ukraine in September of 2019

two laws of Ukraine "On amendments to some legislative acts of Ukraine regarding protection of rights of consumers of financial services" (the draft law dated 06.09.2019 № 1085-1, the law was adopted on 20.09.2019) and "On amendments to some legislative acts of Ukraine concerning improvement of the functions of state regulation of financial services markets" (draft law dated 06.09.2019 № 1069-2, the law was adopted on 12.09.2019). These laws entrust new powers and thus expand the power of regulators of the market of non-bank financial services. Accord-

ing to the first law (the “split” which in the dictionary of economic terms is interpreted as “increase”) supervision and regulation of insurance companies will be transferred from the National Commission, carrying out state regulation of markets of financial services to the National Bank of Ukraine (NBU). The second law significantly strengthens the control over the activities of participants in this market and the quality of services provided, as well as strengthens the responsibility of insurers and the protection of consumers of insurance services. Supervision and regulation of the insurance market will now be carried out by the NBU, which will eliminate duplication of functions of regulators for control and supervision, including the activities of various associations of banking structures with insurance companies.

According to the NBU, the markets of non-bank financial services in Ukraine have historically operated under less strict control and regulation by the state than, in particular, the banking sector. These laws will ensure the same model of state regulation of the banking and non-banking financial markets. The regulator, which the NBU becomes, is entrusted with the functions of segmentation of non-bank financial services markets, licensing, prudential supervision of the insurance market, its verification, protection of the rights of consumers of services. There is reason to expect that the system of regulation of non-bank financial services markets and, in particular, the insurance market, envisaged by the new legislation, will strengthen their attractiveness for potential investors, increase consumer confidence in them, expand and im-

prove the legislative framework, and ensure full transparency of the activities of market entities.

According to this, the task is to analyze the trends and prospects for the development of the system of state regulation of non-bank financial services markets, as well as to develop recommendations for the effective use of new opportunities in practice. The insurance market is the example for the analysis, it is the most significant in the field under consideration.

**Analysis of recent studies and publications that started to address this problem.** Theoretical and practical foundations and various specific aspects of state regulation of the insurance market of Ukraine were investigated by leading Ukrainian and foreign scientists [1–5 and others]. In these and many other scientific researches views of scientists on essence, tendencies, ways of development of the market of insurance services, principles of regulation of its activity are covered.

Currently, the state of the economy of Ukraine and the financial and economic situation in the world are changing rapidly. Therefore, given the immutability of the fundamental foundations of the theory of insurance and the theory of public administration and administration [6–7] certain scientific and practical issues of state regulation of the insurance market need to be detailed in relation to modern conditions. The position of the author of this article, which is expressed in [8–9] and others, is that the system of regulation of markets of non-bank financial services should be understood as laws and other state regulations that create conditions for the functioning of these

markets and the activities of their subjects. Legal documents that form an integral legislative and regulatory framework in this area should be considered as interrelated elements of the system of regulation of non-bank financial services markets. State regulation has a strategic nature and provides for a targeted impact on market members to achieve the ultimate goal – to increase the efficiency of their activities in favor of the state economy. Regulation includes the identification and analysis of problems, the allocation of the most important tasks in this period, the search for optimal solutions and ensuring their implementation. The concept of development of the system of regulation of markets of non-bank financial services characterizes the change in its composition, structure, state over time. The result is a new state of the system. The development of the system of regulation of non-bank financial services markets in Ukraine has an evolutionary form associated with gradual qualitative and quantitative changes.

Regulation of non-bank financial services, like regulation of other sectors of the economy, includes the monitoring of positive trends and rapid identification of the signs of the negative phenomena, the analysis and understanding of their causes, development of possible interventions to study the likely consequences of their implementation. Effective regulation also implies the creation of conditions for the development and implementation of optimal management decisions to prevent crisis phenomena, eliminate complications that may arise, increase the potential of all market segments.

It is not possible to name all the scientists who contributed to the development of the theory, methodology, practice of functioning and state regulation of insurance and other markets of non-bank financial services because of the limited volume of the text of this article. Therefore, during the consideration of specific issues in the article, references will be made only to the literature used, with deep respect for the authors of all scientific works.

**The purpose of this article** is to identify patterns of market development non-bank financial services insurance market of Ukraine, peculiarities of impact on the market regulatory system, the definition and justification of directions of regulation and increase of efficiency of activity of subjects of the insurance market to ensure its stability and reliability.

**Presentation of the main research material.** It is necessary to agree with the authors of the above scientific works [1–7] and other studies, that the development of the system of regulation of the insurance market should provide, first of all, strengthening the protection of property interests of policyholders, which are individuals and legal entities. Secondly, it should meet the interests of the state, since this market is one of the sources of financial investment in various sectors of the national economy. Thirdly, it needs to promote the implementation of a certain course of economic and social policy of the state. Fourth, it should ensure the possibility of effective activities of insurance market entities (insurance companies, brokers, agents) and other persons working in the insurance market (banks, associations of insurers, law firms, etc.).



Fifth, it needs to ensure the integration of the Ukrainian insurance market in the relevant international network, in the global space of non-bank financial services.

The insurance market is one of the powerful segments, sectors of the general market of non-banking services. In our work [8] the complex of views, representations, ideas directed on interpretation of essence of system of regulation of the markets of non-bank financial services in Ukraine is offered. The scientific provisions, the totality of which can be qualified as the idea of the presence of direct and feedback links between links at different levels in the system of regulation of markets of non-bank financial services were described and substantiated. In the development of the ideas expressed in [8], we note that the system of regulation of markets of non-bank financial services in Ukraine is characterized by the fact that its components at different levels (from the state to the level of a small enterprise) have strong direct and reverse relations. According to the mathematical formulation, under certain assumptions, it can be considered that the regulation of markets for non-bank financial services by public authorities is a direct theorem, which proves that the initial conditions and tasks when implemented in practice provide a pre-declared, expected result. Therefore, the state regulator formulates and approves tasks and creates conditions (laws, resolutions, orders, other documents) for the development of non-bank financial services markets. When they are implemented, the goal is achieved.

Links of state bodies of various levels and subjects of the markets of non-

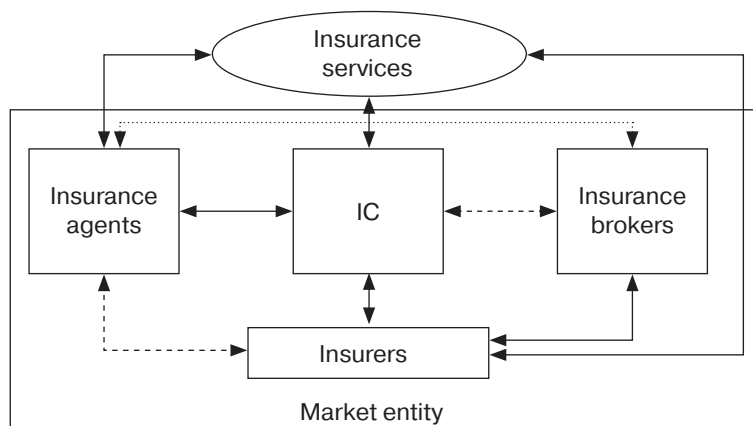
bank financial services have direct and inverse relations among themselves which consist in the are as follows. Comments, recommendations, decisions of the state regulator are brought to the management of structures operating in the markets. That is, to market entities, where solutions are tested in practice, their shortcomings are identified and proposals for their improvement are formulated. Management of the lowest level, namely insurance companies, credit unions, etc directs its developments to the appropriate higher level - to the regulator and then to the Cabinet of Ministers of Ukraine to take them into account through changes and additions to existing regulatory documents or those that are being developed. In this way, there are direct and feedback links in the markets of non-bank financial services between managers of different levels, between the state bodies regulating the markets and the structures that work there. Such relationships are the features of the system of regulation of non-bank financial services markets.

A significant role in the system of regulation of markets of non-bank financial services in Ukraine is played by non-governmental non-profit self-regulatory organizations, which voluntarily unite the structures operating in the markets, companies in order to closely interact and develop a common policy and principles of behavior [8]. The influence of market entities on strategic decision-making looks like a chain: subject-association-regulator-Cabinet of Ministers — Verkhovna Rada of Ukraine. The message on the implementation of the decisions taken is transferred in the opposite direction.

The scheme of relations of public authorities, primarily the regulator, with self-regulatory organizations, proposed in the article [8] each of which unites a certain number of market entities, in our work [9] is supplemented by communications with science, the public and other institutions. These additions provide for strengthening the participation of the general public through the Internet space in the development of proposals to address problematic issues, the introduction of measures to influence the authorities on the market by adopting new or improving existing regulatory acts. At the same time, the concept of “power” should be understood not only and not so much as the regulator represented by the National Financial Services Committee or the National Bank of Ukraine, but also local and regional authorities. Communication subjects of the market of non-banking financial services regulator, the public, expert groups from among scientists, local and regional authori-

ties and other agencies and feedback of these schema elements are based on the principles of openness and transparency of partnerships. The schemes of communication of the insurance market with state and non-governmental structures in Ukraine presented in [9] complement and expand the previously developed models of development and functioning in the future of the system of regulation of non-bank financial services and the structure of interaction of public authorities with self-regulatory organizations that operate in the insurance market in Ukraine. The scheme of channels of interaction between subjects of the insurance market is proposed as the development [9] of the communication structures (Fig. 1). The existence of such formal and informal ties should be taken into account in the system of state regulation of this market.

Insurance brokers and insurance agents indicated in the diagram (Fig. 1) are intermediaries who actively work



**Fig. 1. Scheme of communication channels and interaction of subjects of the insurance market.**

It is designated: IC – insurance company; continuous lines – legally issued communications; dotted lines – commercial relations; dashed-dotted lines – possible contacts



in the market of providing insurance services. They have different functions in the market. Brokers carry out business activities in relation to the provision of paid services to policyholders to protect their interests through effective risk insurance.

An insurance broker is a legal entity that must act in the interests of the policyholder. The task of insurance agents on the contrary is to satisfy the interests of insurance companies to expand the volume of sales of services provided by them. Insurance agents act on behalf of and under the control of the insurer on the basis of the Agency agreement.

The legislation of Ukraine allegedly differentiates the activities of insurance brokers and insurance agents in terms of, first of all, the protection of property interests of consumers of insurance services. But despite the existence of a regulatory framework that regulates the activities of these intermediaries at the legislative level, in real life there are unresolved issues in this area [9]. As a matter of fact insurance agents, given the fierce competition for customers among insurance companies in the market of services, often offer policyholders, which they control, simultaneously to several insurance companies instead of one on behalf of which the agent works. Stop at the company that provides the agent with the greatest reward. The negative consequences of this market situation lies in the fact that agents often give their clients to conclude insurance contracts financially weak and insolvent companies that in the event of an insured event are not able to fulfill obligations to the policyholder. This aspect of the interaction of insurance agents with insurance com-

panies requires regulation at the level of legal acts.

The activity of the insurance broker should be aimed exclusively at finding insurers that best meet the interests of the policyholder. But unscrupulous brokers collude with “their” insurance companies, provide them with clients-insurers and receive remuneration from insurance companies, which is not provided by the legislation on brokerage. Intermediaries in the insurance market are in contact with millions of consumers of insurance services (more than 8 mln only in compulsory insurance of civil liability of owners of land vehicles and more than 1 mln traveling abroad [9]). Therefore, perceiving this situation as significant, it is necessary to distinguish the intermediary activity of insurance agents and insurance brokers at the legislative level more categorically than now [10; 12].

In our article [9] it is shown that among the specialists engaged in the insurance market, there are different views on the optimal size (rate) of payments to intermediaries and other persons for the conclusion of the insurance contract. Opponents give weighty arguments in support of their positions on this issue. But there is reason to expect that the introduction of a corporate tax in the amount of 18 % of the amount exceeding the established norm of payments to intermediaries will reduce the practice of evading unscrupulous insurers from paying taxes by excessively inflating the remuneration of intermediaries. Practice shows that now the company’s insurance agents are paid from 40 to 80 % of the insurance premiums received, which almost always significantly exceeds the cost of agents to

perform intermediary work. According to expert estimates, the amount of economically justified payments to intermediaries should not exceed 30 %, and everything else means the tax evasion.

Despite some unsettled activity of insurance intermediaries (brokers, agents), they play a positive role in the insurance market of Ukraine, helping insurers to provide and policyholders to receive insurance services. A detailed review of domestic and European legislation in the field of insurance mediation is carried out in article [10]. The author of this work did not consider the above remarks regarding violations in the activities of insurance brokers and insurance agents in the market of insurance services, which are common in real life. He focused on conceptual issues, namely the comparison of legislation in the field of insurance mediation regulation in Ukraine and the European Union (EU). The proposals presented in [10] on the adaptation of domestic legislation in the field of regulation of insurance mediation to the European one are relevant and should be adopted. There are many ways to implement recommendations. The easiest way, perhaps, to amend the resolution of the Cabinet of Ministers of Ukraine “On the procedure for the activities of insurance intermediaries” or the current law of Ukraine “On insurance”. It is also possible to adopt new laws on insurance mediation or insurance and provide for the implementation of EU directives on insurance mediation. We emphasize that in [10], as well as later in our article [9], the object of regulation is understood to be the legislation concerning the activities of market entities to provide intermediary services

in insurance, in particular brokerage operations and Agency services. This is due to the fact that this approach is applied in the Association Agreement between Ukraine and the EU, namely in subsection 6 “Financial services”, in accordance with article 125.2(a) [11].

The results and conclusions of our studies [6; 8–9; 12 and others] coincide in fact with the solid recommendations given in [10]. First of all, it concerns the need to expand the limit of regulation of insurance mediation and establish restrictions on uncontrolled activities of entities for which the sale of insurance products is not the main activity. In addition, it is advisable to introduce mandatory liability insurance of intermediaries selling insurance products to policyholders. Also it is necessary to oblige intermediaries to inform policyholders to sign insurance contracts with them the official status of sellers of the insurance product, the amount of remuneration they receive, and their liability. The proposed can be applies not only to insurance brokers or insurance agents, but also to other individuals and legal entities that mediate in the insurance market, in particular banks. In this way, the safety of consumers of insurance products will be enhanced regardless of the channel of sale of services – through intermediaries or directly in insurance companies. These requirements will facilitate the transfer of mediation in a civilized and controlled way, as is the case in the highly developed countries of the European Union.

**Summary.** State regulation of non-bank financial services and, in particular, the insurance market has the potential to increase efficiency through wider involvement in this process of

non-state self-regulatory organizations, the public, the Internet space, scientific institutions. The specifics of the insurance market require taking into account both the financial interests of both market participants and the interests of the state. To strengthen the protection of consumers of financial services, it is necessary to provide safeguards against the penetration and presence in the market of problematic, insolvent, unscrupulous insurance companies. It is also necessary to take measures to eliminate the practice of applying economically unjustified remuneration to insurance intermediaries and to tighten the requirements for their liability to consumers of insurance services. In general, it is necessary to expand the boundaries of state regulation of the insurance market and strengthen the responsibility of subjects for compliance with legislative norms at the level of implementation of regulatory acts.

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