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DEVELOPMENT OF DIGITALIZATION MECHANISM OF INSTITUTE OF FINANCIAL OMBUDSMAN ON EXAMPLE OF UKRAINE

The object of research is the problem of the rights violation of consumers of financial services. The institute of financial ombudsman is important for this function. This is the person who successfully performs the function of settling disputes in many countries around the world. The authors have developed a mechanism for digitalization of the institute of financial ombudsman, which will help in resolving disputes and preventing them through a special electronic platform of the financial ombudsman, which would optimize the cooperation of consumers of financial services with the ombudsman. This model of interaction with the mediator will be especially useful during a pandemic, COVID-19, in particular. Let's believe that the process of appealing to the financial ombudsman through electronic systems for submitting and receiving the information will ensure the efficiency of service delivery, equal access to the procedure of consultation, and protection of all segments of the population. Analytical review of consumer protection violations was carried out based on statistical data of Ukraine, but the proposal to introduce a mechanism for the financial ombudsman digitalization is quite simple and universal for implementation in many countries. Statistics on complaints about violations in the provision of financial services in both the banking and non-banking financial sectors indicate the need to pay more attention to simplifying citizens' appeals to the regulator. The authors' survey of young people confirmed a low level of trust in banking and non-banking financial market institutions. It is important that the mediator actively participates not only in the stage of appealing disputes but also in preventing them in the form of dialogue with the consumer and the implementation of the rights and obligations of both parties. This will ensure a high level of financial inclusion, increase public confidence in the financial sector, as well as the level of financial literacy of the population.

Keywords: financial ombudsman, consumer rights protection, financial sector, financial inclusion, insurance companies.

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1. Introduction

Global experience shows that the institute of financial ombudsman has positively established itself as a fair and effective intermediary between users of financial service providers. The United Kingdom was one of the first countries to establish an inter-sectoral financial ombudsman in 1981 that was responsible for protecting the rights of policyholders.

There are two models of financial ombudsman in Europe: German and English. They consider disputes in the amount of 300–400 thousand EUR, which do not burden the courts and the ombudsman's decision is not appealed. The difference between them is that in the English model – the financial ombudsman is financed by the state, and in Germany, it is mainly held by private banks [1].

The need for consumers of financial services to create this mediator is confirmed by the fact that in 2007 an international network of financial ombudsmen was established in Australia to share experiences and work together effectively. Its founders were Australia, Austria, Botswana, Canada, the Czech Republic, Denmark, France, Greece,

Ireland, the Isle of Man, Italy, New Zealand, Norway, Peru, the Republic of Trinidad and Tobago, South Africa, Switzerland, the United Kingdom, and the United States [2]. Practice shows that when dealing with small consumer claims due to high cost, long dispute resolution period, national courts around the world are becoming increasingly ineffective, which negatively affects the advocacy of consumers.

Let's note that this issue is relevant around the world. In this paper, the issue of consumer rights protection and the formation of the digitalization process are considered in the example of Ukraine. However, the suggestions and conclusions are universal and useful for all countries where the institute of financial ombudsman is functioning or planned.

The transformation of the Ukrainian regulatory system of the financial services market began with the adoption in 2019 of the Law of Ukraine On Amendments to Certain Legislative Acts to Improve the Functions of State Regulation of Financial Services Markets. According to this Law, the powers of the National Commission for Regulation of Financial Services Markets (hereinafter referred to as

the National Financial Services Commission) were divided between the National Bank and the National Commission on Securities and Stock Market.

However, the issue of protection of the rights of consumers of financial services remains relevant. The National Bank of Ukraine is largely responsible for resolving it. Mechanisms for improving the regulatory policy of the National Bank of Ukraine as the sole supervisory body are proposed in the scientific literature [3, 4]. The main emphasis is placed on the importance of the division of powers of the newly established regulatory body on prudential supervision into prudential supervision in a separate block of powers of the National Bank of Ukraine in the market of the non-banking financial sector.

However, the growing number of citizens' appeals to both the regulator and the courts regarding the violation of their rights in the financial sector indicates the need to involve an additional mediator to resolve disputes. The effectiveness of the financial ombudsman has already been confirmed in many countries around the world and is studied in the works of the Ukrainian scholars [5, 6], which study the foreign experience of the organization and work of the financial ombudsman.

However, the question of the need for regulatory implementation of financial mediation remains relevant. The ombudsman will become an alternative institution for settling disputes. It is necessary to envisage at the legislative level the responsibility of the parties to the dispute, as well as to outline in more detail the list of circumstances that prevent the mediator's neutrality and the consequences of the mediator's failure to participate in mediation of disputes in which he/she has a personal interest [7].

Rights violation of financial services consumers is most often considered in terms of the emergence of information asymmetry in the financial services market [8]. It is important to study the problem of the legislative protection of consumer rights in raising credit through alternative financing instruments [9].

Consumer rights protection allows improving the level of financial inclusion, which has a positive effect not only on the consumer of financial services. According to scientists [10–12], the financial inclusion of the population and businesses will stabilize the situation in the financial market by obtaining additional financial resources from its professional participants, which plays an important role in ensuring financial security in the country.

However, the economic downturn associated with the global pandemic has complicated the process of protecting the rights of consumers of financial services. Therefore, there is a need to develop new mechanisms to ensure the protection, prevention, and settlement of disputes in the context of digitalization. Thus, *the object of research* is the protection of the rights of consumers of financial services in the context of the transformation of the financial sector. And *the aim of research* is to develop a mechanism for digitalization of the institute of financial ombudsman in the system of protection of the rights of consumers of financial services.

2. Methods of research

To achieve this goal, the generalization of the scientific literature of the National Bank of Ukraine statistical data on the main causes of violations of the protection

of consumers of financial services was used. The paper considers the results of the survey of young people under the age of 35, conducted by the authors as part of the study to determine the confidence of young people in the financial sector of Ukraine.

During the processing of scientific literature and statistical information, it was found that there is a need to improve the institutions of mediation in the financial market, especially during periods of forced isolation and economic downturn. Using the methods of logical generalization and abstraction, analysis, and synthesis, the authors developed a mechanism to protect the rights of consumers of financial services using electronic platforms, which is especially important in the digitalization period. This mechanism involves several stages that are structured and logically linked.

3. Research and discussion results

Since July 1, 2020, the National Bank of Ukraine became a mega-regulator for the banking and non-banking financial sector, namely insurance companies, credit unions, leasing companies, pawnshops, financial companies, and credit bureaus. The National Securities and Stock Market Commission (NSSMC), in addition to stock market participants, have been regulating the activities of non-state pension funds and construction financing funds since 2020. Accordingly, the issue of protection of the rights of consumers of financial services depends on the quality of these regulators, in particular in terms of prudential supervision, established feedback from the consumer, and the algorithm of actions to correct deficiencies and reactions to violations.

National Financial Services Commission as the main regulator applied to participants of financial services markets penalties for:

- conducting activities in the financial services markets, without the appropriate license and/or registration;
- non-submission, late submission, or submission of knowingly unreliable information (reporting);
- evasion of execution or untimely execution of the order.

The activity of this regulator has been quite effective for the last few years. As a result of the measures taken, the National Financial Services Commission insurers paid more than 3.5 million USD in insurance indemnities annually (including penalties). This testifies to the effectiveness of supervisory actions carried out by the National Financial Services Commission as a regulator of financial services in the market of non-banking financial institutions.

However, Ukraine's integration into the world economic space has placed new demands on the financial sector, financial inclusion and consumer protection. That is why with assistance of USAID (U.S. Agency for International Development) *Transformation of Financial Sector* project was implemented [13], which provided in addition to reforming the regulatory policy of the financial market of Ukraine, the introduction of the Institute of Financial Ombudsman. Its necessity is explained by a number of systemic problems related to the protection of the rights of consumers of financial services and the development of financial inclusion. However, at this stage of the reforms, the Bill on Establishment of Financial Ombudsman in Ukraine was temporarily withdrawn. Therefore, the responsibility for preventive measures to avoid new

violations of consumer rights lies in the vast majority of the National Bank of Ukraine, and the court remains the key body for resolving conflicts.

The idea of split is to consolidate under a single board of the NBU supervision of all participants in the financial services market [13]. The reform consisted not only in the transfer of powers from the National Financial Services Commission to the National Bank but also in the substantial renewal of the financial sector. At the time of the reform of Regulator, 75 banks were operating, as well as more than 2,000 non-bank financial institutions. These include more than 200 insurance companies that provide both life and non-life insurance; more than 300 pawnshops engaged in collateral lending, credit unions, and more than 1,000 financial companies. It is possible to talk about companies that provide equity loans. Each of these participants plays a role in the country's economy. In recent years, the non-banking financial services sector has been growing and developing. However, there were also negative phenomena that often caused consumer rights violations and still need to be addressed.

The National Bank has become a mega-regulator. During the first 6 months (since July 1, 2020) there were no changes regarding regulation and licensing. It was an important condition for the transition of the regulator to be as comfortable as possible for both market participants and consumers of financial services.

Therefore, most of the laws passed by the National Financial Services Commission continue to operate. However, the approach to monitoring financial market participants has changed. It became more risk-oriented. It is proposed to separate financial institutions that have obligations to consumers and those, which operate on equity. For the former, the strengthened regulation is offered. If financial institutions do not have obligations, the requirements of the regulator will be less serious. However, the only thing that should unite all financial service providers is the protection of the rights of consumers of financial services, ensuring financial inclusion, identifying potential growth points.

Transitional documents are 6 published white papers, in which it is possible to find explanations for the change in the regulation of the non-banking financial market. Due to the current reform, the NBU has created new units related to the protection of the rights of consumers of financial services at the stage of legislation and supervision.

The insurance market supervision department has appeared. It is planned to expand its competencies to supervise the non-banking financial market as well, and over time the division of supervision over the banking and non-banking markets is projected.

This department consists of two divisions: the division, which supervises insurance companies, and the division, which supervises insurance intermediaries. After the transformation of the Department, it is planned to create two divisions that will deal with the non-bank financial institutions – the division of supervision of insurance companies and the division of supervision of credit unions. Supervision of financial companies providing equity loans (factoring, leasing, guarantees) will be combined in a separate structural unit.

In the Monetary Stability block of the National Bank, the Department of Methodology for Regulating the Activities of Non-Banking Institutions was established. Its main task is to ensure quality legislation that takes into account the best world experience. This Department has

the following structure: management of the general methodology, management of the methodology of regulation of the insurance market, management of the methodology of regulation of separate markets (credit unions, financial companies that provide services at their own expense).

After changing the structure of the mega-regulator, it is important to have a close and productive dialogue with market representatives.

Among the new legislation there are the following:

- the adopted Law On Financial Services and State Regulation of Financial Services Markets [14];
- draft Law of Ukraine (LU) On Insurance [15], which will provide for the implementation of the European Directives and On Credit Unions;
- the Law of Ukraine On Financial Companies, which will regulate the activities of factoring, leasing companies, companies that provide guarantees, pawnshops and other companies that provide loans at their own expense.

The Law on Compulsory Civil Liability Insurance of Land Vehicle Owners is expected to be drafted, which will meet the requirements of the European Directive as well as the Law on Insurance Distribution, which will regulate the activities of both insurance intermediaries and employees of insurance companies. All laws will go in one package. They are interconnected. The Law on Financial Services is defined by the European Directive, which is the focus of the National Bank with an emphasis on consumer protection.

As it is possible to see, all steps of the current reform are aimed at preventing conflict situations between financial market participants and consumers, defining clear rules and responsibilities of all parties.

A very important tool for such prevention is prudential supervision, namely supervision of prudential regulations and other requirements. It is carried out to ensure that financial institutions can timely and efficiently fulfill their obligations to their customers. Prudential supervision will be fully exercised over insurance companies, credit unions, and financial companies, which have the right to provide guarantees to ensure the financial stability of companies and protect both the financial system and individual customers. The key points that will be taken into account in prudential supervision will be capital adequacy, liquidity, fair valuation of assets, reserve formation systems, risk management, and internal control systems. Information for prudential supervision is used from the financial statements to the regulator, audit reports, actuarial reports, as well as the results of the internal audit and risk management system. The result of supervision is the application of requirements to eliminate deficiencies. The new legislation changes the grounds for revoking the license. In particular, a new reason may be the conduct of risky activities that threaten the interests of consumers.

Complete and reliable information is very important for effective on-site supervision, so the NBU will pay special attention to improving the financial reporting of non-bank financial institutions – expanding it and changing the frequency of filing.

For good results of prudential supervision, it is important to choose a system of criteria by which financial market participants will be evaluated. Companies that pose a risk to the consumer must be liquid, sufficiently capitalized and transparent. Therefore, on-site supervision and on-site financial monitoring help prevent violations.

Qualitative supervision by public authorities is impossible without the participation of self-regulatory organizations and public control. There is no single model of self-regulation in the world. However, self-regulatory organizations do not work effectively when the state is ready to involve them in the system of supervision and control, but when the financial services market is ready to interact with self-regulatory organizations.

Since July 1, 2020, the number of citizens' appeals to the NBU regarding the rights violations of financial services consumers has increased. In particular, 420 written appeals to banks were registered (28–38 % of the total number of written appeals – 1336), which showed signs of rights violation of financial services consumers (Table 1) [16]. Problematic issues related to the activities of banks include cases of non-compliance by banks with court decisions, poor quality of service in branches, card fraud, automatic write-off of cash receipts to repay debts, and others [17].

Table 1

Dynamics of Financial Services Consumers Appeals Concerning Their Rights Violation to Regulator During I–III Quarters of 2020

Participant of Financial Sector	Number of Written Appeals			Number of Calls to Contact Center		
	I quarter 2020	II quarter 2020	III quarter 2020	I quarter 2020	II quarter 2020	III quarter 2020
State banks	646	819	701	959	1424	1137
Foreign banks	518	654	381	438	715	564
Private banks	359	503	254	350	455	429
Non-bank financial institutions	120	94	4295	239	677	2427
Banks in liquidation	43	46	83	327	281	691
Others	586	204	181	3262	2552	5147
Total	2272	2320	5895	5575	6104	10395

Note: prepared by the authors based on [16, 17]

The number of appeals regarding the work of non-bank financial institutions has increased. The number of written appeals increased by 1.5 times and appeals to the contact center by 70 %. In total, the National Bank processed 4,295 written appeals and 2,427 calls to the contact center for non-banking financial institutions. The largest number of appeals – 70 % – concerned the work of financial companies engaged in microcredit (hereinafter – microfinance companies). 20 % came from insurance companies. The remaining 10 % concerned credit unions, which showed signs of violation of consumer rights.

Among the problematic issues related to the activities of non-bank financial institutions is the lack of understanding by consumers of the legality of agreements concluded online, non-return of deposits to depositors of credit unions, violation of the law in the agreements. It is possible to note separately issues of insurance companies' activity. The largest number of appeals against them was since the insurance did not cover the actual damage (266 appeals), the insurance company did not decide on payment (238 appeals) or refused to reimburse the loss (126 appeals) [17].

According to the recommendations of the National Bank of Ukraine, if a consumer of financial services believes that

his/her rights have been violated, then there are the following ways to address this issue:

- call the hotline of the contact center;
- file a written complaint against the actions of a financial sector participant;
- write to the e-mail of the National Bank.

The National Bank plans to approve Disclosure Standards by non-bank financial institutions with explanations of prices, tariffs, and penalties.

However, the issue of resolving existing disputes between providers and consumers of financial services remains open. The World Bank has proposed an effective and affordable instrument of reconciliation, the Institute of Financial Ombudsman. It is an independent entity that resolves out-of-court disputes between financial service providers and their clients. The main task and result of the Institute of Financial Ombudsman introduction is to increase the confidence of consumers of financial services in the financial market as a whole [4].

According to the current legislation, disputes between borrowers and creditors are considered in Ukraine exclusively by courts that have demonstrated their inefficiency and have several shortcomings, namely:

- quite a long process of consideration of the case – not less than a year;
- high cost for users of financial services;
- not always an effective result of a court decision;
- lack of trust in the judiciary as a whole in Ukraine.

USAID research shows that up to 30 % of consumers, when faced with a dispute, refuse to continue to use financial services. Less than 20 % of Ukrainians trust financial institutions, of which 5.8 % trust state-owned banks, 2.8 % trust commercial banks [12].

The authors conducted an expert survey among young people aged 18 to 35 using questionnaires. In total, more than 500 young people took part in the study. The purpose of the survey was to identify the level of trust of young people in financial market participants. Let's believe that the level of trust is an important indicator of the expectations of existing and potential consumers of financial services and is a prerequisite for the development of the financial sector. According to the results, the main reason why young people do not use insurance services is the lack of interest of young people in insurance products (38.6 %). In the second place, there is the lack of confidence in the insurance market (21.9 %). During the survey, 57 % of respondents were interested in the field of insurance, but do not plan to use insurance services soon, 4 % decided to use them. To improve the work of insurance companies, most respondents chose to introduce measures to inform young people, increase financial literacy, and in the second place – to simplify the process of providing services.

Analyzing the negative dynamics of the number of appeals, it is forced to state the fact of low trust of the population, in particular, young people to certain participants in the financial market. It is possible to conclude that the Ukrainian consumer of financial services needs an effective and influential mediator who will help in the prompt settlement of disputes, especially in times of uncertainty and a long pandemic.

The advantages and disadvantages of the introduction of the Institute of Financial Ombudsman in Ukraine will be shown in Table 2.

Table 2

Advantages and Disadvantages of Introduction of Institute of Financial Ombudsman in Ukraine

Advantages	Disadvantages
Cases are considered quickly (<30 days) and courts are unloaded from small cases (up to 15 thousand EUR)	Lack of trust in the Institute due to the current inefficiency of dispute resolution
Unbiased case consideration	Risk of biased case consideration
Cheaper compared to courts (5 % of the subsistence minimum)	The question of who will finance and in what way is uncertain
Emphasis on the peaceful settlement of the dispute	The interests of financial service providers are not taken into account
Complies with international principles	Lack of qualified personnel
The right to appeal to court remains	–

Let's propose the introduction of the Institute of Financial Ombudsman in Ukraine using a special electronic platform of the financial ombudsman, which would optimize the cooperation of consumers of financial services with the ombudsman. In particular, in Fig. 1 let's offer the procedure for submitting electronic applications with completed data on the subject and object of the violation. All financial services regulators should have access to the database of submitted applications: NBU and NCSSM for timely response to management deficiencies.

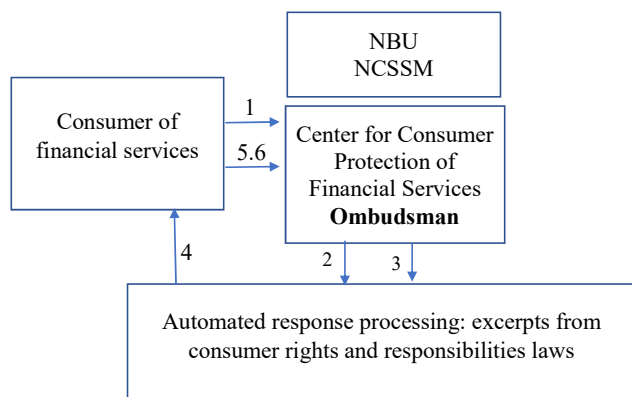


Fig. 1. Stages of interaction of the financial ombudsman with the consumer of financial services: NBU – National Bank of Ukraine; NCSSM – National Commission on Securities and Stock Market (the authors' development)

After filling out the application, they are automated and processed manually. Automated processing involves the automatic creation by the system based on all applicable legislation of an informative extract for the consumer of financial services on the rights and obligations concerning a particular financial institution.

Stages of interaction of the financial ombudsman with the consumer of financial services:

1. Submission of an electronic application of a consumer of financial services (CFS) to the Center for Protection of Consumers of Financial Services for Dispute Resolution by the Financial Ombudsman.

2. Automated consideration of the application received by the ombudsman.

3. According to the option in the application, assignment

of electronic queue and form of consultation: face-to-face, remote by phone, remote via electronic communication channels (Skype, Zoom, MsTeams, etc.), e-mail.

4. An automated Extract is sent. The consumer of financial services gets acquainted with automated extraction before the meeting. This increases the effectiveness of this operation, as it has preventive as well as training function.

5. In accordance with the pre-determined conditions, the consumer of financial services meets with the financial ombudsman who provides consulting services.

6. In order to close the submitted application within 6 months, the consumer of financial services is obliged to leave the Conclusion in his/her own office of the System on resolving a specific dispute. The Ombudsman is obliged to monitor the closure of applications and to facilitate the settlement of disputes for which applications have not been closed.

It is possible to highlight the following advantages of the digitalized approach to processing the application for appeal to the financial ombudsman of the consumer of financial services:

- efficiency of service provision;
- application of the principles of financial inclusion, namely equality of service provision and accessibility of all segments of the population regardless of geography of residence, age, sex, income level;
- taking into account both the rights of consumers of financial services and their responsibilities;
- dissemination of financial literacy among consumers;
- alternative (out-of-court) settlement of disputes between consumers and financial service providers;
- promoting the quality of financial services;
- assisting consumers of financial services in protecting their legitimate rights and interests;
- increasing trust between consumers and financial service providers;
- ensuring the continuous and more efficient work of the ombudsman during pandemic, in particular COVID-19.

4. Conclusions

The study shows that the problem of violations of the rights of consumers of financial services both in Ukraine and in the world exists. The mega-regulator needs additional mechanisms to resolve existing disputes, the number of which is increasing, as well as to prevent future ones.

Complete and reliable information is very important for effective off-site supervision, so the NBU should pay special attention to improving the financial reporting of non-bank financial institutions – expanding it and changing the frequency of filing.

For good results of prudential supervision, it is important to choose a system of criteria by which financial market participants will be evaluated. Companies that pose a risk to the consumer must be liquid, sufficiently capitalized and transparent. Therefore, off-site supervision and on-site financial monitoring help prevent violations.

However, the challenges facing the global financial system with new risks, pandemic, and uncertainty call for new approaches to addressing existing challenges. In the context of digitalization, to simplify the application procedure, the authors proposed a mediation mechanism for resolving disputes over the use of electronic communica-

tion channels (Skype, Zoom, Microsoft Teams, etc.). This is especially relevant in connection with forced isolation, as well as in the context of ensuring financial inclusion – the availability of services to prevent and resolve disputes of all segments of the population, regardless of geography, age, gender, income level.

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