

ECONOMIC AND LEGAL POLICY IN THE FIELD OF SECURITY ON THE MARKET OF NON-BANKING FINANCIAL SERVICES IN UKRAINE

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Abstract. The purpose of the article is to analyze the economic and legal policy in the security sphere in non-banking financial services market in Ukraine. **Methodology.** General scientific methods of formal logic (analysis, synthesis, deduction, induction, analogy, abstraction and modeling) and special methods (logical and legal method, axiomatic method) were used, with the help of which the essence of economic and legal policy in the security sphere in the non-banking financial services market in Ukraine was revealed. **Results.** Ensuring the Ukrainian state's own path of development and its integration into world processes are inextricably linked with the reform of the financial system and the improvement of legal regulation. This is necessary to achieve compliance with modern development trends and international standards. The functioning of any state is impossible without proper financial support, an effective legal mechanism, as well as clearly defined tasks and objectives of activity. Nowadays the issues of the ensuring financial stability and security are the key elements, since it depends on their condition that the realization of national interests and sustainable development of the country. The modern economy is unthinkable without the financial services market, which serves as the basis for the provision and consumption of financial services. These services contribute to the formation of financial resources that are directed to the economic development of both the state as a whole and individual business entities. The financial services market is a key element in ensuring the development of all sectors of the national economy, creating conditions for the expansion and modernization of production. The progress in such areas as industry, entrepreneurship, trade, medicine, science and other important sectors is impossible without the active use of financial instruments in the modern world. The legal principles for implementing state policy in ensuring security sphere in the non-banking financial sector (NFS) constitutes a system of legal norms enshrined in the current legislation of Ukraine, subordinate regulations, as well as in program and strategic documents. These principles determine the purpose, objectives, rules, order and procedures of the activities of authorized entities in the context of regulating and developing relations in NFS. Their main purpose is to ensure the implementation of social and economic rights and freedoms of citizens, their legal protection in case of violations, creating conditions for sustainable economic growth, increasing the competitiveness of national economy. Usually, these norms are enshrined in by-laws adopted by state regulatory entities operating within the principles of NSF. The norms of administrative legislation are the basis of administrative and legal regulation aimed at implementing state policy. Their characteristic feature is a clear definition of the scope of action (limits of legal regulation), which covers the subject area of work of public administration bodies and managerial social relations that arise in the process of their performance of power and organizational functions. It is also important to emphasize the importance of interaction between regulatory entities and financial market participants. This interaction is based on the principles of transparency, legality and responsibility. The use of innovative approaches to regulation, digitization of control processes and increasing financial awareness among market participants contribute to reducing risks in financial security sphere. Strengthening the institutional capacity of bodies responsible for supervision and regulation is a key factor for the effective implementation of state policy in non-banking financial sector. The constant updating of the regulatory framework, in accordance with modern challenges and international standards, is an urgent need in this regard. **Practical implications.** It should be noted that the norms of administrative law are formed to regulate public

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relations of a managerial nature that arise between the state and the subjects of NFS. The difference between these relations is that one of the parties is the state represented as a public administration body endowed with power. This body has the right to demand compliance with certain legal behavior from other participants, such as the National Bank of Ukraine (NBU), the National Securities and Stock Market Commission (NSSMC), etc. This creates an effective tool for implementing regulatory policy in the financial services sector in practice. It covers the processes of licensing, supervision, inspections, application of administrative sanctions and issuance of mandatory regulations for implementation. These measures are aimed at preventing violations, ensuring transparency of financial institutions and strengthening confidence in the financial market as a whole. In modern conditions, special emphasis is placed on the implementation of a risk-based approach to supervision. This allows the regulator to focus its resources on the most vulnerable market segments and those entities whose activities may pose a threat to financial stability. This approach involves a deep analysis of financial companies' internal processes, their corporate governance, financial reporting, and compliance with consumer protection standards.

Keywords: economic and legal policy, financial services, security, non-banking financial services, non-banking financial services market.

JEL Classification: G20, H56, G23

1. Introduction

According to the Concept of Ensuring National Security in the Financial Sector (2012), the need for effective state regulation of the national economy development and the formation of management institutions in a market environment necessitates causes the creation of an effective control system, the strategic goal of which is to ensure the stability of the country's economic growth by preventing violations in the provision of financial services and inefficient use of financial resources. At the same time, the financial and economic crisis of 2014–2019 had negative consequences for the social and economic development of Ukraine. The crisis has demonstrated the vulnerability of the domestic financial system, its dependence on external influence. The growth of the shadow economy and the criminalization of almost all areas of the economy hinder the development of market relations in Ukraine, threatening national interests and national security of the state, undermining citizens' trust in democratic institutions and values, causing concern in society and critical assessments of international experts. The issue of protecting the national interests of the state in the financial sphere is gaining particular importance, under such conditions.

It should be noted that the establishment of the Ukrainian state's own path of development, its inclusion in world integration processes are inextricably linked with the reform of the financial system, the improvement of its legal regulation in order to achieve compliance with modern trends in legal development and international standards. The existence of any state is impossible without the necessary financial support, its adequate legal mechanism, clearly formulated tasks and goals of functioning. Currently, the issues of solving the problem of financial stability and security of the state, the level of which depends on the realization of

national interests and the development of the state, are extremely relevant.

It is quite difficult to imagine the existence of modern economy without a financial services market, which is used for the provision and consumption of financial services, which promote formation of financial resources that are used for the economic development of both the state and individual business entities. A financial services market is an integral basis for developing all sectors of the national economy and creating conditions for the growth of production. In modern conditions, the development of industry, business, trade, healthcare, science, etc. cannot be envisaged without the use of financial services (Bilous, Bryginets, Dragan, Kasyanenko, 2020).

A developed financial services market ensures functioning of a real sector of economy through attracting financial resources, making payments and redistributing funds. The financial services market largely determines economic security of the country, protection of the national interests in the context of globalization (Sych, Ilchuk, Gavrylenko, 2021).

The functioning of the financial services market is ensured by professional participants who occupy an intermediate position between the party that has monetary capital (potential investor) and the party that needs monetary capital (potential investment recipient). Not only citizens, but also the state is interested in making money work, and not just being a «dead» accumulation. But providing and receiving a financial service is always associated with a certain uncertainty, risks that we agree to accept or not, at our own discretion (Bilous, Bryginets, Dragan, Kasyanenko, 2020). Understanding the importance of financial services requires of the state to create appropriate conditions for the functioning of the financial services market and reducing the risks associated with its operation. A public nature of

the financial services market imposes obligations on the state to regulate and establish additional requirements for both professional participants in the financial services market and recipients of investments, which ensures proper protection of the investments themselves.

2. Elements of the Financial Security System

One of the elements of Ukraine's financial security is ensuring a functional mechanism of regulatory and legal regulation as the most important function of the state. According to O. O. Bryginets, the mechanism for legal support of the state's financial security is a whole system of organizational and legal measures of influence, which is aimed at preventing, minimizing and eliminating threats to financial security of the state. The mentioned mechanism is a rather complex and clearly structured system of responding to contemporary challenges (Bryginets, 2016). E. S. Dmytrenko considers the most important element of a financial security system to be its legal support, since "the state of financial security is largely determined by the level of legal regulation of relations in the field of financial activity of the state, local government bodies, and the reason for committing financial offenses is usually conditioned by shortcomings in financial legislation" (Dmytrenko, 2011).

The state of financial security affects the level of legal regulation of financial and other legal relations, but the reason of violations is imperfect norms of current legislation, and the most important element of the system for ensuring financial security is its legal support (Dmytrenko, 2011).

3. Administrative and Legal Norms Occupy a Special Place in the Structure of Legal Principles for the Implementation of State Policy in the Field of NFI Activities

At the same time, a special place in the structure of the legal framework for implementing the state policy in the field of NFI activities is occupied by administrative and legal norms, which actually act as a catalyst for the implementation of conceptual provisions of legislative acts into everyday activities aimed at strengthening the country's financial security. Administrative legal norms are the basis of administrative legal regulation, which is carried out with the aim of implementing state policy by the authorized entities of public administration. So, let's consider this phenomenon in more detail.

In the works on the theory of law, legal regulation is considered as a powerful influence exercised by the state using all legal means on social relations with the aim of their regulation, consolidation, protection and development (Rabinovich, 2007, 188 p.); as

the effect of law on social relations through certain legal means, primarily legal norms (Kopeychikov, 1997). According to V. I. Teremetskyi, legal regulation covers the following: specific activities of the state (its regulatory bodies) related to the development of legal guidelines and the definition of legal means to ensure their efficiency; the activity of direct participants of social relations aimed at searching and engaging means of legal regulation to harmonize their behavior with the law (its principles, ideas, purposes) (Teremets'kyi, 2012). O. I. Bezpalova argues that legal regulation is a specific type of legal influence of administrative and legal forms and means, which taken together constitute the mechanism of legal regulation of police management, upon the activities of relevant entities in order to ensure their normal functioning and effective performance of the duties assigned to them (Bezpalova, 2017). Administrative legal regulation is a subtype of general legal regulation which is understood as the regulation of social relations by the norms of administrative law in the field of state administrative activity in the interests of the individual and the state. Administrative legal regulation is characterized by the imperative nature of decisions made by public administration entities (Datsenko, 2015). V. K. Kolpakov points out that the state, through administrative and legal norms, influences upon social relations, transforming them into administrative and legal relations, that is, it carries out an administrative and legal regulation (Kolpakov, 1999). Therefore, we can conclude that administrative and legal regulation plays an important role in the implementation of the state policy in the field of ensuring security on the non-banking financial services market in Ukraine.

The legal framework for implementing state policy in the field of ensuring security on the non-banking financial services market should be understood primarily as a system of legal norms that are enshrined in the current legislation of Ukraine, subordinate regulatory acts, program and strategic documents of the state, and which establish the goal, objectives, rules, order, and procedures of the authorized entities' activities to ensure financial security of the state. In their turn, administrative and legal norms constitute a central element of administrative and legal regulation, through which the authorized entities implementing the state policy in this area exercise a power-organizing influence on public relations in the NFS. Thus, in the mechanism of implementing the state policy in the field of NFI activities, using the main instrument of administrative and legal regulation – administrative and legal norms, practical implementation of government regulations of laws, codes, the Basic Law, international treaties and other institutional documents into the practical activities of the state, its bodies and officials is carried out (Koshykov, 2020).

Focusing our attention on such key regulatory acts, it should be noted that provisions of the latter regulate the issue of ensuring functioning of financial security of Ukraine, and many of them also outline the legal status of the entities ensuring it. In particular, we are talking about the tasks, functions, competence, interaction, coordination and other significant aspects related to the issue of ensuring its economic security financial, monetary and credit components. For the completeness and comprehensiveness of the scientific study, regarding the multifaceted nature of the NFS the main ones should be paid attention to focusing on the key provisions of these documents.

4. Analysis of the Law of Ukraine "On Financial Services and Financial Companies"

In 2021, the Law of Ukraine "On Financial Services and Financial Companies" (2021) was adopted, which came into force in 2024 (On financial services and financial companies: Law of Ukraine dated December 14, 2021).

This Law is important for its comprehensiveness and unification of approaches to regulating all segments of the financial market – banks, financial institutions, capital market participants, pawnshops. This is a story about a unified state policy in terms of key principles and the principles of the financial services market. Among the provisions of the law are proportional requirements for minimum capital and the same approach and introduction of the market behavior supervision, simplification of the procedure for acquiring or increasing considerable participation and market access for financial companies.

The provisions of the law also address improving the quality of corporate management, preventing violations, and protecting the rights and interests of investors. They include introducing the possibility of having a «regulatory sandbox» – a test environment for innovative companies with a limited scale of operation to ensure the protection of their clients.

The regulator will establish requirements for IT security of market participants. The main thing in the law is a unified approach to regulating the entire sector and strengthening the regulatory function without pressure on the market (National Securities and Stock Market Commission on the Law on Financial Services and Financial Companies, 2021).

The law is designed to create opportunities for the development of financial institutions in various segments, to become the basis for bringing the requirements for their activities, as well as regulation and supervision in line with international practices, which will ensure functioning of an effective financial services market as an integral part of Ukrainian economy, will provide an opportunity for growth for

the persons providing financial services and at the same time ensure a sufficient level of protection for their clients (Explanatory note to the draft Law on Financial Services and Financial Companies dated February 15, 2021).

The law sets forth: 1) to establish, with the aim of uniformity of their application, universal provisions on state regulation of the financial services market; 2) to consolidate the role and relationship of financial services with the ones related them – accompanying, intermediary and auxiliary services; 3) to expand opportunities for financial institutions to provide new types of services for their deeper penetration into the financial services market; 4) to fundamentally change the approach to licensing – not to stick to licensing of the types of financial services, and instead to introduce licensing regarding the type of activity of a financial institution to provide a certain financial service simultaneously with including of such an institution in the relevant register in order to simplify the process of market access and increase the efficiency of regulation; 5) to introduce modern principles of prudential supervision and market conduct supervision; 6) to introduce a risk-based approach to supervision depending on the size, significance, complexity of the business model and an individual risk level of the financial institution; 7) to improve the mechanisms for applying corrective measures and measures of influence in case of violating legal requirements by financial institutions; 8) to increase protection of the rights of financial services consumers by increasing their awareness of financial services provided to them, introducing the supervision by the Regulator over the market behavior of financial service providers, which will also prevent unfair competition and fraud in the financial services market; 9) to establish provisions regulating outsourcing on the financial services market; 10) improve the procedure for supervision by individual regulators and the procedure for their interaction with each other, with other state bodies and regulatory and supervisory bodies of other countries; 11) to establish provisions that will regulate the activities of financial companies and pawnshops: requirements for their activities, procedure for reorganization and exit from the market; 12) to regulate the issue of concluding contracts for providing financial services (Explanatory note to the draft Law on Financial Services and Financial Companies dated February 15, 2021).

Regarding this, gradual introduction of a new regulatory and supervisory model provides participants of the relevant financial services markets with sufficient time to build an appropriate corporate management and internal control system, risk management systems, determine a development strategy and business model, form the capital sufficient to maintain its solvency, ensure the necessary level

of liquidity and asset quality, which will contribute to the financial stability of such persons.

The main provisions of the Law:

A qualitative and conceptual updating of the wording of the Law of Ukraine "On Financial Services and State Regulation of Financial Services Markets" is provided for in order to consolidate new approaches to the regulation of the relevant financial services markets and the activities of the relevant financial institutions. In terms of general regulation of the financial services market, it is proposed:

1) modernization and expansion of the terminology used in the legislation on the regulation of financial services markets; 2) establishment of restrictions on the extension of the law provisions on supplying financial services within the framework of national and local budget programs, in order to increase the efficiency of their application and simplifying the regulation of relevant entities; 3) consolidating the principles of providing financial services and protecting the rights of clients (consumers) in order to ensure the functioning of a transparent and competitive market environment; 4) expanding the provisions on the obligation of a financial service provider to ensure complete and comprehensive information about its activities and the entire range of financial services it provides, in an understandable form without attempts to artificially complicate the perception of such information; 5) establishing requirements not only for advertising financial services, but also for any other form of disseminating information about financial services in order to maximize the protection of clients from false and/or manipulative information; 6) strengthening the rules on protecting the clients' rights when concluding a contract, in particular regarding the prohibition of unilateral changes not only of the interest rate, but also of any other payments or the establishment of new payments, the procedure for concluding contracts remotely and/or by means of joining; 7) introducing the concept of "financial service secrecy" as a simplified analogue of banking secrecy, establishing a regime for its protection and disclosure by financial institutions and regulators; 8) identifying seven types of activities on the financial services market, which are subject to appropriate licensing and regulation; 9) introducing the possibility of a "regulatory sandbox" – a test environment for innovative companies with a limited scale of operation to ensure protection of their customers; 10) a description of possible ways for financial service providers to raise funds, with a ban on raising them on the mass market in the form of deposits for all institutions, except banks and credit unions, as well as the introduction of the institution of qualified investors who are able to invest in the activities of financial institutions if they meet the established criteria; 11) establishing provisions on the external audit of financial institutions and the

procedure for interaction between the National Bank of Ukraine and audit companies; 12) establishing provisions on outsourcing, as the performance by third parties of functions or individual processes of a financial services provider, with the definition of the procedure for interaction between them, the distribution of responsibilities and the role of the regulator; 13) introduction of the possibility of self-regulatory organizations of market participants; 14) establishment of tasks, principles and methods of state regulation of financial services activities, as well as relevant restrictions 15) the possibility of applying the professional judgment of the regulator with appropriate safeguards in the course of supervision; 16) the definition of market conduct supervision as a mechanism for controlling the qualitative indicators of the activities of a financial services provider, in particular in terms of compliance with consumer protection requirements; 17) expanding the scope of the Credit Register of the National Bank of Ukraine except banks to other financial institutions in order to improve risk management and protect clients from excessive debt burden (Explanatory note to the draft Law on Financial Services and Financial Companies dated February 15, 2021).

In terms of regulating the activities of financial companies and pawnshops: 1) determining the list of financial services that can be provided by financial companies and pawnshops, and the possibility of combining them; 2) establishing restrictions on the activities of a financial company, the possibility of its carrying out activities other than provision of financial services; 3) peculiarities of pawnshops activities, in particular, lending only against collateral, the procedure for preserving collateral, limiting the volume of claims against borrowers by the value of collateral, etc.; 4) peculiarities of opening separate units, as well as branches of foreign financial institutions in Ukraine; 5) differentiation of capital requirements of a financial company and a pawnshop depending on the types and quantity of financial services planned to be provided; 6) requirements and restrictions on the names of financial companies and pawnshops; 7) the procedure for licensing financial companies and pawnshops, a list of relevant documents, reasons for refusal to issue a license and the consequences of such a refusal; 8) the procedure and grounds for changing the scope of a license of a financial company or pawnshop (increasing or decreasing the number of types of financial services that a person has the right to provide); 9) requirements for the ownership structure of financial companies and pawnshops, as well as their owners' considerable participation, and the procedure for verifying their compliance with such requirements; 10) general requirements for managers of a financial company or pawnshop, and the procedure for their approval by the National Bank of Ukraine,

requirements for corporate management and the internal control system of a financial company or pawnshop; 11) the procedure and scope of informing the NBU by a financial company and pawnshop about its activities; 12) features of outsourcing functions or processes of financial companies or pawnshops; 13) establishing the volumes of data received by financial companies and pawnshops and transmitted by them to the NBU credit register; 14) the powers of the NBU in the field of supervision of the activities of financial companies, including the grounds and procedure for applying corrective measures and measures of influence; 15) peculiarities of reorganizing a financial company and a pawnshop; 16) grounds and procedure for full or partial cancellation of a license for the activities of a financial company or a pawnshop (Explanatory note to the draft Law on Financial Services and Financial Companies dated February 15, 2021).

Some aspects related to the issue of legal principles regarding regulatory security on the non-banking financial services market are covered in codified regulatory legal acts. For example, according to Art. 167 of the Civil Code of Ukraine (2003) (Civil Code of Ukraine, 2003) the state may create legal entities of public and private law in cases provided for by law. Tax Code of Ukraine (2010) (Tax Code of Ukraine, 2010) regulates relations arising in the field of collecting taxes and fees, in particular, it determines an exhaustive list of taxes and fees collected in Ukraine, the procedure for their administration, taxpayers and their rights and obligations, the competence of supervisory bodies, the powers and obligations of their officials during tax administration, as well as liability for violations of tax legislation.

The provisions of the aforementioned regulatory legal act also define the functions and establish the legal basis for the activities of regulatory bodies and the central executive body, which ensures the formation and implementation of the state financial policy.

5. Economic Criminal Offenses

The norms that establish liability for committing violations in the area under study are the Criminal Code (CC) of Ukraine (Chapter VII "Criminal Offenses in the Field of Economic Activity", Chapter XVI "Criminal Offenses in the Field of Use of Electronic Computers, Systems and Computer Networks and Telecommunication Networks" and Chapter XVII "Criminal Offenses in the Field of Official and Professional Activity, related to the provision of public services") (Criminal Code of Ukraine, 2001) and the Code of Ukraine on Administrative Offenses (Code of Ukraine on Administrative Offenses, 1984), which defines unlawful acts that negatively affect the financial security of the state in Chapter 12 "Administrative

Offenses in the Field of Trade, Public Catering, Services, Finance and Entrepreneurial Activity". This chapter contains a significant number of provisions that define certain actions in the financial sector as offenses. The list of these norms is wider than the number of corpus delicti directly related to the financial sector.

Signs of economic criminal offenses are inherent in all financial criminal offenses. At the same time, their specific features are as follows:

1) criminal activity is connected with financial legal relations, i.e. social relations regarding the formation, distribution, redistribution and use of funds of money (financial resources) of the state, business entities and citizens;

2) financial activities are mostly legitimate and controlled by the authorities, authorized individuals and legal entities;

3) financial legal relations are based on the principle of power-subordination, as well as the rights and obligations of the parties defined by the rules of financial law (Cherney, 2014).

Thus, *financial criminal offenses are socially dangerous acts that encroach on economic relations regulated by financial law regarding the formation, distribution, redistribution and use of funds of money (financial resources) of the state, business entities and citizens.*

The criteria for classifying socially dangerous acts as financial criminal offenses can be defined as follows: 1) the presence of a specific object of the offense – funds of money (financial resources); 2) violation of the process of their legal circulation or creation of appropriate conditions for violation of this process; 3) unity of the object of the offense – legal relations in the field of financial activities of the state, business entities and citizens.

Liability for financial offenses that are not criminal offenses is regulated by tax, customs, and budgetary administrative legislation. In this regard, NFIs are characterized as a sub-element of the financial system, namely as an element of the financial services market – one of the financial intermediaries (Zaitsev, 2010; Savluk, 2011; Khodakivska, Danilov, 2011; Predborsky, 2002) or as an element of the financial and credit system.

6. Groups of Criminal Offenses Committed by Non-Bank Financial Institutions (NFIs)

Criminal offenses committed by NFIs should be categorized into the following groups:

1) criminal offenses aimed at direct misappropriation of principals' funds: fraud (Article 190 of the Criminal Code of Ukraine); misappropriation, embezzlement or misappropriation of property through abuse of office (Article 191 of the

Criminal Code of Ukraine); causing property damage by deception or breach of trust (Article 192 of the Criminal Code of Ukraine) (Criminal Code of Ukraine, 2001);

2) actions aimed at concealing traces of criminal income, persons who received it, creating the appearance of the legal origin of this income: forgery of documents submitted for state registration of legal entities and individual entrepreneurs (Article 205-1 of the Criminal Code); legalization (laundering) of property obtained by criminal means (Article 209 of the Criminal Code); intentional violation of the requirements of legislation on the prevention and counteraction of legalization (laundering) of proceeds obtained by criminal means, financing of terrorism and financing of the proliferation of weapons of mass destruction (Article 209-1 of the Criminal Code); fraud with financial resources (Article 222 of the Criminal Code); theft, appropriation, extortion of documents, stamps, seals, acquisition of them by fraud or abuse of official position (Article 357 of the Criminal Code of Ukraine); forgery of documents, seals, stamps, and forms, their sale, use of forged documents (Article 358 of the Criminal Code) (Criminal Code of Ukraine, 2001);

3) actions related to illegal activities of officials: official criminal offenses under Articles 364-370 of the Criminal Code of Ukraine (Criminal Code of Ukraine, 2001).

7. Types of Administrative Offenses under the Code of Administrative Offenses in the Field of Provision of Financial Services by Credit Unions in Ukraine

The Code of Ukraine on Administrative Offenses (CUAO, 1984) defines the following types of administrative offenses and, accordingly, penalties in the field of financial services provided by credit unions in Ukraine:

1. Violation of the procedure for engaging in the provision of financial services (Article 166-8 of the Code of Administrative Offenses) (Code of Ukraine on Administrative Offenses, 1984).

Carrying out banking activities, banking operations or other financial services activities without obtaining the status of a financial institution or without a special permit (license), if the law provides for the acquisition of the status of a financial institution or obtaining a special permit (license) to carry out these activities, or in violation of the licensing conditions, shall be punishable by a fine of 100 to 250 tax-free minimum incomes.

Actions provided for in Part 1 of this Article related to the receipt of income in large amounts shall be punishable by a fine of two thousand to three thousand tax-free minimum incomes. Receipt of

income in large amounts is present when its amount is one thousand or more times higher than the tax-free minimum income of citizens.

The object of this administrative offense is public relations in the field of banking and other financial services. The objective side of the offense is expressed in the implementation of banking activities, banking operations or other financial services activities without obtaining the status of a financial institution or without a special permit (license), if the law provides for the acquisition of the status of a financial institution or obtaining a special permit (license) to carry out these activities, or in violation of the licensing conditions (formal composition) (Basai, 2021; Takhtai, 2017; Scientific and practical commentary to the Code of Ukraine on Administrative Offenses, 2017).

The subjective side of the offense is determined by the attitude to the consequences and is characterized by the presence of guilt in the form of intent (Scientific and practical commentary to the Code of Ukraine on Administrative Offenses, 2017).

2. Failure to comply with the legal requirements of NBU officials in the field of banking legislation, legislation in the field of state regulation of non-banking financial services markets, legislation governing the transfer of funds in Ukraine (Article 188-29).

Failure to comply with the lawful requests of NBU officials to eliminate violations of banking legislation or legislation governing the transfer of funds in Ukraine, or the creation of obstacles to the performance of their duties, shall result in a fine of twenty-five to fifty tax-free minimum incomes.

The object of this administrative offense is public relations in the field of financial services markets. The objective side of the offense is expressed in the failure to comply with the legal requirements of NBU officials to eliminate violations of legislation in the field of state regulation of financial services markets or to create obstacles to the performance of their duties (formal composition). The subject of an administrative offense is an official. The subjective side of the offense is determined by the attitude to the consequences and is characterized by the presence of guilt in the form of intent (Scientific and practical commentary to the Code of Ukraine on Administrative Offenses, 2017).

Both credit union officials (individuals) and the credit union as a legal entity may be subject to administrative liability. In particular, persons who may be held administratively liable for administrative offenses in the field of credit unions may be:

1) natural persons of sound mind who have committed an offense at the age of administrative liability and have entered into public relations in the field of lending;

2) legal entities involved in public relations arising in the course of credit unions' activities;

3) officials of financial institutions who hold certain positions and, through their official duties, have the ability to influence the process of providing credit services to consumers;

4) individual entrepreneurs who have received the appropriate permit and have the right to provide credit services to consumers as provided by law;

5) financial groups involved in social relations that arise in the process of providing credit services to consumers.

Thus, the subjects of administrative liability for violations of the provision of financial services in the activities of NFIs should include: *individuals of sound mind* who have committed an offense at the age of administrative responsibility and who have entered into public relations for the satisfaction of financial interests and related public relations (these individuals may be citizens of Ukraine, foreigners and stateless persons), except for persons who have immunity in the territory of Ukraine; *NFI* as a legal entity participating in public relations that arise in the process of satisfying financial interests; *officials* who perform the functions of a representative of the NFI on a permanent or temporary basis, or hold a managerial position in the institution related to the performance of organizational, administrative, economic duties or advisory functions, or perform such duties by special authority. The use of the above concept of "NFI official" in detecting violations of the provision of financial services in the activities of NFIs will significantly expand the range of persons to be held administratively liable, subject to administrative sanctions for committed offenses, and enshrine in the Law "On Financial Services and Financial Companies" (2021) the joint and several liability of NFI members for the obligations of the institution itself.

In addition, in order to solve the problems of preventing offenses in the field of providing financial services to NFIs in Ukraine and to specify the time limits for imposing an administrative penalty for an offense, it is proposed to supplement Part 2 of Article 38 of the Code of Administrative Offenses with the following content: "An administrative penalty for committing an offense in the field of providing financial services by non-bank financial institutions may be imposed within six months from the date of detection, but not later than one year from the date of its commission". These changes will significantly improve the situation with bringing to administrative responsibility for offenses in the field of providing financial services to NFIs (Vitvitskyi, Nazymko, Ponomarova, 2023).

The Economic Security Strategy of Ukraine for the period up to 2025 (Petrosyan, 2010) assessed the state of financial security as unsatisfactory in recent years (with the average value of the financial security assessment for this period at 42% of the optimal

level) due to the constant state budget deficit and the associated significant debt burden, insufficient development of long-term investment lending to the economy and the stock market. In 2014-2016, the financial system once again suffered negative consequences from an acute external security threat, which demonstrated the immaturity of Ukraine's financial system against the background of a low financial culture in society. As of today, the level of financial security decreased by 4 percentage points (compared to 2018) to 42% and by 3 percentage points to 38% in the first half of 2020 compared to the level in the first half of 2019. However, the results presented in the Financial Stability Report prepared by the NBU showed that the level of financial security was sufficient to ensure that the financial sector could perform its functions properly and successfully overcome the corona crisis (Nazymko, Volobuieva, Kryzhanovskiy, 2023).

8. Main Challenges and Threats in the Field of Financial Security

The main challenges and threats to financial security remain: low budgetary discipline, low institutional capacity of budget administrators to develop plans for more than one year, limited links between budget planning and priority areas of state development; a significant state budget deficit, which exceeds the 3 percent of Ukraine's projected nominal gross domestic product for the relevant year specified in the Budget Code, which, in the absence of non-debt sources of financing, leads to an increase in public debt and a corresponding burden on the state budget; insufficient level of financial inclusion; unresolved issues of assets and financial obligations in temporarily occupied territories; loss of budget revenues due to widespread tax evasion schemes and erosion of the tax base through low-tax jurisdictions; inconsistency in the legal regulation of relations in the tax sphere; insufficient development of long-term lending; significant share of non-performing loans in the credit portfolio of banks, including the public sector; imperfect and outdated pension system; low level of stock market liquidity and investor protection, coupled with the regulator's insufficient capacity to counter market abuse (Economic Security Strategy of Ukraine for the period until 2025: Decree of the President of Ukraine dated August 11, 2021).

As for bylaws, this group of sources undoubtedly has its own important place. These are the NBU's regulatory resolutions, decrees of the President of Ukraine, resolutions of the Cabinet of Ministers of Ukraine, ministries and other central executive authorities, their territorial bodies, local state administrations, and local self-government bodies containing rules of mandatory behavior for NFIs that

are not limited to a single application (Gorbunova, 2008).

Many years of practice show that the existence of such acts is due to the objective need to promptly resolve a number of situational problematic issues, thereby often filling some gaps in national legislation. Their value also lies in the simplified and faster procedure for entering into legal force, which is quite justified in the context of frequent emergence of new challenges for the national economy (Melnik, 2021). Such acts, according to E. A. Getman, primarily perform a regulatory function, which in turn is divided into the function of primary and secondary regulation, and a managerial function: explanatory, specifying, law-making and law enforcement (Getman, 2014), while providing details of the application of the law, regulating the procedure for its enactment, specifying the mechanism of this action, which is already defined in the law, establishing quantitative indicators, norms, quotas that change rapidly, containing solutions to some specific issues, including procedural and law enforcement issues (Kovalska, 2008).

Thus, these acts in the field of NFI activities have certain peculiarities, among which the following should be highlighted:

- 1) detail and specify enough fundamental provisions of the laws, thus ensuring the maximum realization of legitimate interests in the field of NFI activities;

- 2) in cases of absence of legislative regulation, bylaws regulate social relations related to control and supervision by authorized entities that issue this type of acts instead of the law;

- 3) subordinate acts in the sphere of of NFI activity are diverse and heterogeneous, but due to the lack of legal consolidation of the system of normative acts, it is often quite difficult to determine their hierarchy and legal force of the relevant documents;

- 4) such subordinate acts are of a state nature, since their implementation is the duty of the enforcement entities;

- 5) these acts are adopted in accordance with the procedure established by other regulatory acts and taking into account the requirements for content and form.

Subordinate regulatory acts legally supplement the national legal system, modernizing it, making it more flexible and adapted to the complex and changing realities of today. In turn, this creates additional prerequisites for effectively countering obvious and, equally important, latent threats to the national economy (Ortynskyi, 2016; Melnyk, 2021).

9. Conclusions

Summing up the above, we should admit that the legal basis for the implementation of the state policy in the field of ensuring security in the NFS is a system of legal norms enshrined in the current legislation of Ukraine, subordinate regulatory acts, program and strategic documents, which establish the goal, objectives, rules, order, and procedures of the authorized entities activities, regarding the regulation and development of relations in the NFS, ensuring the implementation of socio-economic rights and freedoms of citizens, and their protection in case of violation, creating conditions for further development and growth of the national economy and ensuring competitiveness. Such norms are usually included in subordinate regulations adopted by the subjects of state regulation in the field of NFI activities.

The basis of administrative and legal regulation, which is carried out by the authorized entities for the purpose of implementing the state policy, are the norms of administrative legislation, the peculiarity of which is fact that they have a clearly defined limit of their action (limits of legal regulation) such as the subject area of activity of public administration bodies and public relations of a managerial nature, which are formed as a result of their exercising organizational and governmental powers, the norms of administrative legislation aimed at regulating public relations of a managerial nature, which arise between the state and NFI. The peculiarity of these relations is the fact that one of the parties is the state, represented by the subject of authority – a public administration body endowed with certain powers, which has the right to demand certain legal behavior of other participants – the National Bank of Ukraine, the National Securities and Stock Market Commission, etc.

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