

POLICY FOR PREVENTION (AVOIDANCE) OF CRIMES IN FINANCIAL MARKETS

Oleksandr Sviatotskyi¹, Andrii Babenko², Hanna Reznichenko³

Abstract. The article is devoted to the study of the problems of prevention (prevention) of crimes in financial markets. The authors conducted a thorough analysis of the fundamental elements of the policy aimed at the prevention of criminal activities in the domain of financial markets. It has been determined that contemporary financial markets are complex and dynamic systems, vulnerable to fraud, market manipulation, insider trading, money laundering, terrorist financing and cybercrime. The globalisation and digitalisation of financial services has resulted in an increase in the number and complexity of financial criminal offences, causing significant losses and undermining trust in financial markets. A thorough analysis was conducted, revealing a discernible trend of criminal schemes becoming increasingly intricate. This necessitates a constant refinement of preventive mechanisms, regulatory frameworks, and law enforcement practices. It has been determined that criminal offences in financial markets are socially dangerous acts that encroach on the functioning of the financial system, the circulation of instruments and resources, trust in institutions and the legitimate interests of participants. The following characteristics are emphasised: increased latency, transnational nature and the use of complex financial schemes. It is hereby proposed that a new classification of crimes be established, encompassing a range of offences. These include those pertaining to the circulation of money, within the domain of financial monitoring and the counteraction of the legalisation of criminal proceeds. This encompasses the budget and tax systems, the stability of the banking system, and those related to the manipulation and utilisation of confidential information. It is important to note that the prevention policy in financial markets is a purposeful, systematic and multi-vector activity on the part of the state and financial market entities. The aim of this policy is to eliminate or minimise the determinants of crime and to reduce criminogenic risks. The primary vectors of the prevention policy are identified as follows: legislative prevention, institutional prevention, corporate prevention, social prevention and global prevention. It is emphasised that the integrated application of these strategies ensures comprehensive protection of the financial system.

Keywords: financial markets, criminal offenses, prevention policy, crime prevention, financial security.

JEL Classification: D53, K14

1. Introduction

Modern financial markets are regarded as one of the most complex and dynamic systems of the world economy, in constant evolution and with a significant impact on the functioning of the economy, ensuring capital mobilisation, risk redistribution and liquidity at the national and international levels. However, it is precisely this complexity, coupled with the increasingly globalised and rapid nature of financial transactions, that renders financial markets particularly susceptible to a wide range of criminal activities,

including fraud, market manipulation, insider trading, money laundering, terrorist financing and cybercrime. It is important to acknowledge the impact of globalisation and digitalisation on the financial services sector, which has led to an increase in the complexity and number of financial criminal offences. These offences not only result in significant material losses but also have the potential to undermine confidence in financial markets, distort illegal competition and systemic risks, and can lead to financial instability. It is imperative to recognise the pivotal role

¹ National Academy of Law of Ukraine, Ukraine

ORCID: <https://orcid.org/0000-0001-8219-4782>

² Odesa State University of Internal Affairs, Ukraine (*corresponding author*)

E-mail: an.babenko@ukr.net

ORCID: <https://orcid.org/0000-0002-9498-2484>

³ Odesa State University of Internal Affairs, Ukraine

E-mail: anna24@ukr.net

ORCID: <https://orcid.org/0000-0001-6386-4154>



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of effective prevention in ensuring the stability and transparency of financial markets. In the contemporary landscape, criminal schemes are becoming increasingly sophisticated, employing cutting-edge technologies (e.g., fintech, blockchain, artificial intelligence) and leveraging international networks. This underscores the necessity for constant refinement of preventive mechanisms, regulatory frameworks and law enforcement practices. The global nature of financial markets necessitates the harmonisation of national legislation and preventive measures with international standards. The study of such standards allows for the assessment of the effectiveness of their implementation and the development of recommendations for further improvement in the national context, especially for countries such as Ukraine, which seek integration into European and global financial structures.

Consequently, research into the policy of preventing criminal offences in financial markets is not only relevant, but also strategically important for ensuring economic security, stability and development of the state in the face of modern global challenges. The findings of such research endeavours have the potential to serve as a foundation for the development of effective legislative initiatives, the enhancement of regulatory practices, and the augmentation of the efficiency of all entities engaged in the endeavour to combat financial crime.

The purpose of the present article is to study the key aspects of the policy of prevention (prevention) of criminal offenses in financial markets.

2. Literature Review

Recent research into the prevention of criminal offences in the financial markets includes the work of E. I. Gataullina, A. Yu. Repchonko, V. V. Romanyuk and V. V. Sokurenko focuses on continuously adapting legislation and financial monitoring practices to crime dynamics, integrating international standards in this area, analysing the effectiveness of legal norms, classifying economic crimes and increasing financial literacy to strengthen Ukraine's financial system resilience.

3. Materials and Methods

The present study is grounded in the research conducted by Ukrainian and foreign scholars concerning methodological approaches to comprehending the challenges of preventing economic crime under martial law in Ukraine.

The present study employed a combination of general scientific and specialised methods. In particular, hermeneutic methods were utilised for the cognitive interpretation of scientific articles, monographs, and educational materials, with the aim of elucidating the

content of the issues raised. Furthermore, sociological methods were employed to ascertain the positions and opinions of scientists and practitioners with regard to the causes and conditions of economic crime. Additionally, dogmatic methods were employed to identify positive foreign experiences in the field of economic crime prevention. Finally, statistical methods were employed to process statistical indicators of economic crime.

4. Results and Discussion

Financial markets can be defined as a set of economic relations through which financial resources are mobilised and redistributed between economic entities, the state and the population. This encompasses the capital market (stock market), the foreign exchange market and the market for derivative financial instruments. As E.I. Gataullina asserts, a financial market is one determined by the demand and supply of various financial resources (Gataullina, 2023). The pivotal function of financial institutions within the economic landscape is to facilitate the effective conversion of temporarily available financial resources (savings) into productive investments. This process is a crucial prerequisite for ensuring sustainable economic growth and development, contributing to the augmentation of production, the establishment of new employment opportunities, and the enhancement of the general well-being of the population.

It is imperative to acknowledge the significance of the definition of concepts and types of criminal offences in financial markets for the development of an effective prevention policy. This is due to the fact that it enables the precise identification of objects of protection, the determination of areas of greatest risk, and the creation of targeted, adequate preventive measures that best meet the nature and specificity of each category of criminal offences. Chapter VII of the Ukrainian Criminal Code (henceforth referred to as the Criminal Code of Ukraine) contains a list of criminal offences in the field of economic activity, which covers a wide range of acts that encroach on the economic foundations of the state, fair competition, and the stability of the financial system (Repchonok, 2022). The latter encompasses crimes related to the illegal circulation and use of documents, funds, and goods, as well as acts related to encroachments on property and entrepreneurial activity. A separate group consists of crimes in the financial sector, such as money laundering, tax evasion, as well as manipulation of financial and energy markets, violation of securities rules, and use of insider information, which emphasises the focus on ensuring transparency and legality of economic relations.

In the field of economics and economic activity, there are different approaches to classifying

criminal offences. In particular, A. Yu. Repchonok and V. V. Romanyuk determine that this category includes groups such as criminal offences relating to property, financial and economic activities, economic activities and official activities committed by organised groups of corrupt officials (Sokurenko, 2018). In this study, an attempt is made to propose a classification of crimes in financial markets based on the following criteria: (1) crimes against money circulation and financial instruments – Articles 199, 200 and 224 of the Criminal Code of Ukraine (Halunko, 2021) (for example, Article 224 "Production, sale and use of counterfeit securities (except government securities)" undermines trust in financial instruments and the stability of the securities market by compromising their authenticity and the legality of circulation); (2) crimes in the sphere of financial monitoring and combating the legalisation of criminal proceeds – Articles 209 and 209-1 of the Criminal Code of Ukraine (Shkuta, 2022) (for example, Article 209 "Legalisation (laundering) of property obtained by crime" encroaches upon the state's financial system, its transparency and legality, by integrating illegally obtained funds into lawful circulation, thereby complicating their detection and confiscation); (3) crimes within the budgetary and tax system – Articles 210, 211, 212 and 212-1 of the Criminal Code of Ukraine (Halunko, 2021) (for example, Article 212 "Evasion of taxes, fees (mandatory payments)" affects the formation of the revenue side of state and local budgets, hindering full financing of public needs and undermining the financial stability of the state); (4) crimes against the stability and integrity of the banking and financial system – Articles 218-1, 219, 220-1, 220-2 and 222 (for example, Article 218-1 "Bringing a bank to insolvency" threatens the stability of the banking system and the protection of depositors' interests, causing a loss of confidence in banking institutions and posing risks of systemic crises); and (5) crimes related to market manipulation and the use of confidential information – Articles 222-1, 222-2, 232, 232-1 and 232-3 (for example, Article 232-1 "Illegal use of insider information" violates the principles of equality, transparency and fair pricing in financial markets, providing undue advantages to persons possessing classified information). Analysing Section VII of the Criminal Code of Ukraine, one can identify those criminal offences which, in authors' opinion, are directly committed within the financial market sphere and are covered by Articles 199, 200, 209, 209-1, 210, 211, 212, 212-1, 218-1, 219, 220-1, 220-2, 222, 222-1, 222-2, 224, 227, 232, 232-1, 232-3 and 233 (Shkuta, 2022).

It is evident that criminal offences in financial markets are of significant social concern. These illegal acts are of a nature to subvert the established legal procedures that govern the functioning of the financial

system, the circulation of financial instruments and resources, trust in financial institutions, transparency and honesty of market relations, as well as the legitimate interests of participants in financial transactions. This can result in material or other damage to the state, legal entities and individuals. The hallmarks of these schemes include an increase in latency, a transnational character, and the employment of intricate financial arrangements.

Prevention policy constitutes an integral component of the criminological policy framework. Within the scientific discourse, prevention policy is delineated as a scientifically substantiated strategy and tactics for the proactive prevention of criminal activity, embodying an active, offensive and anticipatory modus operandi, in contradistinction to criminal policy, which is predicated on the enforcement of law and order. The primary objective of the programme is to curtail the application of coercive measures by eradicating the underlying causes and conditions of criminogenic processes. This is achieved through the implementation of forecasting and planning methodologies, with a focus on dynamic socio-economic developments. It is evident from the aforementioned that the prevention policy in the field of preventing criminal offences in financial markets is a purposeful, systematic and multi-vector activity on the part of the state and financial market entities. This policy is based on scientifically sound principles and is aimed at eliminating or minimising the determinants of crime, reducing criminogenic risks and creating effective barriers to illegal encroachments. The policy covers all stages of the life cycle of a potential criminal offence, from the conditions of its occurrence to recurrence. The prevention of criminal offences in financial markets constitutes an element of preventive policy. Such a policy is to be understood as a comprehensive, proactive system of measures aimed at minimising or completely eliminating the causes and conditions that contribute to the emergence and spread of crime in financial markets. In addition, the identification and neutralisation of threats prior to their materialisation into criminal acts is to be ensured, thus ensuring stability, transparency and trust in the financial system (Halunko, 2021).

The primary vectors of prevention policy in the domain of preventing criminal offences in financial markets comprise:

1. The formation of a perfect legal framework for preventing criminal offences in financial markets (legislative prevention) consists of developing and improving regulatory legal acts that govern the functioning of financial markets. This involves eliminating legal gaps and conflicts to prevent opportunities for abuse arising from imperfections or contradictions in legislation. It also involves the digitalisation of the legal regulation of the latest

financial technologies (e.g., cryptocurrencies and blockchain), allowing them to be integrated into the legal framework and preventing their use for criminal purposes. For example, the provisions of the Law of Ukraine "On the Prevention and Counteraction to the Legalisation (Laundering) of Criminal Proceeds, the Financing of Terrorism, and the Financing of the Proliferation of Weapons of Mass Destruction" are aimed at "protecting the rights and legitimate interests of citizens, society and the state, and ensuring national security by defining a legal mechanism for preventing and countering the legalisation (laundering) of proceeds of crime, the financing of terrorism, and the financing of the proliferation of weapons of mass destruction" (Halunko, 2021). Legislative prevention also provides for the implementation of international standards and recommendations. For example, the standards of the Financial Action Task Force (Group for the Development of Financial Measures to Combat Money Laundering) require states to criminalise money laundering and terrorist financing, implement strict customer due diligence procedures (CDD/KYC), report suspicious transactions, use a risk-based approach in financial monitoring, and establish effective international co-operation to combat cross-border financial crimes (Leheza, 2021). It is important to acknowledge the pivotal role that the implementation of the Financial Action Task Force (FATF) recommendations plays in establishing an effective preventive architecture for the financial system. The recommendations function as multi-level filters that facilitate the identification and blocking of attempts to legalise (launder) proceeds of crime, as well as the financing of terrorism and the proliferation of weapons of mass destruction at the initial stages. This proactive approach enables the effective confrontation of potential criminal threats, thereby minimising their destructive impact on economic stability and the integrity of financial markets.

2. The effectiveness of state regulation and supervision in preventing criminal offences in financial markets (institutional prevention) should be increased. This includes: 1) strengthening the role of financial regulators by ensuring the independence, resources and personnel of the National Bank of Ukraine, the National Securities and Stock Market Commission and the State Financial Monitoring Service, in order to enable them to carry out effective prudential and market supervision; 2) implementing a risk-based approach to focus control measures on the riskiest areas and entities in the financial market; 3) strengthening interdepartmental coordination to create effective mechanisms for the exchange of information and co-operation between financial regulators, law enforcement agencies and other state bodies, in order to enable a comprehensive response to threats. For example, the National Securities and

Stock Market Commission carries out financial monitoring, which is defined as "a set of measures taken by financial monitoring entities in the field of prevention and counteraction, including conducting state financial monitoring and primary financial monitoring", for the purpose of comprehensive supervision in the field of preventing and counteracting financial offences. This includes conducting inspections of primary financial monitoring entities and applying impact measures in case of violations. In addition to the above powers, the activities of the National Securities and Stock Market Commission in the field of preventing and counteracting crimes in financial markets include risk-based regulation, ensuring the effective exchange and reliable storage of information, providing methodological support to primary financial monitoring entities, and developing international co-operation to increase the system's overall effectiveness in countering the legalisation (laundering) of proceeds from crime (Leheza, 2021).

3. The development of internal control systems and compliance cultures aimed at preventing criminal offences in financial markets (corporate prevention). This involves legally enshrining the requirement for financial institutions to implement effective internal control systems and risk assessment and management, particularly with regard to AML (anti-money laundering) and CFT (countering the financing of terrorism). The aim is to create a culture of intolerance to any forms of financial fraud and abuse among financial institution employees and to introduce prevention technologies through the active use of modern IT solutions for automated transaction monitoring, the detection of suspicious patterns and anomalies, and the prediction of potential risks. For instance, the AML/CFT area encompasses the comprehensive set of regulations, procedures and internal control systems that financial institutions are obligated to implement to combat money laundering and terrorist financing. These include customer identification, transaction monitoring, reporting of suspicious transactions, risk assessment of customers and transactions, staff training, and so forth (Shkuta, 2022).

4. Increasing financial literacy and education in preventing criminal offences in financial markets (social prevention) involves running awareness campaigns for the public and investors about common financial fraud schemes, investment risks, and safe behaviour in financial markets. This includes incorporating financial security topics into educational programmes, running seminars and training sessions for different population groups, and creating anonymous reporting mechanisms for suspicious financial sector activities. For example, the "Diia.Education" portal hosts the educational course "Financial Literacy for Entrepreneurs", which plays an important role in social prevention by combatting criminal offences

in financial markets. This is achieved by increasing entrepreneurs' financial awareness, enabling them to minimise the risk of unintentional violations and recognise fraudulent schemes more effectively.

5. The aim of international co-operation in preventing criminal offences in financial markets (global prevention) is to develop co-operation with international organisations and other states in order to unify approaches to the regulation and prevention of financial crimes. This is particularly important for combating transnational crime. For instance, the collaboration of the National Bank of Ukraine with the International Monetary Fund, notably within the context of financial assistance and technical support programmes, ensures not only the implementation of structural reforms and macroeconomic indicators, but also the enhancement of the institutional capacity of the National Bank of Ukraine in the domain of banking supervision and financial stability. This is of critical importance in the prevention of systemic financial crises and abuses in the banking sector (Shkuta, 2022).

5. Conclusions

Financial markets are a fundamental component of a state's economic system, ensuring the redistribution of financial assets and stimulating economic growth. However, they are exposed to significant risks of criminal attacks that can destabilise public finances and harm legal and physical entities. Therefore, forming an effective preventive strategy is critical for minimising these threats, as it enables risks to be detected and neutralised early on, thereby helping to maintain stability and confidence in the financial system.

An analytical review of crime in the financial sector enables the identification of its key typologies. These include offences that affect the functioning of monetary circulation and financial instruments, crimes relating to financial monitoring mechanisms and the

prevention of the laundering of illegally obtained funds, acts that violate the established order of the budget and tax systems, criminal acts that aim to destabilise the banking and financial sectors, and criminal offences involving the manipulation and misuse of insider information in markets. These illegal actions are characterised by a high level of latency, a transnational dimension, and the use of complex financial schemes.

The policy of preventing criminal offences in the financial markets is a set of interrelated initiatives aimed at counteracting criminal manifestations in this area. Firstly, this policy is establishing a comprehensive regulatory and legal framework, including the development and amendment of legislation, and the implementation of international standards, particularly those relating to the prevention of money laundering and terrorist financing. Secondly, the effectiveness of state regulation and supervision is being enhanced by strengthening the institutional role of financial regulators, introducing risk-based approaches, and fostering closer collaboration between departments to ensure more effective control. Thirdly, financial institutions are developing internal control mechanisms and a culture of compliance, which includes integrating automated transaction monitoring technologies. This plays a central role in preventing abuse at the level of specific organisations. Fourthly, significant attention is being paid to raising the financial literacy of the population and the investment community. This helps to identify fraudulent schemes and minimise the risk of unintentional violations by market participants. Fifthly, international co-operation is an integral component of global preventive activities, contributing to the unification of regulatory approaches and the effective counteraction of transnational financial crimes. The combined implementation of all these strategies offers the financial system comprehensive protection against illegal encroachment.

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