

## Reform's Forum Note

# THE DEPOSIT GUARANTEE FUND OF UKRAINE: TOWARDS EU STANDARDS OF RIGHTS PROTECTION

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**Summary:** 1. Introduction. – 2. Examination of the Structure of the European Banking System. – 3. Conclusions and Proposals.

**Keywords:** The Deposit Guarantee Fund of Ukraine; deposit insurance system; depositors' rights protection; European integration; harmonisation; banking legislation

## ABSTRACT

*An effective deposit insurance system is commonly considered the strongest instrument for increasing confidence in banking systems, as well as for encouraging private investments in banking services. In developing relevant legislation and institutions in line with EU standards, Ukraine will ensure that its deposit guarantee system can be integrated with that of the EU. In light of the relevant legislation, we examine the EU's deposit guarantee system in general and with regard to its particular characteristics, namely: insured entity, compensation amount, legal*

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terminology, and financing. Then, we compare those characteristics to those of Ukraine and assess the necessity and priority of their development. As a result, we first emphasise that individual entrepreneurs and legal entities, as well as individual entities, must be insured under the Deposit Guarantee Fund. Second, we argue that the current state compensation amount for deposits in case of bank insolvency is insufficient and suggest that it must be revised and increased. Third, we draw attention to the fact that Ukrainian banking and deposit guarantee legislation must be revised and integrated with relevant European legal terminology. Finally, we also analysed the particular aspects of financing for the European deposit guarantee system, especially the various means of investing free funds in the deposit guarantee system, which we thought could be useful to implement in Ukraine. Our results suggest distinct legislative and other empirical measures needed to improve the Ukrainian deposit guarantee system and generally consolidate it with that of the EU.

**Background:** The deposit insurance system provides insurance for the deposits of individuals who have entrusted their money to banks. In the event of the insolvency of a banking institution, the deposit insurance system, to a greater or lesser extent, guarantees the payment of deposits to that institution's clients and protects the rights of other creditors involved in the insolvency proceedings. As a result of the banking sector crisis in Ukraine during 2014-2017, almost 100 banks were classified as insolvent. Therefore, the Deposit Guarantee Fund of individuals was subject to a huge burden, which exposed several problematic issues related to the protection of depositors' rights.

**Methods:** To obtain reliable and valid conclusions, the author used comparative and analytical methods of research. These methods consist of the analysis and comparison of the provisions of EU and Ukrainian legislation in the field of the protection of depositors' rights.

**Results and Conclusions:** The Ukrainian deposit guarantee system has significant differences from the relevant European system. First and foremost, this concerns the amount of guaranteed compensation for deposits in Ukraine. The author concludes that this deposit coverage amount was not reviewed during the period from 2012 to 2022, which does not contribute to the interest of depositors in keeping money in banking institutions. However, on 1 April 2022, during the period of martial law, Ukraine adopted Law No. 2180-IX 'On Amendments to Certain Laws of Ukraine on Ensuring the Stability of the Deposit Guarantee System for Individuals', which provides a full guarantee of individuals' deposits during martial law and three months after its termination, as well as increases the guaranteed deposit compensation to UAH 600,000. These changes will have positive consequences for depositors, but the author points out that in the context of these legislative changes, the state should provide support to the Deposit Guarantee Fund by writing off interest arrears to the Ukrainian Ministry of Finance, which has emerged due to the banking crisis in 2014-2017.

In addition, to preserve the liquidity of banks' assets, the author proposes to ensure that the Fund starts preparing banks for the management of their assets by evaluating and monitoring their status. Furthermore, the author emphasises the need for the harmonisation of the Ukrainian banking legislation with the requirements of Directives 2014/49/EU and 2014/59/EU. For this purpose, the guaranteed amount of reimbursement should be gradually increased to the equivalent of EUR 100,000, and guarantees should be extended to depositors who are legal entities. The relevant legislation must also be amended so that its terminology corresponds with that of the EU, the Deposit Guarantee Fund participants must be included in other credit institutions, and the Deposit Guarantee Fund must guarantee legal entities' deposits.

## 1 INTRODUCTION

The system of protecting bank depositors' rights is a powerful tool for ensuring the stability of the banking system and financial service markets. It also stimulates confidence in banks and the attractiveness of deposits.

The deposit guarantee system acts as a kind of insurer in case of a banking crisis. Thus, if a bank becomes insolvent, the deposit guarantee system guarantees the repayment of deposits to relevant depositors, as well as protects the rights of other creditors involved in the procedure of insolvency.

D. B. Chekhovsky points out that an effective system of regulation and supervision is needed to prevent the emergence and unfolding of a banking crisis, ensuring timely detection and normal response to the emergence of problems in individual banks. Such a system should include the components of early identification of troubled banks, immediate supervisory influence, and the orderly liquidation of systemically important insolvent banks.<sup>1</sup>

In such a case, the deposit insurance system would prevent the emergence of a systemic crisis, as it would help avoid a massive outflow of funds from household deposits. In light of this, European Banking Union was established at the Summit of EU Member States on 29 June 2012 to ensure the financial stability of banks and banking systems of the EU member states after the global financial crisis of 2007-2009 and the European debt crisis of 2010-2011. Its creation was envisioned as the final stage of the formation of an economic and monetary union within the EU, which could allow the application of EU banking regulations for a more transparent, uniform, secure, and stable functioning of the common EU banking market.

During the last decade, Ukraine has been particularly involved in declaring its European and Euro-Atlantic orientation. A specific aspect of the European integration of Ukraine is the unification of its legislation, bringing it into conformity with the requirements of the EU. To comply with these requirements, Ukraine has even adopted the Law of Ukraine No. 1629-IV 'On the State Program for Adaptation of Ukrainian Legislation to the Legislation of the European Union' of 18 March 2004,<sup>2</sup> which states that the Ukrainian banking legislation relates to priority areas. Moreover, such amendments should take place within the framework of the Action Plan for the implementation of the Agreement on Association with the EU.

Therefore, there is a practical need for this article, which conducts a comparative legal analysis of the Ukrainian and the European deposit insurance systems and allows us to examine the distinct differences between them. In applying comparative legal analysis to the Ukrainian and European deposit insurance guarantee systems, we will focus on identifying their main differences and developing proposals to consolidate the Ukrainian system with European standards.

It is worth noting here some relevant works on the topic by Ukrainian authors. The aspects of responsibility for the violation of monetary obligations and protection of depositors' rights were analysed in the works of D. Chekhovsky, S. Naumenko, D. Khorunzhyi, and N. Yurkiv (analysed below). However, it should be noted that in these works, there was no determined comparison between Ukrainian and European deposit guarantee systems.

## 2 EXAMINATION OF THE STRUCTURE OF THE EUROPEAN BANKING SYSTEM

Today, in the EU member states, the operation of a deposit guarantee system is mandatory under Directive 94/19/EC on Deposit Guarantee Schemes. Moreover, each EU member state

1 DB Chekhovsky, 'Interaction between the Deposit Guarantee Fund and the National Bank of Ukraine in the financial rehabilitation of weak banks' (2014) 1 Chernihiv Scientific Journal of Chernihiv State Institute of Economics and Management Ser. 1 Economics and Management 114-122 <[http://nbuv.gov.ua/UJRN/Chnch\\_ekon\\_2014\\_1\\_18](http://nbuv.gov.ua/UJRN/Chnch_ekon_2014_1_18)> date of access 15 Nov 2022.

2 Law of Ukraine No 1629-IV 'National program of adaptation of Ukraine to the legislation of the European Union' of 18 March 2004 <<https://zakon.rada.gov.ua/laws/show/1629-15#Text>> date of access 15 Nov 2022.

establishes and operates each system on its own. As a result, states using a deposit guarantee system on a voluntary basis transformed it and moved to a mandatory deposit guarantee system, although this was not always publicly funded. Such countries include Germany, France, and Italy.<sup>3</sup>

Before proceeding with the comparative analysis, it is necessary to examine the structure of the European banking system, which, as D. G. Khorunzhiy points out, represents the harmonisation of different practices on the part of national authorities of EU member states in order to prevent the growth of sovereign debts of states and macroeconomic destabilisation in EU countries.<sup>4</sup>

Prior to proceeding to the comparative analysis, we will examine the structure of the European banking system, which consists of the following elements:

**1. The Single Supervisory Mechanism**, which provides the transfer of certain powers for supervising the financial condition, activities of credit institutions, and their compliance with financial legislation from national authorities of EU member states to the European Central Bank.<sup>5</sup> The legal basis for the functioning of the mechanism is the Council Regulation (EU) No. 1024/2013 of 15 October 2013.

**2. The Single Resolution Mechanism**, enshrined in Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014, establishes uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010. This Regulation is applicable from 1 January 2016 and provides for the establishment of uniform rules for financial assistance to problematic and insolvent financial institutions, as well as uniform rules for insolvency proceedings.<sup>6</sup>

**3. The European Deposit Guarantee Scheme** is the third element of the European banking system, which envisages the creation of a pan-European deposit insurance system that could be resistant to economic crises and will not harm national economic processes. The creation of the system was initiated by the 'Report of the Five Presidents' of 22 June 2015.

The European Commission then submitted a proposal to amend the European Parliament and Council Regulation 'Amending the EU Regulation No. 806/2014 to create the European Deposit Insurance Scheme' on 4 November 2015. Subsequently, the European Deposit Guarantee Scheme found its consolidation and legal regulation in Directive 2014/49/EU of 16 April 2014 on deposit guarantee schemes.

In contrast to the initial two elements, the European Deposit Guarantee Scheme does not provide for the establishment of pan-European deposit insurance mechanisms with the

3 SG Naumenko, 'The genesis and peculiarities of the administrative and legal regulation of the bank deposit guarantee system in the most powerful countries' (2021) 1 Bulletin of Luhansk State University of Internal Affairs 190-199 <[http://nbuv.gov.ua/UJRN/Vlduvs\\_2021\\_1\\_19](http://nbuv.gov.ua/UJRN/Vlduvs_2021_1_19). DOI: 10.33766/2524-0323.93.190-199> date of access 15 Nov 2022.

4 DG Khorunzhiy, 'Preventing banking crises: the experience of the European Banking Union' (2019) 6 Investments: Practice and Experience 64-70 <[http://nbuv.gov.ua/UJRN/ipd\\_2019\\_6\\_13](http://nbuv.gov.ua/UJRN/ipd_2019_6_13). DOI: 10.32702/2306-6814.2019.6.64> date of access 15 Nov 2022.

5 Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (Single Supervisory Mechanism – SSM Regulation) <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R1024>> date of access 15 Nov 2022.

6 Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0806&qid=1647201202367>> date of access 15 Nov 2022.

transfer of relevant powers in this area to them. It envisages the unification of the legislation of EU member states according to pan-European standards.

At the same time, within the framework of the European deposit insurance system, the possibility of creating a European Deposit Guarantee Fund, which shall be provided by EU members' national authorities with the powers to pay out and accumulate insurance costs, is being considered until 2024. Initially, the European Fund will carry out deposit guarantees together with national authorities, and the growth of the European Fund's share will be attained by reducing the share of national authorities.<sup>7</sup> From 2024, the powers of guaranteeing deposits will be fully transferred from the national authorities to the European Fund (the guaranteed amount of the deposits will remain EUR 100,000). The national authorities will administer payments from the European Fund to depositors only 'locally'.<sup>8</sup>

In describing the main differences between the Ukrainian and European deposit guarantee systems, first of all, we should note the list of individuals whose deposits are subject to enforceable compensation within the guaranteed amount. First, the Law of Ukraine 'On the System of Guaranteeing Natural Person Deposits' states that depositors are individuals, in particular, those who have concluded a contract for a bank account (bank deposit). In EU countries, the term 'depositors' also includes individual entrepreneurs and legal entities.<sup>9</sup> In our opinion, expanding the insured depositor list through the deposit insurance system will strengthen potential clients' confidence in the Ukrainian banking system and will contribute to its solvency.

Second, the enforced compensation amount under the Ukrainian deposits-guarantee legislation substantially differs from that of the EU. From 2012 to 2022, the deposit coverage amount remained unchanged at UAH 200,000. However, the Ukrainian hryvnia has been significantly devalued over this period. In particular, the inflation rate over the period of 2012 -2022 years was approximately 120%,<sup>10</sup> and in EUR equivalents, the amount of reimbursement decreased from about EUR 20,000 (according to the official exchange rate of the National Bank of Ukraine set on 21 August 2012)<sup>11</sup> to about EUR 6,500 (according to the official exchange rate of the National Bank of Ukraine set on 21 April 2022).<sup>12</sup>

However, due to the full-scale armed invasion of Ukraine by the Russian Federation and the imposition of martial law, on 1 April 2022, the Verkhovna Rada of Ukraine adopted Law No. 2180-IX 'On Amendments to Certain Laws of Ukraine on Ensuring the Stability of the Deposit Guarantee System for Individuals'.

This Law addresses a number of issues, particularly:

7 NY Yurkiv, 'On the approximation of banking legislation of Ukraine in the system of guaranteeing deposits to the requirements of the European Union. National Institute for Strategic Studies' (2019) <<https://niss.gov.ua/sites/default/files/2019-11/analit-yurkiv-economics-6-2019-2.pdf>> date of access 15 Nov 2022.

8 Djurdjica Ognenovich, 'Comparison with the Ukrainian deposit guarantee system for individuals' (2018) <[https://www.fg.gov.ua/storage/editor/fotos/22\\_Djurdjica\\_DIS\\_DGF\\_Conference10oct20181\\_ukr.pdf](https://www.fg.gov.ua/storage/editor/fotos/22_Djurdjica_DIS_DGF_Conference10oct20181_ukr.pdf)> date of access 15 Nov 2022.

9 NY Yurkiv, 'On the approximation of banking legislation of Ukraine in the system of guaranteeing deposits to the requirements of the European Union. National Institute for Strategic Studies' (2019) <<https://niss.gov.ua/sites/default/files/2019-11/analit-yurkiv-economics-6-2019-2.pdf>> date of access 15 Nov 2022.

10 Consumer Price Index: summary table (2000-2022 years) <<https://index.minfin.com.ua/economy/index/inflation/>> date of access 15 Nov 2022.

11 Data from official National Bank of Ukraine exchange rate as of 21 August 2012 <<https://bank.gov.ua/ua/markets/exchangerates?date=21.08.2012&period=daily>> date of access 15 Nov 2022.

12 Data from official National Bank of Ukraine exchange rate as of 1 January 2022 <<https://bank.gov.ua/ua/markets/exchangerates?date=01.01.2022&period=daily>> date of access 15 Nov 2022.

- Three months after the termination or cancellation of martial law, the Deposit Guarantee Fund will reimburse each depositor in full, including interest accrued at the end of the day before the date when the bank resolution procedure was launched.
- Three months after the termination or cancellation of martial law, the guaranteed amount of reimbursement will be increased to UAH 600,000.

Such steps usually have positive consequences for depositors and significantly increase the percentage of guaranteed deposits, but it should be noted that these innovations increase the pressure on the Fund, whose debt to the Ukrainian Ministry of Finance, according to the ministry, is about UAH 108 billion, for which the Deposit Guarantee Fund must pay UAH 62 billion in interest by the end of 2031.

Consequently, although the Deposit Guarantee Fund has repaid its debt to the NBU and there have been recent reports of early repayment of a part of its obligations to the Ministry of Finance of Ukraine. However, in the future, these successes will be complicated because, according to the Fund, there are just over UAH 1.1 billion worth of bankrupt banks' assets left.

However, according to the information posted on the Deposit Guarantee Fund website,<sup>13</sup> the Fund and the Ministry of Finance of Ukraine signed an agreement on the procedure for transferring funds from the Fund to the State Budget of Ukraine for the purpose of implementing Law No. 2180-IX 'On Amendments to Certain Laws of Ukraine on Ensuring the Stability of the Deposit Guarantee System for Individuals'. The agreement defines the procedure for repayment of the restructured debts of the Fund to the State on loans granted to it to overcome the consequences of the systemic banking crisis of 2014-2017. Under the terms of this agreement, the par value of the bonds would be repaid by July 2032 from the Fund's resources, which will exceed the amount needed to cover possible risks in the banking system. In the part corresponding to the accrued interest, repayment will be made through the recovery of losses from former owners and related persons whose activities have caused the insolvency of such banking institutions.

At the same time, according to paragraph 21 of the preamble of the European Parliament and Council Directive 2014/49/EU of 16 April 2014 on deposit guarantee schemes, the coverage level laid down in this Directive should not leave too great a proportion of deposits without protection in the interests both of consumer protection and of the stability of the financial system. Even so, the cost of funding DGs should be taken into account. It is therefore reasonable to set the harmonised coverage level at EUR 100,000.<sup>14</sup> Thus, nowadays, at the current exchange rate of the Ukrainian hryvnia, the amount of the guaranteed UAH 200,000 compensation<sup>15</sup> (EUR 5,434) is insufficient, disproportionate, and not able to perform the guarantee effectively. Therefore, the guaranteed compensation amount must be revised and reasonably increased.

In light of this, the Verkhovna Rada of Ukraine, at a meeting on 30 June 2021, held a preliminary vote with further amendments regarding draft Law No. 5542-1. This draft Law enshrines an increase in the guaranteed compensation sum for individuals' deposits

13 Press release of 19 April 2022, 'Agreement on restructuring the Fund's debt to the State has been signed' <<https://www.fg.gov.ua/articles/51196-pidpisano-dogovir-pro-restrukturizaciyu-borgu-fondu-pered-derzhavoyu-.html>> date of access 15 Nov 2022.

14 Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes Text with EEA relevance <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0049&qid=1647201293982>> date of access 15 Nov 2022.

15 National bank of Ukraine currency exchange on 7 September 2022 – 1 Euro =36,28 UAH <<https://bank.gov.ua/en/markets/exchangerate-chart>> date of access 15 Nov 2022.

to UAH 600,000 from 2023.<sup>16</sup> However, as of February 2022, the draft Law has yet to be adopted.

A negative aspect of increasing the guaranteed compensation for the deposits and the development of the deposit insurance system in Ukraine is the current Deposit Guarantee Fund's debt to the Ministry of Finance of Ukraine of about UAH 108 billion, which arose as a result of the banking crisis in 2013-2016.<sup>17</sup> Indeed, more than UAH 62 billion of the aforementioned debt is creditor's interest, which is counted on a rising basis until 2031.<sup>18</sup>

Third, it should be noted that the Ukrainian and European legislations concerning deposit guarantee systems use different terminology. In fact, the terminology used in the Law of Ukraine 'On the System of Guaranteeing Natural Person Deposits' differs entirely from the definitions contained in the EU Directive 2014/49/EU. The common terms of both EU and Ukrainian acts are the following: 'deposit'; 'depositor'; 'Deposit Guarantee System for Individuals'. At the same time, the content of the meaning of those terms does not correspond to similar terms used in the Directive. Therefore, since the Constitution of Ukraine enshrines the European and Euro-Atlantic course of Ukraine, to unify the Ukrainian legislation with the European one, the specified terminology regarding the deposits guarantee system must be consolidated with EU Directive 2014/49/EU.

**Peculiarities of the financing of the deposit guarantee system.** Under Art. 10 (1) of the EU Directive 2014/49/EU, member states shall ensure that DGSs have adequate systems in place to determine their potential liabilities. The available financial means of DGSs shall be proportionate to those liabilities. Meanwhile, the sources of funding in the EU include regular contributions from participants (maximum 30% of payment obligations, payable in advance); special contributions (maximum 0.5% of deposits to be guaranteed); alternative funding mechanisms (not defined but allowed if necessary); public and private mechanisms.<sup>19</sup>

**Possibility of investing the funds of deposit guarantee systems.** Art. 4 of the Law of Ukraine 'On the System of Guaranteeing Natural Person Deposits' stipulates that the Deposit Guarantee Fund invests the available costs in the government securities and bonds of international financial institutions placed on the territory of Ukraine. At the same time, according to Art. 336 of the EU Regulation No. 575/2013, the free funds of the deposit guarantee systems should be invested in low-risk and diversified assets.<sup>20</sup> According to EU Regulation No. 575/2013, low-risk assets are securities of the following institutions: the European Central Bank, central national governments, regional and local authorities, state-owned enterprises, development banks with many participants, international financial institutions, and rated institutions, after a creditworthiness assessment is

16 Draft Law on Amendments to Some Laws of Ukraine on Ensuring the Stability of the Deposit Guarantee System for Individuals #5542-1 of 28 May 2021 <[http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=72056](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=72056)> date of access 15 Nov 2022.

17 <[https://www.mof.gov.ua/uk/news/derzhbiudzhet-2021\\_za\\_sichen-gruden\\_2021\\_roku\\_do\\_zagalnogo\\_fondu\\_nadiishlo\\_1084\\_trln\\_grn-3265](https://www.mof.gov.ua/uk/news/derzhbiudzhet-2021_za_sichen-gruden_2021_roku_do_zagalnogo_fondu_nadiishlo_1084_trln_grn-3265)> date of access 15 Nov 2022.

18 Press release of the Deposit Guarantee Fund of Individuals of 18 February 2021 <<https://www.fg.gov.ua/articles/49121-fond-garantuvannya-dostrokovo-pogasiv-chastinu-borgu-pered-ministerstvom-finansiv-na-sumu-2-mlrd-grn.html>> date of access 15 Nov 2022.

19 NY Yurkiv, 'On the approximation of banking legislation of Ukraine in the system of guaranteeing deposits to the requirements of the European Union. National Institute for Strategic Studies' (2019) <<https://niss.gov.ua/sites/default/files/2019-11/analit-yurkiv-economics-6-2019-2.pdf>> date of access 15 Nov 2022.

20 Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 Text with EEA relevance <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0575&qid=1647201852658>> date of access 15 Nov 2022.

performed by the Institute of External Credit Assessments.<sup>21</sup> Consequently, expanding the range of directions for the Fund's investments will contribute to the strengthening of the deposit guarantee system and serve as an additional source of income for the core activities of the Fund.

In addition, the problems occurring in the functioning of the domestic system of individuals' deposit guarantees with respect to the current unstable financial and economic situations in Ukraine indicate the strong need for revision and substantial improvement of the relevant legislation. At the same time, as follows from the overall structure of the EU deposit guarantee mechanism, some functional components of its structure coincide to a certain extent with the problematic factors of the Ukrainian system. Therefore, the implementation of a similar deposit guarantee system in Ukraine could be a potential way to solve all or part of the problems described above.

### 3 CONCLUSIONS AND PROPOSALS

To sum up, the Ukrainian deposit guarantee system has significant differences from the European one. The general vector of Ukraine on its path to European integration involves the consolidation of the Ukrainian banking legislation with the European one. The deposit guarantee system must be based on the fact that depositors are the centre of banking system stability. Therefore, protecting the depositors' rights must be a priority within the professional activities of banks and authorised government bodies.

The guaranteed compensation of UAH 200,000 remained unchanged from 2012 to 2022, which did not correspond with the requirements of modern times and did not contribute to depositors' confidence in banks. The adoption of Law No. 2180-IX (1 April 2022), which provides a full guarantee of individuals' deposits during martial law in Ukraine and an increase of the guaranteed amount for deposits to UAH 600,000 after the end of martial law, will have positive consequences regarding the protection of depositors' rights. However, the Verkhovna Rada of Ukraine is currently considering draft Law No. 5542-1 of 28 May 2021 'On amendments to some laws of Ukraine on ensuring the stability of the deposit insurance system',<sup>22</sup> which provides an increase in the amount of guaranteed compensation to UAH 600,000.

The analysis of problems regarding the functioning of the deposit guarantee system in Ukraine and the differences between Ukrainian and European legislation in this sphere allows us to identify the following measures necessary to improve it.

#### 1. Restructuring the Deposit Guarantee Fund's debt obligations issued to the Ministry of Finance of Ukraine

In 2019, the Deposit Guarantee Fund fully repaid its debt to the National Bank of Ukraine of UAH 25.6 billion, of which UAH 5.5 billion was interest.<sup>23</sup> Next, there currently remains

21 Djurdjica Ogenovich, 'Comparison with the Ukrainian deposit guarantee system for individuals' (2018) <[https://www.fg.gov.ua/storage/editor/fotos/22\\_Djurdjica\\_DIS\\_DGF\\_Conference10oct20181\\_ukr.pdf](https://www.fg.gov.ua/storage/editor/fotos/22_Djurdjica_DIS_DGF_Conference10oct20181_ukr.pdf)> date of access 15 Nov 2022.

22 Draft Law on Amendments to Some Laws of Ukraine on Ensuring the Stability of the Deposit Guarantee System for Individuals #5542-1 of 28 May 2021 <[http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=72056](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=72056)> date of access 15 Nov 2022.

23 Press release of the Deposit Guarantee Fund of Individuals of 18 February 2021 <<https://www.fg.gov.ua/articles/49121-fond-garantuvannya-dostrokovo-pogasiv-chastinu-borgu-pered-ministerstvom-finansiv-na-sumu-2-mlrd-grn.html>> date of access 15 Nov 2022.

an outstanding debt to the Ministry of Finance of Ukraine of nearly UAH 45 billion plus interest, totalling UAH 62 billion.<sup>24</sup>

In our opinion, the signing of the agreement between the Deposit Guarantee Fund and the Ministry of Finance of Ukraine on the procedure of transferring funds by the Fund to the State Budget of Ukraine for the purpose of implementing Law No. 2180-IX 'On Amendments to Certain Laws of Ukraine on Ensuring the Stability of the Deposit Guarantee System for Individuals' is not enough to ensure the effective operation of the Deposit Guarantee Fund of Ukraine.

We advise that the Ministry of Finance of Ukraine should write off the Fund's interest arrears; otherwise, this debt will block the further development of this institution and will put a brake on a possible further increase of the amount of guaranteed compensation for deposits, as well as on prospects for expanding guarantees for legal entities.

## 2. Organisation of effective management and sale of insolvent banks' assets

Currently, the Deposit Guarantee Fund has no authority to carry out effective monitoring of banks' assets. As a result, in the event of a bank insolvency proceeding, the Deposit Guarantee Fund is managing *ad hoc* assets of uncertain and often poor quality.

Therefore, it is necessary to grant the Fund the powers to begin preparing banks for the management of their assets in case of insolvency proceedings through the permanent assessment and monitoring of their condition.

We believe that the abovementioned measures can reduce the number of non-liquid assets of insolvent banks, which have usually been sold for 5-10% of their declared value.<sup>25</sup>

## 3. Harmonisation of the Ukrainian banking legislation with the requirements of the EU, particularly those of Directives 2014/49/EU and 2014/59/EU concerning the following:

- unification of the terminology of the Law of Ukraine 'On the System of Guaranteeing Natural Person Deposits' with the terminology of the Directive 2014/49/EU;
- gradually increasing the guaranteed amount of compensation for deposits to the amount equivalent to EUR 100,000;
- expanding the rights of the Deposit Guarantee Fund to invest free costs not only in domestic bonds but also in other low-risk assets;
- expanding the participation of other credit institutions in the Deposit Guarantee Fund;
- expanding the Deposit Guarantee Fund guarantees for deposits of legal entities and providing insurance of legal entities' deposits for UAH 200,000, with further increases.

24 Ibid.

25 'Prozorro.Sale' <<https://prozorro.sale/auction/UA-EA-2020-06-12-000019-b>> date of access 15 Nov 2022.

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