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In compliance with Doing-Business 2018, Ukraine is 149th of 168 countries in insolvency settlement issues and it is an open secret of long-standing needs in transformations in this field. On 18 October 2018 the Verkhovna Rada of Ukraine adopted as it stands the *Code of Ukraine on Bankruptcy Pro-*

**On 18 October Draft Code No. 8060 was adopted. Would the proposed innovations address the issue of the recovery of the debtor's financial solvency? How could the Code affect bankruptcy practices?**

ceedings (No.8060), which currently awaits the signature of the President of Ukraine.

In our opinion the Code, in terms of corporate bankruptcy, contains a number of innovations and new mechanisms of which special attention shall be given to disposal of assets at electronic auctions, ensuring transparency of such sales and increasing the number of potential buyers, possibility for loss of effect of pledge property moratorium, increase in the level of protection of secured creditors as well as combining voluntary settlement and external management institutions.

It is worth noting the introduction of individually joint and several liability for the head of

the debtor under commitments to creditors in the event of failure to take legal action in a timely manner with the petition for commencement of bankruptcy proceedings.

Moreover, lawmakers have reconciled in detail financial support and the salary for the court-appointed administrator which will enable greater motivation of such administrators for proper execution of their responsibilities and facilitate the discharge of creditors' claims or re-establishing of debtor solvency.

The introduction of the institution of individual bankruptcy is an undeniable step forward, which is the first attempt at settling these complex legal

relations. Applying the practice of individual bankruptcy will, with time, enable estimations to be made of the effectiveness of the mechanisms being used and their necessity.

Certain questions cause cancellation of the minimum amount of indebtedness required to commence bankruptcy proceedings which are likely to cause abusive practices by participants in proceedings.

Novelties proposed by the Code of Ukraine on bankruptcy proceedings provide for more options to protect creditors and discharge their claims, which in turn will cause an upward trend and changes in the percentage of discharged claims of creditors.



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On 17 October 2018 the National Bank of Ukraine introduced amendments to the Regulation *On Procedure for the Disclosure of Information Regarding a Bank's Ownership Structure* (the Regulation) with the intention of making the respective disclosure procedures more clear and predictable to market participants.

**The National Bank has introduced changes to the procedure for the disclosure of information on the ownership structure of banks. How will the procedure change, and what does the status "non-transparent structure" entail?**

As one of the key amendments, the Regulation provides for an enhanced interaction procedure between the National Bank and banks whose ownership structure may be treated by the regulator as non-transparent. Once the NBU detects a potentially non-transparent ownership structure, it serves the bank with a written notification. The regulator should set out a timeframe for the bank to bring its ownership structure into line with disclosure requirements. In addition, while issuing the notification, the regulator may, but is not obliged to, indicate a specific list of actions/guidelines the bank or its key shareholders should follow to deal with the issue.

Failure by a bank and/or its key shareholders to ensure

the disclosure of information on the proper ownership structure within the timeframe set out in the notification results in the regulator adopting a decision designating the bank as having a non-transparent ownership structure. Although the Regulation amendments specify that the decisions in question fall within the remit of the Committee on Banking Supervision and Regulation and Oversight of Payment Systems, in practice this unit was historically responsible for adopting similar decisions. Once adopted, the decision should be notified to the bank within three business days.

The consequences of classifying a bank's ownership structure as non-transparent remained the same: refusal to

grant a refinancing loan to the bank and restrictions on certain banking operations, including the purchase of foreign currency. In the worst-case scenario, the NBU may classify such banks as "problem" ones. As a reminder, this was one of the most common paths in 2014-16 for the NBU to remove banks from the market.

The latest amendments to the Regulation enable banks to "clean up" their non-transparent ownership structures. This may serve as an indication of the regulator's willingness to cooperate with the market. On the other hand, the NBU also received the right to reassess the ownership structures of banks even for banks previously classified as transparent.