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LEGAL MANAGEMENT AND REGULATION OF THE ACTIVITIES OF PROFESSIONAL PARTICIPANTS IN THE STOCK MARKET OF UKRAINE

Purpose. To assess the effectiveness of legal management and regulation of professional participants based on the analysis of legislative, regulatory and legal documents that ensure the formation, regulation and prevention of illegal actions in the domestic stock market, as well as identify areas of cooperation with government agencies in stock market development and mediation.

Methodology. In the process of research, general research methods and techniques were used, in particular: analysis and generalization to identify regulations governing the activities of professional stock market participants; analytical method – to compare the effectiveness of cooperation of the National Securities and Stock Market Commission with anti-corruption organizations, synthesis – to assess the completeness and effectiveness of existing legislation governing the activities of professional participants.

Findings. The peculiarity of legal management and regulation of professional participants is determined; the classification mark of professional stock market participants and their activities (types of services) is formed in accordance with the National Commission on Securities and Stock Market, namely: investment firms, trade organizers (stock exchanges), clearing institutions, mortgage managers, depository institutions, companies with asset management. An analysis is performed of the effectiveness of certain laws, including the Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Terrorist Financing and Financing the Proliferation of Weapons of Mass Destruction”, which reduced corruption and sanctions during 2017–2020 and the Law of Ukraine “On licensing of economic activities”, which is a lever in the field of regulation and maintenance of transparency of professional market participants, prevention of illegal actions. The mechanism of cooperation of professional participants with state bodies as a component of legal management on the basis of SMIDA activity is developed.

Originality. It consists in defining the areas of legal management and regulation related to the activities of professional participants in the stock market and developing mechanisms for interaction of professional participants with government agencies based on transparency, information and competitiveness.

Practical value. The proposed directions of cooperation and interaction of professional participants with government agencies, in particular SMIDA and NSSMC, as part of legal management and legal support, will optimize the standards of exchange activity and development of stock trading, reduce corruption and shadowing.

Keywords: *stock market, legal management, legal regulation, professional participants, regulator, laws*

Introduction. Over the last decade, the role of financial intermediaries in the Ukrainian stock market has changed significantly. If earlier they were associated only with financial institutions that redistribute free financial resources of investors in various financial assets, today they are professional stock market participants who ensure the profitability of issuers, digitalization of stock exchanges, create new products in the field of intermediary services, provide international standards and emission and investment standards in Ukraine.

Professional participants become coordinators of the holistic development of the stock market, the accumulation of free financial resources at all levels, reduce investment risks, stimulate the development of virtual markets and products. However, effective interaction of professional participants with all stock market participants is impossible without effective mechanisms of public administration of their activities, which are based on the development of regulations on the division of powers and scope activity, licensing rules and regulations, cooperation with public authorities in the field of transparency of financial transactions. Thus, normative regulation is designed to subordinate the mechanism of developing an effective regulatory framework and the relationship of financial intermediaries with government agencies. Therefore, the topic of research on legal regulation and management of professional market participants is relevant, because the development of professional services is constant and dynamic, which requires their legislative coordination and protection.

Literature review. Some aspects of the essence, classification and regulation of professional stock market participants have been studied by modern economists, in particular: Bodova A., Zhytar M., Kuzheliev M., Rekunenko I. and Stabias S. [1], Hreshko R., Tretiakova O. and Kharabara V. [2], Monarshuk A. and Chepulchenko T. [3], and others. In addition, the same issues were studied by foreign scientists: Dong T., Eugster F., Nilsson H. [4], Nadeem M.A., Qamar M.A., Nazir M.S., Ahmad Is., Timoshin A., Shehzad K. [5], Shawn X. Huang, Min Kim [6], etc., however, exclusively in the context of considering the concept of financial intermediaries, without classifying the current legislation that provides legal activities and licensing of professional participants. Also, the essence and features of legal management and regulation as advantages for improving the activities of professional participants, improving information and transparency have not yet been highlighted.

The purpose of the article. Our goal is to study the legal management and regulation of financial intermediaries on the basis of the sufficiency and structure of current legislative, regulatory, administrative documents governing the activities and creation of financial intermediaries in Ukraine; assessment of the effectiveness of interaction between government agencies (stock market development agencies, NSSMC) and professional participants that promote transparency in the stock market and prevent illegal actions.

Results. The modern development of the stock market is characterized by significant improvements in the field of financial intermediation, including the provision of unique, strategically innovative and profit-oriented services. Professional participants not only provide services in the field of in-

vestment cash flows, but also create promising opportunities for the domestic market to enter the international platform for attracting investors and issuers.

In the Ukrainian stock market, the classification of professional participants is carried out by the National Commission on Securities and Stock Market (hereinafter – NSSMC [6]) (Table 1) in accordance with current legislation and professional activities in the stock market.

Professional participants are licensed to implement new types of services, cooperate with government agencies in the field of financial monitoring, participate in the development of normative and legal acts (regulations, annexes, parts, articles) on the development and regulation of the domestic stock market, its participants.

The main activity of professional market participants, in accordance with the legislation and the established exchange rules of financial intermediation, is to provide various services to issuers, investors, government agencies and financial entities (Fig. 1).

In Ukraine, the legal management and regulation of professional stock market participants is based on two main components: the first component is the current laws, regulations, resolutions and provisions (Table 2), which define the legal aspects of participants, rules for providing services and forms of interaction with other entities in the field of financial relations and settlements; the second component is the interaction of professional participants with government agencies, formed on the basis of legal acts, on the basis of publicity and transparency in the management and provision of competitive services.

In a broader sense, the legal management of professional participants is to ensure compliance with legislation at the national level, which is based not only on the establishment of mandatory rules for the establishment and operation of professional stock market participants, but also on the principles of state support, development and stimulation of their activities both on the territory of Ukraine and on the international market. At the same time, the main principles in this context are: legality, regulation, transparency, coordination, support, interaction, information and optimization.

To determine the effectiveness of legal regulation (the first component), it is important to assess the adequacy and structure of existing laws governing the activities of professional participants.

The Law of Ukraine “On State Regulation of the Securities Market in Ukraine” regulates the process of issuing licenses for professional activities in the stock market and ensures appropriate control over their activities, liquidation and suspension of services in case of violation of the law by professional participants. The law provides for the regulation of the completeness and accuracy of information provided by professional participants in the stock market, which are regulated by bodies and issuers. According to Article 4 of this law, professional activity includes:

- brokerage activities related to the conclusion of civil law agreements on securities (their purchase and sale) on their own behalf and on behalf of and at the expense of another person (client);

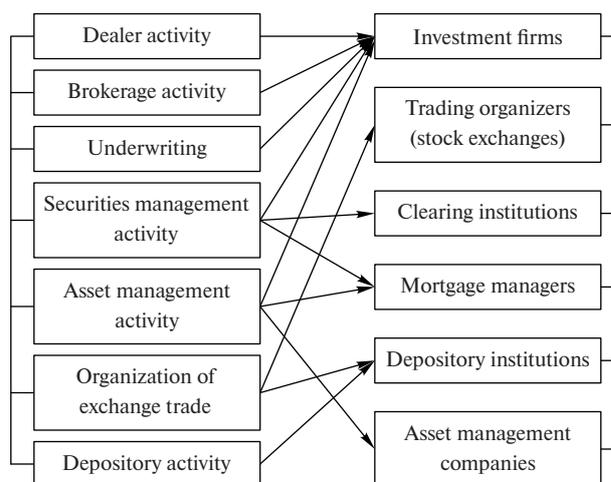


Fig. 1. Classification of professional stock market participants and their activities in the stock market, according to the regulator [7]

Table 1

Classification of professional stock market participants [7]

Professional market participants	Characteristics of activity
Investment firms	Financial intermediaries of the stock market whose main activity is related to investing in securities, as well as dealership, brokerage, underwriting services and activities related to securities management (trust management of funds)
Trade organizers (stock exchanges)	Activities are related to the creation of organizational, technological, informational, legal and other conditions for collecting and disseminating information on offers of all types of securities (debt, equity and derivatives) and demand for them by investors and financial subjects, institutions
Clearing institutions	Activities for determination of obligations to be fulfilled under transactions in securities and other financial instruments, preparation of documents (information) for settlements, as well as creation of a system of guarantees for fulfillment of obligations under transactions in securities and other financial instruments
Mortgage managers	Activities carried out by the mortgage manager on their own behalf for a reward for a specified period on the basis of a mortgage management agreement and involve representing the interests of mortgage bondholders, monitoring compliance with the terms of replacement of mortgage assets or inclusion of new mortgage assets to mortgage coverage, exercising control over the timeliness and completeness of the issuer's payments on ordinary mortgage bonds, ensuring compliance of mortgage coverage with the requirements of the legislation, performing other functions specified by legislation
Depository institutions	Activities of professional participants of the depository system of Ukraine and the National Bank of Ukraine in providing services for storage and accounting of securities, accounting and servicing of acquisition, termination and transfer of rights to securities and restrictions on rights to securities in securities accounts of depository institutions, issuers, correspondent depositories, persons conducting clearing activities, the Settlement Center for servicing agreements on financial markets (hereinafter – the Settlement Center), depositors, nominal holders
Asset Management Companies	Act for a reward on their own behalf or on the basis of an appropriate asset management agreement of institutional investors

Laws of Ukraine regulating the activities of professional stock market participants [8–10, 13–21]

Legislative document	Application to professional market participants
Law of Ukraine “On Capital Markets and Organized Commodity Markets”	The essence of the definition of “professional market participants”, their types, organizational and legal structure, activities, cooperation and mutual assistance, types of services in the capital market
Law of Ukraine “On State Regulation of the Securities Market in Ukraine”	Regulates financial relations during the issue, circulation, purchase and sale of securities and fulfillment of obligations under them (debt and derivative securities, payment of interest), conclusion of derivative contracts
Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction”	Carries out financial monitoring, provides control, supervision and prevention of money laundering, terrorist financing through financial settlements carried out by the professional market participants in the domestic stock market
Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine to Ensure the Effectiveness of the Institutional Mechanism for Prevention of Corruption”	Performs financial monitoring for violations of anti-corruption legislation related to financial transactions and services of professional market participants, providing information on possible violations
Law of Ukraine “On Financial Reporting and Auditing”	Regulates financial relations during the issue, circulation, purchase and sale of securities and fulfillment of obligations under them (debt and derivative securities, interest payments), conclusion of derivative contracts
Law of Ukraine “On Licensing of Economic Activities”	Defines the rules for licensing professional activities in the capital market and organized commodity markets
Law of Ukraine “On Advertising”	Establishes rules for the provision of public information about the activities of professional participants and guarantees non-disclosure of private or confidential information about the entities with which they cooperate, their activities, income, signed agreements or contracts
Law of Ukraine “On the Principles of State Language Policy”	Establishes the obligation to provide services, provide and post information in the state language
Law of Ukraine “On Non-State Pension Insurance”	Defines the essence, system and principles of non-state pension provision, activity of non-state pension funds, their administration, management of assets of non-state pension funds, pension assets, etc.
Law of Ukraine “On Access to Public Information”	Regulates the rules of access to information, its disclosure by professional market participants, non-disclosure of confidential information
Law of Ukraine “On Depository System”	Defines the nature of the participants of the depository system of Ukraine, the rules of accounting and storage of securities, the conditions of issue and registration
Law of Ukraine “On Mutual Investment Institutions”	Defines the essence of mutual investment institutions, their classification, participants, legal status and rules of creation, creation of a mutual fund, etc.

- dealer activity is the conclusion by a financial intermediary of an agreement on the purchase, sale of securities on their own behalf and at their own expense on the securities market for the purpose of resale;

- underwriting – concluding agreements by a trader on the alienation of securities in the process of their issue on behalf and at the expense of the issuer of these securities and signing the relevant agreement;

- securities management activities – related to the management of securities and/or cash transferred on the basis of the agreement to the trader (the relevant financial intermediary);

- asset management activities – professional activities, in particular of asset management companies, regarding the right to manage the assets or securities of an institutional investor on the basis of concluding a contract and paying remuneration (interest, commissions) in the future;

- mortgage management activities [8].

The Law of Ukraine “On Capital Markets and Organized Commodity Markets” regulates financial relations arising during the issue, circulation, purchase and sale of securities and fulfillment of obligations under them (debt and derivative securities, payment of interest), conclusion of derivatives contracts.

Professional market participants are defined here as legal entities operating in the capital market in various organizational and legal forms. According to this Law, the Central Securities Depository has the official status of a professional participant in the capital market. The peculiarities of concluding

and executing financial instruments are determined, in particular, the participation of financial intermediaries in the transfer of rights, purchase and sale, management for financial gain and profit, fulfillment of obligations, etc. In particular, the following were established: types of professional activity; types of professional participants; the procedure for disclosing information about the activities of professional market participants; provisions on the activities of investment companies during the conclusion and regulation of derivative contracts; features of interaction of professional participants, state institutions and organizations, issuers, investors, trade markets, etc. [9].

Particular attention is paid to derivative contracts and investment firms, which, according to the Law, are obliged to act as financial intermediaries that regulate the liability of individuals for concluding and executing an agreement (contract).

The Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Financing of Terrorism and Financing of the Proliferation of Weapons of Mass Destruction” provides financial monitoring and control over financial transactions, cash settlements of professional stock market participant both in Ukraine and with foreign countries entities.

The law defines the principles of preventing corruption, which are based on the priority of protecting the legitimate interests of entities (individuals, legal entities); giving priority to measures to combat corruption (money laundering, financing terrorism and weapons, concealment of income); coordina-

tion of interaction of participants of the system of prevention and counteraction; preservation, protection of information and completeness, relevance and timeliness of information exchange [10].

Taking into account the existence of current legislation in the field of regulation of professional participants, the analysis of legal management shows the existence of a sufficient number of defined rules for the prevention of violations in the stock market, ensuring the interests of all participants. This is confirmed by the volume of cases of illegal activities, reduction of the number of revoked licenses and imposed administrative fines.

According to the official reports of the National Commission on Securities and Stock Market [7], active cooperation in the fight against money laundering, corruption, terrorist financing and concealment of income from financial activities in the stock market is taking place with organizations such as:

1. National Agency for the Prevention of Corruption (NAPC) [11].
2. National Anti-Corruption Bureau of Ukraine (NABU) [12].
3. Specialized Anti-Corruption Prosecutor's Office (SAPO).
4. State Bureau of Investigation of Ukraine (SBI).
5. Security Service of Ukraine (SSU).

In 2020, compared to 2017–2019, such cooperation achieved the best results in the number of considered cases of corruption offenses and the number of financial sanctions (Fig. 2).

That is, every year (2017–2020) there was a decrease in the number of considered cases of violations of corruption legislation by professional market participants (a total of 3,443 cases), and, accordingly, the imposition of financial sanctions (2,882 cases). This positive tendency is associated with active financial monitoring of compliance with the laws in the field of money laundering and terrorist financing, providing inaccurate information and violations of other articles and requirements of regulations.

In 2020, as a result of consideration of cases, 17 licenses for professional activity in the securities market were revoked, 4 licenses were suspended, 163 cases of offenses in the securities market were closed. According to the National Commission on Securities and Stock Markets, most appeals in 2020 concerned depository activities in the stock market, including securities accounting.

A positive impetus for this was the introduction of changes and amendments that more strictly regulate corruption not only among professional market participants but also issuers and investors, to the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine to Ensure the Effectiveness of the Institutional Mechanism for Prevention of Corruption” [13].

The Law of Ukraine “On Financial Reporting and Auditing” is related not only to the audit of issuers of securities, but also to the use of audits, providing audit advice to professional

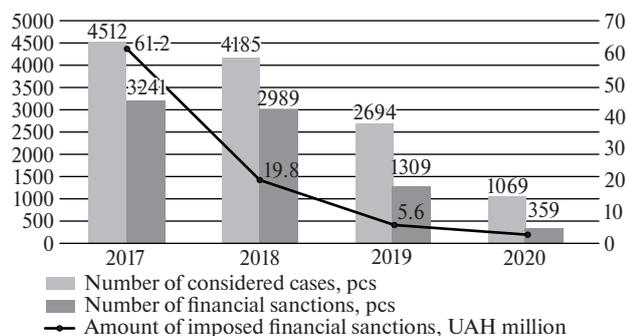


Fig. 2. Dynamics of the considered cases, financial sanctions and the amount of imposed sanctions on professional market participants during 2017–2020 [7, 12]

market participants who submit financial statements, pay taxes, provide statistical reports on services provided, concluded agreements and contracts. It is important that this Law prescribes the requirements for professional ethics and independence of auditors and subjects of auditing in relation to clients, confidentiality and professional secrecy, as well as the possibility of using international standards for audits [14].

The Law of Ukraine “On Licensing of Economic Activities” defines the conditions for licensing professional activities in capital markets and organized commodity markets by the NSSMC, as well as defines the rights and powers of licensing authorities, documents submitted for a license, conditions for refusal and revocation of a license. This Law is a means of regulating and influencing professional stock market participants who have violated the law, market rules or other regulatory requirements for activity and publicity [15].

During 2020, the NSSMC issued (and revoked) licenses related to the following activities: brokerage – issued 4 (12 revoked), dealership – issued 4 (16 revoked), underwriting – 0 issued (4 revoked), activities with securities management – issued 2 (4 revoked), mortgage management activities – issued 0 (0 revoked).

The Law of Ukraine “On Advertising” regulates the main areas of advertising services and/or goods related to financial intermediation, investment and consulting operations in the stock market, provided by professional participants. At the same time, the main principles of advertising are: legality, accuracy, reliability, the possibility of using various forms and means that do not harm the consumer, and advertising should not undermine public confidence in advertising, but comply with the principles of fair competition, not contain images that violate ethical, humanistic, moral norms of decency [16].

The language of advertising and public activity, namely: placement of information, maintenance of official pages, publication of articles and announcements, provision of public services and explanations, is determined by Article 26 of the Law of Ukraine “On the principles of state language policy” [17].

The Law of Ukraine “On Non-State Pension Insurance” defines the essence, system and principles of non-state pension provision, establishes the rules of non-state pension funds, defines the system of administration of non-state pension funds, as well as asset management and storage of funds [18].

The Law “On the Depository System of Ukraine” [19] is also significant as a key participant in the registration, accounting of initial and additional issue of securities of all public joint-stock companies operating in Ukraine. According to this Law, the State Repository determines the conditions for maintaining securities accounts, receiving income and payments on securities, compiles a register of securities owners, that is ensures the effective functioning of the domestic stock market as a professional participant.

In 2017, there were 232 depository institutions in Ukraine, and in 2020 – 178 institutions. The main reason for the reduction (54 depository institutions in three years) was non-compliance and violation of the law, as a result of which, the NSSMC revoked its licenses for further activities.

The Law of Ukraine “On Mutual Investment Institutions” [20] defines the activity of a mutual investment institution, which is formed as a corporate or mutual fund, as one conducted in the interests of participants (participant) of a mutual investment institution and at the expense of a joint investment institution by investing in the assets of the mutual investment institution.

Since the beginning of 2020, 244 mutual investment institutions have been entered into the Unified State Register of Mutual Investment Institutions: 208 corporate investment funds and 36 mutual investment funds.

In addition, legal management and regulation of the activities of professional stock market participants occur in accordance with:

1. Provisions on the procedure for compiling and disclosing information by asset management companies and persons

managing the assets of private pension funds, and submission of relevant documents to the National Commission on Securities and Stock Market, approved by the NSSMC decision of 02.10.2012 No. 1343 (registered in Ministry of Justice of Ukraine on October 19, 2012 by No. 1764/22076).

2. Provisions on the composition and structure of assets of the collective investment institution, approved by the decision of the NSSMC from 10.09.2013 No. 1753 (registered in the Ministry of Justice of Ukraine on October 1, 2013 by No. 1689/24221).

3. Provisions on requirements for persons engaged in professional asset management activities of institutional investors (asset management activities) on the composition and structure of assets of private pension funds they manage, approved by the NSSMC decision of 26.04.2012 No. 582 (registered in the Ministry of Justice of Ukraine on May 17, 2012 by No. 787/21100).

4. Provisions on the procedure for determining the net asset value of the pension fund, approved by the decision of the NSSMC of 11.08.2004 No. 339 (registered in the Ministry of Justice of Ukraine on January 25, 2005 by No. 96/10376).

5. Provisions on the procedure for determining the value of net assets of collective investment institutions, approved by the decision of the NSSMC dated 30.07.2013 No. 1336 (registered in the Ministry of Justice of Ukraine on August 21, 2013 by No. 1444/23976).

6. Regulations on the procedure for reporting by the Central Securities Depository to the National Commission on Securities and Stock Market, approved by the decision of the NSSMC of 28.05.2013 No. 894 (registered in the Ministry of Justice of Ukraine on June 17, 2013 by No. 975/23507).

7. Provisions on the procedure for reporting by depository institutions to the National Commission on Securities and Stock Market, approved by the decision of the NSSMC of 11.06.2013 No. 992 (registered in the Ministry of Justice of Ukraine on July 5, 2013 by No. 1126/23658).

8. Provisions on the procedure for compiling and submitting administrative data on the activities of securities traders to the National Commission on Securities and Stock Market, approved by the NSSMC decision of 25.09.2012 No. 1283 (registered in the Ministry of Justice of Ukraine on October 16, 2012 by No. 1737/22049).

9. Provisions on the procedure for compiling administrative data on the activities of trade organizers, disclosure of information and submission of relevant documents to the National Commission on Securities and Stock Market, approved by the NSSMC decision of 25.09.2012 No. 1284 (registered in the Ministry of Justice of Ukraine on October 16, 2012 by No. 1738/22050).

10. Procedure for providing by the National Bank of Ukraine of information on its depository activities to the National Securities and Stock Market Commission, approved by the NSSMC decision of 01.10.2013 No. 2072 (registered in the Ministry of Justice of Ukraine on October 22, 2013 by No. 1795/24327).

11. Provisions on the procedure for compiling and submitting administrative data on the activities of managers to the National Commission on Securities and Stock Market, approved by the NSSMC decision of 09.07.2020 No. 346 (registered in the Ministry of Justice of Ukraine on August 07, 2020 by No. 757/35040).

12. Provisions on the procedure for compiling, submitting and publishing by the administrator of a private pension fund administrative data, including reporting on private pension provision, approved by the decision of the NSSMC of 23.07.2020 No. 379 (registered in the Ministry of Justice of Ukraine on September 4, 2020 by No. 847/35130).

The most common offenses in the activities of professional stock market participants, according to the research, are:

- non-submission or submission of incomplete information on activities, financial transactions, services provided, financial statements;
- posting inaccurate information on official websites;
- non-execution or untimely execution of the NSSMC decisions or orders, resolutions or decisions of authorized persons;

- concealment of part of the income related to intermediary operations on purchase and sale of debt securities.

Thus, it is advisable to conclude that the effectiveness of legal management, which is based on legislation and regulates the activities of professional participants, reaches a high level. Legislation regulating the activities, creation and licensing of professional participants fully satisfies the needs of the legislative sphere, and amendments to the Law of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction" increase the competitiveness of the national stock market at the international level, prevent the withdrawal of capital from Ukraine and concealment of income.

However, the second component of legal management needs to be improved, namely the cooperation of professional participants with state bodies. According to the results of the study, the main collegial body of regulation and supervision of professional market participants is the National Commission on Securities and Stock Market, whose main tasks in relation to the activities of professional market participants are:

- ensuring the implementation of state regulation of participants at the appropriate level in accordance with international standards;
- granting, renewal and revocation of licenses for carrying out activities;
- control over compliance with the legislation in the field of providing professional services by participants;
- obtaining timely, complete and reliable information about the services provided, income received and financial statements of professional participants (for the formation of annual reports);
- obtaining information about existing illegal actions.

However, the information contained in the NSSMC's annual reports is insufficiently disclosed to investors, financial intermediaries, households and stakeholders. For this purpose, it is proposed to use the publicly available base of the Stock Market Infrastructure Development Agency of Ukraine (SMIDA), which provides organizational, technical and resource support for the implementation of the powers of the NSSMC [7]. The main purpose of SMIDA is to provide access to public information of stock market participants within the limits of publicity norms established by law.

In our opinion, it is expedient to expand the information supply of the system of legal management and interaction not only of professional participants and state bodies, but also of all participants of the financial market (Fig. 3), which will include:

- placement of complete, reliable and timely financial statements of issuers and professional participants, where control will be entrusted to SMIDA. In legal management, statistical support is an important component, taking into account the fact that as of today, reporting is not posted on time;
- ensuring an expanded presentation of NSSMC statistics, including financial indicators of activity, structure and the number of professional participants, types and volumes of services provided, key problems of issuers and professional participants, etc.;
- placement of information, reporting of proposals from Anti-corruption organizations, which is related to the activities of professional participants and issuers of securities;
- an important component of legal management is the support and search for methods to improve the activities of professional participants, in this regard, it is advisable to place government programs of supporting and optimizing the activities of professional participants, with the ability to submit online proposals for legislation and in general (related to activity);
- formation of a system for determining annual ratings, which covers activities, provision of services, transactions by professional participants and issuers, following the example of banking institutions. Such a system will allow achieving trans-

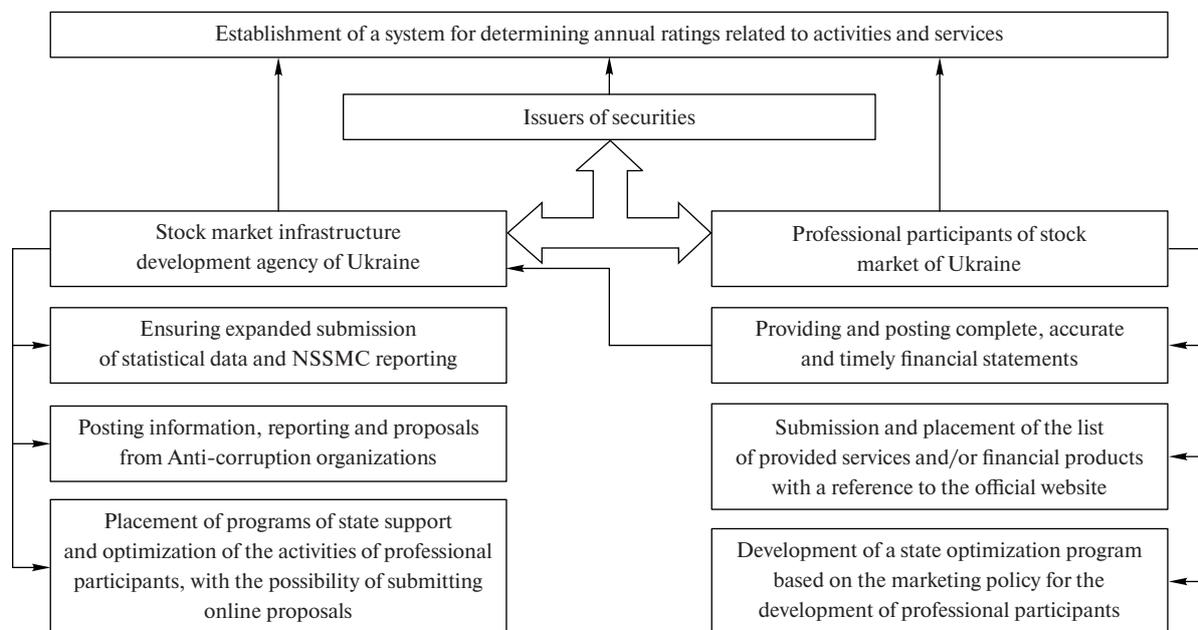


Fig. 3. Directions of improvement of legal management and interaction of state bodies and professional participants

parency in the legal system of regulation of participants' activities;

- submission and placement of the list of provided services and/or financial products with a reference to the official website, which will allow not only complying with the legislative aspect of information support, but also creating competitive conditions for the provision of quality services by professional participants;

- development of a state program for optimizing the activities and development of professional participants, which is based on marketing policy. Such a system covers the publication of the necessary information on the SMIDA website, taking into account the Law of Ukraine "On Advertising".

Thus, the proposed directions will help not only to improve legal regulation and control, but will also provide increasing the level of profitability, business activity and competitiveness of professional market participants.

Conclusions. Legal management and regulation of the activity of professional stock market participants is implemented on the basis of twelve basic laws that define the legal conditions for the creation, registration, operation, provision of services and interaction with other stock market participants. This definition of legal management of professional participants makes it possible to determine the effectiveness of further optimization of the activity of professional participants, expanding the quality and quantity of services and publicity.

Legal management covers two components: the first – legislative support, the second – interaction with the authorities. In order to improve legal regulation, the main directions of improving the legal management and interaction of state bodies and professional participants are proposed on the basis of SMIDA support, which are practical and, in the future, will provide a competitive online platform for interaction not only of state bodies and professional participants, but also international financial intermediaries and investors.

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Правове управління та регулювання діяльності професійних учасників на фондовому ринку України

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Мета. Полягає в оцінці ефективності правового управління та регулювання діяльності професійних учасників на основі аналізу законодавчих, нормативних і правових документів, що забезпечують утворення, регулювання й запобігання протиправним діям на українському фондовому ринку, а також визначення напрямів співпраці з державними органами у сфері розвитку фондового ринку й посередництва.

Методика. Застосовані загальні методи та прийоми дослідження, зокрема: аналізу та узагальнення – для виокремлення нормативно-правових актів, що регулюють діяльність професійних учасників фондового ринку; аналітичний – під час порівняння ефективності співпраці Національної комісії цінних паперів і фондового ринку з антикорупційними організаціями; синтезу – задля оцін-

ки повноти та ефективності наявних законодавчих актів, що регулюють діяльність професійних учасників.

Результати. Визначена особливість правового управління й регулювання діяльності професійних учасників; сформована класифікаційна ознака професійних учасників фондового ринку та їхньої діяльності (видів послуг) відповідно до функцій Національної комісії з цінних паперів і фондового ринку, а саме: інвестиційні фірми, організатори торгівлі (фондові біржі), клірингові установи, управляючі іпотечним покриттям, депозитарні установи, компанії з управління активами. Здійснено аналіз ефективності застосування окремих законів, зокрема: Закону України «Про запобігання та протидію легалізації (відмиванню) доходів, одержаних злочинним шляхом, фінансуванню тероризму та фінансуванню розповсюдження зброї масового знищення», що забезпечив зменшення кількості корупційних справ і запровадження санкцій упродовж 2017–2020 років, і Закону України «Про ліцензування видів господарської діяльності», що є важелем у сфері регулювання й підтримання прозорості діяльності професійних учасників ринку, запобігання протиправним діям. Розроблено механізм співпраці професійних учасників із державними органами як складову правового управління на основі діяльності АРІФРУ.

Наукова новизна. Полягає у визначенні напрямів правового управління й регулювання, що стосується саме діяльності професійних учасників на фондовому ринку та розробки механізмів взаємодії професійних учасників із державними органами, заснованих на принципах прозорості, інформативності й конкурентоспроможності.

Практична значимість. Запропоновані напрями співпраці та взаємодії професійних учасників із державними органами, зокрема АРІФРУ та НКЗПФР, як складової правового управління та правової підтримки, дасть змогу оптимізувати стандарти біржової діяльності й розвитку фондової торгівлі, знизити рівень корупції та тінізації.

Ключові слова: фондовий ринок, правове управління, правове регулювання, професійні учасники, регулятор, закони

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