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CORPORATE GOVERNANCE IN THE STATE-OWNED BANKS

Abstract. In the article, based on application of agency theory, the specifics of corporate governance in state-owned banks are highlighted. It is determined that the key distinction of state-owned banks is the fact that a state simultaneously can act as an owner, manager, creditor and regulator. The differences of corporate relations in state-owned banks such as the more complicated multilevel system of agency relations, the higher level of information asymmetry and risk of agent's opportunism, the another character of trust manifestation are substantiated. It is highlighted that the presence of complicated corporate relations causes the following risks: the state as an agent of population may be ineffective and use the state-owned banks not so for ensuring of socio-economic development, as for financing the state's projects or state-owned enterprises; in the case of certain political forces' impact on the formation of the government the state-owned banks activities may be subordinated by motives of certain politicians, interested in using of state-owned banks for achieving their own political goals; the ineffective multi-level delegation of management, monitoring and regulation functions can lead to inefficiencies of state-owned banks in general; the lobbying of state-owned banks' interests may lead to the breach of competitive environment of financial market, manipulation of movement of credit and investment resources etc. The hypotheses, regarding to the factors that can be decisive for the effective corporate governance in the state-owned banks, are formulated. As main factors which may determine the efficiency of corporate governance in the state-owned banks are considered follow: the structure and composition of agency contracts of management in the state-owned banks, level of banking regulator independence and character of its relations with state-owned banks and other government structures; the formation of supervisory boards, taking into account the absence of political engagement of supervisory boards, the appropriate level of professionalism and reputation, the presence of independent members, the application other procedures for the selection of state-owned banks managers, based on the balance of all stakeholders' interests; the appropriate balanced level of transparency.

Keywords: the agency theory, agency relations, state-owned banks, information asymmetry, corporate governance in the state-owned banks; opportunism.

JEL Classification G21, G34

Formulas: 0; fig.: 0, tabl.: 0, bibl.: 15.

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КОРПОРАТИВНЕ УПРАВЛІННЯ В ДЕРЖАВНИХ БАНКАХ

Анотація. На основі теорії агентських відносин висвітлено специфіку корпоративного управління в державних банках. Визначено, що ключовою відмінністю державних банків є те, що держава може одночасно виступати власником, менеджером, кредитором і регулятором. Проаналізовано особливості корпоративних відносин у державних банках: більш складну багатоступеневу систему агентських відносин, вищий рівень інформаційної асиметрії та ризику опортунізму агентів, інший характер прояву чинника довіри. Обґрунтовано, що наявність ускладнених корпоративних відносин спричиняє такі ризики: держава як агент населення може бути неефективним і використовувати державні банки не для забезпечення соціально-економічного розвитку, а для фінансування державних проектів чи держпідприємств; на формування уряду під впливом окремих політичних сил функціонування державних банків може бути підпорядковане мотивам окремих політиків зацікавлених у використанні державних банків для досягнення власних політичних цілей; неефективне багатоступеневе делегування функцій управління, моніторингу та регулювання може спричинити неефективність державних банків загалом; лобіювання інтересів державних банків може спричинити порушення конкурентного середовища на ринку фінансових послуг, маніпулювання рухом кредитних та інвестиційних коштів тощо. На основі використання теорії агентських відносин обґрунтовано гіпотези щодо чинників, які можуть бути визначальними для ефективного корпоративного управління в державних банках, а саме: структура і склад агентських контрактів на управління державними банками та рівень незалежності банківського регулятора, характер його взаємовідносин із державними банками та з іншими урядовими структурами; формування наглядових рад з урахуванням відсутності політичної заангажованості наглядових рад, належного рівня професійності та репутації, наявності незалежних членів, застосування процедур відбору керівних кадрів державних банків з урахуванням паритетності інтересів усіх зацікавлених сторін; належний збалансований рівень транспарентності.

Ключові слова: теорія агентських відносин, агентські відносини, державні банки, інформаційна асиметрія, корпоративне управління в державних банках; опортунізм.

Формул: 0; рис.: 0; табл.: 0; бібл.: 15.

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КОРПОРАТИВНОЕ УПРАВЛЕНИЕ В ГОСУДАРСТВЕННЫХ БАНКАХ

Аннотация. Определено, что ключевым отличием государственных банков является то, что государство может одновременно выступать владельцем, менеджером, кредитором и регулятором. Обоснованно различия корпоративных отношений в государственных банках: более сложную многоступенчатую систему агентских отношений, высокий уровень информационной асимметрии и риска оппортунизма агентов, иной характер проявления фактора доверия. Освещено, что наличие осложненных корпоративных отношений влечет за собой дополнительные риски. На основе использования классических теорий сформулированы гипотезы относительно факторов, которые могут быть определяющими для эффективного корпоративного управления в государственных банках.

Ключевые слова: теория агентских отношений; агентские отношения, государственные банки, информационная асимметрия, корпоративное управление в государственных банках; оппортунизм.

Формул: 0; рис.: 0; табл.: 0; библи.: 15.

Introduction. The issue of corporate governance in the state-owned banks remains the one of the least investigated. This is connected to both the novelty of corporate governance research in the banking generally and fact that the system of corporate governance of state-owned banks, due to belonging their financial resources to public finances, has the special little investigated specific features: the nature of the owner's (state) interests and ways of its satisfaction, the methods of regulating of corporate relations, the approaches for protecting of depositors' interests etc.

Research analysis and problem statement. The role of state-owned banks is presented in the publications of La Porta R., Lopez-de-Silanes, F. and Shleifer, A., [La Porta, R., Lopez-de-Silanes F., Shleifer, A., 2002] [1]. E. Levy, Yeyati, A. Micco and U. Panizza [E. Levy, Yeyati, A. Micco, U. Panizza, 2004] [2]. The influence of the state as the owner on the banks activity in lending processes was investigated by P. Sapienza [P. Sapienza, 2004] [3]. The comparative analysis of the impact of state ownership in different countries has been made by M. Millon Cornett, L. Guo, S. Khaksari, H. Tehranian [M. Millon Cornett, L. Guo, S. Khaksari, H. Tehranian, 2005][4]. At the same time, the getting acquainted with literary sources, allows to consider that most researches are separately focus on state's role as the owner, while the specifics of corporate relations and issues of corporate governance in the state-owned banks are presented fragmentarily. Significance and logical incompleteness coverage of conceptual approaches to the essence of corporate governance in the state-owned banks has determined the relevance of the our research topic.

The purpose of the article is to define the specifics of corporate governance in the state-owned banks.

Research results. In order to substantiate the specifics of corporate governance in state-owned banks, as the methodological basis of research, we consider, as expedient, the using of agency theory.

The problems of the agency relations are described by M. Jensen and W. Meckling [M. Jensen, W. Meckling, 1976] in the "Principal-Agent" model [5]. According to the scholars' views, the agency relations are defined as an agreement due to which one or more owners (principals) entrust other persons - managers (agents) the management of their finance from their behalf for the remuneration.

Subsequent studies shown that the avoiding of "principal-agent" problem is impossible because of two key factors - information asymmetry and managers' opportunism. J. Stiglitz (Stiglitz J., 1979) proved that the uneven distribution of information (information asymmetry) and its different accessibility for market participants leads to the fact that some persons gain advantages over others [6]. Profound studies of opportunism as the potential consequence of information asymmetry were conducted by Williamson O., 1993, who noted that under opportunism understood the concern for own interests, including fraudulentness, explicit forms of deception, such as lie, theft, fraud, but hardly limited only them [7, p.43].

In order to solve the problem of managers' opportunism J. McCanell, D. Denis, O. [Denis D, McConnell J, 2003] E. Fama, M. Jensen [E. F. Fama, M. C. Jensen, 1983] and others scientists studied the possibilities of mechanisms of monitoring managers. The researchers substantiated two effective internal mechanisms — monitoring by a board of directors (supervisory board) and monitoring by owners of significant shareholdings [8; 9]. The main idea underlying the mechanism of supervisory board is the

formation of a group of individuals (board of directors) who are free from business and other relationships with the company and its managers, have a certain level of knowledge for their activities and control of using of finance by behalf of owners (shareholders / investors) and other interested groups. In addition, a number of researches were devoted to the study of the boards' characteristics, which ensure their effectiveness (the number of members of supervisory boards, the share of independent members, the presence of committees). According to most scholars, the essential condition for the monitoring mechanism effectiveness are independent members of supervisory board, because they have no financial or personal interests in management and, therefore, are objectively able to challenge management decisions. The ownership structure (shareholder composition and the ratio of their shares) and its concentration (presence of holders controlling stakes) was considered as the second potentially important element of monitoring of managers. The research of A. Schleifer and R. Vishny [A. Shleifer, R. Vishny, 1997] showed that if the property is weakly concentrated owner's control is usually weak, but if property's rights are highly concentrated, key owners play an important role in monitoring and reducing of opportunities for managers' opportunism [10].

Additionally to the internal mechanisms of corporate governance, the researchers also focused on the external (capital market and regulatory mechanisms), which, as D. Denis and J. McConnell [D. Denis, J. McConnell, 2001] noted, are activated when internal mechanisms are ineffective [8]. The essence of control of capital market is based on threat of absorption which forces company's managers to act in the shareholders' interests. Regulatory mechanisms have the direct effect on the relationship between owners of capital and agents. M. Becht, P. Bolton and A. Röell [M. Becht, P. Bolton, A. Röell, 2002] as the main argument of the need of governance regulation considered the fact that even if firms' founders or shareholders can provide any actions, they usually can not create long-term effective rules because of impossibility to involve into management all parties concerned about agreement and, moreover, their composition may change. [11]. Generally, the fact that the effectiveness of corporate governance mechanisms depends on their compliance to the institutional environment of corporations was recognized.

For a long period of time it was believed that the corporate governance mechanisms are universal for all joint stock companies. The increasing academics' attention to the specifics and issues of corporate relations in the banks arose after the 1990s and was due to increasing of number and scale of banking crises. A. Berger, B. Imbierowicz, C. Rauch [A. Berger, B. Imbierowicz, C. Rauch. 2016] [12], Laeven L., Levine R. [Laeven L., Levine R..2006] [13], Mülbart P. [Mülbart P.O, 2010] [14], J.Macey, M.O'Hara [J. R. Macey, M. O'Hara, 2003] [15] and others proved that the specifics of corporate relations in commercial banks are manifested in the following: 1) the presence of two groups of investors (principals) — shareholders of the bank and depositors whose financial interests are contradictory; 2) the higher level of information asymmetry, which is associated with greater difficulties of monitoring of managers and can lead to the higher level of opportunism. As the consequence of specifics of corporate relations in the commercial banks is the another impact of mechanisms of ownership concentration and stock market's control. These mechanisms can produce greater risks than reduce by providing the control. The mechanisms solving the additional problems of corporate relations in the banks were determined as the more rigorous regulation of banking and the activities of supervisory boards formed with taking into account the banking specifics.

Are the problems of corporate governance in state-owned and private banks identical? In our opinion, corporate governance in state-owned banks has significant differences, which the most revealed themselves after the 2008 crisis. The key distinction of state-owned banks is that the state can simultaneously act as the owner, manager, lender (for example, providing refinancing loans) and the regulator. These various functions alone are conflicting and generate a number of problems that for state-owned banks have a specific character of manifestation.

The first difference between state-owned banks and commercial banks lies in a different distribution of losses from loss-making activity or bankruptcy of state-owned banks. It is known that only about 20 percent of the liabilities of state-owned banks are formed from public finances and the rest — the funds of depositors and creditors. As a result, financial losses that result from the loss or bankruptcy of a state-owned banks, unlike commercial ones, are completely redistributed among other market participants and society — depositors, other banks, taxpayers, etc.

The second state-owned banks' specific problem is the complicated system of agency contracts for management. The government, as the agent of population, at the same time acting as the principal, entrusts the management of state-owned banks, by the way of delegation the management functions, to state institutions which delegate them to other performers. Thus, in the state-owned banks the classic agency conflict becomes to be multi-agency, which may have different configurations and manifest themselves at the different levels. Besides it, the agency relationships can be burdened by additional problems caused by the following circumstances:

1) Insufficient level of efficiency of government agents (state institutions which got delegated functions for management of state-owned banks). The agent just may be not efficient enough (due to more complicated selection procedures, low level of agent qualification and lower possibilities of using incentives).

2) Lower level of control of agents at all levels due to the complex multi-level system of management contracts and high level of information asymmetry.

3) Specificity of depositors' trust to state-owned banks. On the one hand, trust to state-owned banks is more sensitive for the reason that it is based not only on the results of banking institution's activity, but also largely depends on trust to the government and the ruling elite, the overall political and economic situation in the country. On the other hand, practice often shows unconditional trust to state-owned banks, which is based on the depositors' conviction about support of state-owned banks by the state in all circumstances.

Multifunctionality of a state and a special structure of state-owned banks capital make their management difficult and, accordingly, generate the following risks:

1) The state may use state-owned banks not so for socio-economic development, as for the achieving the government agents' goals. In recent years banking crises has shown that state-owned banks create the additional risks for economy, since the state can often use state-owned banks to finance the state projects or state-owned enterprises.

2) In the case when the government formation is made by the influence of certain political forces, the activities of state banks may be subordinated to the interests of certain politicians who are interested in the using state-owned banks for the achieving their own political goals: guaranteeing employment, subsidizing, financing projects that can provide them future support and votes of electors, etc.

3) If the delegation of control functions, at least at the one level, is for persons with an inappropriate level of professionalism and fulfillment of fiduciary duties, it may lead to improper management of state-owned banks.

4) In the case when government, as the principal of the banking regulator, can influence the regulatory process, this may be manifested in lobbying of state-owned banks interests. Due to excessive administrative and financial regulation of the state banks' activities may be follow threats: the violation of the competitive environment in the financial services market, the economic and financial inadequacy of the state-owned banks' work results, the manipulation of the movement of credit and investment funds by state authorities, etc.

The issues of governance, regulation and supervision of state-owned banks remain, in our opinion, the most narrowly researched and debatable. In essence, the only document outlining the principles of corporate governance in state-owned enterprises is the OECD's recommendations. Key principles foresee the expediency of centralizing management and recommend the assignment of ownership to the separate specialized institute.

However, state-owned banks, as we have already mentioned, are the specific form of state-owned enterprises because of the work with someone else's money, the being in other conditions of competition for financial resources and, at the same time, the close interaction with commercial banks. The bankruptcy of one bank may, to a certain extent, leads to financial losses of depositors, taxpayers, other banks and destabilize the all banking sector. This requires the appropriate approaches to the formation of corporate governance system in the state-owned banks. A prerequisite for the formation of approaches is the substantiation of factors influencing the management of state banks and their empirical research.

Based on the use of agency theory, we have formulated the following hypotheses, which can be the basis for further research:

Hypothesis 1. The functioning of state-owned banks is influenced by the structure and composition of agency contracts for the management of state-owned banks at various levels of government structures. A balanced state regulation, which is determined by the level of independence of the banking regulator, the nature of its relationship with other government structures and the level of influence on state-owned banks plays a special role for the functioning of state-owned banks.

Hypothesis 2. For the state-owned banks, the mechanism of supervisory boards, which should be formed to ensure a compromise of the public interest, primarily the interests of consumers of banking services and the economic interests of the state, becomes the particular importance. The main features of the formation of supervisory boards in the state-owned banks that may affect on their functioning effectiveness include the following: lack of political engagement of supervisory boards; proper level of professionalism and reputation; special attention to the presence of independent members in supervisory boards; application of the procedures for selection of management personnel of state banks, taking into account the parity of interests of all interested parties.

Hypothesis 3. For the avoiding the negative effects of information asymmetry, taking into account the greater sensitivity of state-owned banks to the trust of depositors, the particular importance has the appropriate level of transparency. It requires to account two opposite effects: 1) due to excessive trust for the state-owned banks can appear the "moral hazard" of depositors because of risky contributions to state-owned banks; 2) because of sharp fall the trust to state-owned banks, a rapid outflow of deposits which threatens the stability of whole banking system is possible.

Conclusions. The key distinction of state-owned banks is the fact that a state can simultaneously act as an owner, manager, creditor and regulator. In case of ineffective fulfillment of at least one function, financial losses from the state-owned banks' activities are completely transferred for depositors, other market participants, taxpayers.

Corporate relations in state banks have differences — the more complex multi-level system of agency relations, the higher level of information asymmetry and, respectively, risk of opportunism of agents, another character of the manifestation of trust. The presence of complicated corporate relations leads to the following risks: the state as an agent of the population may be ineffective and use state-owned banks not so for ensuring socio-economic development, as for solving other problems (financing state projects or lending to state enterprises); in the case of influence of certain political forces on the formation of government, the activities of state-owned banks may be subjected of motives of politicians, interested in using state-owned banks for the achieving their own goals; ineffective multi-level delegation of management, monitoring and regulation functions can lead to inefficiency of state-owned banks in general; lobbying of state-owned banks interests may lead to a disturbance of the competitive environment of financial market, manipulation of movement of credit resources, etc.

The presence of specific differences and risks requires other approaches to building of governance system of state-owned banks and justifying the factors potentially crucial for it. Based on the use of the agency theory, the following hypotheses regarding to the factors for ensuring effective corporate governance in state-owned banks were formulated: the functioning of state-owned banks is influenced by the structure and composition of agency contracts for the management them on the different levels of government structures, the level of bank regulator' independence and character of its relations with state-owned banks and other government structures; for the formation of state-owned banks' supervisory boards is particular importance the following principles: lack of political connections of supervisory boards; proper level of professionalism and reputation; special attention to the independent members of the supervisory boards; application other procedures for the selection of state-owned banks managers, based on the consideration of parity of all interested parties' interests; In the case of the functioning of state-owned banks, the appropriate level of transparency is particular importance for the avoiding the information asymmetry's negative effects.

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Статья рекомендована до друку 06.05.2019

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The article is recommended for printing 06.05.2019

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