Problems and prospects of development of the international banking business in the conditions of globalization of economy

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Abstract—The process of economic globalization has created a new environment for the functioning of the financial sector. Modern banks were beyond traditional credit and deposit operations and have established their presence practically at all segments of the financial system. To stabilize the international banking business, an integrated regulatory framework is needed. The authors analyzed the legal regulations of international banking, and identified a number of problems.

Keywords—globalization, international economic integration, Basel Committee, banking.

I. INTRODUCTION

The global financial crisis exposed a new level of systemic risk in national financial systems. The speed at which these risks developed and spread often acquired that central banks and financial regulatory agencies take large and immediate actions with the tools that were readily available [1].

For the last decade, high rates of innovations in the financial markets and globalization of financial flows have totally changed the shape of banking [2]. The traditional practice of banking based on attraction of deposits and granting the credits is only a part of today’s bank activities, and often the least profitable [3]. Modern banks are beyond traditional credit and deposit operations and have established their presence practically at all segments of the financial system. Innovative process has led to increase the variety of financial instruments which markets constantly extend.

Today, the new types of bank activities, based on the technology of information, are the main sources of profitability of banks. The use of financial innovations: securitization of assets, broad application of the ‘off-balance’ financial instruments as options, guarantees and letters of credit, is not only a zone of increased risk in the bank’s activity, but also is fraught with the complex problems concerning management of the arising risks, and as a result, the corresponding segments of the financial market, are very unstable [4]. Consequences of financial destabilization are big and are expressed both in slowdown of economic growth, and in destruction of the public trust in the financial markets.

II. MATERIALS AND METHODS

In the course of the study, the authors collected information about the functioning of the banking business in the context of globalization.

The search for information was among scientific literature, and the analysis of international regulations governing banking. The following research methods were used: analysis, synthesis, induction.

III. DISCUSSION OF RESULTS

Today, and as a result of globalization of economy in general, including internationalization of financial flows and the introduction of innovations in the financial markets, the fundamental problem in banking consists that, in one hand, adequate freedom in decision-making under changes of the market’s activity conditions, allows the banks to compensate jumps of an environment, but in the other hand – concentration of bank risks as a result of bank activities leads to increase the instability of the banking sector in general and his main components – banks [5]. The correlation between various types of risk both within separate banks, and in scales of a banking system has increased by orders of magnitude and became more difficult. In the conditions of the competitive and unstable market, legal regulation of the bank activities became an extremely difficult process.

First of all, about the massif of integrated legal standards. The states cooperates with the purpose of creation, development and use of the necessary international legal norms and principles [6], that govern the relations, and influence the basic factors of financial stability and solvency of the participants in the financial market such as: sufficient equity; the presence of assets in the property; formation of
reserve funds; placement of reserve funds in the ‘covering’ assets; providing a standard ratio between assets and obligations (a solvency margin); maintaining systems of the international accounting and reporting, implementation of investment activities, financial control; restriction of single risks; tariff policy [7].

All this throws down a challenge to traditional approaches to legal regulation of bank activities and demands sound realization of the ideas of the Basel process [8] in the legal sphere - use of the unified legal regulators of bank activities: Basel international norms/principles.

These international norms and principles are regulated in documents of an international legal nature:

   Norms/principles of the Agreement ‘Basel-2’ grouped in three main components (pillars), interconnected, strengthen and complement each other to achieve an united goal - improving the financial stability of banks:
   • Minimum capital requirements
   • The supervisory review process
   • Market discipline

B. 20 other international legal documents, issued by the Basel Committee, the norms of which regulate banking supervision, financial monitoring, management of banking risks and cross-border banking transactions:
   3. The Core Principles Methodology, October 1999, Final.
   15. Internal Audit in Banks and the Supervisor’s Relationship with Auditors, August 2001, Final

Provisions of Basel-3 offer new international legal regulators: standards of the capital, loan and equity ratio, liquidity for the strengthening of regulation, supervision and risk management in the banking sector [10]. Standards of the capital and new buffers of the capital will demand from banks a bigger size of capital and also a bigger quality of this capital in comparison with the standards adopted in Basel-2. The new relation between the capital and the borrowed funds introduces a risk-free basis for the calculation of the minimum requirements of the capital in addition to the system of calculation on the basis of risk. New coefficients of liquidity provide an implementation of adequate financing in crisis situations [11].

Bankruptcy of some large international banks and banking groups has induced the Basel committee of bank supervision to establish mandatory international norms/principles grouping them in the special document carrying the name “Basel Concordat” [12]. On that basis these norms/principles are the following:

• national bank authorities of the host country and country of origin on the consolidated basis have to carry out supervision of the international banks and the international banking groups;
• preliminary permission from the governing bodies of regulation and supervision of the creation of the international bank organization will be settled by the bilateral memorandum signed by the authorized governing bodies of both countries;
• national authorities of regulation and supervision of host countries and countries of origin, have rights to collect informations about the international banks and banking groups, the exchange between these bodies has to be carried out according to the principles of reciprocity and confidentiality;
• when determining contradictions between the norms and laws of the country of origin of the bank, and the accepted international norms/principles, the governing body of regulation and supervision in the
host country have the right – to forbid the international operations or to impose restrictions corresponding to these norms/principles;

- the governing body of regulation and supervision in the country of origin of the bank is obliged – to inform the governing bodies in the host country about changes of rules and laws having substantial effects on the international operations of the bank [13].

One of the most dangerous risks for participants of the global financial market is the risk of loss of reputation as a reliable business partner closely connected to corporate ethics of the financial environment. This so-called ‘crisis of confidence’ arises because of: operational failures while carrying out financial transactions, inability to carry out profitable activity according to the legislation, and also at emergence of suspicions about communications with criminal structures or the inability of financial management to effectively counteract legalization (laundering) of income gained in a criminal way, also financing terrorism and other illegal activity.

In such a situation, the arising risk of insufficient liquidity caused by the loss of business reputation results to the risk of insolvency and loss of financial stability, and eventually, to the termination of activity of the financial organization. Problems of one financial organization affect the reputation of all the national financial system of the state [14].

The Wolfsberg’ principles, which with good reason can be referred to as international norms/principles, contain the priority principles of bank activities to prevent the use of a banking system to legalise income, gained in a criminal way. The policy of banks has to be aimed to prevent the use of transnational operations for criminal intents [15].

The Wolfsberg’ principles have to be the cornerstone of the policy of any bank in this sphere of activity, according to the Wolfsberg’ principles the bank can establish relations only with those clients, having no concerns about their sources of income or financing of activity and which their legal origin can be reasonably confirmed. At the same time Wolfsberg’ norms/principles assume that concrete mechanisms of counteraction the laundering of income gained in a criminal way, can be determined under the discretion of the bank.

Legal regulation is based on the developed international financial and legal regulators that introduce transparent and uniform requirements. These requirements are imposed for the legal regulation of financial relations in various states, taking into account the conditions of the global economic space. The changes connected to the activation of a world financial globalization of the monetary relations, leads to the internationalization of financial crises, and directly affect the lawmakers process connected to the adoption of the international integration acts governing the relations in the sphere of finance [16].

IV. CONCLUSION

The dynamic development of the banking sector in an ever-changing economic environment brings new aspects and problems to the activities of banks, the solution of which depends largely on the level of their financial stability [17]. A strong financial position of banks is not only the basis of viability and the possibility of further development of the banking market, but also the creation of a conflict-free external and internal environment, which in modern conditions of the development of “civilized” banking business is an important factor. It is banks that can, on one side, completely protect the country's economy from the financial crisis or at least weaken its depth, on the other side, banks are the main source of vulnerability of the financial system due to the fact that banking has become a zone of increased risk in a competitive and economically volatile market, the legal regulation of which has become an extremely complex process.

Therefore, in our opinion, it is impossible to form and implement an effective strategy for the development of the national banking sector of the economy without taking into account the priorities and norms of behavior of the main participants in the world of economic activity. In this regard, it is important to theoretically understand the legal regulation of social relations in the banking sector of the economy, including the legal regulation of financial stability of its main (basic) elements – banks, taking into account that the integration processes of the world of the economic community, is actualized.

In this regard, the analysis was carried out on the integrated regulatory framework governing relations and affecting the main factors of financial stability and solvency of the financial market participants, such as: sufficient equity; the presence of assets in the property; the formation of reserve funds; placement of reserve funds to cover assets; ensuring the standard ratio between assets and liabilities (solvency margin); maintaining systems of international accounting and reporting, investment, financial control; the restriction of a single risk; tariff policy. The necessity of a justified implementation of the ideas of the Basel process in the legal sphere - the use of common legal regulators of banking: Basel international norms and principles

Besides, it should be noted, as professional associations of participants of the financial markets develop the international norms/principles, governing the relations in the financial sector of economy in spheres of interests and competence – such as international organizations: International Accounting Standards Committee – IASC, International Swaps and Derivatives Association – ISDA, International Securities Market Association – ISMA, Emerging Market Traders Association – EMTA, Federation of European Risk Management Associations – FERMA, Risk and Insurance Management Society – RIMS and etc.

These institutions of international-legal integrated regulation at the areas of economics and finance are implemented in a united, integrative international legislation.

Moreover, the formation of the world’s economic space, and as a result, the global market, puts forward solutions to the questions about globalization of governance in the sphere of economics and finance on the basis of the legal array of an international integrated law. Prototype of such global governance, carried out in the sphere of economics and finance, in our opinion, is currently formed at countries, that have acceded to the World Trade Organization (WTO).
REFERENCES


