



Focus
Ukraine

Markets
**Macroeconomics and
financial markets**

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#UkrFinForum17

Day 2. Panel 5-2

TUESDAY, 26 SEPTEMBER 2017

Corporate governance and compliance in the financial sector

The discussion began with the definition of the essence of corporate governance based on voting from the audience. The majority of the audience (57%) believed that corporate governance is a clearly constructed relationship between owners and management; in second and third place were "effective management" and an "independent supervisory board", which both came to 17%. Nine percent considered that corporate governance means compliance with corporate law. **Ihor Mityukov, Chairman of National Depository Supervisory Board**, stressed that the results of the voting were expected; this is exactly what the society and experts expect from corporate governance in Ukraine.

One of the key issues in the discussion was the role of an independent supervisory board. **Igor Mityukov, Chairman of National Depository Supervisory Board**, believes that an independent supervisory board should regulate relations between shareholders and management—this is, in essence, corporate governance. An independent supervisory board should formulate the strategy and mission of the company. **Peter Chernyshov, CEO in Kyivstar**, added that one of the main tasks of an independent supervisory board is the protection of the rights of minority shareholders.

Equally important was the issue of bringing Ukrainian legislation of corporate regulation up to world standards. **Maxim Libanov, head of Department for Analysis, Strategy and Legislation Development at NSSMC**, noted that countries with long-established corporate governance systems use the principle "comply or explain." In fact, there is a set of recommendations to which companies must adhere. If a company does not want to follow a specific recommendation, it should explain the reason. As practice shows, Ukrainian enterprises almost always refuse to follow the recommendations. So, to raise local standards to those of Western countries, these recommendations are codified by law in Ukraine.

According to **Mykola Stetsenko, Managing Partner, Avellum Partners**, it is not necessary to impose corporate governance standards for all private companies and small businesses. He stresses that corporate governance standards in Ukraine need to be applied in two cases: 1) to state-owned enterprises, and 2) for companies that are planning to make an IPO in the future.

The panelists also discussed the very important question—in whose interests should an independent supervisory board act? The audience was divided almost equally on this issue: 40% of the audience believed that an independent supervisory board should act in the interests of the company, while 44% felt that the shareholders' interests are of the greatest importance. **Peter Chernyshov, CEO in Kyivstar**, said that the term "to act in the interests of the company" is very vague, and it is necessary to act only with the interests of shareholders. However,

Independent supervisory board must act in accordance with the framework of goals, determined by shareholders

Andriy Boytsun, advisor, SOE Reform & Privatization, SAGSUR, noted that "to act in the interests of the company" means to achieve the company's goals, determined by shareholders. And an independent supervisory board must follow these goals. He cites the following example. If a person is simultaneously a shareholder of two companies that cooperate with each other, and there is a conflict of interest, then an independent supervisory board will act within the framework of the goals of the company it (the board) represents, and not in interests of the shareholder. At the same time, very often it is impossible to avoid conflicts of interest, so the task of the independent supervisory board is to find the best solution to the conflict.

It is not necessary to invite foreigners. The main criterion is competence

An interesting question was raised by **Volodymyr Demchyshyn, a member of the Naftogaz Supervisory Board**. He asked whether it is necessary to invite foreign experts to independent supervisory boards in Ukrainian companies. All panelists agreed that only professionals with proper knowledge and skills must be invited regardless of whether they are Ukrainian or foreigners. At the same time, Ukrainian specialists often do not have the appropriate level of competence, and as a result, foreigners are often invited.

When members of independent supervisory board lack incompetency on some issues, they should follow the required procedures

Another important point of discussion were situations in which members of the supervisory board should have to decide on issues in which they lack incompetency. **Mykola Stetsenko, Managing Partner, Avellum Partners**, emphasized that in such cases, it is necessary to turn to the best Western practices—that is, to strictly follow the required procedures in such situations. If the supervisory board has correctly followed all the steps, the decisions are thought to be objective. Otherwise, there may have been a conflict of interest.

Conclusions. Ukraine gradually moves to implement world standards of corporate governance. It is important to note that unlike Western countries where almost all companies follow these recommendations, Ukrainian companies try to avoid fulfillment of recommendations for various reasons. So, to raise Ukrainian standards of corporate governance, Western recommendations are codified by law in Ukraine. It should especially be noted that an independent supervisory board should regulate relations between shareholders and management, and act within the framework of the goals determined by company's shareholders.



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