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OPPORTUNITIES TO USE THE EXPERIENCE OF THE EUROPEAN UNION COUNTRIES IN INCREASING THE CAPITAL OF COMMERCIAL BANKS

Abstract: Commercial banks are the most important subject of the financial system and are at the epicenter of these processes. Global economic integration, reforms of financial systems in different countries, the constant expansion of international banking services, the rapid development of global information and communication technologies, and the convergence of financial markets have contributed to the rapid internationalization of banking. This article examines the foreign experience of regulating the commercial activities of banks. The legal regulation of banking activities in the CIS countries and the European Union is considered. The Basel Standards for Increasing the bank Capital of Commercial Banks are presented.

Key words: mandatory reserves, mechanisms, open market operations, refinancing, structural operations, tender.

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Introduction

An increase in the country's economic growth largely depends on an increase in the volume of investment in the banking sector of the economy, on the stable and efficient operation of the entire banking system. It is commercial banks that will play the main role in the financial intermediation system, surpassing other financial intermediaries in terms of economic potential. To solve the large-scale tasks set by the "Concept of Long-term socio-economic development of the Republic of Uzbekistan until 2030", it is necessary to increase the capitalization of banks, simplify the procedure for consolidating and integrating their businesses, since only large, effectively operating banks in the conditions of increasing international competition can become an effective factor for sustainable economic growth.

Legal regulation of banking activities in the CIS countries. The creation of a single economic space on the territory of the former USSR dictates the need to bring together the norms and methods of legal regulation, including banking legislation. The regulatory acts regulating banking relations are the

laws adopted in most of the CIS countries "On the Central Bank", "On Banks and banking activities"

The laws of the CIS countries on banks and banking activities consist of the following sections:

- banking system;
- banking operations and services;
- procedure for opening, registering and liquidating banks;
- protection of the bank's interests and rights;
- ensuring the financial stability of the bank;
- correspondent relations between banks;
- customer service of the bank;
- foreign economic activity of the bank;
- accounting and reporting in banks;
- control and supervision of banking activities.

According to the laws on banks and banking activities of the CIS member states, banks are allowed to:

- attract and place funds;
- to provide cash and settlement services to clients and correspondent banks, as well as to make payments on behalf of the latter;

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- open and maintain accounts of clients and correspondent banks, including foreign ones;

- issue, sell, buy, and store payment documents and securities, and perform other transactions with them;

- issue guarantees, sureties and other obligations for third parties that provide for performance in monetary form;

- acquire rights of claim for the supply of goods and the provision of services, accept the risks of fulfilling such claims and collect these claims (forfeiting), as well as perform these operations with additional control over the movement of goods (factoring);

- buy from residents and non-residents and sell them cash foreign currency held in accounts and deposits;

- to buy and sell precious metals, stones, and products made of them in the republic and abroad;

- attract and place precious metals in deposits, perform other operations with these values in accordance with international banking practice;

- raise and place funds and manage securities on behalf of clients (trust) trust operations;

- perform leasing and mortgage operations;

- provide brokerage and consulting services;

- perform other commission and intermediary operations and services.

The banking legislation of the CIS countries prohibits commercial banks from carrying out operations for the production and trade of tangible assets, as well as for insurance of all types, with the exception of insurance, currency and credit risks.

One of the most important sections of the banking legislation of the CIS countries is the section containing the rules on the financial stability of banks. Thus, the laws on banks and banking activities establish rules on the need for commercial banks to keep mandatory reserves in the central (national) bank, as well as to create their own insurance and reserve funds.

To maintain the level of liquidity, commercial banks are required to comply with:

- minimum size of the authorized capital;

- limit setting between the size of the bank's authorized capital and the amount of its assets, taking into account the risk assessment;

- balance sheet liquidity indicators;

- maximum amount of risk per borrower;

- restrictions on the amount of currency and exchange rate risk;

- restrictions on the use of borrowed funds for the purchase of securities, etc.

Specific standards are set by central (national) banks. The banking legislation of the CIS countries does not contain incompatible and contradictory provisions that could complicate the mutual settlements of economic entities located in different CIS countries. There are no obstacles to the

establishment of banks and their branches on the territory of other CIS countries.

Regulation of European banks

According to the Maastricht Treaty of 01.11.1993, the central banks of 11 European states voluntarily abandoned the use of national monetary units in favor of a new monetary unit — the euro — and transferred their powers to develop and implement monetary policy (DCP) to the European Central Bank (ECB), which joined the European system of Central Banks (ESCB). The main instruments of the ECB's DCT include:

Mandatory reserves. According to the ECB methodology, mandatory reserve requirements are imposed on all types of bank deposits and issued securities, with the exception of obligations to credit institutions that form mandatory reserves and ESCB institutions; obligations under repo transactions, as well as on deposits and securities with a contractual validity period or a period of prior notice of termination of the obligation of more than two years.

A commercial bank has the right to reasonably determine the actual amount of securities issued by it that are in the portfolios of other institutions that are subject to the ECB standard on meeting reserve requirements, and deduct it from the calculation base. However, if such proof is not provided to the controlling institutions of the ESCB, the banks can in any case make deductions for this balance sheet position in the amount determined by the ECB (from January 24, 2000-30 % of the total volume of issued securities). In addition, each commercial bank additionally has the right to reduce the amount of mandatory settlement reserves by a fixed amount of 100 thousand euros.

Currently, the ECB's single standard of mandatory reserve requirements is 2 % (with a set range of possible fluctuations of 0-10 %). The mandatory reserve requirements are met only by maintaining the required cash balance at the end of the day in the bank's account with its central bank. However, in certain cases, it is possible to deposit mandatory reserves through an intermediary (for example, savings banks and cooperative banks can centralize the fulfillment of their reserve requirements). Banks' cash balances are not recognized as a reserve asset. The amount of the average value of the required reserves during the maintenance period is charged interest at the rate of the 14-day main tender of the ECB. Interest is paid by crediting it to the bank's account on the second business day after the end of the maintenance period. No interest is charged on excess reserves of banks.

As penalties for non-compliance with the mandatory reserve requirements of the ECB, it is possible to use a whole range of different mechanisms:

- payment of interest by the offending bank in the amount of the ECB rate on permanent credit

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mechanisms plus 5% or double the rate on permanent credit mechanisms of the ECB, calculated on the amount of the identified deficit of mandatory reserves;

- the requirement to place an interest-free deposit in the national central bank in the amount of up to three amounts of the identified deficit of mandatory reserves;

- excommunication of the violator from the permanent credit and deposit mechanisms of the ECB;

- changing its status as a special counterparty of the relevant National Central Bank ESCB or the ECB itself when performing fine-tuning operations;

- elimination of mandatory reserve averaging for the violator during the maintenance period.

Permanent mechanisms. Permanent mechanisms should be understood as a set of short-term operations of the ECB to provide or withdraw liquidity in the euro money market, carried out exclusively on the initiative of banks. The ECB's permanent mechanisms are divided into credit and deposit mechanisms. In order to withdraw excess liquidity from the money market, the national central banks of the ESCB grant banks the right to place temporarily free funds (excess reserves) in ECB deposits for a period of one operational day without setting various quotas and limits on participation in these operations.

The interest rate on this instrument of the ECB (since February 4, 2000 — 2.25 %) forms the lower limit of one-day interbank loans of the euro money market and is the minimum base rate in the ECB interest rate system. From the point of view of providing the money market with additional liquidity, any of the 11 national central banks that are members of the ESCB has the right to organize a system of refinancing banks on a short-term basis. Usually, such refinancing is carried out by providing the bank with the opportunity to allow an overdraft on its own account with the national central bank (which is automatically converted to an overnight loan at the end of the business day), which generally allows for smooth settlement in euros within the national settlement systems and the TARGET system.

Another form of lending by national central banks to the ESCB for a period of one business day is to refinance banks at the request of the latter until the TARGET system is completed. The funds received in this way can, in particular, be used by banks to meet mandatory reserve requirements in the event that it is impossible to cover the liquidity deficit by borrowing on the interbank market.

Interest rate on permanent credit facilities (from February 4 000-4.25 %) defines the upper limit of the rates of the market of one-day interbank loans in euros and has a punitive character. At the same time, an intraday loan (overdraft) is provided by the national central banks of the ESCB to banks free of charge. It should also be taken into account that, like all other types of ECB refinancing, permanent credit mechanisms operate either directly by providing

collateral (pawnshop) loans to banks (this practice is followed, in particular, by the Bundesbank), or by conducting direct one-day repo transactions with borrowing banks (Bank of France). At the same time, the choice of the organizational and legal form of refinancing is carried out based on the legal, accounting and institutional features inherent in each of the countries of the euro currency area. The only requirement of banks is to use highly liquid collateral, which, from the point of view of methodology, can serve as assets of the first and second categories.

The first category of assets includes securities traded on an organized market that meet the following standard criteria of the ECB:

- securities are normalized in euros or (during a transition period determined by the ECB) in the national currencies of the member countries of the European Economic System (EEC);

- the issuer or guarantor of the security must have a legal address in the euro currency area (except for the case when the issuer is an international organization);

- the quotation of securities in at least one organized securities market or their circulation in one of the unregulated markets specifically specified by the ECB (the corresponding decision is made depending on the degree of market liquidity);

- deposit accounting of securities carried out in the euro currency area. The pledged securities price should be easily accessible to the ESCB institutions, which is achieved by storing it in the depository of one of the national central banks of the ESCB or in the central securities depository that meets the minimum criteria of the ECB;

- availability of a sufficient long-term issue rating of one of the leading rating agencies for unsecured debt obligations of credit institutions, industrial corporations and international organizations.

Assets of the second category include debt financial instruments that do not fall into the group of assets of the first category, but in terms of actual reliability and liquidity meet all the classical requirements for providing refinancing loans by central banks of economically developed countries, and are of particular importance for the national financial markets and banking systems of the countries of the Economic System (ES). The ECB admits the theoretical possibility of using shares of legal entities with a legal address in the euro currency area as assets of the second category.

When receiving loans at a discount rate in its national central bank, the borrowing bank can use as collateral both the first and second category assets that are blocked in the depository of any other ES country. In this case, an automated system for the exchange of information on banks' collateral portfolios, linking all 11 national central banks of the ESCB (the so-called

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model of correspondent central banks), comes into effect.

In order to minimize the risks arising in the process of implementing monetary policy, the ECB imposes very strict requirements on the collateral of assets to cover the obligations of borrowing banks in terms of the amount of money received (taking into account the accumulated interest on them), increased by the amount of the initial guarantee margin, which is 1% for overnight loans, and 2% for all other ECB loans.

Depending on the legal and institutional features of the ES countries, the national central banks of the ESCB accept collateral for refinancing loans from banks using the collateral pool method or the marking method. When using the collateral pool method, the national central bank accepts from the borrowing bank a set of assets that serve as collateral for all the refinancing loans provided. In contrast, the labeling method suggests that certain assets are collateral for specific transactions refinancing and before the expiration of their term may be replaced by other assets only with the permission of the national central bank of the pledgee. The choice of the mechanism for forming the collateral portfolio determines the frequency of revaluation of the collateral by the ESCB institutions on a daily basis (the collateral pool method) or at least once a week (the marking method).

Open market operations. Currently, the ECB's DCT instruments include the following types of open market transactions:

The main instrument of refinancing. With its help, the ECB provides banks with significant amounts of money (approximately 70-80 % of the total refinancing volume). The main instrument of refinancing operates by conducting weekly quantitative tenders (auctions) for a period of 14 days at a fixed interest rate of 3.25% since February 9, 2000. The market does not know the amount of money offered for auction. The minimum bid amount of the auction participant bank is 1 million euros (over this amount, offers are accepted in parts of at least 100 thousand euros); the maximum volume of the application, as well as the number of applications, is not limited. If the demand declared by the banks exceeds the supply, the bids of the auction participants are satisfied proportionally.

A long-term refinancing tool. The long-term refinancing instrument operates on a monthly basis in an auction form, with the transaction date timed to the first week of the mandatory reserve maintenance period. The term of the provided loans is 3 months. The first two long-term credit auctions (basic tenders) were conducted by the ECB using the Dutch method in order to stimulate the activity of small European banks that were in need of additional liquidity during the transition to the euro.

On March 25, 1999, faced with the problem of inflating the expected interest rates, the ECB switched

to the American method of conducting credit auctions. In this case, banks must independently assess the prospects and regulate the risks of interest rate changes (therefore, the American auction is often called a tender for adults), which, however, is not particularly difficult for them, given the low current volatility of the euro money market. At the same time, the ECB does not carry out long-term refinancing in the form of a quantitative tender, since it is not interested in providing the market with additional information that affects the dynamics of the medium-term interbank interest rate.

Fine-tuning operations and structural operations. In contrast to the main and long-term refinancing instruments, these operations carried out by the ECB on the open market have the following features::

- significant speed of implementation, due to the need for instant injection or sterilization of the liquidity of the euro money market;
- irregular schedule and non-standardized procedure, depending on unexpected and structural fluctuations in liquidity;
- a limited number of counterparty banks, usually market makers in certain financial markets;
- in exceptional cases, the possibility of direct (without the mediation of the 11 national central banks of the ESCB) participation of the ECB in transactions with European banks;
- the opacity of these operations for the financial markets, since information about their conduct and results is mostly closed.

Such operations include:

- a high-speed credit (deposit) tender designed to expand (narrow) the level of liquidity of the money market. It is carried out by notifying a limited number of potential counterparties about the operation (for example, in Germany there are about 50 banks). The tender participants' proposals are collected within 15-20 minutes, the entire procedure from the tender announcement to notification of the distribution results takes no more than an hour;
- the ECB's bilateral transactions, which take the form of either credit and deposit transactions or direct and reverse repo transactions, with selected banks with a pre-fixed maturity and yield;
- currency swaps (simultaneous conclusion of a spot and forward transaction for the purchase and sale of an international reserve currency).

To minimize currency risk, the ECB plans to set the amount of the forward premium either based on the information of active participants in the forward market, or by conducting a high-speed tender of applications.

In order to adjust the structural position of the European money market in relation to the ESCB, the final purchase and sale of assets acceptable to the ECB (definitive transactions or outright transactions) is carried out. These operations can be carried out either directly to the ESCB institutions by concluding

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bilateral transactions on the secondary market, or with the help of various types of exchange and OTC intermediaries. Since the consequence of definitive transactions is a long-term change in the structure of the balance sheet and financial and statistical reporting of the ESCB (as opposed to, say, RE-PO operations), only the first category of assets that initially carry less risks for the ECB are considered as the object of the relevant transactions.

Another type of ECB structural operation is the issue of discounted debt obligations, which is carried out through a tender procedure, solely for the purpose of contracting the amount of excess reserves of banks. The term of circulation of the ECB securities may not exceed one year, the issue and storage are carried out in a non-documentary form in the depositories of the euro currency area. The ECB also does not restrict the right to freely sell these securities on the secondary market.

Basel Standards for International Banking Regulation

The International Committee on Banking Supervision (the Basel Committee on Banking Supervision) was founded in 1975 by the chairmen of the central banks of 10 industrialized European countries. It was created in connection with the growing internationalization of the activities of credit and financial institutions, the need to ensure the stability of the global banking system, which required the coordination of the actions of national supervisory authorities. The purpose of the Committee is to create an international system of comprehensive banking supervision, and the immediate task is to develop cooperation in the development of banking regulations and the creation of common standards. In developing the principles, the Basel Committee worked closely with the banking supervisory authorities of non-top ten countries.

This document was prepared with the participation of the members of the Basel Committee, as well as representatives of Chile, China, the Czech Republic, Hong Kong, Mexico, Russia and Thailand. In April 1997, the Basel Committee published the "Basic Principles for the Effectiveness of Banking Supervision" as official recommendations, containing a list of 25 basic principles that must be followed everywhere in order for the supervisory system to be effective.

In accordance with the Constitution of the Republic of Uzbekistan and the Law "On the Central Bank", the Central Bank of Uzbekistan is the sole body of banking regulation and supervision of the activities of commercial banks.

Currently, commercial banks in Uzbekistan are preparing to move to the new Basel Principles of Banking Regulation (Basel-3). However, many banks have not yet coped not only with the Basel-2 standards, but also with the transition to the international financial reporting system.

The main provision of Basel-3 is to tighten the requirements for the form of capital of the first level, which includes only ordinary shares and retained earnings. Tier One capital should be increased from the current (Basel-2 requirements) 4 % to 6 % of risk-weighted assets. The share capital, together with retained earnings, should be increased from 2% to 4.5% of risk-weighted assets. It provides for an increase in capital reserves beyond the regulatory minimum, the introduction of a capital adequacy indicator (the ratio of capital to total assets less reserves and excluding collateral), as well as indicators of short-term (up to 30 days) and long-term (up to one year) liquidity. There are increased rates for reserve and stabilization (countercyclical) capital, which each bank must have. Two special capital buffers are being introduced - a reserve buffer and a stabilization buffer. The reserve should be 2.5 % of the assets. Countercyclical capital is introduced in case the economy overheats during a credit boom and can range from 0 to 2.5 %.

Before implementing the basic provisions of Basel-3, commercial banks must address a number of complex current issues related to the fundamental improvement of the structure, improving the quality and reducing bank risks, improving the quality of bank borrowings and liquid assets, increasing the requirements for banking personnel (especially actuaries-operators (accountants) of banks and bank risk management). The increasing requirements to IT risks and reliability of operation and protection of computer banking technologies are especially considered. Basel-3 tightens the requirements for high-quality replenishment of banks' equity with real assets, which can only include quoted ordinary shares and retained earnings, except in cases beyond control, in particular, data concealment, abuse of trust of fictitious assets, which was previously widely allowed and recognized by the banking community (especially in the funds of investment banks) not only in the United States, but also in Europe.

The transition to new standards of risk assessment and banking supervision, of course, requires time and financial costs. National supervisors, based on the readiness of the banking systems, should determine when and how they should introduce the next component or set of measures proposed by the agreement. At the same time, the supervisory authorities should assess the current situation in the country's banking sector and in the world markets in order to be ready to use the risk instruments and the principles of supervisory activity proposed by Basel-3.

Most banks already operate according to international financial reporting standards. Capital adequacy requirements are now met by almost all major banks.

The new regulatory factors are unlikely to have a decisive impact on the number of bank departures

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from the market, as well as mergers and acquisitions, since the standards adopted by the Basel Committee are largely deferred and give banks a transition period to achieve specific indicators, in particular, on capital adequacy. If banks do everything immediately, they will have to significantly reduce their lending activity and increase the cost of equity, which can lead to a slowdown in economic growth.

By 2021, most of the banking system in Uzbekistan (at least 1/2) could switch to Basel-3. In Basel 3, there are additional general and specific measures that banks should take into account. All banks, regardless of the type of activity and the amount of capital, will have to take into account the occurrence of a number of objective reasons and take measures that should ensure:

- reducing inefficient capital and increasing liquidity, based on the best ways to implement the new standards;
- restructuring of balance sheets to improve the quality of capital and reduce the need for excess capital, ensuring effective management of limited resources;
- adjust business plans to create flexible and operational structures with efficient capital, high liquidity, and cheap banking products.

The Basel 3 reforms, like the previous two, rather mimic the adequacy of the challenges of the current crisis, but at the same time really respond to the actual requirements of streamlining and tightening the forms and methods of banking control and supervision, without which the modern banking system itself can collapse. In the face of high capital adequacy requirements, banks, trying to maintain current profitability, often formed a balance sheet from riskier assets, and to increase profitability, attracted short and cheap liabilities and placed them in long and expensive assets, thereby reducing their liquidity.

The improvement of the international banking system is as follows:

- stricter requirements for risk insurance systems for various types of commercial banks' activities and the degree of mutual consistency of these systems within a single bank (Basel Committee standards);
- the definition of specialized commercial banks, a clear formal description of their functions and criteria of activity and the development of strict requirements for the compatibility of its various types (savings, investment, innovation, land, mortgage, etc.);
- increasing the role of self-regulatory organizations of the banking community (such as the

Association of Banks of Uzbekistan), creating them by type of banking activity, and then transferring some of the regulatory functions from the Central Bank to such organizations;

- ensuring the priority of the development of national banks, including state support in information, technological, methodological support, and in exceptional cases-direct protectionist protection or financial support for the entire system;

- regulation of bank audit at the legislative level;
- introduction of accounting and reporting forms, banking technologies, and security methods adopted in the global banking community.

The Central Bank's activities in regulating national commercial banks should be reorganized on the following principles:

- strict regulation of the limits of the Central Bank's powers;
- the independent status of the Central Bank in the system of state control and supervision of the banking sector of the economy, which should really ensure that it performs a consolidating role in protecting the interests of all banking and non-banking organizations (not just large banks) to ensure the stability of the banking system as a whole;
- strengthening the system-forming elements of the banking system and optimizing its structure to eliminate significant inconsistencies and autonomous functioning of all levels of the banking system.

In general, the innovations of Basel-3 can be described as follows :

- the implementation of the requirements is carried out from 01.01.2013 to 01.01. 2021;
- tier one capital requirements increase from the current 4 % to 6 % of risk-weighted assets;
- requirements for share capital plus retained earnings increase from 2.0 % to 4.5 %;
- two special capitals are introduced-reserve and countercyclical (2.5 % each), taking into account which the requirements for the first-level capital and general capital adequacy are tightened;
- banks will be restricted in paying dividends until the reserve capital requirements are met;
- countercyclical capital in the amount of 0 to 2.5 % will be introduced in case the economy overheats during the credit boom;
- additional instruments included in the capital adequacy calculation, deferred taxes, investments in financial institutions, etc.will also be gradually excluded from the capital adequacy calculation.

The introduction of new requirements does not threaten banks whose shares are sold on the securities market.

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