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## **AGENCY PROBLEMS AS A THREAT FOR INVESTMENT ATTRACTIVENESS OF UKRAINIAN CORPORATIONS UNDER CONDITIONS OF EUROINTEGRATION**

**K. Velychko, G. Shapoval**

*The definition of “corporate conflicts” in the system of corporate security is analyzed, and their main classification characteristics are determined. The influence of corporate conflicts on the investment attractiveness of Ukrainian corporations is studied. Based on the study of international experience in combating corporate conflicts and taking into account peculiarities of Ukrainian legislation, an approach to managing corporate conflicts of Ukrainian corporations is proposed. It is aimed at increasing their investment attractiveness.*

**Keywords:** corporate conflicts, investment attractiveness, mediation.

## **КОРПОРАТИВНІ КОНФЛІКТИ ЯК ЗАГРОЗА ІНВЕСТИЦІЙНІЙ ПРИВАБЛИВОСТІ УКРАЇНСЬКИХ КОРПОРАЦІЙ В УМОВАХ ЄВРОІНТЕГРАЦІЇ**

**К.Ю. Величко, Г.М. Шаповал**

*Проаналізовано трактування поняття «корпоративні конфлікти» в системі корпоративної безпеки та визначено його основні класифікаційні характеристики: місцезнаходження, учасники (суб'єкти) та об'єкти корпоративних конфліктів. Визначено рівні корпоративної безпеки з*

урахуванням особливостей корпоративних конфліктів, їх впливу на корпоративну безпеку та інвестиційну привабливість компаній.

Досліджено специфіку впливу корпоративних конфліктів на інвестиційну привабливість українських корпорацій. Доведено, що наявність корпоративних конфліктів здебільшого є результатом неефективного корпоративного управління та існуючих прогалин в українському законодавстві. Визначено, що важливим чинником, який негативно впливає на корпоративну безпеку та інвестиційну привабливість українського бізнесу, є висококонцентрована та непрозора структура капіталу національних корпоративних компаній, яка орієнтована на інсайдерів.

Акцентовано увагу на важливості моніторингу корпоративних конфліктів з метою зменшення їх кількості та використання медіації замість вирішення спорів у судах.

На основі вивчення міжнародного досвіду з питань протидії корпоративним конфліктам як основній загрозі корпоративній безпеці, та з урахуванням особливостей українського законодавства, запропоновано підхід до управління корпоративними конфліктами українських корпорацій, який спрямовано на підвищення їх інвестиційної привабливості.

**Ключові слова:** корпоративні конфлікти, інвестиційна привабливість, медіація.

## **КОРПОРАТИВНЫЕ КОНФЛИКТЫ КАК УГРОЗА ИНВЕСТИЦИОННОЙ ПРИВЛЕКАТЕЛЬНОСТИ УКРАИНСКИХ КОРПОРАЦИЙ В УСЛОВИЯХ ЕВРОИНТЕГРАЦИИ**

**Е.Ю. Величко, Г.Н. Шаповал**

*Проанализированы определения понятия «корпоративные конфликты» в системе корпоративной безопасности и определены их основные классификационные характеристики. Исследовано влияние корпоративных конфликтов на инвестиционную привлекательность украинских компаний. На основе изучения международного опыта по вопросам противодействия корпоративным конфликтам и с учетом особенностей украинского законодательства предложен подход к управлению корпоративными конфликтами украинских корпораций, направленный на повышение их инвестиционной привлекательности.*

**Ключевые слова:** корпоративные конфликты, инвестиционная привлекательность, медиация.

**Statement of the problem.** Corporations are very important for economic development of any country, being not only the main producers of GDP of the countries, but also the main objects for attracting investments for developing the economies of the whole countries. It goes without saying that sustainable development of corporations, high level of corporate

governance and corporate security are the crucial problems for economies of every country, and Ukraine is not an exception.

Agency problems are considered to be one of the main treats to corporate security and have a negative impact on investment attractiveness of corporations. Reduction of agency problems amount and providing high level of corporate security is especially important for Ukrainian corporations and it is necessary to develop the system of agency problems monitoring to reduce the amount of possible agency problems, which have a negative influence on corporate security.

**Review of the latest research and publications.** The essence of agency problems, their reasons and classification are objects of study in works of such scientists as: A.A. Danelian, H.V. Alekseev, V.O. Rybintsev, M. Kuzhelev. A lot of scientific researches concerns to evaluation of agency problems impact on enterprises' investment attractiveness (D. Segura, K. Schwab). Underlining the importance of agency problems solving for rising investment attractiveness, a lot of scientists research the ways of corporate conflicts overcoming: V.V. Kholod, L.S. Reznikova, O. Osipenko, E.H. Chetvertakova, Eric M. Runesson and Mari-Lorance Gi. But it is still necessary to generalize characteristic features of agency problems, emphasizing their impact on enterprises investment attractiveness and searching the ways of agency problems overcoming, taking into account specific features of Ukrainian business and legislation.

**The objective of the research.** Thus, the purpose of this paper is to generalize characteristic features of agency problems, to discover their impact on enterprises investment attractiveness and to propose the ways of agency problems overcoming, taking into account specific features of Ukrainian business and legislation.

**Presentation of the research material.** To understand the role of agency problems in system of corporate security it is necessary to analyze the definition of agency problems, to define participants and objects of agency problems and to determine their possible impact on corporate security and investment attractiveness of corporations.

Concerning the definition of agency problems, it is usually based on participants and objects of conflicts. Analysis of "agency problems" definition is given in table below.

Analysis of "agency problem" definition allows singling out the following specific features, which are typical for agency problems and differ them from the other types of conflicts:

- 1) location of the conflict – within the corporation;
- 2) subjects (participants) of the conflict – shareholders (owners, investors) and managers of the company;

3) object of the conflict – participation in management, access to information and material interests.

Table 1

**Analysis of “agency problems” definition**

| Author                                  | Definition  |
|---|---|
| A.A. Danelian (2010) [1]                | Agency problem is a dispute that is born and develops <i>within the corporation</i>   |
| V.V. Holod and L.S. Reznikova [2]       | Agency problem in joint stock companies are considered to be the significant <i>differences between the shareholders and by the company in the face of governmental bodies, managers, as well as between the shareholders on issues of financial and economic activity, corporate management</i> , due to different understanding by shareholders and managers of certain provisions of Ukraine corporate legislation             |
| G.V. Alekseev (2002) [3]                | Agency problem can be defined as <i>differences (disputes) between the shareholders (investors) and managers</i> of the company in connection with <i>violations of shareholder rights</i> that result or may result in lawsuits concerning the company, controlling the shareholder, or managers concerning the decisions they take, early termination of managers power, and significant changes in the shareholders' structure |
| O. Osipenko (2003) [4]                  | Agency problem always <i>has the form of a call</i> , a public declaration of intent to achieve the rights  |
| Code of Corporate Conduct (2003) [5]    | Any <i>disagreement or dispute between managing bodies of the company and its shareholders</i> arising in connection with shareholder’s participation in the company, or disagreement or dispute between shareholders, in respect of the company interests, which is essentially an agency problem as it is involved or could affect relations within the corporation   |
| V.O. Rybintsev, M.V. Khatser (2012) [6] | Agency problem is a <i>struggle between the subjects of corporate relations for tangible and intangible resources of corporations</i> using all their available tools and methods of influence  |

Taking into account specific features of agency problems their influence on corporate security and companies' investment attractiveness can be determined:

1) operating level of corporate security – security of company's activity efficiency (misunderstanding between managers and shareholders can lead to taking wrong decision in managing the company, which cause decrease in company's activity efficiency and it's outcomes);

2) strategic level of corporate security – security of company's strategic development (agency conflicts have a negative impact on company's reputation on the market which leads to loose of potential investors, existing and potential partners and, as a result, can be the reason of closing company's activity); and security of shareholders' interests (if shareholders' interests are violated it can lead to loose of their bias in the company and withdrawing their capital from the company).

Thus, it can be assumed, that agency problems have a negative impact on enterprise security level, which leads to loose of potential investors in strategic perspective of enterprise development.

One more factor, which has a negative impact on corporate security and investment attractiveness of Ukrainian business, is peculiarity of capital structure of Ukrainian corporate companies. Ownership structure of share capital of Ukrainian corporate enterprises can be characterized as highly concentrated (most corporate enterprises are owned by separate groups of people, mostly insiders), insiders oriented (insiders have a greater impact on corporations' activities and their results), nontransparent (it is actually impossible to determine the real owners) [7].

The presence of agency conflicts, which is the result of poor corporate governance and existing gaps in Ukrainian legislation, is negatively assessed by foreign investors, 57% of which consider it to be one of the main factors, which lead to restriction of investments into Ukrainian economy. The respondents have mentioned, that the main reasons, which can lead to agency problems and consequently reduce the amount of investments into Ukrainian corporations are insufficient level of information disclosure, which can result in rising corporate conflicts, and imperfection of legislation, which consists in absence of normative regulation for shareholders' rights protection in case of their violation by managers and complexity of quarrel procedure [8].

Problems, which occur in sphere of minority shareholders' rights protection, also have a crucial importance in assessing investment attractiveness of Ukrainian corporations, which is proved by using this indicator for evaluation of countries competitiveness on the global market. Thus, according to the indicator "protection of minority shareholders'

interests” Ukraine took 134 place among 140 countries in 2015 [9], which underlines the necessity of corporate governance improving for reducing agency problems.

Thus, to increase investment attractiveness of Ukrainian corporations, agency problems should be solved by improving legislation in concept of shareholders’ rights protection and facilitating the procedure of disputes resolution.

International experience in sphere of solving agency problems proves an efficiency of using mediation instead of solving disputes in courts. According to the data of World Bank inefficiency of solving disputes in courts in world practice can be proved by time measures, needed for solving disputes and wastes of money (table 2).

Thus, taking into account the disadvantages of solving disputes in courts it is reasonable to use more effective methods, one of which is mediation.

Table 2

**Time and financial expenses  
for settling disputes on debt recovery in court [10]**

| Region                          | Time (days) | Cost (% of debt) |
|---------------------------------|-------------|------------------|
| East Asia, Pacific region       | 477,3       | 52,7             |
| Europe, Central Asia            | 408,8       | 15               |
| Latin America, Caribbean region | 641,9       | 23,4             |
| Middle East, North Africa       | 606,1       | 17,7             |
| OECD                            | 351,2       | 11,2             |
| South Asia                      | 968,9       | 26,4             |
| Sub-Saharan Africa              | 581,1       | 42,2             |

Such way for solving agency problems unfortunately is not actively used in corporate management in Ukraine now, because it doesn’t have proper regulation on legislative level. Besides, lawyers still argue the possibility of their effective use in Ukraine. Nevertheless some steps toward mediation implementation into Ukrainian practice have been made, concerning development the project of the law “On mediation”. But this law considers mainly solving criminal and family cases, and doesn’t give the peculiarities of solving conflicts in corporate sector of economy. Thus it is necessary to make proofreading in this law concerning the peculiarities of use mediation at corporate enterprises.

Besides, an effective way of agency problems preventing and faster overcoming is their monitoring, which includes evaluating corporate interests of participants of corporate relations and cases of their violation for their consideration in process of corporate management. Monitoring of agency problems will give the possibility either to avoid conflicts or to facilitate their solution.

**Conclusion.** Both foreign and Ukrainian scientists study issues of agency problems in corporate enterprises. However, if corporate governance is at a higher level in developed countries, agency problems and their monitoring are of special importance for providing high level of corporate security and rising investment attractiveness of corporation in Ukraine.

Mediation is considered to be the most effective way for solving agency problems, which is proved by international practice, but taking into account imperfection of Ukrainian legislation in this sphere and absence of confidence to such a way of solving conflict in Ukrainian society it isn't widely used yet.

Agency problems monitoring, including evaluation of corporate interests of participants of corporate relations and cases of their violation, allows security managers to promptly identify potential conflicts of interests, which lead to agency problems, and facts when owners abuse their rights and opportunities regarding management decisions that will promote a stable and efficient operation of enterprises in the long-term period and to increase their investment attractiveness.

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