



A customer purchases tea at Kyiv's Tea & Honey shop on May 27. Tatiana Popova, the owner of the small shop, wants to expand her enterprise, but says she can't afford to take out loans from banks because of the high interest rates. (Serhii Popov)

## Smaller businesses in Ukraine struggle amid lack of credit

BY OLENA SAVCHUK  
SAVCHUK@KYIVPOST.COM

As an oligarch-run, post-Soviet state, Ukraine's legal and banking systems remain devoted to serving big businesses, even though smaller ones are the lifeblood of prosperous economies and support most of the people.

Now, in the wake of the EuroMaidan Revolution that drove President Viktor Yanukovich from power in 2014, the government says it will do an about-face and make smaller businesses its priority.

But they will find the sector is starving for credit.

According to the data from State Statistics Office, Ukraine's small businesses employ 73 percent of the population and account for 61 percent of the gross domestic product. Yet, they remain vulnerable to bureaucracy, tax collectors and abuses by monopolies.

"The small and medium enterprises are a layer of people who are fighting for their rights," Deputy Economy Minister Yulia Klymenko told the Kyiv Post. "By supporting them, we're supporting our citizens."

To do that, Ukraine has simplified taxes and the process of registering companies, while halving the number of required licenses and permits. But credit remains a problem.

### Expensive loans

Tatiana Popova's small business is four months old. She sells

## CAN UKRAINE'S BANKS SEE THE LIGHT AT THE END OF THE TUNNEL?



**IHOR OLEKHOV**  
Partner, Baker & McKenzie, Kyiv

Ukraine's commercial banks were hit hard by the economic turmoil. Barely two thirds of the banks survived the crisis. On 1 April 2016 Ukraine had 111 operational banks (compared to 180 on 1 January 2014 and 163 on 1 January 2015), which still seems quite a lot for the current level of Ukraine's GDP. Is there light at the end of the tunnel for Ukraine's banks in 2016 and beyond?

### Ownership Transparency

While the fall of Ukrainian banks seems to have reached at its peak in 2015 and continues during the first half of 2016, the NBU could have had very few choices but to adopt aggressive measures aimed at making bank ownership transparent. Historically, many Ukrainian owners tended to be unscrupulous about insider lending and their banks are now facing the dilemma of either disclosing their ownership structure and increasing capital immediately, or going out of business. The NBU successfully implemented measures aimed at making the banks' ownership transparent and imposed strict deadlines for the shareholders of banks to disclose their genuine ownership structure. These measures were supported by clear sanctions applied to offending banks and a clear intention to continue applying such sanctions in the future.

### Big Data

Unlike the "façade reforms" of the previous governments at the NBU, the present management team seems to be implementing a comprehensive overhaul of the central bank. A welcome feature of the present reforms is that the NBU has started to actively populate its website with lots of information such as official exchange rates, ownership structures, market data for payment services and inflation reports. This approach should become the cornerstone for developing new opportunities and businesses shortly.

### Derivative Action

Recent changes are aimed at protecting the investors of commercial banks in Ukraine. A shareholder with 10% or more of all shares of a Ukrainian bank, or a number of shareholders holding in aggregate 10% or more of all shares, will have the right to bring an action on behalf of the bank against one or more officers of the bank for damages when the bank suffered losses as a result of acts or failure to act by such officers.

### Independent Directors

Recent amendments introduced the requirement to have independent directors at Ukrainian banks. A bank is required to have no less than two non-executive members on its supervisory board (independent directors). In any bank the number of supervisory board members must be five or more.

### Creditors' Rights

The single most important topic among financiers in Ukraine is the protection of the creditors' rights, which is lacking to a substantial degree at almost every stage of the life cycle of any financial product in Ukraine. The National Bank of Ukraine and independent business associations of banks and other businesses have developed several drafts laws to improve the protection of creditors' rights.

### New Market Entrants: Credit Card Companies and other Providers of Payment Services

Under the EU-Ukraine Association Agreement, Ukraine has undertaken to unbundle the banking market to new entrants such as credit card companies and other providers of payment services. Whilst most of the traditional banking services can now be provided only by commercial banks in Ukraine, the EU rules permit other market participants to be involved in these banking and financial services with substantially less onerous regulations applied to the providers of such niche services.

### Is this a Train Approaching?

The initiatives of the National Bank of Ukraine and of independent associations of banks and businesses have done much for the resumption of growth in the banking and financial services sectors. Whilst many of these measures have already been adopted, a significant number still need to be implemented. There is clearly light at the end of the tunnel and, hopefully, not that of an approaching train...

**Baker & McKenzie**

24 Bulvarno-Kudriavska St., Kyiv 01054, Ukraine;  
+380 44 590 0101, kyiv@bakermckenzie.com,  
www.bakermckenzie.com/ukraine

BAKER & MCKENZIE