German Economic Team

UKRAINE

POLICY PAPER 03 | 2022

Regulation and risk management for the Ukrainian ECA: international experience

by Dr Hans Janus

Berlin, May 2022

About the German Economic Team

Financed by the Federal Ministry for Economic Affairs and Climate Action, the German Economic Team (GET) advises the governments of Ukraine, Belarus*, Moldova, Kosovo, Armenia, Georgia and Uzbekistan on economic policy matters. Berlin Economics has been commissioned with the implementation of the consultancy.

**Advisory activities in Belarus are currently suspended.*

CONTACT

Garry Poluschkin, Project Manager Ukraine
poluschkin@berlin-economics.com

German Economic Team
c/o BE Berlin Economics GmbH
Schillerstraße 59 • 10627 Berlin
Tel: +49 30 / 20 61 34 64 0
info@german-economic-team.com
www.german-economic-team.com

Implemented by

Berlin Economics

Our publications are available under **https://www.german-economic-team.com/ukraine**.

About the author

Dr Hans Janus worked for more than 30 years for the Euler Hermes AG in the field of state Export Credit Guarantees of the Federal Republic of Germany and was member of the board from 1994 until 2014. From 2003 to 2005 he was President of the Berne Union, the leading association for the global export credit and investment insurance industry. Since 2015 he works as a lawyer and independent business consultant in Hamburg.

Hans Janus is a financial expert for Eastern Europe and Central Asia. He is Deputy Chairman of the German-Russian Lawyers Association. From 2018 until July 2020 Hans Janus has been a member of the Supervisory Board of Belarusbank, Minsk. Mr. Janus is the author of various publications in the field of banking law, public business law, international finance and trade law. Also, he is one of the authors of the Banking Law Handbook and editor of the German-Russian Law Review DRRZ. He studied Law and Russian Language at the universities in Bochum, Hamburg and, as a post-graduate, at the Moscow State University (Lomonossov University).

Acknowledgements

The author would like to thank Pervin Dadashova for her very valuable comments.

Executive summary

Ukraine has very significantly amended the legislation for the Export Credit Agency (ECA) in March 2022. The new legal act “On financial mechanisms for the stimulation of export activities” improves and broadens the business opportunities for Ukraine’s ECA. The increase of ECA’s initial statutory capital to no less than UAH 2 bn removes a key obstacle to its development.

Based on these legal reforms there is room for a revision of ECA’s vision and mission. Following recent trends in international ECA business, Ukraine’s ECA could consider developing into a business facilitator, an institution not only covering export credit risks but actively supporting Ukrainian exporters to win export orders in international competitive markets.

Following international best practice, official export guarantee business is of utmost importance. The ECA will follow OECD principles and Berne Union guidelines. For the acceptance and attractiveness of ECA’s products, particularly in the area of medium and long-term cover, it is necessary that the ECA represents the full faith and credit of the Ukrainian state. Only under this condition the lowest financing costs are assured for Ukrainian banks financing exports.

The new legal act places the ECA under the regulatory responsibility of the National Bank of Ukraine. This fact, together with the capital increase, makes it very likely that ECA’s cover can be acknowledged as fully valuable collateral, deserving a respective preferential treatment of the loan’s guaranteed portion in the financing bank’s accounting.

ECA must take care of a balanced portfolio development, avoiding unsound clusters of risks in certain countries or branches of the industry. Risk mitigation through reinsurance is of high importance and, simultaneously, enabling the underwriting of additional insurance and guarantee business. The establishment of a high-class panel of reinsurers is important for the ECA.

NBU will have to develop a regulatory regime for the ECA. Since the ECA is neither a bank nor an insurance company, Solvency-2 rules and CRR can only provide a restricted guidance. Corporate governance and internal control system should be part of this exercise. The special characteristics of the ECA business must be thoroughly reflected.

Content

1 Introduction

This paper has been made in the situation of Russia`s full-scale invasion of Ukraine. Since the consequences of the war are unpredictable to this current moment, some of the considerations and recommendations may appear unrealistic at the current situation but deserve attention in the medium-term perspective.

This paper takes into consideration, as far as possible, the new legal situation after the amended Law of Ukraine "On financial mechanisms for the stimulation of export activities" has been approved by Verkhovna Rada. In particular, this amendment refers to the new regulation in Art. 9 of the ECA-Law and respective amendments in the laws "On Financial Services and State Regulation of Financial Services Markets", "On Insurance", "On Principles of State Regulatory Policy in the Sphere of Economic Activity" and other legal acts.

Export credit agencies (ECAs) exist in more than 100 countries across the globe. The objectives of ECAs are very similar: economic growth, access to world markets, international competitiveness, job creation etc. There is a close link between ECAs and export finance. Access to export finance is an important condition for success on international markets. Such financing can be a pre-export financing or a post-export financing. In some countries the funding of exports can be obtained from the same organisation, then usually called Export Import Bank. In most other countries the financing is to be provided either by another official lending institution or by private sector banks. In general, it can be said: although the objectives are very similar, the legal form, the organisational set-up, the modes of operation and sometimes even the products are much less similar. In other words: there are no two identical ECAs in the world. Nevertheless, this paper will have a look on international experience in the work and regulation of ECAs. In particular, the regulation framework of insurance, banking and non-banking financial intermediaries will be considered and some recommendations for Ukraine discussed. The next chapter describes the role of ECAs in a changing environment. Chapter 3 considers the evolution of best practice in the international community of ECAs. Then, experience of ECA work and regulation from different countries are summarised. Chapters 5 to 7 provide an analysis for supervision of ECAs, risk management and accounting. The last chapter concludes.

2 Changing roles of export credit agencies

ECAs have been regarded in the past as "insurers of last resort" filling market gaps in order to make additional exports possible. The focus was primarily on covering commercial and political risks and balance sheet relief for exporters. This has radically changed in recent years. Nowadays ECAs become more and more important policy instruments as facilitators or even creators of export business. The ECAs mandates in most countries are no longer concentrated on "national content", but now focusing on "national interest". This change of perspectives in a growing number of countries goes hand-in-hand with newly developed official medium-term export strategies.

Such changes in strategy require amended modes of operations of ECAs. Other forms of insurance products, sales and marketing strategies, risk mitigation and further are necessary. Changing regulation approaches are part of such developments.

ECAs have developed new types of funded and unfunded products for serving this new role best. The access to export finance became an important function of ECAs. This requires a banking industry, understanding export finance as an integral part of corporate finance. For making export finance attractive for banks, it is of utmost importance that ECA cover is accepted as collateral and risk mitigating factor by bank regulators.

Ukraine's ECA started its operations with offerings of working capital guarantees and short-term supplier credit cover. As initial offering of a newly founded ECA this is a legitim step. In the medium-term perspective this is, however, insufficient. Medium-term supplier credit cover needs to be developed as well as buyer credit cover. Since for Ukrainian exporters the access to bank finance is extremely limited and respective experience hardly existing, there is a need for a new set-up between exporters, banks, ECA and regulators. This set-up needs to be modern, following international best practice and managing financial risks in the most professional way.

Recommendation: Ukraine`s ECA should determine its mission and vision to become a trade facilitator, manifesting a shift away from traditional export financing products towards more holistic offerings including working capital, credit insurance, guarantees, investment insurance and, in future, maybe even direct lending products.

3 Emergence of international best practice

In the last decades a clear international best practice for official export support has emerged. The key role is set by the OECD Arrangement on Officially Supported Export Credits ("Consensus"). The Consensus is not a binding legal document but a gentleman's agreement. The European Union has transformed the Consensus into a regulation with direct legal effect in all EU member states. The Consensus sets for its participants minimum standards for financial terms and conditions for export credits and provisions for tied aid. Specific sector arrangements cover e.g.:

- Ship financing,
- Nuclear power plants,
- Civil aircraft financing,
- Renewal energy,
- Climate change mitigation and water projects,
- Rail infrastructure,
- Project finance,
- Calculation of minimum premium rates.

The Consensus-discipline is followed by the Consensus participants, by Consensus observers and many other official export credit insurance providers worldwide. The Consensus is regularly updated and adapted to new developments in the export credit insurance field.

The Berne Union, the global association of the export credit and investment insurance industry, has established a Value Statement (2004), Guiding Principles (2006) and Operational Guidelines for Short-term (ST) and Medium- and long-term (MLT) transactions as well as for the Investment Insurance (INV) business (2008). The Berne Union has 82 members (2022) from all parts of the world.

The European Union has adopted a harmonisation directive for MLT export credit cover in 1998, with amendments in 2003, which is still in force, but somewhat outdated.

Taking all these documents together, there is a clear and common understanding of what international best practice means. Ukraine's ECA-Law clearly states in Art. 6 par. 4 to follow the Consensus rules when fixing political risk premium and country grading as well as Berne Union principles.

4 International peer review

We have selected a few ECAs which can serve as illustrations of different strategies and approaches. These ECAs are either from the region (Armenia, Poland, Turkey) or they have already business relations with Ukraine's ECA (Turkey), or they are strong and successful players (EDC, Euler Hermes, SACE). All of them have already or are planning to modernise their business models. The business models can be, very broadly, characterised as Insurers of last resort, Trade Facilitators or Trade Creators, thus demonstrating the range from more traditional to more progressive approaches. All these ECAs are following the OECD Consensus Arrangement rules and Berne Union Guiding Principles.

4.1 Armenia

Export Insurance Agency of Armenia (EIAA) was founded at the end of 2013, started full operations in 2015 and since then has focused on short-term supplier credit insurance. EIAA is the 100% state-owned export credit agency of Armenia, having the mandate to promote Armenian export. The Board of Directors consists of senior executives of the Armenian government, as well as members from private sector. EIAA operates under an insurance license for Export Credit Insurance (Art. 7 No. 14 of Insurance Law of Armenia) granted by the Central Bank of Armenia. The Independent Auditors of EIAA are Grant Thornton CJSC, Armenia. EIAA is currently to be characterised as insurer of last resort but started reviewing its business model. A strategic reform has been initiated with support of Asian Development Bank.

4.2 Canada

Founded 1944 as a "Crown corporation". EDC is fully owned by the Government of Canada. EDC is Canada's export credit agency, established to support and develop, directly and indirectly, Canada's export trade, as well as Canadian capacity to engage in that trade and to respond to international business opportunities. EDC is financially self-sustaining and operates on commercial principles. In addition to being a direct lender and insurer, EDC acts as a catalyst to leverage private capital and establishes partnerships both domestically and abroad. EDC is very large and is seen as a successful ECA with an extremely broad range of products. EDC is strategically very much advanced and clearly a trade creator. Neither banking nor insurance supervision applies for EDC. EDC is regulated by the Canadian government through the Export Development Act and the Financial Administration Act. EDC reports to Parliament through the Minister of International Trade Diversification.

4.3 Germany

Euler Hermes (EH) of Germany is a 100% subsidiary of Allianz Group, the global leader in insurance. Since 1949 Euler Hermes (formerly Hermes Kreditversicherung) has been mandated by the German government to manage the official German Export Credit Insurance scheme. EH is a very large and successful ECA with a broad portfolio of products. However, EH does not offer working capital loan guarantees, capital expenditure loan guarantees, and letter-of-credit (L/C) guarantees only in a very limited manner. The strategy of EH is not a real modern one, EH is acting more like an insurer of last resort. Outward direct investment guarantees in Germany are administered by PwC under a similar mandate of the German government. EH's operations are regulated by instructions of the Federal Ministry for Economic Affairs and Climate Action and are subject to regular due diligences by the mentioned ministry jointly with the Ministry of Finance as well as non-regular checks by the Federal Accounting Office. EH Germany's financial statements for the official ECA business are made on cash flow basis only. They are not part of Allianz Group's consolidated financial accounts.

4.4 Italy

SACE, a joint-stock company wholly owned by majority state owned Cassa Depositi e Prestiti, offers a wide range of insurance and financial products: export credit, investment protection, financial guarantees, surety bonds, factoring and debt collection. SACE has a "market-window" for short-term trade credit insurance in marketable countries. Corporate governance, internal control and risk management methods published in detail. SACE belongs to the leading ECAs, permanently trying to find new areas for officially supported trade and export finance and works as a trade creator. While not regulated by IVASS (the Italian insurance regulator), it performs its own internal capital assessment for risk management purposes.

4.5 Poland

KUKE S.A. of Poland founded 30 years ago is the official export credit agency of Poland owned by the Polish state, which, is based on the Act on export insurance guaranteed by the State Treasury, administers the officially supported export insurance scheme. KUKE S.A.'s mandate is to support exporters and institutions financing supplies of Polish goods and services, by providing insurance and guarantees that allow Polish exporters to win foreign markets and to provide efficient and tailor-made service for them. The business model is a more traditional one. KUKE provides standard cover for short-term export and domestic receivables on the company's own account. KUKE has recently introduced a new product for guaranteeing domestic mid-term capital expenditure loans for future export operations. KUKE's activities on state account are regulated in the Act dated 7 July 1994 on export insurance guaranteed by the State Treasury. In this part of KUKE's business the Polish Insurance Law according to Art. 5 of the Act mentioned above does not apply. According to Art. 15 of the mentioned Act the supervision of KUKE's operations is carried out by the Ministry of Economics. In its private account business KUKE has an insurance license for export credit insurance (Groups 14-16 of Chapter II, Annex to the Insurance Law).

4.6 Turkey

Türk Eximbank has been founded 1987. Türk Eximbank is a fully state-owned policy bank acting as the Turkish government's major export incentive instrument in Turkey's sustainable export strategy. As Turkey's official export credit agency, Türk Eximbank has been mandated to support foreign trade and Turkish contractors/investors operating overseas. The main objectives are promoting Turkey's exports through diversification of exported goods and services by increasing the share of Turkish exporters in international trade, finding new markets for traditional and non-traditional export goods and providing exporters and overseas contractors with support to increase their competitiveness and to ensure a risk-free environment in international markets. Türk Eximbank is subject to Turkish banking supervision. Türk Eximbank has concluded a cooperation agreement with Ukraine`s ECA

5 Supervision of ECAs

These examples show that in most countries neither banking nor insurance supervision applies to ECAs in their official export promotion function. Taking into consideration that ECAs offer products which are similar to insurance policies as well as to banking products (e.g. guarantees), more analysis is needed why the mentioned supervision regimes are often not applied and which one is most suitable for ECAs when applied. There is a widely shared view that credit insurers do not understand banking regulation sufficiently well and banking regulators don't understand credit insurance, which is not under their control (see Henri d'Ambrières, NPLs and European banks: A problem for credit insurers? Berne Union Yearbook 2021, p. 193-195).

This reciprocal difficulty can be a result of the fact that ECAs use words which do not fully reflect the real (legal) nature of the respective products. Most products offered by ECAs are neither unconditional, even if they are called "guarantees". Nor are they classical insurance products. ECAs therefore try to avoid calling their services "insurance" and they prefer to name their products "export credit guarantees". Furthermore, they are not payable on first demand. This makes them fundamentally different from banking guarantee products. On the other hand, export credit cover, in particular as mitigation for bank loans, must be as close to an unconditional payment obligation as possible, because otherwise a balance sheet relief for the lending bank could not be achieved under banking regulation rules, e.g. Basel III / CRR (see our Policy Paper No. 02/2021 on "Developing medium and long-term finance in Ukraine: The role of the export credit agency", Link).

5.1 ECAs and Insurance regulation

There are several reasons, not to regard ECAs as insurers. This is obvious in countries where the state itself is directly bearing the risks (e.g. France, Germany, Japan, Switzerland, UK). The state as ultimate risk-taker is by definition not an insurer. In cases of ECAs incorporated as legal persons, a more detailed analysis is necessary. The characteristics of an ECA are fundamentally different from insurance business, since the *raison d'être* for official ECAs is filling a market gap, i.e. only offering services not available on the commercial insurance market. Furthermore, the underwriting decisions are not very numerous, they are transaction-specific, and they are based on risk assessment for very different countries and counterparty risks. The classical concept of insurance business, the risk-pooling and the applicability of the "Law of Large Numbers" for balancing the financial risks between a large number of insureds with similar risk exposition, is missing and simply does not fit the business activities of ECAs. Finally, consumer protection plays a much lower role for ECAs, if any, since their services are provided to business customers only.

The Ukrainian ECA is incorporated as a Joint Stock Company and classified as an "Insurer with specific status". Insurance supervision is not directly applicable for the ECA (see Preamble of Insurance Law and Art. 9 of the ECA-Law). The ECA needs an insurance license and regulation as well as supervision are entrusted to the National Bank of Ukraine (Art. 9 par. 1 of ECA Law). The new ECA-Law thus takes account of the specific status and risk protection offered by the ECA.

5.2 ECAs and Banking regulation

For an ECA itself, banking regulation is only applicable if the ECA is acting as a real bank. Since ECAs neither grant loans, nor take in deposits from the general public, they aren't CRR institutes. Even if an ECA offers some products characterised as direct lending, this is normally not making it a bank. Banking regulation for an ECA thus is quite unusual and applies only for fully-fledged Export-Import-Banks.

Banking regulation is, however, of pivotal importance for the attractiveness of ECA products. If the beneficiary of an ECA cover, be it a guarantee for working capital loans, a L/C confirmation risk guarantee or a buyer credit guarantee, the all-decisive question is, whether the ECA cover is acknowledged as a full-value collateral or not. It is important that ECA export credit guarantees represent the full faith and credit of the state. Only if that is the case and respective balance sheet relief for the bank is materialising, the ECA product will be regarded as beneficial and attractive. The international systems of banking regulation, e.g. Basel III / CRR, take export credit guarantees granted by ECAs not very well into consideration. There is an ongoing request from banks and ECAs to establish more specific rules for bank assets covered by an ECA guarantee (see Henri d'Ambrière, ibid p. 195).

5.3 ECAs as Non-Banking Financial Intermediaries (NBFI)

ECAs offer financial services in the form of risk mitigation and risk transfer. ECAs which are incorporated as legal persons might be considered as Non-Bank Financial Intermediaries (NBFI). But they also differ significantly from most types of NBFI (Investment funds, venture capital firms, micro-loan organisations, Currency exchange firms etc.). The regulation of NBFI is extremely complex and only partly harmonised. Insurance companies are in principle recognised as NBFI. However, this refers to their asset management and focuses on their role as investors in investment funds, real estate, as providers of loans etc. (ESRB European Systemic Risk Board, EU Non-bank Financial Intermediation Risk Monitor 2021, p. 25-32). For an ECA in general and specifically the Ukrainian ECA, the partial regulation of NBFIs does not provide any useful guidance. It is therefore necessary to establish a system of regulation that respects the specialities of ECAs' activities and yet does not unduly restrict their operations.

5.4 Summary

ECA's in their function as official export promotion agencies are in most countries not supervised by either banking or insurance regulators. Several reasons explain this finding (in most cases):

- ECAs usually are neither insurance companies nor banking institutions;
    - Risk-pooling based on the Law of Large Numbers, typical for insurance business, does not apply;
    - Taking in deposits from the general public and granting credits, typical for banks, is not done by ECAs;
- The state as shareholder, guarantor, member of corporate bodies, is actively involved in various areas of decision making. This fact needs to be reflected in specific regulatory and supervisory regimes;
- ECA business is directly linked to real-economy transactions. This makes ECA activities more transparent and less risky compared to most bank lending operations;
- Only direct sovereign liability (budget or guarantee) for ECAs' potential losses make a sovereign rating for loans covered by ECAs' guarantees possible (full faith and credit of the state). The mere fact of ownership/majority shareholding may not be sufficient.

Table 1: Summary of ECA regulation

Institution	Shareholding of the State	Additional sovereign guarantee	Internat. Rating	Regulatory regime	Other comments
ARM, EIAA	100%	No	n/a	Insurance, regulation, Central Bank	
CAN, EDC	100%	Direct state obligation	S&P AAA	Neither banking nor insurance regulation, Export Development Act, Parliament	EDC operates under mandate of the state
GER, Euler Hermes AG	0%	Direct state obligation	Allianz Group, S&P AA	Ministry for Economic Affairs and Climate Action, Ministry of Finance, Federal Accounting Office	EH operates under a mandate of the state
Italy, SACE SpA	100% owned by Cassa Depositi e Presititi Group (84.07% State)	Budget guarantee for MLT business	Fitch BBB	Not regulated by Italian Insurance regulator, own internal capital assessment	
Poland, KUKE S.A.	100% state-owned (Treasury, 51.55%, Bank BGK 48.45%)	Yes, budget guarantee	n/a	Act on State Account Export Insurance, Ministry of Economy	
Turkey, Türk Eximbank	100%	Losses from political risk covered by Treasury	Moody's B2, Fitch B	Banking regulation	

Sources: Related export credit agencies, own display

Recommendation: Ukraine`s ECA needs a regulatory system adapted to its operations. The peer review and additional information demonstrate that only ECAs which are functioning as fully-fledged insurance companies or banking institution are subject to regular banking or insurance supervision. In all other cases individual systems of regulation have been established.

6 Risk management

For ECAs a uniform international standard for risk management does not exist. IFRS reporting and accounting standards and Solvency-2 rules on 1) minimum capital requirements, 2) risk management and 3) supervisory reporting / public disclosure for insurance companies are important for many ECAs, but only few ECAs are directly bound by it. Due to the limited number of transactions, it is difficult for ECAs to have a well-balanced risk portfolio. Most ECAs therefore have developed own systems of risk management using elements of Solvency-2 and own risk measurements. This makes specific accounting and valuation principles necessary, taking into consideration measures of portfolio management, reinsurance and other areas.

The ECA's risk strategy must deal with a lot of very different types of risk, for example:

- Country risks
- Buyer risks
  - Rating based approach for foreign buyers
  - Translation of external ratings, if any, into own rating system
- Bank risks (foreign banks as debtors or L/C providers)
- Currency risks: assessment, which currencies are accepted as contractual currencies
- Portfolio concentration risks, cluster risks
  - High risk in one or few markets
  - High risk in one or few branches of the industry
  - High risk with one or very few foreign buyers
  - High risk in lower or lowest country risk categories
- Strategic and operational risks
- Compliance and reputation risks

Portfolio Management

Balancing the portfolio is difficult for ECAs, sometimes hardly possible. A concentration of country risk or risk in specific branches of the industry occurs in many ECAs. For example, the Armenian EIAA has Russia as most important export destination with 80% of its overall exposure, at Euler Hermes of Germany 47% of the exposure are means of transportation and infrastructure projects (ships, aircraft, trucks, railway etc.) and 20% projects in the energy sector (wind, gas, solar and other power plants etc.) and the Finnish ECA Finnvera has a 50% concentration of cruise ships in its portfolio. There is a very broad rule of thumb that one market or one branch of the industry should not represent more than **10% of the ECAs overall risk portfolio**. The higher the cluster risk in the portfolio is, the more important gets reinsurance, risk-sharing with other ECAs or even outplacement of risk to the market (e.g. used by Serv, the ECA of Switzerland).

Reinsurance

Passive reinsurance is an important insurance risk management tool for conserving capital and increasing financial security, as well as for stabilising the loss ratio and for limiting the consequences of catastrophic damage. Reinsurance is also a source of additional underwriting capacity and risk retention capabilities, which translates into the possibility of underwriting of additional insurance business and bonds. Passive reinsurance is usually contracted in the form of a proportional quota share reinsurance ("treaty reinsurance") and, on case-by-case basis, in the form of facultative reinsurance. The ECA's risk portfolio can be structured in various reinsurance layers (proportional or non-proportional surplus reinsurance, with or without priority, excess of loss reinsurance etc.). In medium- or long-term transactions the transaction-based reinsurance between two or more ECAs corresponding to national production shares has become an important type of reinsurance.

Treaty reinsurance plus facultative reinsurance, if needed, is the generally used reinsurance system of ECAs. An exception are those ECAs which directly transfer their risks into the national budgets (e.g. EH Germany). Most ECA strive to establish a reinsurance panel of highest-class reinsurers like MunichRe, SwissRe, HannoverRe, SCOR and others (rated in the range between A and AAA). Even ECAs with direct liability of their national budgets have more frequently tapped the private reinsurance market in order to better spread and mitigate their risks in recent years.

Recommendation: Ukraine`s ECA should strive to achieve and maintain a balanced risk portfolio. A strong reinsurance system with first class reinsurers leads to a prudent level of risk mitigation and enables the underwriting of additional insurance and guarantee business.

7 Accounting

Particularly difficult for ECAs is the valuation of potential future insurance risks and the corresponding provisioning, particularly in medium- and long-term transactions. The accounting systems of ECAs are very different and not at all transparent. Whereas some ECAs apply a normal accruals accounting, others still publish only cash-flow numbers, sometimes accompanied by a shadow-accounting ("Life-Cycle-Accounting") based on accruals figures, but in most cases unpublished.

Solvency II has introduced enhanced solvency requirements for insurers based on a holistic view of risk and established new valuation rules with respect to assets and liabilities, which are to be recognised at market values. In particular the valuation of assets, e.g. the claims against foreign sovereign debtors after indemnification and rescheduling agreements or against corporate debtors after indemnification and debt restructuring is a grey-zone with a hardly limited flexibility in valuation. Provisions for future potential losses and the valuation of assets must therefore be carried out with the utmost care and as close to the market as possible. The Solvency II standard formula approach for non-life insurance seems not suited for an ECA.

The framework for Ukrainian ECA's risk management, internal control system and accounting is laid down in Art. 9 par. 4 and 6 of the ECA-Law. The specialities of ECA activities need to be addressed in ECA's reporting and reflected in the regulatory and supervisory activities of NBU. Since ECAs activities usually are closest to insurance business, international standards of insurance regulation should be followed as far as reasonable and appropriate.

Recommendation: Based on Art. 9 ECA-Law, NBU will have to develop a regulatory and supervisory regime for Ukraine's ECA. The Solvency-2 rules and CRR can provide a certain guidance. Corporate governance and Internal Control System must be part of this exercise. The specialities of the ECA business must thoroughly be reflected.

8 Conclusion

The new ECA-Law is a great step forward. Now there is a realistic chance that Ukraine's ECA can fruitfully expand its business, develop new products and support Ukrainian companies on international markets. With the capital increase and the regulatory function of NBU the ECA insurance cover should be acknowledged as valid collateral allowing a respective preferential treatment of the covered portion of the loan in the financing bank's accounting. The ECA's reporting and accounting, including corporate governance and internal control system need to be upgraded and designed in a way that complies with legal regulations and follows international practices.