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Industrie- und Handelskammer**
Німецько-Українська
промислово-торговельна палата



German
Economic
Team

REBUILDING UKRAINE THROUGH PRIVATE INVESTMENT PROPOSALS FROM GERMAN COMPANIES



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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

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About the German-Ukrainian Chamber of Industry and Commerce

The German-Ukrainian Chamber of Industry and Commerce has been promoting bilateral economic relations between Germany and Ukraine since 1993. The chamber supports its members with information, advocating their interests and providing services to them. The chamber is integrated into a worldwide network of German Chambers of Commerce abroad, which consists of 150 offices in 93 countries. The network's umbrella organization is the German Chamber of Commerce and Industry (DIHK).

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Federal Ministry
for Economic Affairs
and Climate Action



MESSAGE OF GREETING

by **Dr ROBERT HABECK**,
Federal Minister for Economic Affairs and Climate Action
(Vorwort zur Investitionsstudie Ukraine des German
Economic Team - GET - und der AHK Ukraine)

Dear reader,

Ukraine's economy is facing extraordinary challenges due to Russia's ongoing war of aggression, materialising in a massive economic contraction in 2022. However, Ukraine has proven to be resilient, with the economy growing by 5 per cent in 2023.

At this crucial moment, German-Ukrainian economic relations are stronger than ever before. In 2023, bilateral trade reached an unprecedented level of almost €10 billion. Many companies are interested in investing in Ukraine, making Ukraine the number 1 country of destination for German investment guarantees in the past year.

Private sector investment is the key to further strengthening Ukraine on its path to recovery. Against this background, the German Economic Team and the German-Ukrainian Chamber of Industry and Commerce are presenting this study with dedicated recommendations for improvements in the investment climate in Ukraine. Based on the experience of German businesses already operating successfully in Ukraine, the proposals entail concrete recommendations for a range of sectors, from agriculture to energy, in order to enhance the investment climate for the benefit of the Ukrainian economy as a whole.

I am delighted that both organisations – with financial backing from the Federal Ministry for Economic Affairs and Climate Action – have contributed to this important topic.

We are looking forward to continuing the dialogue on this issue at this year's Ukraine Recovery Conference, which Ukraine and Germany will jointly host in Berlin in June 2024. Germany will remain a strong and reliable partner for Ukraine for as long as it takes, both in its fight against Russia's aggression and on its path to a sustainable recovery and accession to the European Union.



Ministry of Economy of Ukraine



MESSAGE OF GREETING

by Yuliia SVRYDENKO

First Deputy Prime Minister of Ukraine -
Minister of Economy of Ukraine

Dear reader,

During the hardest times in Ukraine's history, Germany has emerged as a steadfast partner and a pillar of support. From humanitarian, financial and military assistance to investments into Ukraine and the development of the economy, Germany has consistently stood by Ukraine.

As the Minister of Economy of Ukraine, I support a message of opportunity, resilience, and collaboration. Despite facing significant challenges, Ukraine remains steadfast in its commitment to economic development, reform, and growth. We recognize the importance of facilitating strong partnerships with our international counterparts, and both the international and local business community stand as a key ally on our path towards economic prosperity.

That is why our top priority is to attract investments in the real sector. We eagerly expect international businesses in Ukraine, and we are preparing to create all the necessary conditions for their operations. We have learned the lesson that war does not pose an embargo on investment, and German businesses prove this.

I personally stand ready to support and assist every investor interested in entering the Ukrainian market.

Therefore, we highly welcome and anticipate this Investment Policy Paper, a collaborative effort between AHK Ukraine and the German Economic Team. The recommendations outlined in this paper serve as a roadmap for realising this vision, guiding our efforts to implement meaningful reforms and enact policies that stimulate innovation, entrepreneurship as well as economic development.

We expect that this paper will also serve as an excellent reading for investors, international financial institutions, think tanks for preparation of the pre-investment decisions, long-term financing and policy notes for the upcoming largest Ukraine Recovery Conference in Berlin to be held in June this year, which we will have an honour and privilege to co-chair together with our German partners.

By addressing key challenges and identifying opportunities for improvement, we aim to create an environment that is conducive to sustainable growth and prosperity. Ukraine stands at a pivotal juncture, ready to unlock its vast potential and attract increased foreign investment.

Therefore, we are sincerely grateful to German companies that are already investing in Ukraine, and warmly invite others to follow suit, since this is a contribution to the peaceful and prosperous future of Ukraine.



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1. Introduction

Ukraine's economy has finally returned to growth in 2023. GDP grew by around 5% last year, and a similar GDP increase is estimated for 2024. While this demonstrates that Ukraine's economy is revealing its resilience during the ongoing full-scale war, it comes after a GDP fall of 29% in 2022, which shows the long and winding road ahead.

Before the war, in 2020, Ukraine's market economy was dominated by private sector business activities with a share of ca. 79% of gross value added (GVA), 76% of employment and 65% of gross fixed capital accumulation. However, the private sector was primarily driven by domestic investors, rather than by foreign ones. The latter one accounted for just about one fifth of the private sector share of GVA, respectively investment. For Ukraine's recovery and rebuilding of the economy along "Build Back Better Principles", attracting foreign capital is a "cornerstone". This was highlighted e.g. by Becker et al. (2022, p. 22)¹ in the first piece on Ukraine's reconstruction by top economists from the Centre for Economic Policy Research. Therefore, attracting foreign direct investment should be one of the main priorities for Ukraine's economic policy, a fact which is underlined by both the Ukraine-facility of the EU as well as the ongoing

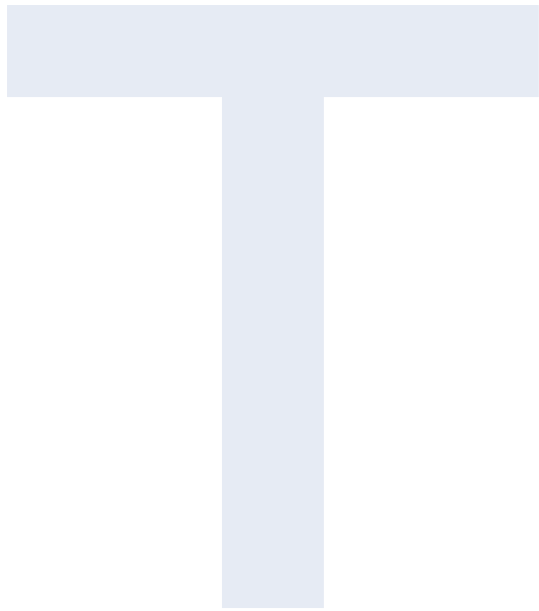
IMF programme. Reaching this goal depends on two critical inputs – the investment climate as well as political risk insurance and security agreements for protecting these investments.

This Policy Study focuses on reform proposals for improving Ukraine's business and investment climate. It follows the approach taken by the German-Ukrainian Chamber of Industry and Commerce (AHK Ukraine) and the German Economic Team (than under the previous name German Advisory Group) in a similar study conducted in 2018². It compiles a list of challenges for the investment climate that were voiced by AHK Ukraine member companies in the chambers' sectoral committees and proposes concrete solutions to overcome these challenges, keeping in mind macro-financial stability and a level playing field for business. This "bottom-up" view of various investment climate challenges experienced by foreign investors in Ukraine and their possible solutions is clearly intended, if implemented into law, to improve the investment climate for potential further investment in Ukraine. The methodology underlying our study is discussed in detail in the next chapter. Chapter 3 and chapter 4 display the challenges and reform proposals to overcome them. While chapter 3 analyses reform proposals that concern companies in all sectors of the economy ("horizontal dimension"), chapter 4 discusses proposals for selected economic sectors of Ukraine. Finally, chapter 5 derives recommendations for a prioritisation of the reforms proposals.

¹ Becker, et al. (2022): „A Blueprint for the Reconstruction of Ukraine”, Rapid Response Economics 1, CEPR Press.

² German Economic Team and AHK Ukraine (2018): "Unlocking investment through reforms: Proposals from German business in Ukraine", Policy Study 03/2018, [Link](#).

2. Methodological Approach



This study adopts a bottom-up methodology in crafting reform proposals. Utilising a questionnaire developed by the German Economic Team, AHK Ukraine's various committees provided a set of policy recommendations. These suggestions underwent a rigorous review and verification process, involving both the German Economic Team and member companies of the AHK Ukraine. The focal point of the review was to ensure the proposals align with a broader reform trajectory towards a transparent and competitive business climate. Additionally, the recommendations aimed to be consistent with Ukraine's existing contractual obligations, such as those in the EU accession process, and contribute to equitable and sustainable growth.

The primary objective of this study is to generate reform proposals aligned with the preferences of businesses and relatively easy to implement. Unlike many other studies focusing on the critical reforms Ukraine needs and analysing existing constraints, our emphasis is on incorporating smaller, incremental reforms, which can even be conducted during wartime. This approach aims to include changes that are straightforward to implement, resulting in tangible improvements for businesses operating in Ukraine. Consequently, the bottom-up approach yields a relatively comprehensive set of recommendations, encompassing both minor and major reforms, united by their relative ease of implementation.

It is important to note a limitation in our approach – the recommendations primarily reflect the needs of incumbent

companies, particularly the membership profile of the "German Business" in Ukraine represented by AHK Ukraine. While the study represents over 200 companies across various sectors, certain sectoral concentrations within AHK Ukraine's membership led to the exclusion of recommendations for important sectors like machine building, or metals and mining. This omission is solely due to the study's structure, which reflects the structure of German business in Ukraine, and does not imply a lack of importance for reforms in these areas.

Our methodology acknowledges the diverse membership of AHK Ukraine, comprising both German and Ukrainian companies. The study's focus is intramarginal, capturing recommendations that would facilitate existing companies' investment and growth in Ukraine. While not directly addressing the needs of companies not yet operating in Ukraine, the study's impact extends to creating conditions favourable for both existing and potential new entrants.

The reform proposals, to which all of AHK's committees contributed, are categorised into two main chapters:

- Horizontal reform proposals that affect all businesses alike are listed in chapter 3:
 - Law and human resources
 - Tax and accounting
- Sector-specific reform proposals are listed in chapter 4:
 - Banking and financial services
 - Energy and green transition
 - Food industry and agriculture
 - Construction and Energy Efficiency

Finally, in Chapter 5, we present a list of top-ten "quick wins." This ranking is derived by initially limiting the reform proposals to the most quickly implementable and subsequently ordering them based on importance and impact. The top ten proposals are outlined and explained in this chapter.

3. Horizontal reform proposals



3.1 Reform proposals in the area of law and human resources

The area of law covers all cross-cutting (i.e. non sector-specific) legal regulations.

TABLE 1. OVERVIEW OF REFORM PROPOSALS THE AREA OF LAW AND HUMAN RESOURCES

NUMBER	TITLE
LEGAL 1	The seizure of vehicles
LEGAL 2	Waiving work permit requirement for foreign directors
LEGAL 3	Rules for booking IT specialists with the status of gig contractors
LEGAL 4	Limiting the number of employees that may be mobilized during martial law
LEGAL 5	Implementing more flexibility to termination of employment
LEGAL 6	Reducing HR Documentation



LEGAL 1

THE SEIZURE OF VEHICLES

Responsible government institution

Verkhovna Rada

Problem statement

Under martial law companies' vehicles can be seized. The current legislation does not provide for the establishment of limits for each type of vehicle. In practice, a situation may arise where all vehicles of a certain type are completely confiscated from the company, which will deprive the company of resources to perform business operations with its own funds. Also, in some instances, vehicles were seized which clearly were not of military use, for example luxury sedan cars.

The absence of clear rules on the seizure of vehicles contradicts the principle of legal certainty, which is an integral element of the rule of law. While we understand that there is an urgent need for equipment for the army during war times, we believe that such need shall be balanced against the state interest in giving businesses sufficient space to do business (and pay taxes).

Suggested reform measures

Set limits for seizure of vehicles, for example, as a percentage of the total number of vehicles of each type. It should be determined which types of cars can be seized.

Estimation of effect

Avoid unnecessary pressure on businesses.

LEGAL 2

WAIVING WORK PERMIT REQUIREMENT FOR FOREIGN DIRECTORS

Responsible institution

Verkhovna Rada

Problem statement

Foreign nationals who shall be appointed as directors of a company need to obtain a permit for employment. During company establishment this means that the investor shall find a trust director to be appointed in the company until the company obtains the work permit for the foreign director. Getting the work permit is a pure formal process; it was never encountered that a foreign national who was supposed to become a director, was denied the work permit. Nevertheless, the process takes time and makes the establishment cumbersome.

Suggested reform measures

Abolish the work permit requirement for foreigners to be appointed in companies with foreign (majority) shareholding. This exception could be limited to foreigners coming from EU and G7 countries. Or abolish the work permit requirement for citizens from EU and G7 countries altogether – as already done for Polish citizens.

Estimation of effect

The establishment of subsidiaries would be much easier for foreign investors, reducing the cost of doing business.



LEGAL 3

RULES FOR BOOKING IT SPECIALISTS WITH THE STATUS OF GIG CONTRACTORS

Responsible institution

Cabinet of Ministers

Problem statement

It is common practice in IT companies to work in teams with specialists who have the status of gig contractors, but under current law only formal employees with an employment contract can be reserved.

Suggested reform measures

Amendments to the reservation procedure for persons liable for military service during martial law.

Since recently amendments to the reservation procedure are discussed regarding, i.a. “economic reservation”: Reservation would be possible for employees with minimum salary of UAH 35,000 (suggestion of the Presidential Administration) or if the employee / entrepreneur / gig specialist pays UAH 20,000 per month extra (suggestion by Rada’s committee on economic affairs).

We support such modifications. However, with respect to private entrepreneurs we suggest limiting this option to cases where the private entrepreneur pursues a truly entrepreneurial activity, and its tax status is not abused for the sake of tax reductions (see also qualifying criteria in article 29 of the Draft Labor Code which was released in January 2024).

Estimation of effect

Fostering stable and undisturbed business, thus helping Ukraine as an economy to stay afloat.



LEGAL 4

LIMITING THE NUMBER OF EMPLOYEES THAT MAY BE MOBILIZED DURING MARTIAL LAW

Responsible institution

Cabinet of Ministers

Problem statement

During the period of martial law, certain employers (especially those who do not qualify for the reservation of employees liable for military service under a separate procedure) face the risk of mobilisation of most of their staff, which could lead to a cessation of production or business activity and further financial loss, or the inability to continue operations.

Suggested reform measures

Establishing a limit for the number of employees to be mobilized during martial law.

Estimation of effect

Fostering stable and undisturbed business, thus helping Ukraine's economy to stay afloat.

LEGAL 5

IMPLEMENTING MORE FLEXIBILITY TO TERMINATION OF EMPLOYMENT

Responsible institution

Verkhovna Rada

Problem statement

Under current Labor law, which still has post-Soviet roots, and is thus increasingly at odds with the requirements of a modern social market economy, employers face often overly restrictive conditions when the need to terminate employment arises. Employment agreements can be terminated only subject to narrow exceptional circumstances. Therefore, if businesses face difficulties, many employment terminations have to be negotiated against severance payment. This makes the dismissal expensive for the employer and makes the employer think twice whether to hire new employees or not.

Suggested reform measures

In line with ILO principles the provisions of the draft Labor Code suggest in article 66 that an employee can be dismissed subject to either 2-months' notice or severance payment. This approach certainly increases the attractiveness of the Ukrainian labour market for foreign investors. It is not excluded that during further discussion of the draft there will be attempts to increase protection of employees' interests. From the perspective of a (foreign) investor reaching a balanced rule set for termination of employment would be an improvement as compared to the overly restrictive status quo.

Estimation of effect

We believe that such introduction would significantly improve the flexibility for employers and would encourage companies to hire more staff.

LEGAL 6

REDUCING HR DOCUMENTATION

Responsible institution

Verkhovna Rada

Problem statement

Current legislation provides for quite an extensive list of mandatory labour and HR documents that in practice may not be needed for certain businesses due to specifics of their activity. For example, Personal files (like curricula vitae, copies of orders and extracts from them, personal documents, certificates, personnel records, questionnaires, appraisal letters), hiring orders, employment agreements, transfer orders and staffing tables and changes to them must be stored for 75 (!) years. Other documents, like job descriptions of employees have to be stored for at least 5 years. Completeness of documents and storage can be audited by the authorities and fines can be imposed where flaws occurred.

Suggested reform measures

The draft Labor Code proposes to reduce this burden, as e.g. the requirement to present the labour book or information about work activities from the register of insured persons to the employer was abolished. From a foreign investor's perspective this is an improvement. We strongly recommend to maintain the approach to reduce the administrative burden of employers and businesses in general to the absolute minimum.

Estimation of effect

Administration (and thus costs) of the HR department of companies will significantly decrease, giving companies the room to concentrate on their core business and be more efficient.

3. Horizontal reform proposals _____



3.2 Reform proposals in the area of taxes and accounting

The area of law covers cross-cutting (i.e. non sector-specific) legal regulations. In total we identified the following four proposals.

TABLE 2. OVERVIEW OF REFORM PROPOSALS THE AREA OF TAXES AND ACCOUNTING

NUMBER	TITLE
TAX 1	Adjusting the threshold per counterpart in the transfer pricing (TP) report
TAX 2	Shift deadline for tax adjustments concerning German KGs
TAX 3	Providing SAF-T files to tax authorities
TAX 4	Clarify timing when a Diia City resident can apply reduced tax rates

TAX 1

ADJUSTING THE THRESHOLD PER COUNTERPART IN THE TRANSFER PRICING (TP) REPORT

Responsible institution

Cabinet of Ministers of Ukraine, Ministry of Finance, State Fiscal Service

Problem statement

According to Article 39.2.1.7 of the Tax Code, in case the total sum of operations per counterpart exceeds UAH 10 Mio, they have to be reported in the transfer pricing (TP) report. This limit was set up in Dec 2016 and came into force for 2017. At that moment, the exchange rate UAH/EUR was 27.4 UAH per 1 EUR. Following this, UAH 10 Mio was about EUR 364 K, whereas it is at the current exchange of approx. 42 UAH/EUR about EUR 238 K.

Suggested reform measures

To increase the limit of total sum with one counterpart depending on minimum salary (min. salary in 2017 was UAH 3200 and on Jan 2024 it is UAH 7100). As alternative given threshold could be nominated in USD or EUR with a clear rule how to recalculate to UAH. The same applies to the threshold of annual turnover of currently UAH 150 Mio beyond which companies are obliged to execute TP-reporting, this threshold could be indicated accordingly.

Estimation of effect

This change will be welcomed by the business as it will automatically update conditions for transfer price reporting. By doing so tax authorities and companies will save resources on currently controlled transactions for transfer price reporting and documentation, which were considered as not to be controlled when thresholds for transfer pricing were adjusted in 2017.



TAX 2

SHIFT DEADLINE FOR TAX ADJUSTMENTS CONCERNING GERMAN KGS

Responsible institution

Ministry of Finance, State Fiscal Service, Verkhovna Rada

Problem statement

According to Articles 140.5.4 and 140.5.51 of the Tax Code, a resident taxpayer dealing with a foreign fiscally transparent counterparty (e.g. German KG or GmbH & Co. KG) is required to increase financial result before tax by 30% of the transaction value or, alternatively, to produce documentary evidence (transfer pricing documentation) that the transaction is at arm's-length. The taxpayer should decide on whether to make the 30% adjustment prior to submission of the annual corporate tax declaration, which is 60 days after yearend. By the submission deadline, the financial data on comparable companies is not yet available, so the taxpayer cannot test its margin against the margin of comparable companies. Furthermore, if the taxpayer decides not to make an adjustment, but later, after submission of the declaration, changes its decision, there is no exemption from penalty in case the taxpayer pays additional corporate tax. By contrast, companies engaged in controlled transactions, which may also include transactions with fiscally transparent entities, have time until 1 October of the following year to prepare transfer pricing documentation and, if necessary, to adjust their taxable profit without any penalty (Article 50.1 of the Tax Code).

Suggested reform measures

In case given obligatory tax adjustment is not going to be abandoned as already suggested several times, it would be at least reasonable to extend the deadline for 30% adjustment of the financial result before tax and preparation of transfer pricing documentation until 1 October of the following year. Also, an adjustment of taxable profit should be allowed without penalty if adjustment is made before 1 October of the following year.

The same changes can be made for the transactions with counterparties registered in low-tax countries (list approved by CMU Resolution No 1045 of 27.12.2017). Relevant changes can be introduced in Articles 140.5.4, 140.5.51 and 50.1 of the Tax Code.

Estimation of effect

This change will be welcomed by the business as it will ease administrative burden and put companies engaged in controlled transactions and companies which are subject to 30% adjustment on equal footing.



TAX 3

PROVIDING SAF-T FILES TO TAX AUTHORITIES

Responsible institution

Cabinet of Ministers, State Fiscal Service

Problem statement

According to draft Law No. 6255 from 02.11.2021 (Law 3562-IX) all big tax payers are obliged to provide to the tax authorities upon request for a tax audit a SAF-T file with huge and very detailed data regarding all bookkeeping records within a very short term (2 working days after request received). Moreover, they have to confirm provided data with initial documents in e-format. In case files are not provided, significant penalties will be applied.

Suggested reform measures

Increase the period for providing the file to 10 working days. In addition, a more simplified format of the provided file based on EU experience would decrease administrative burden for the companies. Elimination or decrease of penalties during a - to be defined - transition period would ease the implementation of this norm. Instead of providing all initial documents in e-format, it would make sense that tax authorities – after having checked provided SAF-T file - only ask for those documents in e-format in case by the opinion of the tax authority a potential tax violation might be possible.

Estimation of effect

This change will be welcomed by the business as it will allow to adopt the necessary resources for data preparation.

TAX 4

CLARIFY TIMING WHEN A DIIA CITY RESIDENT CAN APPLY REDUCED TAX RATES

Responsible institution

Ministry of Digital Transformation, State Fiscal Service

Problem statement

According to the Tax Code, a Diia City resident is entitled to apply reduced 5% tax rate on income paid to employees or gig contractors (Articles 170.141.2 and 167.2 of the Tax Code) and pay social security contribution from minimum salary (Par. 141 Article 8 Social Security Law).

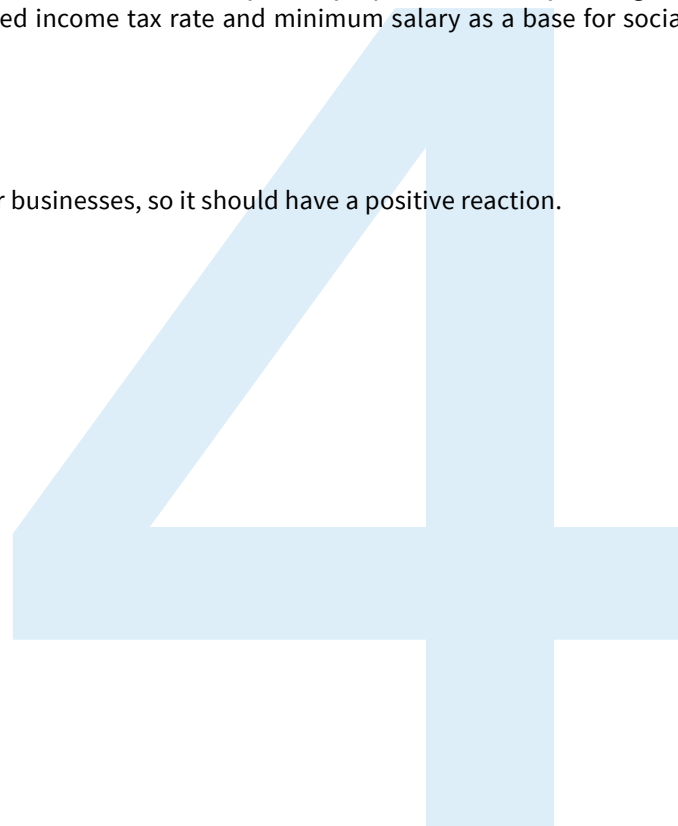
It is not clear, however, when a company which became a Diia City resident in the middle of the month can apply the reduced income tax rate and minimum salary as a base for social security contribution. According to clarifications of the State Tax Service, this is allowed from the next month following the month in which a company becomes Diia City resident. Such application, however, does not follow the law.

Suggested reform measures

Supplement Article 170.141.2 of the Tax Code and Par. 141 Article 8 Social Security Law by a provision clearly stating the moment from which a Diia City resident can apply a reduced income tax rate and minimum salary as a base for social security contribution.

Estimation of effect

This change will increase legal certainty and reduce risks for businesses, so it should have a positive reaction.



4. Sector-specific reform proposals



4.1 Reform proposals in the financial and banking sector

In the area of the financial and banking sector, we identified the following five proposals.

TABLE 3. OVERVIEW OF REFORM PROPOSALS IN THE FINANCIAL AND BANKING SECTOR

NUMBER	TITLE
FINANCIAL 1	Gradual liberalisation of FX and capital restrictions
FINANCIAL 2	Corporate profit taxation of the banking sector
FINANCIAL 3	Equivalence of the supervisory and regulatory arrangements EU - UKR
FINANCIAL 4	Recognition and enforceability of ISDA master agreements for cash-settled commodity markets
FINANCIAL 5	Access to financing under 5-7-9 loan subsidy programme

FINANCIAL 1

GRADUAL LIBERALISATION OF FX AND CAPITAL RESTRICTIONS

Responsible institution

National Bank

Problem Statement and affected business

While FX and capital restrictions were introduced as a key measure to protect the banking and currency stability in Ukraine at the start of the war, they have an adverse impact on attracting new foreign investment. The National Bank of Ukraine has outlined its vision in liberalising FX and capital restrictions in a roadmap. The current stage 1 of the roadmap consists of the following liberalisation measures:

- Minimize the existence of multiple exchange rates
- Increase opportunities to conduct trade transactions
- Facilitating new lending/investment

While liberalisation steps have been conducted in the first two areas, liberalisation steps to allow cross-border repayments of new loans are allowed only on a very limited scale. Cross-border disbursement of dividends for foreign investment is not allowed. Furthermore, unlike the purchase of equipment, payments for lease equipment agreements are subject to FX and capital restrictions.

Suggested reform measures

We suggest including the following considerations:

- Assess steps that go beyond the liberalisation steps for the repayment of new loans from 21 June 2023 ([NBU Statement](#)). We suggest including also new loans that were issued after the 24 February 2022 as a next step.
- We suggest including cross-border outflow of dividends of new investment conducted after 24 February 2022 on a limited scale, for example a pre-determined share or absolute cap of annual dividends for repatriation as a next step.
- We suggest including also cross-border payments under new equipment lease agreements after 24 February 2022.

Expected impact

These measures would positively affect considerations on new foreign investment: Today's investment would be subject to an investment amortisation cycle that takes a few years, so dividend repatriations are postponed to the future. However, these steps would generate important market signals to companies with foreign capital that consider investing during the war that Ukraine requires for rebuilding, economic recovery, and modernisation. Taken together, these three measures will have only have a limited (negative) impact on foreign reserves (if any), because new loans and other forms of new investment were conducted on a limited scale since 24 February 2022.

FINANCIAL 2

CORPORATE PROFIT TAXATION OF THE BANKING SECTOR

Responsible institution

Verkhovna Rada, Ministry of Finance, National Bank

Problem Statement and affected business

A retroactive windfall tax of 50% of corporate profit taxes (CPT) was introduced for 2023 in November 2023 and a permanent profit corporate tax increase to 25% from 2024 onwards only for the banking sector, while all other sectors are subject to the normal CPT rate of 18%.

Suggested reform measures

We firstly suggest realigning the new CPT rate for banks with the CPT rate for other sectors, and secondly suggest discussing with banks a predictable, forward-looking, and only temporary increase in CPT as a windfall tax during extraordinary circumstances.

Expected impact

State-owned banks are less concerned about the tax increase because they are ambivalent between paying dividends to the state on the one hand, or tax payments to the state on the other hand. Permanent tax increases concern therefore overwhelmingly private banks. As a result, this competitive disadvantage reduces prospective private investment interest in state-owned banks, which are subject to privatisation, and lowers their value. A realignment of CPT therefore would restore a level playing field between state-owned banks and private banks.

The introduction of a retroactive windfall tax violates the principle of stable, predictable, and forward-looking tax policy (Tax Code of Ukraine). This violation concerns not only the banking sector but is a precedent for regulatory uncertainty affecting all economic sectors. Thus, maintaining predictable and forward-looking tax policy, including limiting windfall taxes to strictly extraordinary circumstances, would be key for the regulatory policy in general. This concerns not only the banking sector but is of wider importance.

Clear and transparent communication of a foreseeable, looking-forward and only temporary windfall tax does not worsen the regulatory uncertainty but contributes to a reasonable temporary fiscal policy response in an emergency situation.



FINANCIAL 3

EQUIVALENCE OF THE SUPERVISORY AND REGULATORY ARRANGEMENTS EU - UKR

Responsible institution

National Bank

Problem Statement and affected business

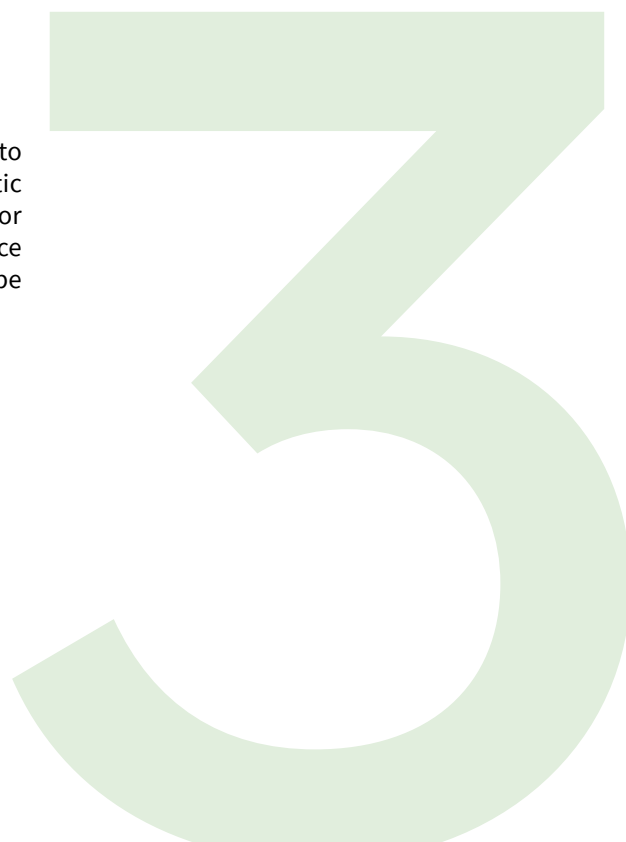
According to the EU Regulation 575/2013 (the Capital Requirements Regulation), and recommendations by the European Banking Authority (EBA), European banks operating in, or with Ukraine have to allocate full capital risk weights (150%) to any domestic currency exposure they have on the NBU, central government or public sector entities. This makes it difficult to achieve acceptable financial returns on the allocation of business equity. This regulation states that an equivalence of the supervisory and regulatory arrangements with the EU has to be achieved to apply lower risk weights (0% for domestic currency exposure on the NBU).

Suggested reform measures

It is suggested that the NBU is seeking prudential regulatory and supervisory equivalence according to this Regulation, which is ultimately granted by the European Commission, upon recommendation by the EBA. The European Banking Authority has published a [Pre-screening questionnaire](#) and an [Assessment questionnaire](#) to determine the level of equivalence. The recognition of equivalence can be achieved independently of the start of the EU accession negotiations, as for example both Bosnia and Herzegovina and North Macedonia were already recognised by the EU as having equivalence of their supervisory and regulatory arrangements in 2021 before the start of the accession negotiation framework .

Expected impact

Exposure in domestic currency on the NBU (e.g. investments into CD's) would be allocated with a risk weight according to domestic NBU regulation applied for exposures to central government or public sector entities. This would generate a significant difference for European banks when it comes to how much equity needs to be allocated for their Ukrainian operations.



FINANCIAL 4

RECOGNITION AND ENFORCEABILITY OF ISDA MASTER AGREEMENTS FOR CASH-SETTLED COMMODITY MARKETS

Responsible institution

Verkhovna Rada, National Bank, NSSMC, NEURC, State Food Safety and Consumer Protection Service

Problem Statement and affected business

The Law No. 738-IX on “Capital Markets and Organized Commodity Markets”, effective since July 1, 2021, lays the groundwork for derivative contracts. However, there is no legal guideline for application of whether a particular contract (inclusive ISDA) complies with the law. All institutions and companies are affected that seek using risk-sharing products. Companies end up using EU templates in trade with EU parties. However, this approach leads to mismatching risks in terms of timing, product, pricing, FX exposure and, ultimately, leave the consumers to pay a higher price. This problem concerns both the Ukrainian financial supervision of swaps and derivatives, as well as regulation in markets that frequently trade in commodities, particularly the energy and the agri-food sectors.

Suggested reform measures

We suggest setting normative requirements. This step may include the implementation of ISDA master agreements for cash-settled commodity contract, including electricity and natural gas. Hereby, a regulatory opinion letter and legislative amendments would be supportive recommending the applications of ISDA master agreements for particular contracts, for example:

- Physical v. cash definition (exemption from the financial instrument: Capital Markets (Instruments) Laws
- Close-out netting (no cherry-picking): Bankruptcy Laws
- Physical delivery provision: Statutes for each commodity market
- Admission to organized trade venues of the EU-recognized standard products (and local lookalikes): Trade Venues (Organized Commodity Markets) Laws
- Mark to market valuation: Capital Markets (Infrastructure) Laws
- Admission to clearing of the EU-recognized standard products (and local lookalikes): Capital Markets (Infrastructure) Laws
- Alleviation of the Value Added Tax and the Excise Tax on the physical trades and cash settlements until the last mile: Tax Code

Expected impact

The credit and market risks will be shared with the financial institutions and make the mentioned markets more resilient against price volatility, thereby resulting in higher liquidity and lower prices for the ultimate consumers. This is particularly important against the background of war-related uncertainty of the development of exchange rates and commodity prices, among others.

FINANCIAL 5

ACCESS TO FINANCING UNDER 5-7-9 LOAN SUBSIDY PROGRAMME

Responsible institution

Ministry of Economy, Business Development Fund

Problem Statement and affected business

The 5-7-9 loan subsidy programme includes in its eligibility criteria i.a. legal entities whose ultimate beneficial owners must be residents of Ukraine. As a result, legal entities being controlled by owners (>50% share) that are registered abroad have no access to the programme. At the same time, FX and capital restrictions allow repayments of new loans issued since 21 June 2023 only under certain circumstance (according to NBU Resolution No. 18 clause 14 subclause 43. Due to this barrier, companies have hardly access to loan financing from abroad, which forces them to look for domestic sources of funding.

Suggested reform measures

Companies that are affected by this problem generate employment and value creation in Ukraine and operate in the same high risky environment as do companies that have access to the programme. Thus, it is suggested that this particular eligibility criterion is excluded, creating a level playing field for all companies.

Expected impact

Companies which receive access to subsidised financing under the programme (which account for ca. 40% of all outstanding loans at end 2023) will be able to improve their performance, contributing to Ukraine's economic and financial resilience.

4. Sector-specific reform proposals



4.2 Reform proposals in the area of energy and green transition

In the area of energy and green transition, we have identified the following seven reform proposals.

TABLE 4. OVERVIEW OF REFORM PROPOSALS IN THE AREA OF ENERGY AND GREEN TRANSITION

NUMBER	TITLE
ENERGY 1	Prolongation of contracts validity concerning grid connection and technical requirements for the connection of renewable energy objects to the grid
ENERGY 2	Implement EU Directive 2010/75 on industrial emissions
ENERGY 3	Amendment of the Law on Production Sharing Agreements as part of the ongoing legislative process (Draft Law No. 4344)
ENERGY 4	Recognition and enforceability of EFET master agreements on physical trade in power and gas
ENERGY 5	Ensuring the stability parameters of the system and maintaining supply systems
ENERGY 6	Legislative amendments concerning the duration of ancillary services contracts.
ENERGY 7	Establishment of central counterparty (CCP) clearing for gas and power markets

ENERGY1

PROLONGATION OF CONTRACTS VALIDITY CONCERNING GRID CONNECTION AND TECHNICAL REQUIREMENTS FOR THE CONNECTION OF RENEWABLE ENERGY OBJECTS TO THE GRID

Responsible government institution

Verkhovna Rada, National Energy and Utilities Regulatory Commission (NEURC)

Problem statement

The Law of Ukraine „About regulation of urban development activities” determines that technical requirements are valid:

- for objects that produce electricity from solar energy, no longer than two years, regardless of client change;
- for objects that produce electricity from other

alternative energy sources, no longer than three years, regardless of client change.

But neither the Law of Ukraine “About the electricity market”, nor the Codex of network distribution” contain such restrictions. It is unlikely that developers will be able to build and connect an object to the grid during two or three years. Especially bigger and more complex projects are at risk.

Suggested reform measures

The period of validity of the contract for connection and technical requirements should be prolonged for renewable energy projects. The list of regulations to be amended includes:

- Law of Ukraine “About the regulation of urban development activities”;
- Law of Ukraine “About the electricity market”;
- Law of Ukraine “About the alternative energy sources”;

- Codex of network distribution, adopted by the Resolution of the National Commission for State Regulation of Energy and Public Utilities No. 310, 14.03.2018;

- Codex of network transmission, adopted by the Resolution of the National Commission for State Regulation of Energy and Public Utilities No. 309, 14.03.2018.

The described amendments could be made within a period of six months.

Estimation of effect

The implementation of the suggested measures may help to achieve several key results:

- To ensure the stability and reliability of projects. The prolongation of contracts validity will provide investors and developers more flexibility and efficiently to cope with possible delays and cases of force majeure.
- Investments protection. The measure shall prevent big investment freeze as a consequence of negative external factors, such as warfare. In turn this shall enable the realisation of projects.

- Risk mitigation and market abuse. The operators of network transmission will be hindered to abuse their monopolistic market position. Especially in cases when there are access restrictions for equipment or services.

- Promotion of renewable energy development. The changes will enable a more flexible approach of projects planning and implementation and thus promote renewable energy sources.

- Securing reliable energy supply. The suggested measures shall allow a better adaptation of infrastructure for different challenges.



ENERGY 2

IMPLEMENT EU DIRECTIVE 2010/75 ON INDUSTRIAL EMISSIONS

Responsible government institution

Ministry of Environment

Problem statement

Current regulations do not recognize any technology, except turbines, that are used in the EU for the power generation.

Suggested reform measures

Amend Order of Ministry of Environment No. 541 from 22.10.2008 (as amended), in particular, to

(a) Transpose in full Annexes I, V and VI,

(b) recognize

- A 'combustion plant' under Article 29 of the Directive,
- A 'stack' under Article 3 of the Directive, and
- other technologies, e.g., internal combustion engines, that work in an emergency regime.

Estimation of effect

Technologies that are more efficient and have better dynamic characteristics, e.g. CCGTs or internal combustion engines will be able to compete with traditional coal and gas-fuelled thermal power plants on a level playing field. This benefits power generation equipment manufacturers, power plant owners and operators.

ENERGY 3

AMENDMENT OF THE LAW ON PRODUCTION SHARING AGREEMENTS AS PART OF THE ONGOING LEGISLATIVE PROCESS (DRAFT LAW NO. 4344)

Responsible government institution

Verkhovna Rada

Problem statement

It should be ensured that the Law on Production Sharing Agreements is in line with Ukrainian commitments undertaken under the Association Agreement and the Acquis Communautaire of the Energy Community (incl. EU Directive 94/22/EC on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons) as well as the provisions and spirit of the EU Treaties in the context of the Ukraine's accession process to the EU.

Suggested reform measures

Introduction of provisions guaranteeing:

- free disposal of extracted products & free transfer of funds abroad (in line with EU rules);
- the possibility of accountability limitation by co-investors to the works they perform in specific areas specified in PSAs and/or introduction of provisions enabling the split of existing PSAs in order to attract investors & maximize the effectiveness of extraction in Ukraine in the context of suspension of majority of already signed PSAs in UA (in line with article 4 of the EU Directive 94/22/EC, stating that Member States shall take the necessary measures to ensure that the extent of each area is determined in such a way that it does not exceed the area justified by the best possible exercise of the activities from the technical and economic points of view);
- the possibility of new co-investor's involvement in the negotiations during the phase from the announcement of the auction results until the signing of the PSA with the state (as a partner of the winner in the auction for PSA);
- maximization of objective and quantifiable criteria in the evaluation of bids for PSAs conclusion;
- preventing the introduction of "typical contracts" of a binding nature and securing possibility for negotiations of the agreements' clauses by investors;
- limiting local content obligations in the auctions for PSAs as well as in the PSAs.

Estimation of effect

Creating a positive investment climate in the area of hydrocarbons and critical raw materials extraction in Ukraine will have a positive impact on oil and gas and critical raw materials production.

ENERGY 4

RECOGNITION AND ENFORCEABILITY OF EFET MASTER AGREEMENTS ON PHYSICAL TRADE IN POWER AND GAS

Responsible government institution

National Energy and Utilities Regulatory Commission (NEURC), National Securities and Stock Market Commission (NSSMC) Verkhovna Rada, Cabinet of Ministers

Problem statement

Bespoke agreements in the power and gas markets used by Ukrainian companies lead to mismatching legal risks with EU markets, the inability to do multiple trades (which increase liquidity), including organized trades, introduce clearing and, ultimately, leave the consumers to pay higher price.

Suggested reform measures

Recommendations for NEURC and NSSMC:

- Recognize EFET master agreements for cross-border and domestic trades
- Set normative requirements and endorse netting clauses for insolvency scenarios.
- Align opinions of the regulators on physically settled commodity products.
- Issue rules for registration and admission of contracts in organized markets.

Implementation solution:

- Statutory changes to incentivize the use of the standard products by shifting VAT levying to the final consumer.
- Regulatory changes to incentivize the use of the standard products by allowing use of the netting, close-out netting and the clearing in case of the standard product.
- Regulators issue an opinion letter, recommending market participants to refer to EFET master agreements.

List of legislative acts that require amendments:

- Cooperation of authorities (explain, what 'joint decision' on the exchange of information means in the context of Article of the Law of Ukraine "On Capital Markets and Organized Commodity Markets")
- Physical v. cash definition (exemption from the financial instrument: Capital Markets (Instruments) Laws)
- Close-out netting (no cherry-picking): Bankruptcy Laws
- Physical delivery provision: Statutes for each commodity market
- Admission to organized trade venues of the EU-recognized standard products (and local lookalikes): Trade Venues (Organized Commodity Markets) Laws
- Mark to market valuation: Capital Markets (Infrastructure) Laws
- Admission to clearing of the EU-recognized standard products (and local lookalikes): Capital Markets (Infrastructure) Laws
- Alleviation of the Value Added Tax and the Excise Tax on the physical trades and cash settlements until the last mile: Tax Code

Estimation of effect

Standardising master agreements under EFET regulation supports further EU-UKR energy market integration and facilitates cross-border commodity trade. The commercial imports of natural gas and electricity to Ukraine will be streamlined and enhance the efficiency of cross-border as well as domestic energy trades in the Ukrainian market, providing businesses with a standardized and legally recognized master agreements by EFET (gas, electricity, carbon, green certificates all for physical settlement), SCoTA (coal physical settlements), ISDA (cash settled contracts) and some local look-alikes that would meet most of the criteria . Energy producers, traders, suppliers and consumers are the main beneficiaries.

ENERGY 5

ENSURING THE STABILITY PARAMETERS OF THE SYSTEM AND MAINTAINING SUPPLY SYSTEMS

Responsible government institution

Verkhovna Rada, Cabinet of Ministers, Minenergo, NEURC, Ukrenergo

Problem statement

NPC "Ukrenergo" has stressed the need for new dynamic capacities with autonomous start capabilities, echoed by NEURC's approval of generating capacity adequacy reports. Despite proposing a competition to the Ministry of Energy and Coal Industry and the Cabinet of Ministers, it has not been announced so far.

To address the gap between short-term planning and the longer life cycle of generating capacity, essential support policies and price signalling are lacking due to NEURC's electricity market price constraints, hindering investment decisions for dynamic capacities needed to push the green transition forward.

Suggested reform measures

Adhering to the stability parameters of the system and ensuring supply systems. In case of insufficient market signals, conducting competitions under Article 27 of the Law of Ukraine "On the Electricity Market" for the development of capacity, i.e., the modernization of generation systems. Existing technological sites (infrastructure for power output, pipelines, fuel storage, etc.) can be utilized in this process.

List of legislative acts that require amendments:

- The Law of Ukraine "On the Electricity Market," in

particular, Article 27 and subparagraph 13 of the Transitional Provisions.

- Resolution of the Cabinet of Ministers of Ukraine No. 677 of July 10, 2019, "On Approval of the Procedure for Conducting a Competition for the Construction of Generating Capacity and the Implementation of Demand Management Measures."

Based on the resolution, a series of regulatory acts should be issued regarding the conduct of the competition. Given the scale of the need (2-3 GW), it should be conducted regularly, at least annually, optimally - twice a year.

Estimation of effect

The construction of highly flexible capacities in the range of 2-2.5 GW will lead to:

- Savings in operating costs of 7%-13% of the total operating costs in the Integrated Power System (IPS) of Ukraine,
- Reduction in CO2 emissions from 7%-19%,
- Savings in the generation sector alone will amount to EUR 300-500 m annually.

Additionally, through the decentralization of generation, including the use of existing infrastructure (proximity to

consumers), the cost of transmission and distribution will also be optimized.

By increasing the reserve supply, prices on the market for ancillary services will be reduced.

With a higher share of renewable energy sources (RES) in the IPS of Ukraine, expenses for compensating the "green tariff" will be reduced, using the "take or pay" principle.

Furthermore, GDP losses will be reduced due to emergency outages, including those resulting from terrorist attacks on energy infrastructure. The security of heat supply during the heating season will be also improved and the reliability of pipeline transport services enhanced.

ENERGY 6

LEGISLATIVE AMENDMENTS CONCERNING THE DURATION OF ANCILLARY SERVICES CONTRACTS

Responsible government institution

Verkhovna Rada, National Commission for State Regulation of Energy and Public Utilities

Problem statement

Currently, international financial institutions such as the EBRD, the World Bank Group and the EIB are interested in supporting energy storage projects, which are important for the energy transition. However, there is a discrepancy between the standard duration of ancillary services contracts (one year as a rule) and requirements of international financial institutions.

Normally, the implementation of energy storage projects is demanding and time-consuming. Its success depends on stability and long-term obligations of all parties involved. Many ancillary services contracts are restricted by short-term regulations, though. This might lead to difficulties in bringing them into accordance with the requirements of financial institutions.

Suggested reform measures

In order to secure financing from international financial institutions, as well as private players, some amendments to the national legislation of Ukraine are required. The validity period of ancillary services contracts should be prolonged to five years. This will conform to the requirements of financial institutions and thus ensure the reliability of projects and thus their financing.

List of regulations to be amended:

- The Law of Ukraine “About the electricity market”,
- The Resolution of the National Commission for State Regulation of Energy and Public Utilities “About the adoption of market rules” № 307, 14.03.2018.

The described amendments could be made within six months.

Estimation of effect

The proposed changes will allow to bring ancillary services contracts in line with the requirements of international financial institutions and thus enable access to financing for energy storage projects. This will create more possibilities for investors and promote the renewable sector of Ukraine. Investors and developers of renewable energy projects are thus the main beneficiaries of this reform.

ENERGY 7

ESTABLISHMENT OF CENTRAL COUNTERPARTY (CCP) CLEARING FOR GAS AND POWER MARKETS

Responsible government institution

National Commission on Securities and Stock Market (NSSMC), National Commission for State Regulation of Energy and Public Utilities (NEURC), National Bank of Ukraine

Problem statement

There are currently no central counterparty (CCP) clearing institutions established in the gas and power markets, which increases the level of systemic risk in trading in these markets. The establishment of such an institution, which could have access to NBU liquidity in case of a liquidity stress would mitigate this risk, similar to comparable institutions in financial markets. According to the Resolution No. 69 of the National Bank of Ukraine from July 2, 2021, a central counterparty that is licenced by the NSSMC can access the NBU liquidity in case of a liquidity stress.

Suggested reform measures

The establishment of a central counterparty (CCP) clearing for gas and power markets should proceed in several steps.

1. NSSMC should issue a modification of the licencing terms for the CCP in the commodity markets, including:
 - Commodity classes cleared,
 - Ownership structure and phased-out capital requirements,
 - CCP should have limited exposure to default risk of its members (“skin in the game”) as opposed to full insulation of CCP from default risks and, hence, higher tolerance to the counterparty risks
 - Clearing membership,
 - EMIR and non-EMIR CCP definition.
2. NEURC should issue regulations that:
 - open all segments of the power and gas markets to the clearing,
 - order mandatory clearing for organised trading (Day Ahead, IntraDay, Balancing Market and Ancillary Services Market),
 - recognize standard products traded in the Energy Community markets suitable for clearing.
3. NBU should issue regulations that allow the CCP to access central bank liquidity for commodity clearing purposes.

Estimation of effect

The recommended measures will lead to an overall reduction of systemic risk and are anticipated to bolster liquidity management. These measures optimize the use of central bank funds and collectively fortify the clearing house's liquidity position, ensuring a more resilient, adaptable, and risk-mitigated approach to liquidity management in Ukrainian commodity markets, benefitting banking institutions, energy producers, traders, suppliers, and consumers.

4. Sector-specific reform proposals



4.3 Reform proposals in the construction and energy efficiency sector

In the construction and energy efficiency sector, we have identified the following six reform proposals.

TABLE 5: OVERVIEW OF REFORM PROPOSALS IN THE CONSTRUCTION AND ENERGY EFFICIENCY SECTOR

NUMBER	TITLE
CONSTRUCTION 1	Defining a unified "Build Back Better" framework
CONSTRUCTION 2	Harmonising Ukrainian energy efficiency equipment legal base with the EU EPREL base
CONSTRUCTION 3	Updating modular shelter construction standards
CONSTRUCTION 4	Improving modular construction legislation
CONSTRUCTION 5	Improving the permitting process for social infrastructure rehabilitation



CONSTRUCTION 1

DEFINING A UNIFIED "BUILD BACK BETTER" FRAMEWORK

Responsible institution

Ministry for the Restoration, Ministry of Environmental Protection, Verkhovna Rada, State Agency of Energy Efficiency and Energy Saving

Problem Statement and affected business

While numerous reconstruction projects aim to embody the "Build Back Better" principle, interpretations vary widely among companies, particularly state institutions, leading to inconsistent implementation. There is a crucial need to establish a unified conceptual framework and recovery standards that align with this principle to ensure resilience, sustainability, and inclusivity in rebuilding efforts.

Suggested reform measures

Develop a comprehensive framework that clearly defines the "Build Back Better" principles, incorporating resilience, sustainability, and inclusivity into reconstruction standards. This framework should include guidelines, best practices, and benchmarks for various sectors, ensuring alignment with international standards where applicable. Collaborate with international development organisations, experts, and stakeholders to validate and adopt this framework, facilitating workshops and training programs to promote widespread understanding and implementation across all levels of project planning and execution.

Expected impact

Such a framework will lead to a unified approach to reconstruction that ensures projects are not only restored but improved upon, leading to more resilient, sustainable, and inclusive communities and infrastructure. This initiative will also enhance coherence and efficiency in the allocation of resources and implementation of reconstruction projects. Construction companies, government agencies, international donors, and development organisations will all benefit alike.

CONSTRUCTION 2

HARMONISING UKRAINIAN ENERGY EFFICIENCY EQUIPMENT LEGAL BASE WITH THE EU EPREL BASE

Responsible institution

Ministry for the Restoration, Ministry of Energy, Verkhovna Rada, State Agency of Energy Efficiency and Energy Saving

Problem Statement and affected business

In Ukraine, there currently exists no legal base with regard to energy efficiency equipment. This severely impedes the development of the market.

Suggested reform measures

Implement the EU's EPREL base (<https://eprel.ec.europa.eu/screen/home>) in Ukraine. This will allow to have the same legal base with regard to energy efficiency equipment.

Expected impact

The harmonisation will allow to:

- monitor efficient equipment,
- support end users to make sure that the equipment is allowed to use and all technical information can be found,
- use this legal base for creating subsidy programmes for installing efficiency equipment.

All companies who proved efficient equipment (heating, cooling, ventilation, climate, etc.) are the direct beneficiaries of this measure.



CONSTRUCTION 3

UPDATING MODULAR SHELTER CONSTRUCTION STANDARDS

Responsible institution

Ministry for the Restoration, Verkhovna Rada

Problem Statement and affected business


The need for safe shelters, especially near conflict zones, is urgent. Traditional underground solutions are often unfeasible, necessitating the rapid built-up of modular, safe, but above-ground alternatives. The new DBN (State Construction Norm) was issued in November 2023 - DBN B.2.2-5:2023 "Protective structures of civil defense". Modular shelters, that supposed to be a fast solution, cannot be designed and built easily and fast, since they need to go through the whole complicated procedures according to the regulation as if they were permanent protective shelters of civil defense.

Suggested reform measures

Improve the national standards and the permitting process for the construction of modular, above-ground shelters, addressing structural integrity, safety, and adaptability to various environments and threats.

Expected impact

Rapid deployment of safe shelters in high-risk areas or places where it is not possible to make underground shelters, enhancing community resilience and opening new business avenues in modular construction and safety solutions. Local municipalities, construction firms specialising in modular buildings, safety and security equipment suppliers will benefit.



CONSTRUCTION 4

IMPROVING MODULAR CONSTRUCTION LEGISLATION

Responsible institution

Ministry for the Restoration, Ministry of Health

Problem Statement and affected business

Relatively old legislation on modular construction (DBN) impedes the rapid deployment of essential facilities like hospitals and schools. These outdated construction norms restrict the use of modern materials and technologies, hindering sustainable development. There is no clear DBN regulating the modular construction (except for DSTU B V.2.2-22:2008 Buildings and structures Mobile Buildings).

Suggested reform measures

Revise and update construction legislation to support and promote modular construction methods, including quality and safety standards and incentives for modular projects in the public sector and residential buildings. Revised construction norms will allow for the use of modern, sustainable materials and technologies, aligning with European standards for eco-friendly development, with a focus on energy efficiency and functionality in new constructions.

Expected impact

This reform facilitates the rapid deployment of essential facilities, boosts markets for modular construction businesses, and meets urgent infrastructure needs efficiently. Modular construction companies, suppliers of prefabricated materials, educational and healthcare sectors will benefit.



CONSTRUCTION 5

IMPROVING THE PERMITTING PROCESS FOR SOCIAL INFRASTRUCTURE REHABILITATION

Responsible institution

Ministry for the Restoration of Ukraine, Verkhovna Rada

Problem Statement and affected business

The permitting process for social infrastructure rehabilitation is still complex and slow, mirroring pre-war procedures and causing significant time-consuming procedures for the reconstruction.

Suggested reform measures

Implement a digital and streamlined permitting process, including a unified platform for applications, reduced documentation, and clear timelines for approvals. Reduce the type of permit (e.g. you need to have a permit for reconstruction if you are planning to make a shelter). The permitting process for social infrastructure rehabilitation must be simplified and shorter by integrating in Diia as one of their functions to facilitate the permit obtaining process.

Expected impact

Accelerated reconstruction of social infrastructure, reducing delays and improving service delivery to affected communities, with potential growth in construction and related sectors. Local municipalities, public infrastructure operators, architectural and engineering service providers will benefit.

4. Sector-specific reform proposals



4.4 Proposals in other sectors

In the agri-food sector, we have identified the following reform proposal.

In the IT sector, we have identified the following two reform proposals.

TABLE 5: OVERVIEW OF REFORM PROPOSALS IN THE AGRI-FOOD SECTOR

NUMBER	TITLE
AGRI-FOOD 1	Anticounterfeiting initiative in the field of crop protection
IT 1	Strengthening Cybersecurity through Directive on the Security of Network and Information Systems (NIS2) Implementation
IT 2	Fostering Innovation and Investment through Local Data Center Development



AGRI-FOOD 1

ANTICOUNTERFEITING INITIATIVE IN THE FIELD OF CROP PROTECTION

Responsible institution

Verkhovna Rada

Problem Statement and affected business

Counterfeited CPPs pose a high risk for crops, yields and ultimately for food safety of the country and human health. A registered Draft Law that is meant to strengthen liability, including criminal liability (e.g. imprisonment followed by confiscation and destruction of fake CPP, tools, consumables and raw materials used for their production) for manufacturing, sale or storage of counterfeited CPP should be adopted to address this problem.

Suggested reform measures

Soonest adoption of Draft Law “On Amendments to the Criminal Code of Ukraine to Strengthen Liability for Violation of Plant Protection Legislation” No. 4601, dated 16.1.2021.

Expected impact

The adoption of the Draft Law should prevent counterfeiting and protect food safety and intellectual property rights (IPR), which is especially critical on the eve of the spring sowing campaign. The initiative is strongly supported by the industry, in particular R&D companies in the field of crop protection in terms of IPR violation and complaints, farmers, where the use of counterfeited CPPs poses high risks to the quality of yield and food products, as well as the population, which would receive food products treated with proper CPPs.

IT 1

STRENGTHENING CYBERSECURITY THROUGH DIRECTIVE ON THE SECURITY OF NETWORK AND INFORMATION SYSTEMS (NIS2) IMPLEMENTATION

Responsible institution

Ministry of Digital Transformation, State Service of Special Communications and Information Protection

Problem statement

The rapid digital transformation and war in Ukraine has exposed the IT sector to heightened cyber threats, impacting the trust and reliability of Ukrainian IT services on a global scale. Against this background, the existing regulatory framework does not fully align with the evolving cybersecurity needs or the standards set by the European Union's NIS2 Directive, potentially hindering Ukraine's IT sector competitiveness and attractiveness to investors.

Suggested reform measures

- Legislative Alignment with NIS2: Develop and adopt legislation that aligns with the NIS2 Directive, ensuring a robust legal framework for cybersecurity that facilitates business continuity and protects against cyber threats.
- Develop and support state-level training and certification programmes for cybersecurity to achieve and maintain compliance with NIS2 standards.

Estimation of effect

The implementation of these reforms can simplify certification processes and allow easier work with the EU and other international markets, improve the investment climate in the IT sector of Ukraine. This, in turn, can foster both economic growth and technological innovation, while ensuring a secure and sustainable digital environment.

IT 2

FOSTERING INNOVATION AND INVESTMENT THROUGH LOCAL DATA CENTER DEVELOPMENT

Responsible government institution

Ministry of Digital Transformation

Problem statement

Ukraine's IT sector, while rapidly growing, faces challenges such as data sovereignty issues, high operational costs due to reliance on foreign data centers, and concerns about data security and latency. These challenges hinder the potential for attracting significant investments and limit the competitiveness of Ukrainian IT services on the global market.

Suggested reform measures

- Tax incentives to stimulate the construction of data centres (particularly for the development of green data centres that use renewable energy and efficient cooling systems to reduce environmental impact and operating costs).
- Adaptation of data protection laws in accordance with international standards to increase investor confidence.
- Promote public-private partnerships to create data centres that can serve both public and private needs.
- Improving Internet infrastructure, e.g. the nation's broadband infrastructure to provide high-speed, reliable connectivity to local data centres, improving service quality and reducing latency.

Estimation of effect

The development of local data centres can stimulate significant economic activity by attracting foreign investment and creating high-paying IT jobs. Improved data infrastructure can improve the competitiveness of Ukrainian IT services, improve data security, and provide the necessary resources for the development of advanced digital services. Focusing on green data centres can help reduce carbon emissions, which is in line with global sustainability goals.



5. Generating quick wins: Recommendations for priority reform measures

Among all recommendations, we select the top ten priority measures for generating quick wins

TABLE 7: TOP-TEN REFORM PROPOSALS FOR GENERATING QUICK WINS

#	NUMBER	TITLE
1	CONSTRUCTION 1	Defining a unified "Build Back Better" framework
2	CONSTRUCTION 3	Updating modular shelter construction standards
3	TAX 1	Adjusting the threshold per counterpart in the transfer pricing (TP) report
4	TAX 3	Providing SAF-T files to tax authorities
5	LEGAL 2	Waiving work permit requirement for foreign directors
6	LEGAL 6	Reducing HR Documentation
7	FINANCIAL 4	Recognition and Enforceability of ISDA master agreements for cash-settled commodity markets
8	FINANCIAL 5	Access to financing under 5-7-9 loan subsidy programme
9	ENERGY 1	Prolongation of contracts validity concerning grid connection and technical requirements for the connection of renewable energy objects to the grid
10	ENERGY 4	Recognition and enforceability of EFET master agreements on physical trade in power and gas

Effectively, the top ten proposals can be split into three categories

1 The first two priorities (#1 - #2) are proposals that are directly related to the recovery and reconstruction of Ukraine and are likely to have a very direct impact on business activity and investment in Ukraine specifically in this specific context:

- Construction 1: Defining a unified "Build Back Better" framework
- Construction 3: Updating modular shelter construction standards

2 The second category of measures (#3 – #6) is aimed at removing unnecessary bureaucratic and administrative burdens, which reduces transaction costs for businesses:

- Tax 1: Adjusting the threshold per counterpart in the transfer pricing (TP) report
- Tax 3: Providing SAF-T files to tax authorities
- Legal 2: Waiving work permit requirement for foreign directors
- Legal 6: Reducing HR Documentation

3 The final category of recommended priority measures (#7 – #10) are relatively easy-to-implement measures towards creating a level, competitive playing field not discriminating against new, foreign or private companies.

- Financial 4: Recognition and Enforceability of ISDA master agreements for cash-settled commodity markets
- Financial 5: Access to financing under 5-7-9 loan subsidy programme
- Energy 1: Prolongation of contracts validity concerning grid connection and technical requirements for the connection of renewable energy objects to the grid
- Energy 4: Recognition and enforceability of EFET master agreements on physical trade in power and gas

Above measures should be tackled by the government with the highest priority in the order presented here to generate relatively quick benefits for business activity, investment, and hence economic growth in Ukraine. For most of the measures, draft laws or similar legal documents already exist; hence the reforms would benefit from solid preparation and are not exceedingly complex. This does however not imply that the proposals not listed under priority measures here should be neglected – indeed they should be promoted with significant energy. Some of those proposals will even have very large benefits if enacted (e.g. many energy sector reforms) but will take more time to solidly prepare and enact.





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