

repays individual depositors up to Hr 200,000 (\$8,000) in state-insured losses.

"Top quality is our quality," Gontareva said. "Everything is documented; 70 percent or 80 percent of cases are just simple fraud or money laundering. You do not need any high-quality forensic professionals. We've already documented all this fraud and money laundering. We could not send banks to the Deposit Guarantee Fund for liquidation or for resolution without any proof of wrongdoing."

She said that more than 90 percent of loan portfolios in many failed banks simply involved insider lending schemes.

### Corrupt courts

In the end, Gontareva said, nothing will improve substantially in Ukraine without rule of law – including independent, effective and honest police, prosecutors and judges.

"Everybody should start from the court system," Gontareva said. "If the court will not be corrupted, all prosecution and police will start to transform themselves."

But as for her role in this transformation, "it's not absolutely not my responsibility, not my mandate," Gontareva said.

She doesn't favor the appointment of a special anti-prosecutor or legal team for bank-fraud issues and recovery of assets. She also doesn't favor making a public registry of all bad loans in Ukraine, even in state-owned banks.

"Like a regulator, I believe that bank secrecy should be there," she said.

### Deadbeat borrowers

When claims for repayment of bad debt are made in court, as the central bank has done, the information becomes public. It is not only Ukraine's remaining 103 banks that are infected with non-performing loans, or deadbeat borrowers.

So is the central bank.

When she took over as NBU governor in 2014, she inherited a stock of Hr 110 billion (now \$4.4 billion) in unpaid refinancing loans issued to bankers stretching out over many years, not just during Viktor Yanukovich's 2010-2014 presidency.

"The biggest part of this portfolio is the legacy of 2008," Gontareva said. She said Hr 77 billion (\$3.1 billion) of the total in unpaid refinancing loans were issued before Yanukovich came to power.

"You can find to whom you like to blame from this period," she said.

That's easy enough to do. At that time, Viktor Yushchenko was president, Yulia Tymoshenko was prime minister, Volodymyr Stelmakh was central bank governor and President Petro Poroshenko was a member of the central bank's board of directors.

Through steady repayments, however, the total has been whittled down by Hr 29 billion (\$1.1 billion – and now stands at Hr 81 billion (\$3.2 billion).

"We estimate the recovery ratio will also be about 30 percent," Gontareva said. Gontareva created a special division to recover non-performing loans due the central bank.

### Firtash owes Hr 12 billion

Who are the leading deadbeats? More than 50 percent of the remaining amount owed is from five former bankers:



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## Peculiarities of drugs advertising

For the last couple of years the Ukrainian Parliament and Government are constantly making efforts to simplify regulations for import and certification of drugs on the territory of Ukraine. The latest development is adoption of the law on simplification of state registration of drugs, which have been already registered with the competent authority of the USA, Switzerland, Japan, Australia, Canada or the EU. This law was signed by the President of Ukraine on 16 June 2016.

However, the importers/manufacturers of drugs are fully aware that certification of drugs is one issue whilst the question of their distribution at the new market is quite different. Given the fact of Ukrainian strict advertising rules, advertising of drugs should be carefully crafted and structured.

### Liability

Failure to comply with the legislative requirements for advertising of drugs results in disciplinary, civil, administrative and criminal responsibility according to the law. Thus, a fine in the amount of five times the value of advertising is imposed.

In the last couple of years Ukraine experienced cases when breach of advertising regulations resulted in severe fines for pharmaceutical companies in the amount of several millions hryvnias, including due to breach of antimonopoly legislation. Therefore, it is strongly advised to undergo legal examination of the content of drug advertisement before its official publication.

### Definition of a drug

Pursuant to the Law of Ukraine "On drugs", a drug is defined as any substance or combination of substances (one or more APIs and excipients), which has the qualities and is intended for the treatment or prevention of human diseases, or any substance or combination of substances (one or more APIs and excipients), which can be designed to prevent pregnancy, restore, correct or change physiological functions of human beings through pharmacological, immunological or metabolic action, or for medical diagnosis.

### Pre-requisites for drug advertisement

Manufacturing of drugs and their distribution in Ukraine require a special licence. Thus, failure of the manufacturer, importer or supplier (as the case might be) to obtain a licence results in prohibition to advertise such drug. The same prohibition applies in the event such licence was suspended or annulled.

Furthermore, some specific provisions apply to advertisement of drugs as provided by the Law of Ukraine "On advertising" pursuant to which advertising of drugs is only possible if such drugs are:

- permitted for use in the territory of Ukraine by the Ministry of Health of Ukraine;
- permitted for use without the doctor's prescription;
- not included into the list of drugs prohibited for advertising maintained by the Ministry of Health of Ukraine. Such list is accessible through the official register of drugs in Ukraine.

### Requirements for drug advertisement

In the advertisements the following requirements should be followed:

- objective information about a drug to be made in such a manner so that it is clearly understandable that this is an advertisement and the advertised product is a drug;
- requirement to consult a doctor before any use of the drug;
- recommendation for the mandatory familiarization with instructions on the drug;
- disclaimer as follows: "Self-medication could be harmful to your health", which takes at least 15 percent of the area (length) of all advertisement.

Furthermore, Ukrainian legislation is rich on the type of information, which should be avoided in drug advertisements, such as that can give the impression that drug use does not require expert consultation or that the therapeutic effect following use of a drug is guaranteed, etc. However, the abovementioned restrictions do not apply if the drug is advertised in specialized publications intended for healthcare institutions and doctors, and/or which are distributed at seminars, conferences, symposia on medical topics.



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