Національний
банк України

The Future of Regulating the Non-Bank Financial Sector

City of Kyiv
31 October 2018

The Draft White Paper aims to launch a discussion of how to enable the sustainable development of the financial services market

Sustainable development of NBFIs

Creation of a level playing field for non-bank financial institutions (NBFIs)

Engagement of new players and additional investment by companies operating in the market

Security and reliability of NBFIs and the financial system

Improvement of the security and reliability of the market

Mitigation of systemic risks and minimization of threats to financial stability

Enhancement of consumer and investor confidence

Removal of unfair market practices

Effective and systemic protection of consumer rights

Fulfillment of Ukraine's International Commitments

Adaptation to EU legislation

Introduction of international standards in oversight and anti-money laundering (AML)

Envisioning the future of NBFI regulation: transparent segmentation of the market with accounting for sources of funds and a financial services combination capability

NBFI segmentation

- ✓ Credit institutions (credit unions and others)
- ✓ Insurance companies and intermediaries
- ✓ Other financial institutions

Raising funds from the general public

Clear definition of raised (repayable) funds:

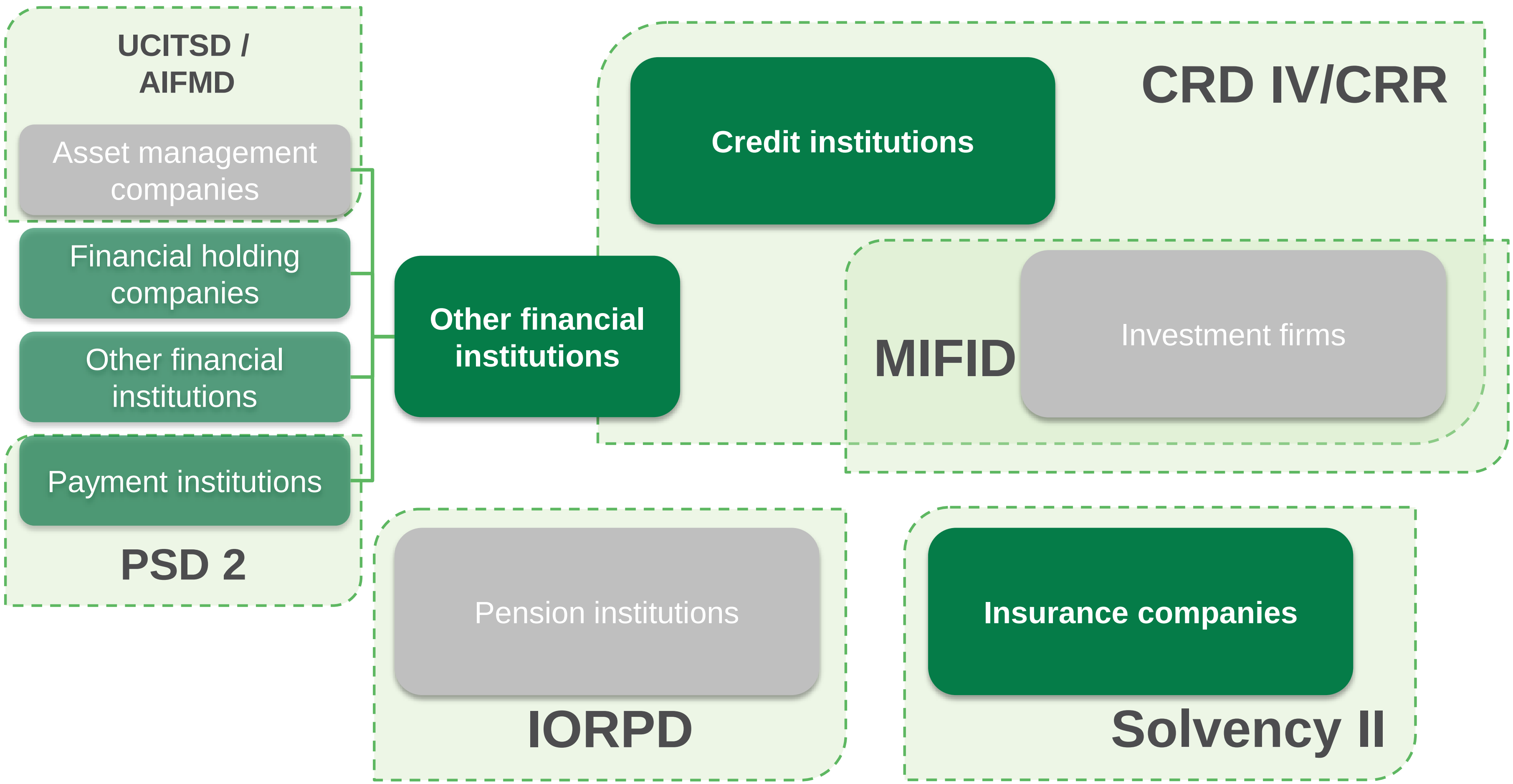
- ✓ Deposits, loans (borrowings), both from individuals and from legal entities
- ✓ Debt securities of financial institutions
- ✓ Reimbursable financial assistance

BUT **exceptions** can happen

Combining financial services

- ✓ Expansion of potential activities for credit institutions
- ✓ Types of financial services have to match companies' business models

The NBFI segmentation is based on the implementation of EU legislation



Range of NBU regulation (provided the Draft Law of Ukraine No. 2413a is adopted)

Range of NSSMC regulation

Prudential supervision and mandatory ratios are NOT necessary for all financial institutions engaged in lending

	Credit institutions	Financial institutions
Source of credit	**Raised funds and other repayable funds** ✓ Deposits, loans (borrowings): individuals and legal entities ✓ Debt securities ✓ Reimbursable financial assistance (except shareholders (participants))	**Equity and other non-raised funds:** ✓ Loans of banks and financial institutions ✓ Deposits, loans (borrowings) from shareholders (participants) ✓ Subordinated debt
Types of institutions	✓ Banks ✓ Credit unions ✓ Other credit institutions	✓ Financial companies ✓ Pawnshops
Major ratios for capital, liquidity, and risk under CRD IV, CRR	✓ **Minimum regulatory capital (RC)**: 5 million Euro ✓ Capital adequacy: ≥ 8% ✓ **Credit risk** per counterparty: ≤ 25% ✓ **Instant liquidity**: ≥ 60%[1]	No applicable requirements [2]
Risk-based prudential supervision	✓	✗
Authorization and licensing requirements	✓	✓
Authorization for additional financial services	✓	✓
Supervision of business behavior	✓	✓

1) None of the CRD IV, CRR requirements apply to credit unions
2) EU directives do not specify minimum capital requirements; EU member states can set their own requirements

It is proposed that authorizations to provide additional financial services be granted on the basis of core activity

Core activity		Additional services 1	2	3	4	5	6	7	8	9
Insurance	1		✗	✗	✗	✗	✗	✓	✗	✗
Lending	2	✗		✓	✓	✓	✗	✓	✓	✓
Pawnshop services	3	✗	✓		✓	✗	✗	✗	✓	✓
Currency exchange	4	✗	✗	✗		✓	✗	✗	✗	✗
Money transfer (without opening an account)	5	✗	✗	✗	✓		✗	✗	✗	✗
e-Money	6	✗	✗	✗	✓	✓		✗	✗	✗
Guarantees & Surety	7	✗	✗	✗	✗	✗	✗		✓	✗
Factoring	8	✗	✓	✗	✗	✗	✗	✓		✗
Financial leasing	9	✗	✓	✗	✗	✗	✗	✗	✗	

* Prohibited for credit unions

Envisioning the new regulation of NBFIs: A flexible approach to licensing and risk-based supervision

Flexible approach to licensing

Key novelties:
- ✓ unified procedure for market entry
- ✓ essentials-based approach to assessing business reputation, ownership structure and sources of funds for launching a business, and professional eligibility
- ✓ verification of the availability of initial capital
- ✓ assessment of business plan
- ✓ assessment of corporate governance system
- ✓ simplified requirements for getting subsequent licenses

Risk-based prudential supervision

Required for:
- ✓ insurance segment
- ✓ segment of credit unions and other credit institutions
- ✓ payment service providers

Proportionality of regulation

Corporate governance

- ✓ System of mandatory and voluntary requirements
- ✓ Proportionate approach: full or simplified model of corporate governance
- ✓ Revision of roles and functions of supervisory boards, internal audit, compliance, and risk management

Envisioning the new regulation of NBFIs: Transparent reporting and consumer rights protection

Reporting, inspections, and enforcement

- ✓ Revision of approaches to reporting
- ✓ Risk-based approach to inspection
- ✓ Unified approach to applying impact measures to all segments

Market behavior and consumer rights protection

- ✓ Harmonization of regulatory requirements with the world's best practices and EU directives
- ✓ Work with financial institutions to improve the quality of financial services and qualifications of their staff
- ✓ Provision of information and consulting explanations for consumers

The introduction of a new model for regulating the financial services market requires, first and foremost, a radical revision of the Law *On Financial Services*

AS IS

Constitution of Ukraine

Civil Code of Ukraine

Economic Code of Ukraine

Law of Ukraine *On Financial Services and State Regulation of Financial Services Markets*

Law of Ukraine *On the National Bank of Ukraine*	Law of Ukraine *On Financial Services and State Regulation of Financial Services Markets*	Law of Ukraine *On the State Regulation of the Securities Market in Ukraine*
NBU	NFSC	NSSMC

Downsides:

1. Risk of conflict between powers to regulate banks and NBFIs
2. Insufficient authority of the regulator
3. Requirements for the authorization and activities of financial service providers do not comply with EU directives

TO BE

Constitution of Ukraine

Civil Code of Ukraine

Law of Ukraine *On Financial Services and State Regulation of Financial Services Markets*

Law of Ukraine *On the National Bank of Ukraine*	Law of Ukraine *On the National Securities and Stock Market Commission*
NBU	NSSMC

Proposals:

1. Terms that are common to all financial services markets and consistent with EU laws
2. Non-exclusive ("open") list of financial services
3. Uniform requirements for financial service providers
4. Uniform requirements for disclosure and customer agreements
5. Uniform requirements for the regulation and supervision of financial service providers

The target architecture of financial service legislation retains a sectoral approach to the legal regulation of financial institutions' activities

Law of Ukraine *On Financial Services and State Regulation of Financial Services Markets* ● ● ●

Major blocks of comprehensive legislation
(relating to all financial services and financial service providers)

- Law of Ukraine *On Credit Institutions* ● ●
- Law of Ukraine *On Credit Unions* ● ●
- Law of Ukraine *On Payment Systems and Money Transfer in Ukraine* ● ●
- Law of Ukraine *On Insurance* ● ●
- Regulations governing the operation of financial companies ●
- Special laws (bylaws) on new types of financial services

- Accounting and financial reporting
- External audit
- Corporate governance
- Currency regulation
- Deposit insurance
- Bankruptcy
- Consumer rights protection

Abbreviations

● Regulator powers
● Requirements for prudential supervision
● Requirements for regulating the conduct of business

A step-by-step, thoughtful approach to the implementation of new requirements will provide enough time for the market to adjust

2018–2019

Transitional period

One year from adopting the Law of Ukraine No. 2413a

Revision and adoption of the Draft Law of Ukraine No. 8415 *On Strengthening the Powers of the Regulator*

Development of new functionality at the NBU and NSSMC

Transfer of functions from the NCFS to the NBU and NSSMC

White books on the regulation of individual segments of the NBFI market

2019–2020

Adaptation period

+1 year

Assessment of the NBFI market

Development of a comprehensive action plan on NBFI regulation (jointly with the market and expert)

Development of new regulations:

- ✓ Licensing requirements
- ✓ Capital and reserve requirements
- ✓ Disclosure requirements
- ✓ Eligibility requirements

2020–2024+

Development of the NBFI market

3–4 years to implement changes

Gradual implementation of a comprehensive action plan for NBFI regulation

Level II of pension reform and social security

Competitive and transparent financial market, **improved investment climate**

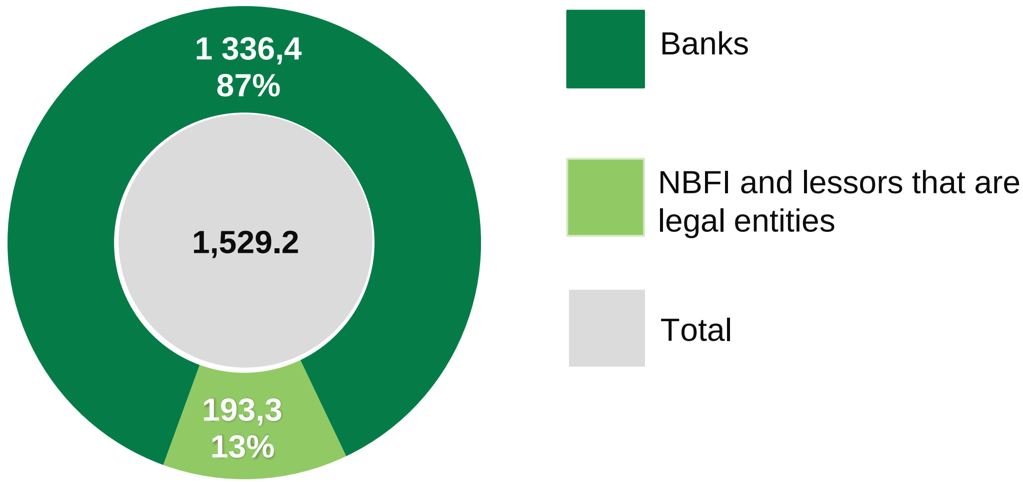
Development of infrastructure and intermediaries

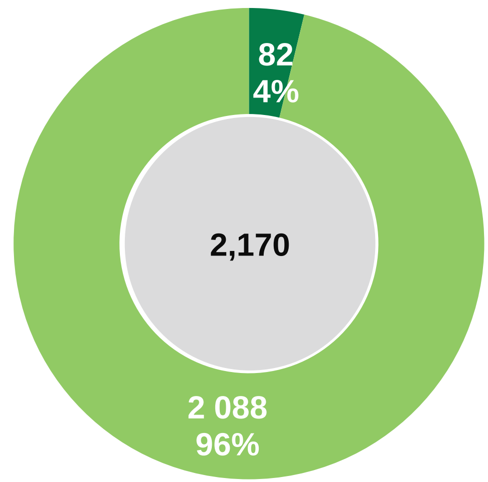
Protection of the rights of financial service consumers, creditors, and **investors**

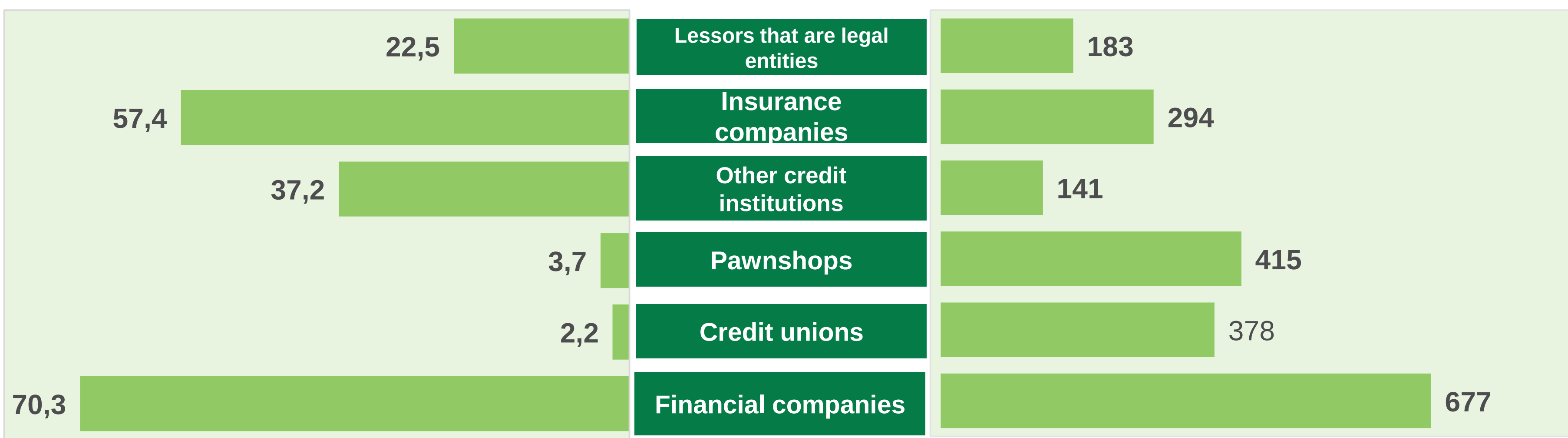
We understand the importance of the role the non-bank financial market plays in the country's economic processes

Assets (1 January 2018) UAH billion.

Number of institutions **1 January 2018**








Cooperation between the regulator
and the market is
what guarantees the country's
success!