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BURA Vitalina, Postgraduate student, Department of Banking, KNUTE

REGULATION AND SUPERVISION OVER SYSTEMICALLY IMPORTANT BANKS

The theoretical and practical approaches to regulation and supervision of systemically important banks of global and national levels have been studied. The analysis of the recommendations of the Basel Committee concerning the regulation and supervision of systemically important banks has been conducted and suggestions as for improving their efficiency have been developed.

Keywords: systemically important bank, bank regulation and bank supervision, standards and principles of regulation.

Бура В. Системно важные банки: регулирование и надзор. Исследованы теоретические и практические подходы к регулированию и надзору за системно важными банками глобального и национальных уровней. Проведен анализ рекомендаций Базельского комитета касательно регулирования и надзора за системно важными банками, а также разработаны предложения по повышению их эффективности.

Ключевые слова: системно важный банк, банковское регулирование, банковский надзор, стандарты и принципы регулирования.

Background. During the global financial crisis, the primary focus of regulators of most countries was on maintaining solvency and overall stability of systemically important banks (SIBs), which, in turn, revealed the need to improve the mechanism of state regulation of their activities. Reform approaches to regulation and supervision of SIBs after the crisis has become one of the key tasks of the oversight bodies of global and national levels. Currently, international organizations have developed a number of recommendations to improve the requirements of SIBs, which involve comprehensive study and systematization, and define the need and relevance of this research.

Analysis of recent research and publications. Despite substantial research portfolio of international organizations, namely, the Basel Committee on Banking Supervision, the Financial Stability Board as well as foreign and local researchers, methodology of regulation and supervision of SIBs requires further development. The works of foreign scholars (F. Alekserov, G. Penikas, V. Novikova) as well as domestic scholars (I. Krasnova, V. Lavrenyuk, A. Semiryad) are dedicated to certain theoretical and practical issues of regulation and supervision of SIBs [1–4]. Without

denying the scientific achievements of these authors, the problem of effective regulation and supervision of SIBs is still remains open.

The **aim** of the article is to study the standards of regulation and supervision of systemically important banks and develop practical recommendations to enhance their performance.

To achieve this goal the following tasks are set: to analyze international standards of regulation and supervision of SIBs on a world-wide and national basis; to distinguish stages of regulation and supervision of SIBs; to develop proposals for improving the regulation and supervision of SIBs in Ukraine.

Materials and methods. The information bases of the research are the documents of the Basel Committee on Banking Supervision (BCBS) and the Financial Stability Board (FSB), the regulatory framework of Ukraine on regulation and supervision of SIBs as well as scientific articles of foreign and domestic scientists.

The article is made using the dialectical method as the main method of any research and is based on the systematic, historical and logical approach to the study of the regulation and supervision of systemically important banks. The study has used such methods as analysis and synthesis (in the definition of the term "potential systemically important bank") and comparative analysis (in the analysis of standards of Basel Committee and the National Bank of Ukraine in regulation of SIBs).

Results. To ensure stable functioning of the banking system, the standards of regulation and supervision of banks (including systemically important banks) are developed at the international level and transformed into national law of countries. These standards are basically a form of principles and guidelines and, as such, from a legal point of view, are not compulsory. The most striking example is the work of BCBS and the FSB, which developed a set of recommendations for regulating both global and national SIBs. These recommendations are aimed primarily at elimination of systemic risks and, as a consequence, at moral hazard.

Under the control of SIBs it is appropriate to understand the series of steps of the competent authorities on the development and implementation of regulations, which are the basis for the identification of SIBs and higher requirements determination for their activities in order to prevent systemic imbalances. Supervision of SIBs is a set of procedures to identify their compliance with established requirements of regulatory bodies and to develop measures to address identified problems in order to prevent systemic imbalances and/or reduction of costs related to financial instability.

The regulation and supervision of global systemically important banks (GSIBs) is done by BCBS, the FSB and national supervisory authorities. The standards of BCBS and the FSB aimed primarily at developing GSIBs sufficient capital to prevent the emergence of systemic risk through their fault.

In theory, there are two possible models of regulation of SIBs: preventive model and the restrictive one. The first involves state actions to prevent the formation of the bank as a systemically important one and involves their reorganization. The second model assumes the existence of SIBs in the financial market, but the requirements for their operation are much harder [4, p. 36]. The use of restrictive regulatory model of GSIBs provides international standards of BCBS and the FSB, the main provisions of which can be reduced to three blocks.

Firstly, the formation of a systemically important buffer (increased ability to absorb losses or the *NLA – higher loss absorbency*) of GSIBs, depending on the degree of systemic importance of the bank (*table 1*). The size of this figure varies from 1 % (for the first group) to 2.5 % (for the fourth group) of risk-weighted assets. Also, the group involved the requirements of which, currently, any bank meets (the fifth group with the volume of buffer to 3.5 %), with the aim of restraining the growth process of systemic importance of banks [5].

The formation of a systemically important buffer is made entirely at the cost of Tier I capital as it is defined by Basel III that is equity capital. This requirement is implemented gradually and in parallel with the performance requirements for the formation of capital conservation buffer and countercyclical capital buffer of January 1, 2016, acquiring full force on January 1, 2019 [5; 6].

BCBS emphasizes that these requirements to the size of systemically important buffer (*table 1*) are minimal, and national authorities on their own initiative may increase them [5].

Table 1

Differentiation of requirements to increase capital of GSIBs according to their systemic importance (as of November 2015) *

Group	The list of banks	Systemic importance buffer size, %
5	–	3.5
4	HSBC, JP Morgan Chase	2.5
3	Barclays, BNP Paribas, Citigroup, Deutsche Bank	2.0
2	Bank of America, Credit Suisse, Goldman Sachs, Mitsubishi UFJ FG, Morgan Stanley	1.5
1	Agricultural Bank of China, Bank of China, Bank of New York Mellon, China Construction Bank, Groupe BPCE, Groupe Crédit Agricole, Industrial and Commercial Bank of China Limited, ING Bank, Mizuho FG, Nordea, Royal Bank of Scotland, Santander, Société Générale, Standard Chartered, State Street, Sumitomo Mitsui FG, UBS, Unicredit Group, Wells Fargo	1.0

* *Compiled by the author in concert with [7]*

Secondly, GSIBs are obliged to form Recovery Plan of the financial stability of the bank. In case of violation of the requirements of capital adequacy, measures foreseen by the Recovery plan of the financial stability of the bank and supervisory authorities impose restrictions on the payment of dividends [5].

Thirdly, higher requirements for disclosure are set. All banks with total assets of over 200 billion euros (incl. GSIBs) are publicly required to disclose the value of the 12 indicators provided by GSIBs identification method [5].

GSIBs identification method and requirements for the formation of systemically important buffer as well as information disclosure nowadays are implemented in all countries where GSIBs are registered, namely the EU, the US, China, Japan and Switzerland.

However, despite the development and implementation of post-crisis regulatory GSIBs approach and obvious progress of the reform, the existing set of regulatory instruments still continues to grow and improve. Thus, in 2015 the FSB added a list of requirements for the GSIBs through the introduction of two indicators: first, the indicator of the total loss-absorbing capacity (*TLAC*, a ratio of regulatory capital and long-term unsecured debt to assets weighted for risk), which until January 1, 2019 must be at least 16 %, and from January 1, 2020 – 18 %; second, the indicator of *TLAC LRE* (ratio of regulatory capital and long-term unsecured debt in the denominator of financial leverage, i.e. assets of balance sheet and off-balance sheet), which until January 1, 2019 shall not be less than 6%, and from January 1, 2022 – 6.75 % [8].

Reduced requirements for these metrics are applied to GSIBs which headquarters are located in countries with market economy that is emerging (*EME*), i.e. to four GSIBs of China – Agricultural Bank of China, Bank of China, China Construction Bank and Industrial and Commercial Bank of China. The minimal *TLAC* for them is set at 16 %, and *TLAC LRE* – 6 %, they must be carried out no later than January 1, 2025, and higher indicator values at – respectively 18 % and 6.75 % no later than January 1, 2028 [8].

Financial Stability Board determines that the calculation of *TLAC* and *TLAC LRE* should take into account the financial instruments that can be legally effective and quickly converted into equity capital. Based on these principles, the minimum *TLAC* is calculated with such financial instruments as the basic and additional capital of the first order, subordinated and unsecured long-term debt.

It is estimated that to meet *TLAC* rate at 18 % GSIBs will have to attract additional capital in the amount of 457 billion euros up to 1.1 trillion euros, depending on what tools will be used to increase it. To get necessary funds banks will issue special bonds with high interest rates (assuming 5–7 % in normal, currently 0.5–1.5 % per annum), but during the crisis these bonds will overlap first losses of the banks. That is, in case of bank failure, these

bonds can be written off forcibly to replenish its capital. Thus, the bankruptcy of major banks will not be paid by the taxpayers but by the bank owners and the owners of these bonds.

In domestic practice of banking regulation the National Bank of Ukraine in 2009 used a somewhat similar figure to TLAC – capital adequacy ratio H4. It is calculated as the ratio of total capital to total assets of the bank (reduced by the establishment of appropriate reserves). Normative value H4 was no lower than 4 %.

The ratio shows the level of capital adequacy in view of the total volume of activity, regardless of the size of various risks. This standard was used in the domestic banking practice for strengthening control over the amount of capital versus assets. As for international norms, the application of this index is not provided by them.

Another standard of regulation and supervision of GSIBs is the requirement to aggregate their risks. Risk aggregation involves identification, collection and processing of data on the risks in accordance with the banks' risk reporting, allowing them to evaluate their activities on the basis of risk appetite (risk tolerance) [9].

During the last global crisis, information technologies of banks were not able to ensure proper management of financial risks. Many banks could not aggregate volume of all the risks as well as quickly and accurately determine the degree of risk concentration at the level of the banking group, the bank activities and the level of members of the group. Some banks were unable to manage their own risks properly, having only limited information and imperfect methods for reporting risks.

In this regard, the Basel Committee on Banking Supervision in January 2013 formed 14 principles of risk aggregation and presentation of reports on risk ("*Principles for effective risk data aggregation and risk reporting*") [9]. In turn, it is expected that effective implementation of these principles will improve risk management and decision-making procedures by banks. These principles are designed to systemically important banks and came into force in January 2016. However, national authorities may extend the scope of their application to a wide range of banks considering the volume, nature and complexity of their operations.

Discovered principles cover four closely interrelated areas:

- general management and infrastructure (principles 1–2) – provide requirements for corporate governance and the development as well as support of data architecture and infrastructure of information technology (IT), which will be the basis for risk aggregation and reporting;
- risk aggregation procedures (principles 3–7) – involve the use of automated aggregation of all important data on the risks, its timely presentation and the possibility of processing a wide range of special requests;
- reporting practice (principles 8–11) – provide the accuracy and correctness of the data in the reports, exhaustive reporting on all types of

risks, their clarity and accuracy, increase the frequency of reporting in times of crisis and extending them to the persons concerned, subject to confidentiality;

- control, tools and interaction of supervision (principles 12–14).

Supervisory bodies are required to carry out regular monitoring and evaluation of compliance with these principles by banks, to use appropriate tools and resources to ensure effective and timely bank measures for eliminating the shortcomings in aggregating and reporting on risks as well as they should cooperate with the relevant supervisory authorities in other jurisdictions.

Aggregation of risks opens up new possibilities for solving bank problems. For global systemically important banks, in particular, it is important, the financial recovery authorities to have access to aggregated data on risk, subject to the document of the Financial stability board on "Key attributes of effective modes of recovery and reorganization of financial institutions". The availability of reliable information database will allow banks and supervisory bodies to predict problems in advance and to expedite the process of rehabilitation of the bank. It will also enhance the ability to find alternative ways to restore financial stability and viability, if the bank gets into serious stressful situation. Thus, a reliable information base will simplify the search for the right partner for business merger [9].

Another aspect of the regulation of GSIBs that deserves attention is the BCBS guidelines that are the basis for determining the interest rate risk in the banking book (*Interest rate risk in the banking book* or *IRRBB*) and minimizing it [10]. *IRRBB* refers to current or potential risk of the bank's capital and its income due to adverse changes in interest rates that affect the positions of the banking portfolio. This risk is a part of the recommendations of Basel II as well as Guidelines for the management and control of interest rate risk which were set out in the 2004. These principles covered the process of identification, measurement, monitoring and control of *IRRBB*.

In January 2016, Guidelines on *IRRBB* were updated by BCBS to take account of market developments and changes in the supervisory practice. As it turned out, the conceptualization of this category of risk was pushed by the extremely low interest rates on deposit and credit operations, which threatens the insolvency of banks because of narrowing the economic base of capital replenishment due to market sources, on the one hand, and a possible shortage of liquidity on the other hand.

The implementation of these principles should be comparable to the size and complexity of the bank and its structure, economic significance and overall risk profile. That is the attention of supervisory bodies, primarily, should be focused on the systemic risks inherent in large, complex or international banks [10].

The requirements set out in the activities of GSIBs are quite strict and require significant financial investments. As the head of the FSB, Mark Carney, mentioned: "These proposals will help to change the system so that

banks and their investors and lenders will be responsible for their own actions" [11].

However, the proposed standards for regulation of GSIBs also have a number of omissions. Thus, the imposition of additional capital requirements does not solve the problem of the quality of bank assets. Stress analysis conducted by the IMF showed serious problems in Deutsche Bank (it belongs to the third group of GSIBs) associated with a significant amount of risky assets on the balance sheet against the background of a high level of capital security [12]. The recommendations also do not take into account the specificity of banks and their risk profile. BCBS continues to work towards further improvement of approaches as for the credit risk assessment in estimating of assets and international accounting.

Thus, developed by BCBS and the FSB standards of regulation and supervision of SIBs include higher requirements to their activities, empowerment of national supervisory authorities and increase of the intensity of its implementation.

BCBS also provided recommendations on regulating domestic systemically important banks (D-SIBS). However, these recommendations apply only to their identification and formation of a systemically important buffer. For D-SIBS just as for GSIBs, BCBS recommends to establish differentiated requirements for the amount of systemically important buffer, which will serve as an additional incentive to reduce systemically important banks, or at least keep it at a constant level. Additionally, at the discretion of the national supervisory authorities, in the implementation of regulation and supervision of D-SIBS they can be guided by the standards developed for GSIBs.

Consequently, according to the standards, there can be determined four stages of regulation and supervision of SIBs, namely:

First – organizational: development of an appropriate regulatory framework with the standards. At this stage, the authorities, administering regulation of SIBs, with the appropriate division of powers are defined, methods of identification of these banks are formed and approved, requirements of their activities and the time of their implementation are defined by the legislative.

Second – identification of a list of SIBs and their grouping. In accordance with the methodology supervision body annually identifies the list of SIBs and divides them into groups by level of systemic importance.

Third – gradual and differentiated fulfillment of increased requirements to their activities. This stage is the practical implementation of the first two stages. Thus, the first and the second stages should be legally established by the rules that allow banks to timely and fully realize their implementation.

Fourth – monitoring the compliance with the requirements of the supervisory authority.

Along with SIBs it is appropriate to identify *potential SIBs (PSIBs)*. Potential SIBs are the banks that due to the approaching of their activities to

the level of systemic importance and its projected increase have the potential to get the status of SIBs at global and national levels next year.

The need to identify PSIBs is associated with providing timely fulfillment of requirements of SIBs activity. Identification of SIBs for the next year is held annually at the end of this year. Definition PSIBs allows to anticipate the term of their obtaining of the status of SIBs.

PSIBs are required to bring their activities to the maximum in accordance with the level of SIBs, as, in case of getting the status of SIBs at the beginning of the year, to meet all prescribed standards of SIBs. As for PSIBs, we offer to form appropriate Plan of action for compliance of the bank with SIBs requirements, which will gradually bring its activities to these requirements. The structure of this plan should include the following sections:

- brief summary of the bank performance for the last three years;
- the Bank's strategy for the next three years;
- indicators of the bank activity with certain deviations from the requirements provided for SIBs;
- a list of alternatives of the bank to eliminate deviations (indicated separately for each request);
- measures of the bank for maximum possible conformity with the requirements of SIBs (indicated separately for each request) – provides compliance for following instructions at least 70 %;
- measures of the bank for the full implementation of all requirements of SIBs (indicated separately for each request) – performed only if the bank gets the status of SIBs.

For the authorized body it is also appropriate to quarterly oversee running state of the proposed Plan.

The issue of regulation of banks, especially D-SIBS, is extremely important given the impact of the financial crisis. Ukraine is no exception. Regulation of D-SIBS in Ukraine is carried out by the NBU according to regulations developed with the advice of BCBS, namely, Regulations on the procedure for determining systemically important banks [13] and the Instruction on regulation of banks in Ukraine [14].

According to the 10th chapter of Instructions, called "Requirements of systemically important banks", three categories of D-SIBS are defined, depending on their level of systemic importance (*table 2*).

Table 2

Differentiated buffer requirements for the formation of systemic importance for SIBs in Ukraine [14]

SIB category	Indicator size of systemic importance of the bank, %	Systemic importance buffer size, %
1	< 5	1
2	5–10	1.5
3	>10	2

In practice the NBU currently does not realize SIB aggregation in three groups (as shown in *table 2*). Thus, the systemically important banks do not have clear requirements for the formation of buffer of systemic importance.

Mentioned in the *table 2* requirements are applicable from January 1, 2020. In addition, the National Bank sets high demands on the values of economic standards, which take effect only from January 1, 2019, including:

- instant liquidity ratio (H4) – not less than 30 %;
- maximum credit risk per counterparty (H7) – not more than 20 % [14].

Standards regulating SIBs do not expect increased demands on liquidity ratios and credit risk per counterparty. Under the provisions of Basel III on the same basis strict requirements for liquidity for all banks through short-term liquidity index calculation (LCR) and the net stable funding (NSFR), which should not be less than 100 % [6], are set.

American economist, Nobel Prize laureate, Joseph Stiglitz, rightly considers it is necessary to examine only two alternatives regulating SIBs: either restructure large banks or limit their acceptance of risk. In his view, a multilateral approach is required. It will include special taxes, increased capital requirements, tighter control, and limitation of the scale of activities related to risk-taking [4, p. 37].

Given the above, it is advisable to consider regulation of SIBs in Ukraine in terms of combined model, according to which bodies of regulation and supervision use not only the tools of limitation the activities of banks (based on more stringent requirements), but also the tools for limiting the establishment of the bank as SIBs (providing the highest requirements of antitrust laws). Combined regulation model of SIBs in Ukraine should include:

- limiting the growth of systemic importance of banks (establishment of requirements depending on the level of systemic importance of the bank);
- limiting the size of the bank (improvement of antimonopoly legislation);
- limiting the amount and types of banking transactions (separation of banking and investment activities);
- setting higher prudential requirements (with respect to capital, liquidity, asset quality, risk management systems and transparency information) depending on the level of systemic importance of the bank and the risk level of its activities;
- ensuring the sustainability of SIBs (development of Plans to restore financial stability and to conduct stress-testing practices);
- covering losses due to bankruptcy of SIBs at the expense of shareholders and creditors (development of Plans for insolvent bank to abandon the market, increasing the responsibility of top managers and shareholders for the actions that led to the bankruptcy of the bank).

Limitation of growth of systemic importance of SIBs is the first step in the process of regulation, which is reflected in the motivation of banks to

reduce systemic importance. This can be achieved through the implementation of the BCBS recommendations on the formation of a differentiated system of buffer importance. In this regard, it is appropriate to consider the application of differential rates depending on the systemic importance in the formation of Deposit guarantee fund.

One of the main aspects of the regulation of SIB is the use of high prudential capital requirements, risk, liquidity, etc. taking into account not only the level of systemic importance, but the riskiness of its operations, which should provide stability of SIB and prevent crisis situations (on the basis of stress analysis).

Increasing requirements of antitrust legislation will not allow the emergence of new SIBs and will reduce impact on the market of existing SIBs. According to the antimonopoly legislation of Ukraine, monopoly (dominant) position is considered to be the entity provided that:

- its market share exceeds 35 %, if it does not prove that it undergoes substantial competition;
- its market share of goods is 35 % or less, but it does not undergo considerable competition, particularly, because of the relatively small size of the market shares that belong to competitors.

Monopoly is also considered the position of each of several entities, if they meet the following conditions:

- aggregate share of not more than three entities, which have the biggest market shares in one market, exceeds 50 %;
- aggregate share of not more than five entities, which have the biggest market shares in one market, exceeds 70 % [15].

Given the nature of the financial sector, it is worth increasing the requirements for recognition of the status of the bank's market monopoly. That is to reduce the percentage that determines the position of the bank monopoly, accordingly from 30 to 20 %, from 50 to 35 % and from 70 to 50 %. Thus, the three largest banks will not be able to control more than half of the banking market. This restriction will contribute to partially solving the problem of "too big to fail" and increasing the level of competition.

Developed standards for regulation and supervision of SIBs have additional (secondary) character, as to SIB, as well as to other banks, a number of requirements that are mandatory is set. Micro-regulation is the foundation of stable operation of banks, including SIBs. A SIB regulation should be aimed at the three main objectives: ensuring stable functioning of the financial system as well as equal competitive conditions in the market and reducing the impact of SIB activity on financial and real sector.

Conclusion. Global trends in regulation and supervision of SIBs are the consideration of the relevant BCBS recommendations and their implementation into national law, as reflected in the increase of SIB requirements as well as in prevention of taking excessive financial risks by them, provision of regulated bankruptcy and increase of the intensity of

supervision over their activities. Even developed international standards are not able to fully solve the problem of banks being which are "too big to fail".

Solution to this problem requires further research and discussion on trends, tools and models regulating SIBs, additions and revisions of existing standards with the new circumstances arising in the banking sector.

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Бура В. Системно важливі банки: регулювання та нагляд.

Постановка проблеми. Реформа підходів до регулювання та нагляду за системно важливими банками (СВБ) після кризи стала одним з ключових завдань наглядових органів глобального та національного рівнів. Нині міжнародними організаціями розроблено ряд рекомендацій щодо підвищення вимог до діяльності СВБ, які потребують комплексного вивчення та систематизації, що обумовлює необхідність й актуальність цього наукового дослідження.

Метою статті є дослідження стандартів регулювання та нагляду за СВБ та розробка практичних рекомендацій щодо підвищення їх ефективності.

Матеріали та методи. Стаття виконана із застосуванням діалектичного методу як головного для будь-якого дослідження та базується на системному, історичному і логічному підходах до вивчення процесу регулювання та нагляду за СВБ. У процесі дослідження використано такі методи, як: аналіз і синтез (при визначенні поняття "потенційний системно важливий банк") та порівняльний аналіз (при аналізі стандартів регулювання СВБ Базельського комітету та Національного банку України).

Результати дослідження. Стандарти регулювання та нагляд за діяльністю банків (у тому числі і системно важливих) являють собою принципи і рекомендації, які розробляються на міжнародному рівні та трансформуються в національне законодавство країн. Найбільш яскравим прикладом цього може служити діяльність Базельського комітету з банківського нагляду (БКБН) та Ради з фінансової стабільності (РФС), що розробили ряд рекомендацій як для регулювання глобальних, так і національних СВБ. Розроблені стандарти БКБН та РФС спрямовані передусім на формування у СВБ достатнього обсягу капіталу для недопущення виникнення системного ризику з їх вини.

На основі виокремлення етапів здійснення регулювання та нагляду за СВБ визначено необхідність поряд з СВБ також ідентифікувати потенційні системно важливі банки. Запропоновано для потенційних СВБ формувати відповідний План заходів щодо відповідності діяльності банку вимогам СВБ та розроблено його структуру.

Запропоновано здійснювати регулювання СВБ в Україні за комбінованою моделлю, відповідно до якої органами регулювання та нагляду використовуються інструменти не лише обмеження діяльності цих банків (на основі більш жорстких вимог), а також інструменти щодо обмежень встановлення банку як СВБ (передбачають вищі вимоги до антимонопольного законодавства). У межах цієї моделі визначено основні напрями на інструменти здійснення регулювання та нагляду за СВБ в Україні.

Висновки. Визначено, що загальносвітовими тенденціями у сфері регулювання та нагляду за СВБ є врахування розроблених рекомендацій БКБН та РФС, їх імплементація в національне законодавство, а також подальше їх удосконалення та розширення. Стандарти регулювання СВБ передусім спрямовані на попередження прийняття ними надмірних фінансових ризиків, забезпечення врегульованого банкрутства та збільшення інтенсивності нагляду за їх діяльністю. Проте навіть розроблені міжнародні стандарти не здатні повною мірою вирішити проблему існування банків, занадто великих, щоб збанкрутувати, яка потребує подальших наукових досліджень.

Ключові слова: системно важливий банк, банківське регулювання, банківський нагляд, стандарти та принципи регулювання.