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OPERATIONS WITH INVESTOR'S CORPORATE RIGHTS: THE ASPECT OF CONTROL

Setting the problem. Due to the uncertain situation in the East of Ukraine the investment attractiveness of our country is quite low. However, the decline in investment attractiveness is partly compensated by Ukrainian business aspirations for European integration. In this regard, there is a need to ensure a reliable control mechanism on made investments, especially financial investments in corporate rights, as they are subject to business risks. Thus, in the absence of effective control and current geo-political situation in the country, the investor bears significant risk of losing his investments. Making a decision on investing into the enterprise, the investor wants to be maximally sure of the investee, because its reliability, sustainability, business policies determine the fate of the deposit. Investments by their nature are characterized by significant risks which an investor seeks to minimize. In addition, investing requires not only the current and the following control that helps quickly adjust the actions of an investor, but preliminary control, which helps avoid unfavourable investments beforehand.

Analysis of recent researches, which discuss solution of the problem. The following scholars dedicated their researches to the problematic issue for control of corporate rights, namely: N.I. Hordienko, M.Yu. Karpenko, N.I. Kostova, A.P. Kolesov, O.M. Kupriushyna, M.R. Luchko, M.Yu. Miliavskiy, V.Yu. Pashutina, I.V.Spasybo-Fatieieva, O.V.Harlamova and others. Note that the problem on the rights and interests of investors in corporate law is raised by lawyers and considered from a legal point of view. Therefore, we believe that control economically is an essential and primary element for better and safe investment.

Formulation of the objectives of the article. The aim of this study is to outline the program for monitoring operations with corporate rights of the investor,

which will allow fulfilling systematically approach to solving the problems of control, coordinating control procedures and regulating their information support.

The main material of research. Consideration of the issue regarding the protection of shareholder rights is quite common in the scientific literature. In particular, I.V. Spasybo-Fatieieva paid a lot of attention to this issue from a legal point of view. We agree with the opinion that the Ukrainian legislation is extremely imperfect in this area, but we believe that the main and the most effective instrument for the protection of investors is its system of control over the implementation of investments. This approach is partially described by N.I. Kostova from the legal viewpoint: “Application of protection means by the founders of the company would allow faster solving controversial situations, eliminating the negative effects of violations of their rights and interests without recourse to judicial authorities...” [3].

Kupriushyna O.M. also examines various ways to protect shareholder rights offering quite a wide range of solutions, including even the sale or gift of shares if the investor has a problem with them. Above-mentioned scientist says that corporate audit assesses corporate governance in the company and provides interested individuals, especially shareholders, reliable information about compliance of corporate procedures with regulatory requirements [4, p. 72].

The following scholars as: N.I. Hordienko, O.V. Harlamova and M.Yu. Karpenko, emphasize on the fact that “appropriate corporate governance system allows investors to be sure that the management of the society wisely using their investments for financial and economic activity and thus, increases the cost of investors' stake for participation in the equity of the company” [1, p. 294].

And considering the fact that today we have only few achievements of scientists concerning the issues of the control over the corporate rights of the investors, this topic requires a comprehensive approach. Thus, the program for the monitoring corporate rights of the investor is developed (Table. 1).

Table 1. The program of monitoring investor's operations with corporate rights (issuer)

<i>№ by order</i>	<i>Control procedure</i>	<i>Information support</i>	<i>The documentation of the control procedures</i>
<i>1. Preliminary control (carried out before the economic operation with corporate rights)</i>			
1.1	Making economic calculations on the feasibility of investing in the corporate rights of a particular issuer	Balance sheet (Statement of financial condition) of the issuer, Financial statement (the statement of comprehensive income) of the issuer, Statement on equity capital of the issuer, Notes to the financial statements of the issuer, balance sheet (statement of financial position) of an investor, Financial statements (the statement of comprehensive income) of the investor, news reports from the media, data of stock exchange	The form of ICT-1 “The test of economic feasibility of investments in corporate rights”
1.2	Verification of compliance of a package of documents on economic operation with corporate rights with requirements of current legislation and statutory documents	The package of documents in accordance with normative and legal requirements [8]	The form ICT-2 “The test of compliance of the issuer’s documents concerning corporate rights with the requirements of current legislation”
<i>2. Current control (carried out in the process of business operation with corporate rights)</i>			
2.1	Verification of documentary reasons (organizational, managerial, specialized and primary documents) to display in the accounting operations	The set of organizational, managerial, specialized and primary documents which, according to the order of the accounting policy constitute a system of documentary ensuring of investment operations accounting	
2.2	The control over the implementation of schedule for repayment of investments by making the actual inventory items in the form of deposits of founders and shareholders to the registered capital of the telecommunication company	The set of primary documents certifying bringing inventory items in repayment of deposits from the founders and shareholders to the registered capital of the company; Turnover and balance sheets by the invoices of financial investments accounting	The repayment schedule of commitments on financial investments
2.3	Verification of the calculation accuracy of dividends	1. The copies (extracts) of organizational documents of the issuer in part of making decisions on distribution of profits to pay dividends; 2. Reconciliation of settlements for accrued and paid dividends	The form ICT-3 “The statement of accuracy control of calculations for the dividends”
2.4	Verification of the financial condition of the issuer and the dynamics of the value of his corporate rights	Analysis of the information on the cost of corporate rights of the issuer from the data of stock exchange, financial reporting of the issuer and media reports information	The form ICT-4 “The dynamics of cost indicators of investments”

3 The following control (carried out by the results of the reporting period or economic operation with corporate rights)

3.1	Verification of income and expenses generation and their disclosure in the form of reporting indicators by the investments in corporate rights	The set of source documents on operations with corporate rights; The registers of investment accounting; The financial statements of the issuer and the investor	Working documents specifying variations and proposals
3.2	Validation of debts display in the financial statements by deposits to the registered capital of the enterprise of the issuer		
3.3	Validation of operations display in the financial statements regarding calculation and payment of dividends, current accounts receivable of telecommunication enterprise according to them		
3.4	Validation of internal reporting on operations of financial investments in corporate rights	The forms of internal reporting	
3.5	The implementation of economic calculations to change the financial condition of the enterprise for the period in which there was a financial investment in equity instruments (corporate rights) of telecommunication enterprise using the elements of factor analysis	Balance sheet (Statement of financial condition), Financial statement (the statement of comprehensive income), Statement on equity capital, Notes to the financial statements, (for several reporting periods).	The form ICT-5 “The calculation of changes in financial condition and the impact of investments in corporate rights on it”

The documents designed to finalize control procedures allow control entity to record distortions and observations on the subject issues of control over operations involving corporate rights at all stages of their life cycle and by stages of control are indicated in the Program (Table. 1). They are reasonable to be drawn up for organizing, summarizing information and presenting results of the conducted analysis and control over operations with issued corporate rights.

First of all, a question of expediency of investing in corporate rights of a particular issuer should be covered, because the right management decision on the choice of an investment object is the key to the profitability of the operation. This decision should be based on reliable, accurate, timely and most complete information about issuer and his financial condition and development trends.

Such information is contained in a large range of sources: the financial statements of the issuer in the part of information to calculate indicators of his financial condition and the need to attract additional funding, analytical reviews of financial markets about stock quotes and more.

In addition, in order to assess the feasibility of implementation of specific investments the investor must analyze his own financial statements for the possibility of withdrawal of funds from circulation to conduct financial investment, to calculate the profitability indicators of identical or similar financial investments in an investor's portfolio.

After making a decision about the investment a potential participant should monitor a compliance of a package of documents on economic operations with the corporate rights with current legislation and statutory documents. This will help check all the necessary documents, detect mistakes in filling out their requisites and, consequently, prevent illegality of made transactions since such mistakes can lead to loss of property rights by the corporate rights.

Checking for availability of documentary reason for displaying transactions in accounting is necessary already at the stage of the current control. A number of organizational, administrative and specialized documents should be available in addition to primary accounting documents, which according to the order on

accounting policies constitute the system of documentary accounting ensuring of investment operations.

It is also necessary to monitor the implementation of the maturities of investments for the investor by making the actual inventory items in the form of contributions of founders and shareholders to the registered capital of the telecommunication enterprise.

Informational foundation for this will serve as a set of primary documents certifying bringing inventory items to repay contributions of founders and shareholders to the registered capital of the enterprise; turnover and balance sheets according to the accounts of accounting of financial investments. It is necessary to develop a schedule for repayment obligations by financial investments, which will verify the controller and the actual contribution of the investor, to implement this control.

On this occasion N.I. Kostova also emphasizes on the mandatory monitoring by the procedure for determining the value of property transferred by the founders as payment for shares. According to the Articles 8, 11 of the Law of Ukraine “On Joint Stock Companies” [2], “the price of property that is brought by the founders of the company in payment for shares must correspond to the market value of this property, which is determined on the basis of an independent assessment carried out in accordance with the legislation on the assessment of property, property rights and professional valuation activity.

Approved property value by the constituent assembly can not differ by more than 10 per cent from the value determined by appraiser. If approved market value of property differs from the value of the property determined in accordance with the legislation on the assessment of property, property rights and professional valuation activity constituent assembly must explain its decision” [2]. Availability of expert conclusion as the author rightly notes, complicate unwarranted overstating the value of property, property rights, which are brought by the founders of the company in payment for shares.

The question that is the most important for the shareholders, namely, accrual and payment of dividends, requires significant attention from the entities for the control of the investor. Thus, the vast majority of investors in making decisions about investing are guided not only by the financial support and the provision of the issuer development, and also their own interests, which are promised them as dividends.

V.Yu. Pashutina also says about the sufficiency of grounds for ensuring the adequate level of control, conducting research of this area [9, p.150]: “Abuse of corporate rights in the area of dividend payments is a common legal phenomenon, and the procedure for payment of dividends to shareholders as the object of abuse is contradictory and insufficiently regulated.

Abuse of corporate rights in the area of dividend payments may occur in the form of abuse the right on making decision on the direction of profit for dividend payment by joint stock company <...> and abuse the right to participate in the distribution of the partnership profit by shareholder and receive its share (dividends) <...>” [9 , p. 149].

Therefore, M.Yu. Miliavskiy singles out two indicators that appear as the objects of corporate control. Firstly, it is the part of net income, the value of dividend fund; secondly, it is the share of dividend fund in the total amount of net income [7, p. 305].

According to the results of this study we recommend to implement the verification of correctness of payments for dividends on the basis of copies (extracts) of organizational documents of the issuer in the part of making decisions on distribution of profits to pay dividends and also their payment; conducting of verification of mutual settlement by accrued and paid dividends will be also advisable.

In addition to all the above, the investor must constantly monitor the financial condition of the issuer and the dynamics of the value of its corporate rights. Because the factors that affect the cost of its shares may vary significantly over time, it is the speed of decisions concerning the expediency of saving their money in shares of the issuer or, maybe it changes or radical revision of positions concerning investment.

Analysis of the information concerning the cost of corporate rights of issuer is based on data from stock exchanges, financial reporting of issuer and information media reports.

After the end of the accounting year the investor has to evaluate the effectiveness of implemented investments. For this purpose, first of all, you must ensure in the correctness of the following:

1) formation of incomes and expenses associated with financial investments in corporate rights of telecommunications enterprise and disclosure of relevant information in the financial statements;

2) reflection in the financial statements of arrears on deposits to the registered capital of the enterprise-issuer;

3) reflection in the financial statements of operations for calculation and payment of dividends, current accounts receivable of telecommunication enterprise according to them;

4) internal reporting by operations of financial investment in corporate rights.

Information foundation in this case serve as set of primary documents regarding the transactions with corporate rights, registers of investment accounting, the financial statements of the issuer and the investor for several periods since the consideration of the dynamics of return on financial investments should be considered to prevent the reduction of investment performance. Working documents with the indication of deviations and proposals are made in the course of monitoring.

The investor has to make a number of economic calculations after receiving confidence in credibility of reporting performance to change the financial condition of the enterprise for the period, where the financial investments were in the instruments of equity (corporate rights) using elements of factor analysis. Such calculations are made on the basis of balance sheet (Statement of financial position), Statement on financial results (Statement of comprehensive income), Statement on equity capital and Notes to the financial statements for several reporting periods

The developed program is appropriate and effective as at insignificant amounts of investments and if enterprise has a significant share in the capital to

influence the activity of the issuer. In this case, under the proposed program can be carried out controls performed specially created internal control unit. In this case, control can be carried out that is performed by specially created subdivision for internal control within the proposed program.

It should be noted that a conflict of interests of members (shareholders) and managers (management personnel) is significant and increases in the absence of a proper system of control. At the same, institutional and organizational status of the subject of control of corporate rights at the enterprise-investor depends on the purpose and amount of investment and degree of control over the enterprise-issuer.

If the acquisition of shares in the share capital was carried out for the purpose of resale, then the costs of establishing the security services is justified, but in any case can not leave the enterprise altogether uncontrolled, because when inefficient management, the value of its shares will be reduced and the acquisition with the purpose of resale will be unprofitable.

Another thing, when investments were carried out in order to receive dividends and implementation of control over the issuer activity. In this case, the investor is more interested not in the growth of value shares, but in a stable progressive development of the enterprise, which was invested funds, because it directly affects the profits, and hence on the distribution and dividend.

Development of the controlling entity of the investor in the structure of the enterprise investor depending on the size of the investor's share and volume of the issuer activity in case of acquisition of corporate rights but not for the purpose of resale are described in Fig. 1

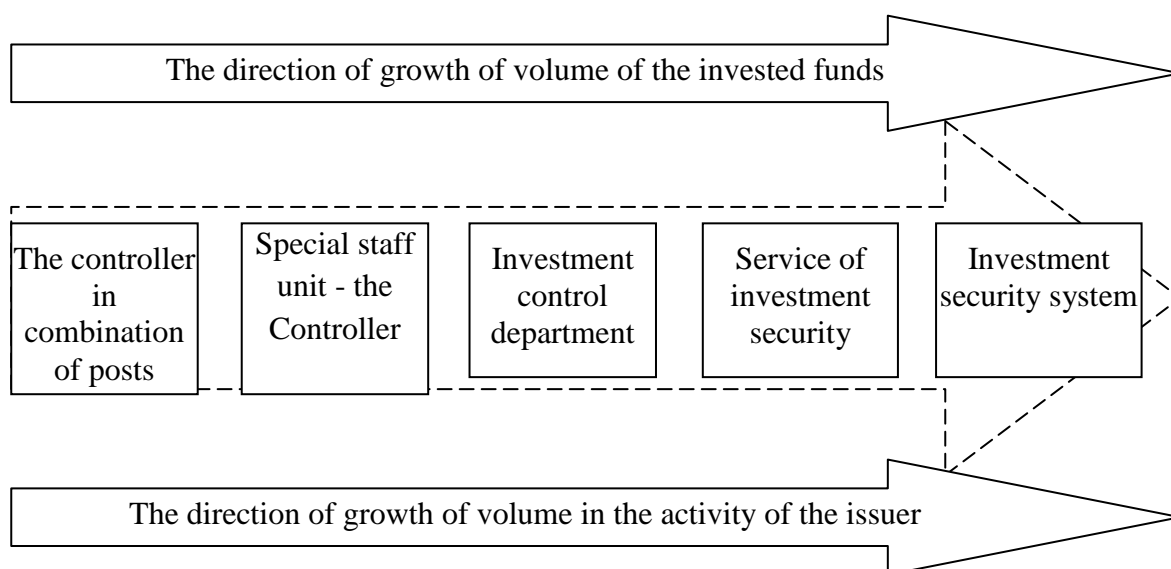


Fig. 1. Type of entity of investor's control, depending on the level of its contribution and amounts of the issuer activity

Thus, the vector of growth of investment volume by the investor simultaneously with the direction of growth of volume activity of the issuer are directly proportional affected the level of the magnitude required for investor of authority control over the activities of the issuer to provide a sufficient level of confidence in the rational use of invested funds by him, the level of profitability of the issuer and detection of abuse, which will allow quickly obtain reliable information for making investment decisions.

Depending on the volume of the issuer activity, the security service may consist of one employee, and also with numerical state. At the same, we believe that significant staff must perform versatile control functions, including without the consent of the issuer. That is, the security service of the investor can penetrate into the economic activities of the issuer and to be the part of this system, which means that not only act as a single entity external control, but also as an integral part of the system that is controlled, so to speak – the control from the inside.

Internal auditors should not only recommend introducing or strengthening the control, but offer to change its system where significant risks are identified that inadequately managed and controlled [5].

Macroeconomics covers the interests of large shareholders and investors – such as the state and institutional investors. The state carries out assessment through monitoring system and ensures financial discipline regarding the use of public resources. There are external control and internal control: previous, current, subsequent, internal audit, inspection [6, p. 10 - 11]. The bodies authorized to manage state corporate rights are: the Cabinet of Ministers of Ukraine, the State Property Fund of Ukraine and the National Agency of Ukraine for management of state corporate rights, central executive bodies and authorized persons.

Thus, control measures play an important role at each stage of the life cycle of corporate rights. At the stage of making a decision on the acquisition of corporate rights control lets you to assess the advisability of investing, the right of choice for investment object, correctness of legal registration for the process of implementation of deposit, etc.

Checking the correctness of forming the base for distribution of dividends and their accrual and taxation allows you to check compliance by the issuer with rights of the investor in part of completeness and timeliness of income according to the corporate rights at the next step.

In addition, the detection of volume of accrued dividends allow investors to be judged on the conformity of the actual profitability of corporate rights of telecommunications enterprises to indicators of investment plans of the investor.

Control measures are necessary for checking the correctness of the calculation of the investor's share that is returned to him, when the investor goes out from the participants. Besides, control helps investors make decisions in the management of the enterprise, if corporate rights that are acquired by him provide such right.

Conclusions. Summarizing the results of the study of the control system of the corporate rights of the investor should be emphasized that developed program of control covers all stages of the life cycle of corporate rights, creates a complex information provision of control procedures.

The package of working documents of the subject of control at the enterprise-investor is described in the article to achieve the objectives envisaged in the program,

which allows timely to identify and fix deviations in investor's operations with corporate rights of the telecommunication enterprises.

Justified procedure for implement such controls by the investor strengthened of the system of its information and documentary support ensures effective implementation of the control function with the help of the system of investment activity of the enterprise-investor.

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Summary

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Operations with investor’s corporate rights: the aspect of control

Control over operations with corporate rights has essential value for the investor. Risk of errors in the conducting of accounting of corporate rights and disclosure of information about them in the financial statements will be significant without an effective system of control. Therefore, it is necessary to develop an effective system of control over corporate rights, which would comprehensively cover all aspects of their functioning, in order to ensure reliability, timeliness and accuracy of implemented operations with corporate rights and obtain relevant information about them by management personnel and other users.

The expediency of application of control operations with corporate rights of investors has been substantiated in the article; a program for control of corporate rights of the investor, which will allow systematically fulfilling the approach to the solving problems of control, coordinating the control procedures and regulating their information support has been outlined in the article.

It was established during the research that it will be appropriate to conduct such control actions for the investor during the previous of control as assess the

feasibility of the investment implementation and after the making decision to exercise the control of accuracy, package of issued documents in compliance with current legislation. At the stage of the current control investor must monitor the compliance of repayment schedule of investments, the process of calculation and payment of dividends, the presence of documented grounds of accounting reflection of implemented operations and current monitoring of the financial condition of the issuer and tendencies of its changes.

Checking the correctness of formation of indicators concerning corporate rights in the reporting will be appropriate at the end of the reporting period. The mandatory analysis of changes in the financial condition of the enterprise for the period in which there was a financial investment into the instruments of equity capital (corporate rights) with using elements of factor analysis will also be appropriate.

Summarizing the results of the study of the control system of the corporate rights of the investor should be emphasized that developed program of control at each stage, will allow comprehensively to evaluate the feasibility, legality, accuracy of implemented operations, identify mistakes and develop recommendations for avoiding them in the future.

Keywords: control, program of control, investor, corporate rights, operations with corporate rights.

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