

CONSUMER LENDING VS LUDOMANIA: FROM RESILIENCE TO SOCIAL RESPONSIBILITY IN THE CASE OF UKRAINE

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ABSTRACT

The main idea of the article lies in seeking a balance between the interests of the state, citizens - microcredit borrowers, non-banking financial institutions, and gambling entities (this is exemplified through relationships where low-income citizens use consumer credits for gambling). Unwise decisions by any of these participants regarding consumer credits and their use for gambling pose risks to both financial and social security in society. The issue of rationalizing the purpose of consumer credits, particularly in the context of military factors, when both the state and citizens are highly vulnerable, gains particular significance. In pursuit of the aim to identify an effective strategy to counter their (credits) use in citizen-risk operations, such as gambling, which sometimes leads to bankruptcy, the article provides reasoned proposals for enhancing legal regulation of these relationships in Ukraine. The scientific conclusions of the article are based on arguments against imposing restrictions on interest rates for consumer credits, especially microcredits, due to potential risks that could weaken the resilience of non-banking financial institutions. Furthermore, the conceptual component of the article is reinforced by emphasizing the significant role of the concept of socially responsible business, which serves as a guarantee for achieving a positive social impact and minimizing predatory treatment of citizens in the microcredit sector. The research offers measures to prevent the misuse of microcredits and underscores the importance of achieving a balance between state and private interests in this field.

Keywords: consumer lending; protection of consumer rights; low-income citizens; non-bank financial institutions; socially responsible business; resilience, fairness

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INTRODUCTION

Military events have harmed the economic situation in the country, as well as the employment, financial, and moral status of the population. Due to Russian aggression, many Ukrainians have lost their homes, material resources, and jobs and were forced to relocate to other regions of Ukraine. Those who remain in place suffer from unemployment, loss of businesses, and so on. These processes not only contributed to an increase in the demand for microcredits (see Figure 1) (with a repayment

period of up to one month (clause 1, part 2, article 3 of the Law of Ukraine "On Consumer Lending"), but also led to an increase in the amount of indebtedness for them. While the indebtedness for microcredits decreased by 5 billion UAH¹ during 2022, the situation changed dramatically in the first quarter of 2023. During the first three months of 2023, the indebtedness of citizens to non-bank financial institutions (hereinafter - NBFIs) increased by 663 million UAH to 8.7 billion UAH (Opendatabot, 2023).



Figure 1: Total Amount of Credits Issued by NBFU, billion UAH.

Source: Opendatabot (2023).

The significant weight of gambling business advertising, financial illiteracy, psychological tension among the population, and people's inclination in such a state towards easy earnings further reinforced the aforementioned trend. According to the information from the Head of the National Bank of Ukraine (hereinafter - NBU), "about 70 percent of consumer credits in the country are usually provided to cover immediate needs, specifically the dependence of individuals on making bets in online casinos" (RDR, 2023). In this context, the NBU, as a regulator, initiated changes in the consumer lending market, particularly regarding the establishment of maximum interest rates for credits, reserving the right to establish minimum requirements for borrowers, and so on. However, the question of whether the actions of the central bank can be considered fair, promote the resilience of the non-banking financial services market, protect the rights of low-income citizens, reduce the spending of funds obtained by citizens within

consumer lending (author's note - a term used in Ukrainian legislation) for participation in operations related to payment for services provided by gambling business entities, remains unresolved. This highlights the need for research in this direction.

The article aims to explore the specificities of maintaining a balance in the interests of consumers of financial services within microcrediting and non-banking financial institutions, focusing on principles of equity and resilience, particularly amidst the ongoing state of war in Ukraine (this is exemplified through relationships where low-income citizens use consumer credits for gambling). It also seeks to identify tools to counter the utilization of consumer credits for gambling, as well as to substantiate the directions of legal support for relevant issues at the countrywide level.

¹ Please note that 1 UAH equals to 36,03 USD (update as of 12/11/2023)

LITERATURE REVIEW

In general, consumer lending (microcrediting) is a method of lending minimal sums to individuals (typically, to individuals with limited income residing in various regions of the developing world), primarily aimed at helping them establish or expand small businesses. This practice, which has its modern roots in Bangladesh, has become a crucial tool for economic empowerment in impoverished communities (Hayes, 2020). Various aspects of consumer lending (microcrediting) and its impact on reducing the vulnerability of low-income citizens, poverty, and the country's economy have attracted the attention of many leading Ukrainian and foreign researchers.

For instance, Adamu (2007) views microcrediting as an effective means to counter poverty and, as a result, achieve the Millennium Development Goals². It enables low-income individuals to diversify and increase their sources of income. Similar opinions are held by Kayongo & Mathiassen (2023), who note that microcrediting was created as an effective approach to providing access to financial services for people in low-income countries; however, nearly one-third of the world's adult population still lacks access to it. Generally, certain segments of the population are often excluded from the financial services sector of the economy, which led to the emergence of NBFIs to address this market failure.

Chaudhary and Tshung (2022) express a similar position. In their work "Analysis of the Awareness of Microfinance in Developing Economies and its Impact," the researchers analyze the characteristics of "sustainable financing" and consider it as one of the functions of microfinance that can promote financial innovations and prevent poverty. However, high interest rates on small credit amounts hinder the achievement of the desired effect.

In this context, the question of how fair the approach to setting the maximum interest rate is, becomes particularly significant for both consumers of financial services and non-banking

financial institution market entities. It is important to note that empirical and theoretical approaches in this direction differ.

Representatives of the procedural approach to fairness (Gielissen, Dutilh, & Graafland, 2008) emphasize that the fairness of a certain market operation depends primarily on the degree of voluntariness of the parties to the agreement and their agreement with the terms of the operation. In the context of microcredit, this means that an interest rate can be considered fair if it results from a voluntary negotiation process in which neither the creditor nor the debtor experiences compulsion or deception. Supporters of the competitive approach (Heath, 2014; Norman, 2011) connect the fairness of the interest rate with the presence of a competitive and efficient market. That is, the price of credit is fair if it is formed based on competition. However, competition in MFIs does not always lead to a positive effect. For example, as empirical research shows, it leads to aggressive marketing that encourages borrowers to obtain credits from multiple sources. These credits become excessive and have an even more negative impact on the financial status of the consumer (Tchuigoua & Soumaré, 2019).

These approaches are valid, but they are more focused on protecting the interests of the institution rather than the clients. It is suggested that a balance between these two interests is needed to determine a fair price. Fair interest rates should probably be those that not only allow MFIs to remain stable and provide consistent financial services but also be accessible to low-income citizens.

This idea is central for proponents of the subsequent approach, which is based on consequentialist theory (Driver, 2012; Sinnott-Armstrong, 2019). According to this approach, the ultimate or basic goal of credit should be a "positive" effect in the future, such as improving the financial situation of the poor and the resilience of the financial institutions market. Thus, the goal of all involved market participants in microcredit should be to try to create as much

² The Millennium Development Goals are eight goals with measurable targets and clear deadlines for improving the lives of the world's poorest people (to eradicate extreme poverty and hunger; to achieve universal primary education; to promote gender equality and

empower women; to reduce child mortality; to improve maternal health; to combat HIV/AIDS, malaria, and other diseases; to ensure environmental sustainability; to develop a global partnership for development) (MDG, n. d.).

of this "positive" effect as possible. However, the effect is the result of certain actions or events that typically occur in the future. Therefore, it is impossible to know with certainty whether such an effect will be positive or negative. Understandably, it is not possible to clearly define the balance between the needs of clients and NBFIs at the initial stage. Nor is it possible to guarantee, for example, that an interest rate that is effective for NBFIs will also be effective for low-income citizens.

An interesting perspective in this context is the position of Yunus – the Nobel Peace Prize laureate, professor, and founder of Grameen Bank (Jolis & Yunus, 1999; Yunus & Weber, 2007). Based on deontological arguments regarding the vulnerability of low-income citizens, the scholar defined an effective interest rate. According to Yunus's position, MFIs can set the cost for consumer credit within a margin of 15% of the cost of resources. Otherwise, they should be seen as those who imitate the activity of providing credits and act unethically (socially irresponsibly) (Hudon, 2007). Overall, the scholar promotes the idea of defining the right to access credit as a human right, which should be included in the UN Universal Declaration of Human Rights (Jolis & Yunus, 1999). However, even this approach is not devoid of contentious points. The issue is that the accessibility of credit, in most cases, has instrumental value for borrowers. In other words, low-income individuals primarily want to obtain corresponding goods (housing, clothing, etc.), rather than the right to credit (Sorell & Cabrera, 2015; Sorell, 2015). And in this case, it seems somewhat peculiar to insist on the right to credit as something that should occupy a place alongside the human rights enshrined in legislation. In other words, the right to credit should be viewed as a political tool that can or cannot be used to secure fundamental human rights. Therefore, low-income citizens have the right to access credit to the extent that it can help them overcome poverty.

Returning to the analysis of the question of the limitation of credit resources, especially as proposed by Yunus, attention should be drawn to the fact that the aforementioned position became a guideline for many countries worldwide. Helms and Reille (2004), in their work "Interest rate ceilings and microfinance: the story so far," list about 40 developing

countries and countries in transition that introduced various types of interest rate caps by 2004. Similar regulatory measures have since become even more popular in individual countries. For instance, the regulatory body for microcredit in Bangladesh occasionally considers the possibility of reducing the interest rate cap for microcredits. Initially, the rate was capped at 27% per year in 2010 and then reduced to 24% per year in 2019. Further gradual reduction is currently being considered (Wing, 2023).

Ewubare and Okpani (2018) and Irobi (2008) operate with the term "microfinancing" and define it as an attempt to improve access to financial services (micro-deposits and micro-credits) for low-income individuals neglected by banks. Notably, during periods of economic prosperity in the country, such individuals experience increased business opportunities (in particular through microcreditbng) and more guaranteed income, which, in turn, enhance their capacity to meet their financial obligations (Ngo, Le, & Le, 2021).

On the other hand, some authors challenge the positive impact of microcrediting on poverty reduction. For example, Odoko (2008) argues that providing credits to low-income citizens alone is insufficient to achieve the goal of reducing poverty. In most cases, they lack financial literacy and do not understand, for example, the effect of credit duration on interest payments and total installments (Oratowski, Cwynar, Cwynar, Dankiewicz, & Ostrowska-Dankiewicz, 2019). This leads to credit risks, in particular, "the possibility of a borrower's default when its counterparty fails to pay its obligations on time" (Tien & Nguyen, 2023). So, additional strategies are necessary for this tool to work effectively. Precisely, in the absence of such a strategy quite often, a reverse effect is observed in practice. Research shows that the spending of obtained microcredits by representatives of not only people experiencing poverty but also the middle and upper classes is not always in line with the intended purpose (meeting basic needs). In the sphere of gambling, for instance, it can lead to adverse effects (increasing the number of low-income citizens). (Muggleton et al., 2021, p. 320). Recent surveys of financial counselors in Australia revealed that clients affected by gambling activities had various types of debts and were unable to afford basic expenses

such as rent, mortgage, and food. (Financial Counseling Australia, 2022).

Similarly, the United Kingdom's (UK) Gambling Commission emphasizes the harm associated with gambling-related indebtedness and its importance for future policy (Gambling Commission of UK, 2021, p. 9). Comprehensive scientific research on bank transaction data in the UK provides evidence that a 10% increase in absolute spending on gambling is associated with (1) a 51.5% increase in the acquisition of high-interest payday credits; (2) an 11.2% increase in credit card usage; (3) a 97.5% probability of mortgage payment default (Muggleton, Parpart, Newall, et al., 2021). Furthermore, there's evidence that people at the highest risk of gambling-related harm more frequently use microcredits to finance gambling activities. Among people receiving treatment for gambling disorders in the UK, 63% have debts related to gambling, with most of them having debts over £5000 or being insolvent (GambleAware, 2021; GambleAware, 2022; Davies, Evans& Collard, 2022).

Ukrainian scientists focus their attention on researching the analysis of credit activities of non-banking financial institutions (Cherkasova, Medvid& Mitsenko, 2022; Yehorycheva, & Vertebnyi, 2021) and the state of microcrediting in Ukraine (Snidko, & Kalnauz, 2019). The works primarily emphasize the need to improve state regulation of credit activities in the non-banking financial sector, as well as to enhance the protection of borrowers by the state and their financial literacy.

Overall, the literature review indicates a wide range of opinions on the peculiarities of microcrediting for economically disadvantaged citizens, including its role in exacerbating issues related to gambling and debts. This underscores the complexity of the topic and the need for further research in this direction.

METHODOLOGY

To achieve the objectives and aim of this research, relying on a robust scientific foundation for our findings, we employed a comprehensive array of both general scientific and specialized research methods. These methods included analytical, hermeneutic, comparative legal, praxeological, imitation-forecasting, and generalization methods.

The analytical method, for instance, was utilized to investigate the role of non-banking financial institutions (NBFIs) in exacerbating negative trends associated with the reckless incentivization of low-income citizens towards unjustified expenditures, particularly in terms of participating in transactions related to services provided by gambling entities. This analysis has revealed that the state is currently in search of a suitable legal solution for the situation above. It was through the analytical method that we could deduce that the legal measures taken by the state may raise concerns, as they could potentially introduce more significant risks for the market of non-banking financial services, which requires the development of safer and more balanced approaches.

The use of hermeneutic and comparative legal methods enabled us to explore international experiences and practices in various countries regarding the regulation of interest rates for microcredits (such as India and Bangladesh), the integration of certain aspects of socially responsible business concepts into economic activity, including the feasibility of implementing specific measures, and the interaction between financial institutions and gambling operators to prevent instances of using credit funds for gambling (based on the experience of the United Kingdom), and more. This approach serves as a guarantee for achieving positive social outcomes and minimizing predatory behavior towards citizens, forming the basis for our conclusions regarding the future development of national legislation in the investigated sphere.

Praxeological and imitation-forecasting methods were employed to model possible economic and legal relationships between citizens as microcredit borrowers, non-banking financial institutions, and gambling entities. These scientific methods allowed us to identify the advantages and disadvantages of the proposed state measures aimed at ensuring social security in Ukraine.

Finally, the method of generalization facilitated the development of comprehensive conclusions, recommendations, and proposals. This scientific method allowed us to synthesize diverse information, findings, and ideas generated through our research. In turn, this provided us with a comprehensive understanding of the complex issues related to

consumer credits and their interaction with the gambling industry.

In summary, these methodological approaches played a pivotal role in conducting rigorous and thorough investigations into the subjects under consideration, contributing to a comprehensive understanding of the issues discussed in this article.

RESULTS

The influence of microcrediting on the gambling industry development and the economic resilience of NBFIs and consumers of such services

As mentioned above, the dependence of individuals on using consumer credits to place bets in online casinos is rapidly growing. In particular, as of June 1, 2023, tax payments from companies operating online in the gambling industry amounted to over 2.2 billion UAH. For comparison, throughout the year 2022, this amount did not exceed 550 million UAH (Kitsoft, 2023). This is against the backdrop of a record reduction in the number of licenses issued by the Commission for the Regulation of Gambling and Lotteries (CRGL) in the field of organizing and conducting gambling and lottery activities in 2023 (Table 1).

Table 1. Information on the Number of Issued and Revoked CRGL Licenses in the Field of Organizing and Conducting Gambling Activities and Licenses for Lottery Issuance and Conduct, as well as Payments Made to the State Budget for Licenses in 2022 and 2023 (as of August 1, 2023)

2022			2023 (as of August 1, 2023)		
Number of Issued CRGL Licenses	Number of revoked licenses	Payments Made to State Budget for Licenses (thousand UAH)	Number of Issued CRGL Licenses ³	Number of Revoked Licenses	Payments Made to State Budget for Licenses (thousand UAH)
603	360	1 166 124,2	32	0	628 443,23

Source: CRGL (2023).

Thanks to the use of digital technologies, the speed of providing consumer credits takes only a few minutes. Therefore, decisions to obtain credits under such conditions can hardly be considered informed (RDR, 2023). Corresponding legal practices confirm this. It concerns situations when citizens were taking out credits, including from acquaintances, in non-banking financial institutions and spent the received money on bets, particularly in bookmaking offices (Case № 585/553/22) (USRCD). And these are not isolated cases (Rudenko & Larin, 2021). Their number is steadily increasing. In total, from 2021 to 2023, 739 ludo maniacs (individuals with gambling addiction) were registered (Opendatabot, 2023).

Thus, as indicated by legal practice, credits obtained for gambling in the aforementioned establishments, in most cases, inevitably lead to losses, personal bankruptcy, and consequently, irreversibility of financial resources.

In particular, Ukrainian financial organizations are at the forefront of Europe in terms of the level of "bad credits". According to the NBU data, as of January 1, 2023, the share of non-performing credits in the banking sector had risen to 38%. The volume of non-performing credits from March to December 2022 increased by 127 billion UAH to 432 billion UAH (NBU, 2023c). The situation in non-banking financial institutions is even worse. In the first three months of the current year, the indebtedness of Ukrainians to

³ The number of issued CRGL licenses represents the actual number of licenses included in the registries under the jurisdiction of the CRGL, after receiving the document confirming the payment for the first year of license validity (Article 49 of the Law of Ukraine "On State

Regulation of Activities for the Organization and Conduct of Gambling"). From March to May 2023, CRGL decisions regarding issuance/revocation of licenses were not made due to the lack of quorum.

NFIs increased by 663 million UAH, reaching 8.7 billion UAH (Opendatabot, 2023).

Since the transfer of powers (November 1, 2020, by the Law of Ukraine "On Amending Certain Legislative Acts of Ukraine to Improve the Functions of State Regulation of Financial Services Markets") from the National

Commission for the Regulation of Financial Services Markets to the NBU regarding the regulation of a portion of the non-banking financial services market, the new regulator has begun a gradual "clean-up" of its participants (Figure 2).

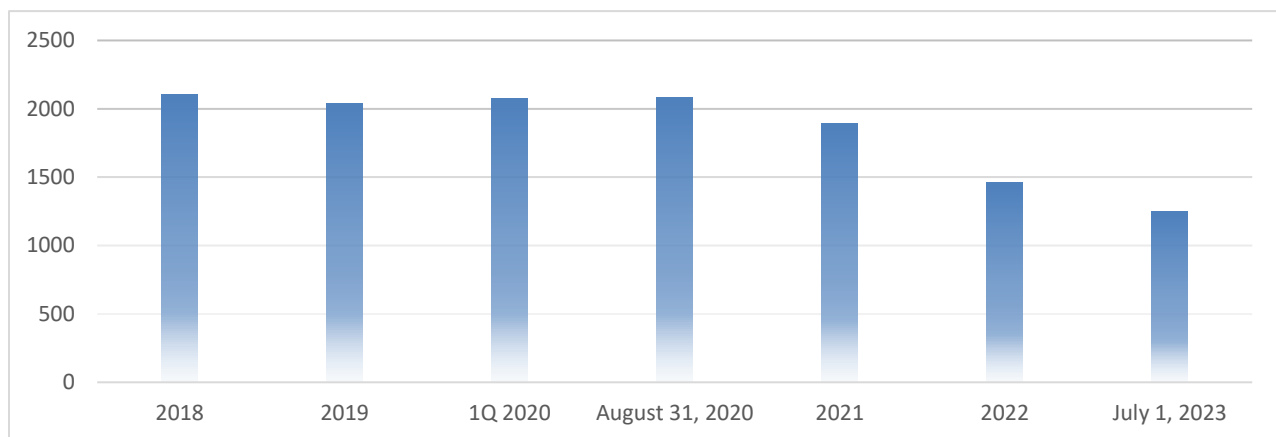


Figure 2. The dynamics of the number of Non-Bank Financial Institutions (excluding non-state pension funds) for the period from 2018 to July 1, 2023.

Source: NBUb (2023); FinClub (2020).

Not even the NFIs, which are among the top ten institutions in Ukraine providing consumer credit services, are exceptions. For instance, on February 24, 2023, the Committee on Oversight and Regulation of Non-Banking Financial Services Markets Activities of the NBU decided to revoke (annul) the licenses for financial companies (LLC "Mister Cash" and LLC "SS Loan") to engage in financial services activities, including providing credits, including financial credit terms. These two aforementioned financial companies are among the top ten institutions in Ukraine providing such services (NBU, 2023).

As a result of unplanned inspections by the NBU, numerous violations of consumer financial service protection laws were found in the activities of LLC "Mister Cash" and LLC "SS Loan" (NBU, 2023).

The above information allows us to conclude the presence of a concerning trend in the increasing dependence on microcredit funds for engaging in gambling activities in Ukraine. Such a trend leads to significant financial consequences for individuals, particularly

widespread bankruptcies and a rise in cases of gambling addiction. The observed phenomenon has a detrimental impact on both the economic resilience of non-banking financial institutions and the overall stability of the financial sector. These findings underscore the need for the development and urgent implementation of measures to overcome the growing risks associated.

Legislative initiatives regarding microcredit interest rates: consumer protection and challenges for NBFIs

In May 2023, proposals were announced on the official website of the NBU to amend the Law of Ukraine "On Consumer Lending," including establishing maximum interest rates not exceeding 0.8% per day (currently, this value for microcredits averages 2.5%); reducing excessive debt burden on an individual borrower and granting the NBU the right to establish minimum requirements for the borrower's creditworthiness assessment process; introducing additional penalty sanctions for violations of established requirements, as rules

without responsibility for their violation usually do not work. As emphasized by the NBU, "ensuring effective regulation and supervision of the non-banking financial services market is defined as one of Ukraine's directions within the framework of the new extended financing program with the IMF" (NBU, 2023a).

Later, these changes were incorporated into the draft law "On Amending Certain Legislative Acts of Ukraine Regarding the Improvement of State Regulation of Financial Services Markets," registry number 9422, dated June 26, 2023 (the corresponding draft acquired the status of a law on November 22, 2023, under number 3498-IX). Specifically, the document's developers initiated the introduction of the indicator "daily interest rate for consumer credit," defined the procedure for its calculation, and established its maximum rate, albeit at the level of 1% (instead of the initially announced 0.8%) per day of the total credit amount.

At first glance, the reduction of the daily interest rate for consumer credit and the fixation of its maximum possible level might be perceived as a justified step. After all, it is widely known that the primary purpose of NBFIs providing consumer credit was to financially support the low-income segments of the population. This remains largely true today. However, the interest rates on consumer credit offered by NBFIs seemingly contradict this mission. This is firmly pointed out in scientific literature and mass media. Partially agreeing with this stance, it should be noted that in many cases, the interest rate level primarily reflects the need to cover expenses related to servicing small and high-risk consumer credits for low-income citizens (including the cost of capital for the lenders themselves, credit losses, administrative expenses, etc.). The cost of capital and credit losses usually change in proportion to the amount of borrowed funds. However, this proportionality is absent for administrative expenses. For instance, in the case of a credit of 200,000 UAH, administrative expenses might only amount to 6,000 UAH (i.e., 3%). Nevertheless, this does not mean that a credit of 2,000 UAH can be granted with administrative expenses of 60 UAH. For microcredits, administrative expenses in comparison to the credit amount, are always higher than for regular credits provided by banking institutions. Consequently, NBFIs cannot provide these

services if they do not charge significantly higher interest rates compared to ordinary banking rates (Krysten, Layman, & Rozenberh, 2003).

Therefore, the reduction of the NBU interest rate should be based on a more refined methodology than the one outlined in the Rules for Calculating the Total Cost of Consumer Credit and the Real Annual Percentage Rate under the Consumer Credit Agreement for NBFIs of Ukraine, approved by the decision of the NBU's Board dated February 11, 2021, No. 16 (with amendments). The maximum amounts of overall expenses for the credit should be justified.

As rightly noted by Mersland and Strom (2010), Helms (2004), and Fernando (2006), "to provide sustainable consumer credit services to low-income individuals in the long term, MFIs must be capable of covering their operating expenses and generating profits that enable them to operate without subsidies."

Thus, when the state takes measures to economically unjustified reduction of the interest rate for consumer credit from NBFIs, it practically hampers the activities of these economic entities and creates conditions for destabilizing the microcredit sector. International experience shows that in countries where interest rates are heavily regulated by the state rather than by competition, the development of the consumer credit market by NBFIs is characterized by slower growth rates, a decrease in the number of such institutions, and less transparency (Bateman, 2010). This practice is also observed in Ukraine. As evident from Table 2, there is a rapid decline in the number of NBFIs (among which a significant portion comprises NBFIs providing microcredit services). Instead, the number of debt collection companies demonstrates a tendency to increase.

Partially, this can be explained, as mentioned above, by the military events in the country, the increase in the share of non-performing credits, legislative restrictions on the activities of NBFIs, and so on. This includes, for example, the adoption of the Law of Ukraine "On Amending the Tax Code of Ukraine and Other Legislative Acts of Ukraine Regarding the Application of Norms During the Period of Martial Law" № 2120-IX.

Table 2. The dynamics of the number of Non-Bank Financial Institutions by types for the period from July 31, 2021, to July 31, 2023.

	31.07.2021	31.07.2022	31.07.2023
Non-bank financial institutions (total), including:	1938	1648	1250
Financial companies	973	887	617
Pawnshops	287	195	167
Credit unions	303	187	149
Debt collection companies	62	67	68

Source: NBUB (2023).

A partial understanding of the relevant issues may have contributed to the development of an alternative draft law – "On Amending Certain Legislative Acts of Ukraine Regarding the Improvement of State Regulation in the Field of Consumer Lending," registry number 9422-1 of July 12, 2023. In contrast to the previous draft law, the document proposes to establish a maximum interest rate for consumer credit at 2% per day of its total amount (2.5% during the period of martial law, but not less than 365 days from the effective date of the law, as provided from January 1, 2024) (Draft law, 2023).

However, as mentioned above, it should be understood that state-imposed interest rate limitations on consumer credits complicate the ability of MFIs to attract capital, both from their operations and from external sources, to cover administrative expenses, etc., and to engage in profitable activities. This, in turn, will lead to a reduced ability to use such an instrument (consumer credit) to secure the rights of low-income citizens.

In the context of practical confirmation of this thesis, it is appropriate to also consider the existence of an opposing approach. In particular, the Reserve Bank of India lifted restrictions on pricing microfinance credits in June 2021 (previously, a cap of 24% on interest rates for MFIs and an additional cap of 10% on their markup over the cost of funds were imposed) (Nair, 2021). According to analysts, such an approach "will improve the operations of microfinance institutions that have been operating in fairly stringent conditions" (Nair, 2021).

And in this case, the rhetorical question arises as to whether the NBU's initiative to set a

maximum interest rate is justified. Specifically, taking into account that, unlike banks, the regulator does not provide refinancing funds to support the financial stability of NBFIs at the base rate or a rate significantly above it. However, even under such circumstances, "state-subsidized lending to the low-income is seen as an ineffective way to solve the problem of high interest rates" (Hudon, & Sandberg, 2023).

Given the above, it becomes inappropriate to emphasize a maximum level of interest rates or any policy directly oriented toward interest rates.

To strike a balance between fair interest rates and ensuring market resilience and the protection of the rights of low-income citizens, the introduction of a socially just environment is advisable. Specifically, a meaningful orientation of business should acquire a new quality, one that "recognizes the multidimensional nature of human beings." Primarily, this concept of entrepreneurship aligns with socially responsible business, where entrepreneurs work primarily not to achieve limited personal gain but to accomplish specific social goals (Yunus, 2009) (Business entities must act most effectively in the direction of protecting or promoting citizens' lawful rights).

Socially responsible environment as a factor in balancing the interests of microcredit and gambling industry market participants on the principles of fairness and resilience

It appears that the government would achieve greater success by focusing on creating a socially responsible environment in which economic entities act transparently and harmoniously to achieve positive social effects. For example, MFIs

provide complete and clear (understandable for everyone) information about credit, the consequences of non-repayment, etc. (in other words, alongside providing the service, they enhance the financial literacy of the population). Moreover, businesses engaged in organizing and conducting gambling activities cooperate with microfinance institutions to prevent the misuse of credit funds in the realm of gaming. In this context, the experience of the UK is quite interesting. For instance, in April 2020, a decision was made to prohibit the use of credit cards for gambling. At the very least, in cases where credit is provided for a gambling stake and subsequently lost, the creditor cannot pursue the "borrower" (player) for debt collection (Pratt, 2021). Additionally, the UK Gambling Commission urged financial institutions to collaborate with gambling operators to develop tools and approaches that can help reduce the risks of harm from borrowing forms about which gambling operators have limited awareness. Specifically, promoting such collaboration was identified as one of the key directions of the National Strategy to Reduce Gambling Harms in 2019. Furthermore, in pursuit of forming a socially just gambling industry, the objectives of licensing, which support the entire basis of gambling regulation, were defined by the UK Gambling Commission: (1) criminality should be kept away from gambling; activities must be conducted honestly and openly; children and other vulnerable individuals must be protected from harm or exploitation in gambling.

The aforementioned approaches could be realized in domestic practice as well. They are expected to have a more positive impact on poverty reduction, establish safeguards against the non-targeted use of credit funds, and enhance coordination between NBFIs and gambling industry entities to minimize the involvement of low-income citizens in gambling activities, which, as a consequence, could lead to a reduction in interest rates in the consumer credit market.

Particularly, the introduction of registers (databases) such as the Registry of Individuals with Restricted Access to Gambling Facilities and Participation in Gambling (Article 5 of the Law of Ukraine "On State Regulation of Activities for the Organization and Conduct of Gambling") for information exchange would be reasonable. This involves creating a registry of microcredit

recipients and a registry of clients of the gambling industry, providing mutual access to these registries to gambling organizers and MFIs. Concurrently, it is deemed necessary to legislatively mandate (rather than right) the subjects engaged in the mentioned spheres to verify information regarding individuals' presence in the registries (e.g., by using an identification code) when applying for credit or opening an account with a gambling operator. Subsequently, the detection of information by an NBFIs about the existence of an open account with a gambling organizer will be considered grounds for denying consumer credit, and conversely, information found by a gambling institution, especially a bookmaker, about an individual obtaining consumer credit will serve as a basis for refusing to open a corresponding account.

Furthermore, to prevent the non-targeted use of credit funds, it is deemed appropriate to develop a mechanism for issuing payment cards for the provision of consumer credits with restrictions on using such cards for payment transactions, particularly for services provided by gambling industry entities. Examples of utilizing similar instruments are not novel in national practice. An example is the issuance of payment cards under the state program "Recovery" (Cabinet of Ministers of Ukraine Resolution "On Approving the Procedure for Providing Compensation for the Restoration of Certain Categories of Immovable Property Damaged as a Result of Hostilities, Terrorist Acts, Sabotage, Caused by Armed Aggression of the Russian Federation, Using the Electronic Public Service "yeVidnovlennya").

DISCUSSION

The issue of excessively high-interest rates on microcredits is one of the most debated topics. On one hand, such credits are intended to benefit borrowers, predominantly low-income citizens, while on the other, NBFIs - the providers of these services - need to cover their significant expenses and maintain their financial stability. The approaches of scholars like Gielissen, Dutilh, Graafland, Heath, Norman, Driver, Sinnott-Armstrong, Yunus and others to determine a fair price are valid, yet each of them has certain disadvantages. It is believed that the establishment of a socially responsible environment, in which economic entities act transparently and harmoniously to achieve a

positive social effect, could address this problem. This proposition emerges as a potential solution to balance the interests of low-income borrowers with the financial stability of NBFIs. Simultaneously, a significant aspect for further scholarly exploration is devising mechanisms to counter the use of consumer credits for paying services provided by gambling industry entities. Moreover, the rationale behind the NBU's initiative regarding the determination of a maximum interest rate for credits from NBFIs, the authority to set borrower requirements, and the regulation of NBFIs remains a subject of debate, as well as the transfer of responsibilities to it in regulating NBFIs. Other countries have alternative approaches in this direction that have proven effective in practice (LightCastle Analytics Wing, 2020).

By doing so, the study contributes to the existing theoretical framework by highlighting the potential efficacy of creating a socially responsible environment and pioneers a distinctive approach to address the complex matter of balancing the interests of low-income borrowers and the financial stability of NBFIs. While the study provides valuable insights into the NBU's initiative and contributes to the understanding of effective regulatory approaches in microcredit and beyond, there are certain aspects that warrant deeper exploration in future research. Specifically, a more nuanced analysis of the rationale behind the expansion of the NBU's authority in the NBFIs market is essential.

Further investigation into this area could unveil the underlying motivations, challenges, and potential consequences associated with the increased regulatory role of the central bank. Understanding the intricacies of this question would contribute to the development of well-informed recommendations for regulatory frameworks in the microcredit sector and related financial domains.

CONCLUSION AND RECOMMENDATION

The article reveals the peculiarities of balancing the interests of consumers of financial services in microcrediting and non-banking financial institutions based on the principles of fairness and resilience, particularly in the context of a state of war in Ukraine (this is exemplified through relationships where low-income citizens use consumer credits for gambling). It

also seeks to identify tools to counter the utilization of consumer credits for gambling, as well as to substantiate the directions of legal support for relevant issues at the countrywide level.

The analysis that was conducted allows us to conclude that limiting interest rates on consumer credits is not advisable. Such actions could negatively impact the resilience of NBFIs, which are already facing losses due to the conditions of martial law and the imposition of legislative restrictions on their activities.

To strike a balance between fair interest rates and the resilience of the market, as well as to protect the rights of low-income citizens, it is advisable not to introduce a cap on interest rates for credits but rather to promote the creation of a socially just environment (socially responsible business). This approach entails fostering an environment where businesses act transparently, harmoniously, and in the best interests of society. It encourages financial institutions, including NBFIs, to operate with fairness and transparency, ensuring that their services benefit low-income borrowers and do not pose undue financial risks to consumers. Such an approach offers a more flexible and sustainable solution compared to imposing strict interest rate caps, which may have unintended consequences or hinder the functioning of the microcredit market.

Additionally, to prevent cases of non-targeted use of consumer credits (including preventing the use of credit funds for paying services provided by gambling industry entities) and considering the importance of balancing public and private interests in this sphere, the following measures are proposed:

- Normatively establish the possibility of information exchange between NBFIs, banks, and gambling organizers. This could lead to the creation of a common database of consumer credit recipients and clients of the gambling industry and require the verification of information important for credit provision. Consequently, the detection by an NBFIs of information regarding the presence of, for instance, an open account with a gambling organizer will be a basis for refusing to grant consumer credit. Conversely, information identified by a gambling institution, particularly a bookmaker, about an

individual obtaining consumer credit will serve as a basis for refusing to open a corresponding account.

- Develop a mechanism for issuing payment cards for consumer credits, restricting the use of such cards in transactions related to paying for services provided by gambling industry entities.

For further research, it would be prudent to delve more deeply into the analysis of the rationale for expanding the scope of authority of the NBU in the market of NBFIs.

REFERENCES

- Aldin, N., & Stahre, F. (2003). Electronic commerce, marketing channels and logistics platforms--a wholesaler perspective. *European Journal of Operational Research*, 144(2), 270-279. [https://doi.org/10.1016/S0377-2217\(02\)00393-4](https://doi.org/10.1016/S0377-2217(02)00393-4)
- Adamu, G. (2007). Role of Microfinance Institutions in Actualization of MDGs. The Induction Ceremony of the Institute of Chartered Economists of Nigeria (ICEN) in Port Harcourt.
- Bateman, M. (2010). Why doesn't microfinance work: The fragile illusion of local neoliberalism. Zed.
- Chaudhary, H., & Tshung, F. C. (2022). Analysis of the awareness of microfinance in developing economies and its impact. *Technoarete Journal on Accounting and Finance*, 2(6). <https://doi.org/10.36647/tjaf/02.06.a003>
- Cherkasova, S., Medvid, L., & Mitsenko, N. (2022). Analysis of credit activity of non-banking financial institutions. *Economy and Society*, (36). <https://doi.org/10.32782/2524-0072/2022-36-6>
- CRGL (2023). Information on licenses issued by CRGL. <https://www.gc.gov.ua/ua/Plany-roboty-Komisii.html>
- Davies, S., Evans, J., & Collard, S. (2022). Exploring the links between gambling and problem debt. Personal Finance Research Centre, University of Bristol, Bristol, England. [Google Scholar]
- Draft law (2023). Draft law card - Legislation. (n.d.). <https://itd.rada.gov.ua/billInfo/Bills/Card/42288>
- Driver, J. (2011). Consequentialism. Routledge.
- Ewubare, D. B., & Okpani, A. O. (2018). Poverty and income inequality in Nigeria (1980-2017). *International Journal of Advanced Studies in Ecology, Development and Sustainability*, 5(1), 138-151.
- Fernando, N. A. (2006). Understanding and Dealing with High-Interest Rates on Microcredit Development Bank, Manila.
- Finance.Ua. (2023). The size of the real daily rate will be reduced. The National Bank is preparing a revolution in the microcredit market. Finance.ua News. <https://news.finance.ua/ua/rozmir-real-noi-dennoi-stavky-zmenshat-nachbank-hotuye-revolyuuciyu-na-rynku-mikrokredytuvannya>
- Financial Counselling Australia. (2022) The explosion of gambling harm and the need for urgent training for financial counsellors. Financial Counselling Australia. <https://www.financialcounsellingaustralia.org.au/docs/gambling-harm-and-training-for-financial-counsellors>
- FinClub. (2020). What is happening in the market of non-bank financial institutions in the era of the split - Financial Club. finclub.net. <https://finclub.net/ua/reviews-ua/shcho-vidbuvaetsia-na-rynku-nebankivskykh-finustanov-v-epokhu-splitu.html>
- GambleAware (2022). The transformation and development of GambleAware's early intervention, support and treatment services. Commissioning Intentions Document. <https://www.begambleaware.org/sites/default/files/2022-09/GambleAware%20Commissioning%20Intentions%20FINAL.pdf>
- GambleAware (2021). Gambleaware publishes 2020/21 National Gambling Treatment Service annual statistics. BeGambleAware. <https://www.begambleaware.org/news/gambleaware-publishes-202021-national-gambling-treatment-service-annual-statistics>
- Gambling Commission of UK (2021). Customer interaction: formal guidance for premises-based operators. (n.d.). Gambling Commission.

- <https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/customer-interaction-formal-guidance-for-premises-based-operators>
- Gielissen, R. B., Dutilh, C., & Graafland, J. (2008). Perceptions of price fairness: An empirical research. *Business and Society Review*, 47(3), 370–389.
<https://research.tilburguniversity.edu/en/publications/perceptions-of-price-fairness-an-empirical-research>
- Hayes, A. (2020). Microcredit: Definition, How It Works, Loan Terms. Investopedia.
<https://www.investopedia.com/terms/m/microcredit.asp>
- Heath, J. (2015). Morality, competition, and the firm: the market failures approach to business ethics. *Choice Reviews Online*, 53(01), 53 - 0330.
<https://doi.org/10.5860/choice.190452>
- Helms, Brigit S.; Reille, Xavier (2004). Interest rate ceilings and microfinance: the story so far. CGAP Occasional paper; no. 9 Washington, D.C.: World Bank Group.
<http://documents.worldbank.org/curated/en/572411468139208387/Interest-rate-ceilings-and-microfinance-the-story-so-far>
- Hudon, M. (2007). Fair interest rates when lending to the poor. *ULB Institutional Repository*, 5 (1), 1 - 8.
https://papyrus.bib.umontreal.ca/xmlui/bitstream/1866/3394/1/2007v5n1_HUDON.pdf
- Hudon, M., & Sandberg, J. (2023). Toward a theory of fair interest rates on microcredit: balancing the needs of clients and institutions. In Edward Elgar Publishing eBooks (pp. 83–98).
<https://doi.org/10.4337/9781789903874.00011>
- Irobi, N. C. (2008). Microfinance and poverty alleviation: a case of Obazu Progressive Women Association, Mbieri Imo state - Nigeria.
<http://hdl.handle.net/20.500.12424/418313>
- Jolis, A., & Yunus, M. (1999). Banker to the poor. <http://www.diohuron.org/what/mthatha/documents/BankertothePoor.pdf>
- Kayongo, S., & Mathiassen, L. (2023). Improving agricultural relations and innovation: financial inclusion through microfinancing. *Journal of Business & Industrial Marketing*.
<https://doi.org/10.1108/jbim-10-2022-0459>
- Kitsoft (2023). Bureau of Economic Security of Ukraine - after the start of the ESBU investigation the gambling business has already paid four times more taxes than for the entire last year.
<https://esbu.gov.ua/en/news/after-the-start-of-the-esbu-investigation-the-gambling-business-has-already-paid-four-times-more-taxes-than-for-the-entire-last-year>
- Krysten, R., Tymoty R. Layman, Rozenberh, R. (2003). A guide to regulation and supervision of Microfinance. CGAP.
<https://www.cgap.org/research/publication/guide-to-regulation-and-supervision-of-microfinance>
- Littlefield, E., Morduch, J., & Hashemi, S. (2003). Is microfinance an effective strategy to reach the Millennium Development Goals? Focus note, 24 (2003), 1-11.
- Mersland, R., & Strøm, R. Ø. (2010). Microfinance mission drift? *World Development*, 38(1), 28-36.
- MDG (n. d.). Millennium Development Goals.
<http://www.mdgfund.org/node/922>
- Muggleton, N., Parpart, P., Newall, P. et al. (2021). The association between gambling and financial, social and health outcomes in big financial data. *Nat Hum Behav* 5, 319–326 (2021). <https://doi.org/10.1038/s41562-020-01045-w>
- Nair, V. (2021). RBI's proposed microfinance norms negative for banks, say analysts. BQ Prime.
<https://www.bqprime.com/business/rbi-proposes-removing-pricing-cap-for-microfinance-loans>
- Nair, V. (2022). RBI removes pricing caps for microfinance lenders. BQ Prime.
<https://www.bqprime.com/business/rbi-removes-pricing-caps-for-microfinance-lenders>
- National strategy to reduce gambling harms archive. Gambling Commission. (2022, December 12).
<https://www.gamblingcommission.gov.uk/about-us/reducing-gambling-harms#the-national-strategy-to-reduce-gambling-harms>
- NBU (2023). The licenses of two financial companies were revoked. The official website of the NBU. URL:
<https://bank.gov.ua/ua/news/all/dvom->

- [finansovim-kompaniyam-anulovano-litsenziyi](#)
- NBU (2023a). The National Bank creates prerequisites for responsible lending and effective regulation in the market of non-banking financial services. National Bank of Ukraine.
<https://bank.gov.ua/ua/news/all/natsionalni-y-bank-stvoryuye-peredumovi-dlya-vidpovidalnogo-kredituvannya-ta-efektivnogo-regulyuvannya-na-rinku-nebankivskih-finansovih-poslug>
- NBU (2023b). Financial market in figures.
<https://bank.gov.ua/ua/news/all/u-berezni-na-rinku-nebankivskih-finansovih-poslug-novih-gravtsiv-ne-zyavilosya-vodnochas-37-uchasnikiv-zalishili-rinok>
- NBU (2023c). The share of non-performing loans (NPL) in Ukraine was 38% at the beginning of 2023. National Bank of Ukraine.
<https://bank.gov.ua/ua/stability/npl>
- Ngo, T., Le, V., & Le, H. (2021). Factors affecting credit risk in lending activities of joint-stock commercial banks in Vietnam. *Journal of Eastern European and Central Asian Research (JEECAR)*, 8(2), 228–239.
<https://doi.org/10.15549/jeecar.v8i2.666>
- Norman, W. (2011). Business Ethics as Self-Regulation: Why Principles that Ground Regulations Should Be Used to Ground Beyond-Compliance Norms as Well. *J Bus Ethics* 102 (Suppl 1), 43–57.
<https://doi.org/10.1007/s10551-011-1193-2>
- Odoko, F. O. (2008). Beyond finance: Strategies for poverty reduction in Nigeria. Publication of the Central Bank of Nigeria, 35.
- Office for Health Improvement and Disparities. (2023, January 11). Gambling-related harms: Evidence review. GOV.UK.
<https://www.gov.uk/government/publications/gambling-related-harms-evidence-review>
- Opendatabot (2023). Revival of MFIs: microcredit increased by 39% in three months. Opendatabot.
<https://opendatabot.ua/analytics/mfo-2023-1>
- Opendatabot (2023a). 739 Ukrainians entered the registry of Ludomaniacs in 3 years. Opendatabot.
<https://opendatabot.ua/analytics/739-ludomans>
- Oratowski, P., Cwynar, A., Cwynar, W., Dankiewicz, R., & Ostrowska-Dankiewicz, A. (2019). Why do consumers remain financially illiterate? The empirical test of some less investigated reasons. *Journal of Eastern European and Central Asian Research (JEECAR)*, 6(1), 40–55.
<https://doi.org/10.15549/jeecar.v6i1.285>
- Pratt, K. (2021). UK Bans Use Of Credit Cards To Pay For Gambling. *Forbes Advisor UK*.
<https://www.forbes.com/uk/advisor/personal-finance/2020/04/14/uk-bans-use-of-credit-cards-to-pay-for-gambling/>
- Rudenko, Ye., Larin, D. (2021, May 12). Confessions of a drunkard. *Ukrainian Pravda*.
<https://www.pravda.com.ua/articles/2021/05/12/7293168/index.amp>
- Sinnott-Armstrong, W. (2019). Consequentialism. *Stanford Encyclopedia of Philosophy*.
- Snidko, Y., & Kalnauz, D. (2020). The current state of microcredit in Ukraine. Materials of the IV All-Ukrainian Scientific and Practical Conference.
<https://dspace.mnau.edu.ua/jspui/bitstream/123456789/8066/3/2020.pdf>
- Sorell, T. (2015). Is there a human right to microfinance? *Microfinance, Rights and Global Justice*, 27–46.
- Sorell, T., & Cabrera, L. (2015). Microfinance, rights and global justice.
<https://doi.org/10.1017/cbo9781316275634>
- Shuplat, O. M. (2019). The current situation and trends of non-bank microcrediting in Ukraine. *Aktual'ni Problemi Rozvitku Ekonomiki Regionu*, 1(15), 105–112.
<https://doi.org/10.15330/apred.1.15.105-112>
- Taranenko V. (2021, February 9). Lost credit at the casino. How courts punish gambling addicts. *Glavcom*.
<https://glavcom.ua/publications/svizhiy-kovtok-azartu-abo-yak-v-ukrajini-karayut-ludomaniv-735387.html>
- Tchuigoua, H. T., & Soumaré, I. (2019). The effect of loan approval decentralization on microfinance institutions' outreach and loan portfolio quality. *Journal of Business Research*, 94, 1–17.
<https://doi.org/10.1016/j.jbusres.2018.09.021>

Tien, D. P., & Nguyen, K. Q. T. (2023). Credit risk management and effectiveness of credit activities: Evidence from Vietnam. *Journal of Eastern European and Central Asian Research (JEECAR)*, 10(5), 788–799.
<https://doi.org/10.15549/jeecar.v10i5.989>

USRCD. Unified state register of court decisions. (n.d.).
<https://reyestr.court.gov.ua/Review/109073542>

Wing, L. A. (2023). Poverty Alleviation through Microfinance. LightCastle Partners.
[https://www.lightcastlebd.com/insights/2020/02/poverty-alleviation-microfinance/#:~:text=The%20Microcredit%20Regulatory%20Authority%20\(MRA,between%2024%25%20to%2027%25](https://www.lightcastlebd.com/insights/2020/02/poverty-alleviation-microfinance/#:~:text=The%20Microcredit%20Regulatory%20Authority%20(MRA,between%2024%25%20to%2027%25)

Yehorycheva, S., & Vertebnyi, I. (2021). The impact of the use of credit services on the financial security of households in Ukraine. *Socio-Economic Relations in the Digital Society*, 3(42), 67–74.
[https://doi.org/10.18371/2221-755x3\(42\)2021253527](https://doi.org/10.18371/2221-755x3(42)2021253527)

Yunus, M., & Weber, K. (2007). *Creating a World Without Poverty: Social Business and the Future of Capitalism*.
http://faculty.smcm.edu/jwschroeder/GlobalJustice2014/texts_files/Yunus%202008%20social%20business%20the%20future%20of%20capitalism.pdf

Yunus, M. (2009). *Creating a world without poverty: Social business and the future of capitalism*.
<https://www.globalurban.org/GUDMag08Vol4Iss2/Yunus.pdf>

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