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**PROCESS APPROACH IN BANKRUPTCY PROCEDURES AS
INNOVATIVE TENDENCY OF CRISIS MANAGEMENT**

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Abstract

Bankruptcy is a necessary part of a market economy because it provides competition and a number of methods for resolving problems in case of financial insolvency of organizations. It is necessary to improve management processes at enterprises in bankruptcy procedures.

Bankruptcy or financial inability is a procedure which is sanctioned by the court for the recognition of the debtor, unable to satisfy the claims of the creditors on monetary obligations and (or) to fulfil the obligations to pay regulatory charges for a certain period of time.

There are four processes in bankruptcy – three rehabilitation processes and a liquidating process.

Such bankruptcy proceedings as observation, financial recovery and external management are rehabilitation procedures.

Receivership is the liquidating process because its main objective is the realization of debtor's property and discontinuation of its activity.

Theoretical and methodological foundations of the process approach in bankruptcy procedures are considered in the paper.

The process approach helps to increase the effectiveness of management processes at enterprises being in crisis. Bankruptcy procedures are considered as processes represented by three levels: strategic, tactical and operational ones.

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1. Introduction

Bankruptcy proceeding is the most important process of bankruptcy. As a part of bankruptcy, proceeding creditors' claims are satisfied in a manner that respects the hierarchy of these claims. The claims of creditors of each subsequent succession are satisfied after a complete payment of the claims of creditors of previous succession.

Also as a part of bankruptcy proceeding, the contracts of the debtor can be litigated for restitution of some parts or debtor's property and its inclusion in the general mass of a bankrupt's estate.

As a result of bankruptcy proceeding, the main problems are solved and bankruptcy is finished. Consequently the bankruptcy proceeding can be considered as the most important process of bankruptcy.

Thus, the analysis of the process approach in bankruptcy proceeding need to be thoroughly studied.

2. Problem Statement

The analysis of bankruptcy proceedings showed that there are many problems that need to be solved:

1. Bankruptcy procedure is initially introduced to insolvent companies.
2. There are a large number of absent debtors, who do not have the purpose of the debtor's recovery.
3. The imperfection of bankruptcy procedures, the inability to use them for business recovery

(Bezverbnaya, 2006).

In the vast majority of cases, liquidation is the result of bankruptcy procedures. Many debtors are in the liquidation procedure. The share of liquidation procedure without absent debtors is more than 79% of the all bankruptcy procedures. About 18 % of the organizations are in the observation procedure and only 2.8% have restructuring; less than 1 % of organizations are in the stage of financial recovery – 0.1% and 0.2 % of debtors conclude the amicable agreement (Goloshchapov, 2000).

In the paper the results of the analysis of the processes in bankruptcy procedures are presented to ensure the effectiveness of business rehabilitation. As a result of applying the process approach:

- time of operations is reduced;
- labor costs are saved;
- number of links in the chain of value creation is reduced;
- costs are reduced;
- number of vertical connections are reduced;
- excessive control is eliminated;
- document management system is simplified;
- quality of management and quality of manufactured product/service is improved.

It is necessary to consider the theoretical and practical aspects of the process approach in bankruptcy procedures in Russia.

3. Research Questions

The research questions are associated with the analysis of such concepts as "process", "procedure", "procedure control", "process activities", "bankruptcy" to highlight their relationship with the crisis management.

Process management is an innovative approach in management.

Based on the analysis of business processes, the authors distinguish three levels of processes in crisis management: operational, tactical and strategic.

In accordance with the process approach, methods of management in bankruptcy procedures are the following:

The first stage is operational - solvency restoration. There are methods for solvency restoration leads to improvement of payment calendar; collecting receivables, selling unused assets; analysis and regulation of the level of inventory; transfer of short-term debt to long-term debt; payment changes for delay on the part of suppliers.

The second stage is tactical - financial stabilization. There are methods to stabilize financial situation to attract additional sources of financing: debt restructuring; cost reduction; downsizing; payment changes for advances from customers; optimization of the tax burden.

The third stage is strategic - the financial situation of the company strengthen in the long term. The methods of financial balance in the long term ensures involvement of additional internal and external funding sources: active marketing activities aimed at markets increasing; the pursuit of strategic investments; increase the products competitive properties; the assets reform (restructuring); implementation of KPI (key profitable indicators) system.

4. Purpose of the Study

The purpose of the paper is to study innovative approaches to crisis management and to identify the specifics and the most relevant problems in bankruptcy procedures in Russia. On their basis, the authors are to justify measures for improving the effectiveness of crises management of debtors.

Besides, it is necessary to reveal the peculiarities of the process approach in bankruptcy procedures and to develop the directions of business activity improvement.

5. Research Methods

General scientific methods are used in the paper: methods of systemic, process, problem, situational and comparative analysis, theoretical modelling, methods of typologization, empirical and theoretical generalization.

The description method made it possible to collect, analyze and characterize the object and subject of the study. The systematization of the study has been carried out by the abstract-logical method; the most significant signs of it have been identified. The method of economic modelling made it possible to develop tools which allow assessing the effectiveness of crisis management.

6. Findings

6.1. The analysis of such concepts as "process", "procedure", "procedure control", "process activities", "bankruptcy" highlights their relationship with "crisis management"

In the conditions of hard market competition of domestic and foreign organizations only companies with major competitive advantage, using high quality of management can survive. World practice has shown that the application of the principles of international standard ISO 9001:2000 is a reliable method to

create the efficient management system, to improve competitiveness and create favourable conditions for investment growth.

In ISO 9000:2000 (clause 3.4.1.), the concept "process" is used as "a set of interrelated and interacting actions transforming inputs and outputs" (Glukhova, 2016). So, in the books on re-engineering, a process is often defined as "work flow with beginning and end" (Popov, 2004a). Often we can see the concept "interaction". Adler (2002) defines the process as "one of the possible forms of the organization's activities description".

Process management is an innovative approach; it has not been established yet in the categorical relationship and the fundamental structure of a scientific direction in management. Its peculiarity is that management is regarded as "a single process of impact on the organization, not a series of disparate actions" (GOST R ISO, 2001).

As noted by Solovieva (2005), "the process approach allows answering the questions of not only who does what, but how, what sequence is, what the result is". Azrilyan (2004) notices that the process is "a set of consecutive actions for achievement of any result".

Repin (2004) distinguishes two directions to the process approach to enterprise management. The first is called "full", a systematic approach to the selection of the company processes, where the enterprise is regarded as a network of processes. The network of processes is defined as "a set of interrelated and interacting processes of an enterprise, which includes all activities carried out at the enterprise" (Popov, 2004b). It is important that all activities, without exception, is considered in the form of processes. A process owner has all the resources necessary to ensure the effectiveness and efficiency of the process, takes a clear position in the organizational structure.

The second understanding of the process approach is based on the allocation in the organization "end-to-end" processes, their description and subsequent reorganization. The process is defined as "a purposeful sequence of operations (works, procedures), leading to the desired end result – the exit process." When using this definition by the process we understand a sequence of works performed alternately in the different divisions of the company, actors, incoming and outgoing documents, etc.

The authors define the term "procedure" in the scientists understanding. The procedure is derived from the Latin "procedo" - anything long-term, consistent case, order (Bobryshev, 2004). Yun, and Tal (2003) determine the procedure as the officially established procedure for the discussion; the conduct of any business.

The definition "procedure management" is considered as a particular order of execution of any set of management operations, review and business management, for example, the procedure of decision making, accounting, control, employment, dismissal, etc. (Robson, 1997). The management process is the total volume of the continuous interconnected actions, functions, administration and staff within a single organization (Azrilyan, 2004).

The definition "bankruptcy procedure" is very important to study. According to Goloshchapov (2000) "the bankruptcy procedure" is "the list of procedures established by law that works after the company is being declared bankrupt, the procedures regulate the process of creditors' claims satisfaction and an enterprise liquidation".

Thus, the authors find a similar meaning of two concepts "process" and "procedure", which focuses on a targeted set of interrelated activities, a certain course of action, decision-making, leading to the desired result. This similarity, in our opinion, gives the necessity to study the process approach in bankruptcy procedures.

The process approach is particularly attractive for crisis management. This is because in a crisis situation, it is required systematic monitoring of the implementation of the sequential management decisions and making adjustments according to changing internal and external environment of the organization. Feature of crisis management from the point of view of process approach is evident in the Association of diagnostics, prevention and overcoming of the crisis restructuring strategy and the use of unconventional methods in the management of finance, personnel and marketing.

6.2. Three levels of process activities in crisis management are distinguished and analyzed: strategic, tactical and operational

Crisis manager performs a number of definite actions in bankruptcy procedures aimed at the result - rehabilitation or liquidation of a debtor.

Thus, all enterprise activities during bankruptcy proceedings, without exception, are considered in a form of processes. The crisis manager, a process owner, has all resources necessary to ensure the efficiency of a process, recovery of a debtor.

Adler and Shepetova (2002) distinguish three levels of processes description of an enterprise.

In our opinion, these levels of processes description of an enterprise we can be used to a debtor company.

The first level is strategic, when an organization is represented as "a black box", interacts with stakeholders. The main criterion is creditors' satisfaction. According to Adler (2001), "fundamental interactions of our business is interaction with stakeholders". These interactions generate processes.

The second level is tactical; there is a process of research and development. Here, a liquidator must act within the concept of the process approach "plan with the help of a process - act in frameworks of a process - consider with a process - analyze indicators of processes - generate corrective solutions" (Frolov, 2012). Its main task is to manage processes effectively, and thus make them work efficiently, quickly, cheaply. The main processes in bankruptcy procedures are the same as in any other object of management: planning – organization - motivation - control - optimization (retargeting).

The third level is operational, where processes turn into projects action. Business processes are realized in a debtor: monitoring must be for their implementation, control, and variations management (to compare planned and actual indicators of processes, analysis of quality indicators), workload of employees, administration of processes and tasks. When the processes are completed, it is necessary to analyze the achieved results (based on multiaspect statistics on processes), to learn, to correct mistakes and, ultimately, to optimize and reorganize the business processes in accordance with corrective conclusions.

Glukhova, and Bekhtina (2016) propose a classification of financial recovery methods:

The first stage is operational - restore solvency.

The second stage is tactical - stabilization of the financial condition.

The third stage is strategic - strengthen the financial situation of the company in a long term.

6.3. The characteristic of bankruptcy processes is presented; their specificity and peculiarities are highlighted

Crisis management is a special type of management that is applied to debtors, where the arbitration court initiates bankruptcy proceedings in connection with their insolvency (Nechaev, Antipina & Prokopyeva, 2014).

It should be noted that crisis management is a specialized form of administrative management of an insolvent debtor in the form of administrative and control activities carried out by publicly appointed person. He works in the context of administrative procedural rules established by the legislation on bankruptcy with the aim of financial solvency recovery or liquidation of a debtor and proportionate satisfaction of creditors, for the stabilization of market relations. He uses regulatory protection of public interests in the legal relationship, resulting from financial insolvency of a debtor, "external" mechanism for financial conflict solving between a debtor and its creditors (Efremov, 2001).

In accordance with the legislation on insolvency (bankruptcy) in the Russian Federation the authors distinguish the stages of bankruptcy proceedings.

1. Observation. This stage has goals such as a debtor's property safety, financial analysis of a company. During observation a crisis manager keeps the assets of a debtor and, if possible, increase them by collecting the receivables, and prepares the situation for further development and prepares the important decisions - which of two ways will go to further process: liquidation or rehabilitation.

The following procedures can be used by the results of observation of a debtor:

- financial recovery;
- restructuring;
- liquidation;
- amicable agreement.

2. Financial recovery. At this stage a schedule of a debt repayment is provided and financial information of a debtor for the repayment schedule is collected.

3. Restructuring. This phase aims to remove a company from insolvency state.

The plan of restructuring includes the activities: conversion of production, a part of debtor's property sale, assignment of claims of the debtor, share capital of a bankrupt company increase, additional shares placement, a company sale.

With the introduction of financial recovery and restructuring, all forces are directed to realization of plans for the withdrawal of a debtor from a crisis, as well as the development and implementation of modern management techniques, allowing one to create a model of effective activity of enterprise in conditions of crisis.

4. Liquidation. The purpose of this stage is the maximum satisfaction of requirements of creditors. A crisis manager carries out activities related to the formation and distribution of a bankruptcy estate (Khursevich, 2005).

All bankruptcy estate are distributed among creditors in accordance with the law:

1. Repayment of court costs;
2. The remuneration of a liquidator;
3. Payment of current utility bills, salary and other expenses;

4. Satisfaction of claims of citizens for compensation of harm caused to life and health;
5. Payment of obligatory payments in the budget.

One of the intermediate stages of bankruptcy may be the procedure of the amicable agreement. The amicable agreement can be concluded at any stage of bankruptcy proceedings. This is a procedure where an agreement is reached between the debtor and the creditor for the postponement or installment performance of obligations (Bobryshev & Lebedev, 2004).

All of the above stages define the process in bankruptcy proceedings.

For understanding the nature of crisis management it is important to understand the mechanisms of the genesis of its processes.

Attractiveness and, ultimately, the business efficiency as a way of human purposeful activity, aimed at the creation and implementation of the society use-values with a certain commercial advantage, are in direct dependence on a system of relations within the organization, its external environment, the industry and the market. To denote such system of relations, the concept “a business system” is introduced (Dal, 2012). The business system will determine what price of a concrete business eventually will be.

The effectiveness of the procedure of financial recovery especially depends on a system of analytical data used for managerial decision-making. It is possible to perform, using the method of implementation of key profitable indicators (KPIs). Earlier, in the works of Russian scientists, the implementation of KPI system in the enterprise was not considered as a method of financial recovery.

7. Conclusion

On the whole, it is possible to state that process management is an innovative approach to the debtors management. The process approach allows identifying the main business processes of the enterprise, to simulate them and to improve, by eliminating the negative aspects and having maximized its benefits.

Thus, the process approach allows solving such problems as reducing costs, increasing profitability, improving the management (improvement of the reporting system of the company, the creation of a transparent control system, the acceleration of the procedures of adoption of administrative decisions) as well as reducing the influence of the human factor in the company management.

In this study, the authors have developed organizational, methodological recommendations on the formation of bankruptcy proceedings as processes represented by three levels: strategic, tactical and operational ones.

References

- Adler, Yu., (2001). What is not in the eight principles, but without which there is no meaning in ISO 9000:2000. *Standards and quality, 1*, 86-87.
- Adler, Yu., & Schepetova, S.E. (2002). Process description of business is the basis of system of quality economy. *Standards and quality, 2*, 66-69.
- Azriliyan, A.N. (2004). *The big economic dictionary*. Moscow: Institute of new economics.
- Bezverbnaya, M.Yu. (2006). *Mechanism of effective management of debtors' companies in the insolvency procedures* (Candidate dissertation): Irkutsk.
- Bezverbnaya, M.Yu. (2006). Theory of fuzzy sets in the effective management in the insolvency procedures. *Bulletin of Irkutsk State Economics Academy, 3(48)*, 25-27.

- Bobryshev, A.D., & Lebedev, Yu.O., (2004). *Practical handbook for bankruptcy procedures managers*. Moscow: European communities.
- Dal dictionary. (2012). Retrieved from <http://vidahl.agava.ru/cgi-bin/dic.cgi?p=187&t=34559>.
- Efremov, V.S. (2001). Organizations, business systems and strategic planning. *Management in Russia and abroad*, 2, 3-26.
- Frolov, I.V., (2012). Bankruptcy trustee in the bankruptcy proceedings as a public authority appointed by the administrative-management rules debtor. *Bulletin of Voronezh State University*, 2(13), 201-212.
- Glukhova, L.V., & Bekhtina, O.E. (2016). Improving of approaches anti-crisis management of enterprise. *Bulletin of Volzhsky University n.a. V.N. Tatischeva*, 2(3), 92-99.
- Goloshchapov, N.A. (2000). *Dictionary of the Director*. Moscow: The centre of Economics and marketing.
- GOST R ISO 9000:2000. (2001). *Quality management system*. Moscow: Gosstandart of Russia.
- Khursevich S.N., (2005). *Bankruptcy. Overcoming stereotypes*. Moscow: M-OKO.
- Nechaev, A.S., Antipina, O.V., & Prokopyeva, A.V. (2014). The risk of innovation activities in enterprises. *Life Science Journal (LSJ). USA*, 11, 574-575.
- Popov, R.A. (2004a). *Crisis management*. Moscow: High school.
- Popov, R.A. (2004b). The prevention of bankruptcy: an analysis of statistical data for 2003. *Crisis management and recovery*, 2, 70-74.
- Repin, V.V. (2004). Two understanding of the process approach to enterprise management. *Methods of quality management*, 4, 5-9.
- Robson, M., & Ullah, F. (1997). *A practical guide to reengineering of business processes*. Moscow: Audit, Yuniti.
- Solovieva, O.V. (2005). *Reorganization of management processes in the crisis industrial enterprises* (Candidate dissertation): Irkutsk.
- Yun, G.B. (2003). *Dictionary of crisis management*. Moscow: Delo.