



01 October – 31 December

QUARTER IV 2017

REPORT

The background of the page is a complex, abstract architectural rendering. It consists of numerous overlapping, semi-transparent blue wireframe structures that resemble modern skyscrapers or industrial frameworks. The lines are thin and create a sense of depth and complexity. The overall color palette is a range of blues, from light sky blue to deep, dark navy blue, set against a plain white background.

BUSINESS
OMBUDSMAN
COUNCIL

www.boi.org.ua

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The BOC and the Council are used interchangeably throughout the text to refer to the Business Ombudsman Council.

FOREWORD OF THE BUSINESS OMBUDSMAN



Dear Friends, Colleagues, and Partners,

I am pleased to present the Business Ombudsman Council's report for Q4 2017. It outlines the remarkable progress we have made in building an efficient and service-oriented institution.

The Council received staggering 729 complaints, which amounts to half of inquiries in 2017 and a quarter of appeals since launch of operations. We closed 429 cases, the largest number in the Council's history, and managed to shorten the average duration of investigations by half since 2016 – from 122 to 60 days. We closed 64% of matters with positive – either financial or non-financial – result for claimants. The direct financial impact of our operations now exceeds UAH 11.3 billion.

Our dialogue with government agencies reached its all-time high with state bodies fulfilling 91% of our recommendations. Some vital systemic issues were also addressed over the past three months. In particular, the law providing for mandatory video recording of searches by law enforcers (also well known as #MaskShowStop), has come into force. We have been instrumental in drafting the text of this law and took an active part in ensuring its ultimate adoption

by joining efforts with the Prime Minister, the Ministry of Justice of Ukraine, UkraineInvest and leading Ukrainian business associations. It is a collaborative achievement, and here we express our gratitude to all those who have contributed – the business community that did not shy away from voicing their problems, the government agencies that have risen to a challenge and, of course, the talented BOC's team.

In this quarter, we made public a new systemic report "Control over Controllers". We are convinced that recommendations provided will help ensure effective state supervision and alleviate pressures in doing business.

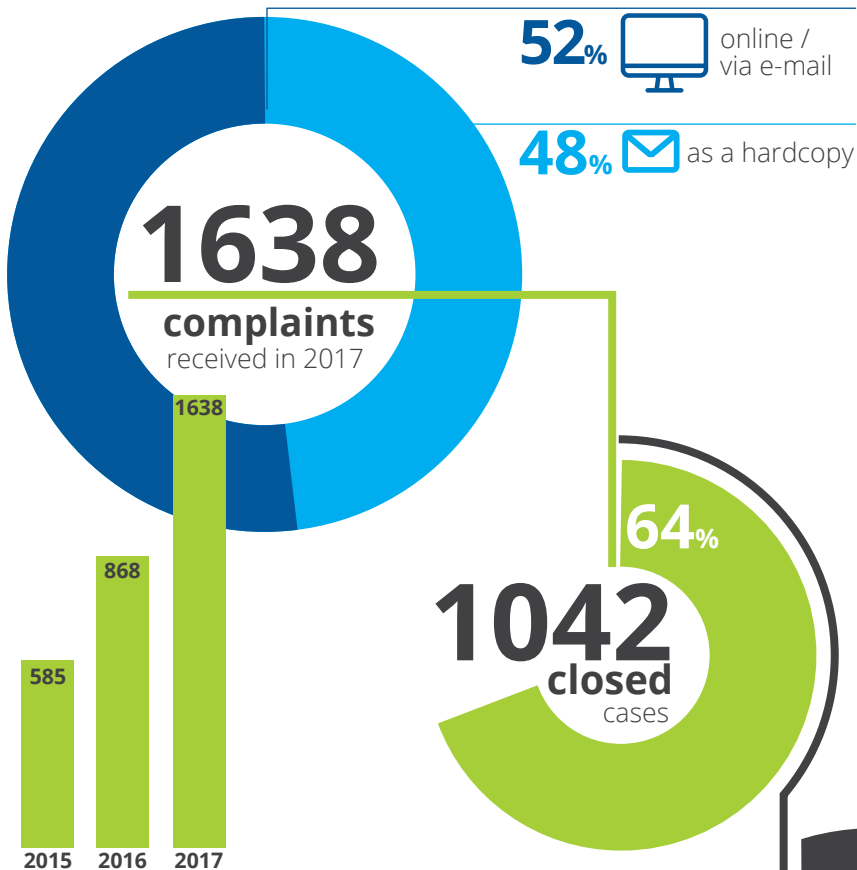
The last but not the least is the official launch of the Ukrainian Network of Integrity and Compliance. Now, UNIC comprises over 50 Ukrainian and international companies in 46 cities. We see our main challenge in further creating a critical mass of responsible companies immune to corruption.

We are excited about the results we achieved for the entrepreneurs in 2017 and keenly anticipate the work we will do together in the year to come.



Algirdas Šemeta
Business Ombudsman

2017 LANDMARKS



97%

of complainants are satisfied
with working with the BOC

91%

of recommendations
implemented



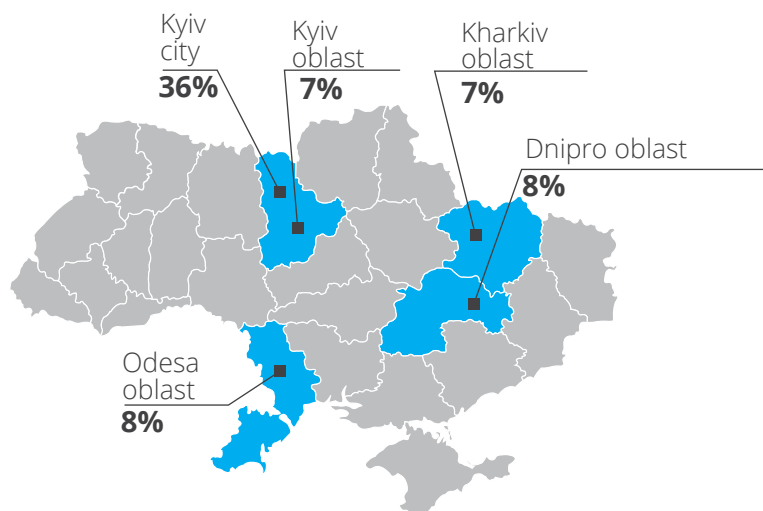
UAH
2.6
billion
direct financial
impact

TOP-5 SUBJECTS OF COMPLAINTS

- 61%** Tax issues
- 12%** Law enforcement agencies actions
- 9%** State regulators actions
- 5%** Local councils/municipalities actions
- 3%** Customs actions

**2 systemic
reports**
published

TOP-5 REGIONS



TOP-5 INDUSTRIES

- 30%** Wholesale and Distribution
- 15%** Manufacturing
- 10%** Agriculture and Mining
- 8%** Real Estate and Construction
- 6%** Individual Entrepreneurs

SIZE OF BUSINESS

72%
Small/Medium



28%
Large

ORIGIN OF INVESTMENT

82%
Local business



18%
Foreign business

+11 new team members

32 employees in total



Ukrainian Network of Integrity and Compliance
launched jointly with EBRD and OECD

OUTREACH

200+

events

7000+

media mentions

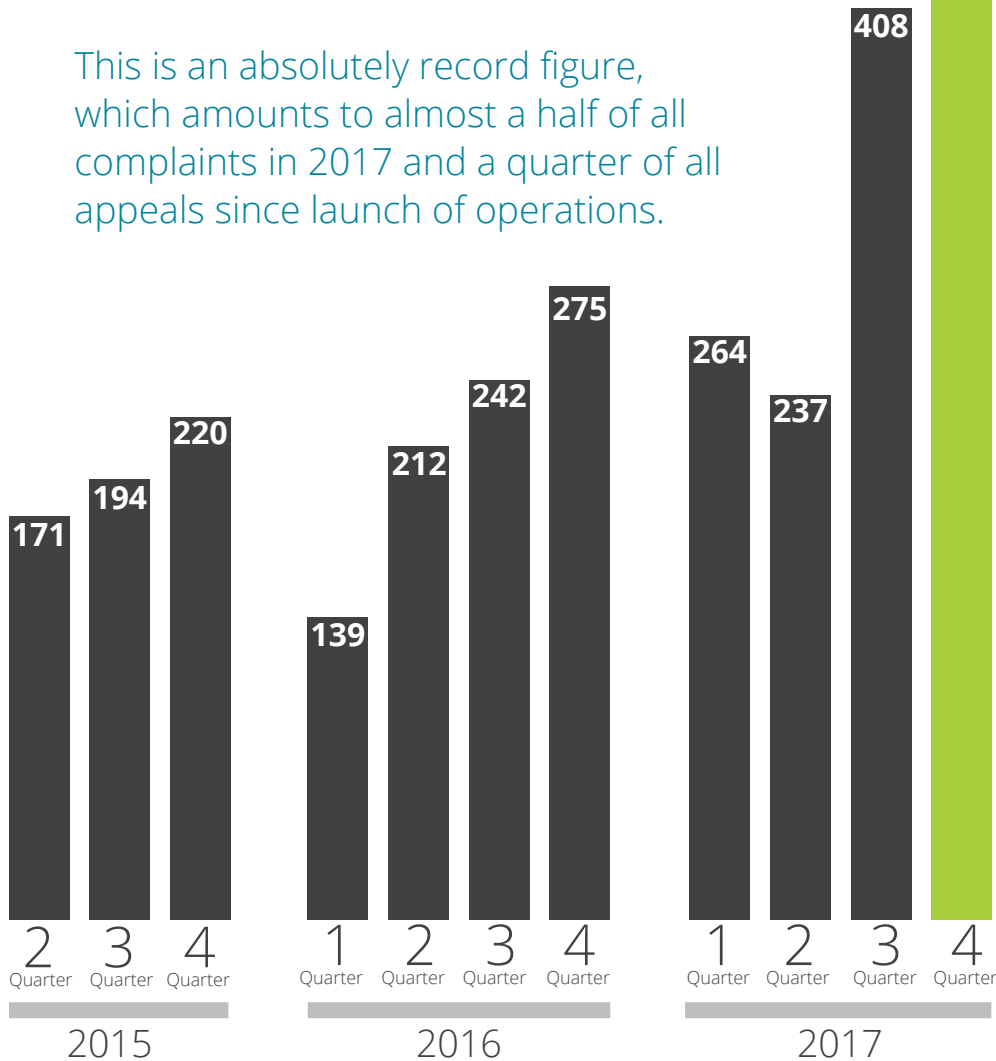
99% positive and constructive

COMPLAINT TRENDS

1.1. Volume and nature of complaints received

(Clause 5.3.1 (a) of Rules of Procedure)

This is an absolutely record figure, which amounts to almost a half of all complaints in 2017 and a quarter of all appeals since launch of operations.



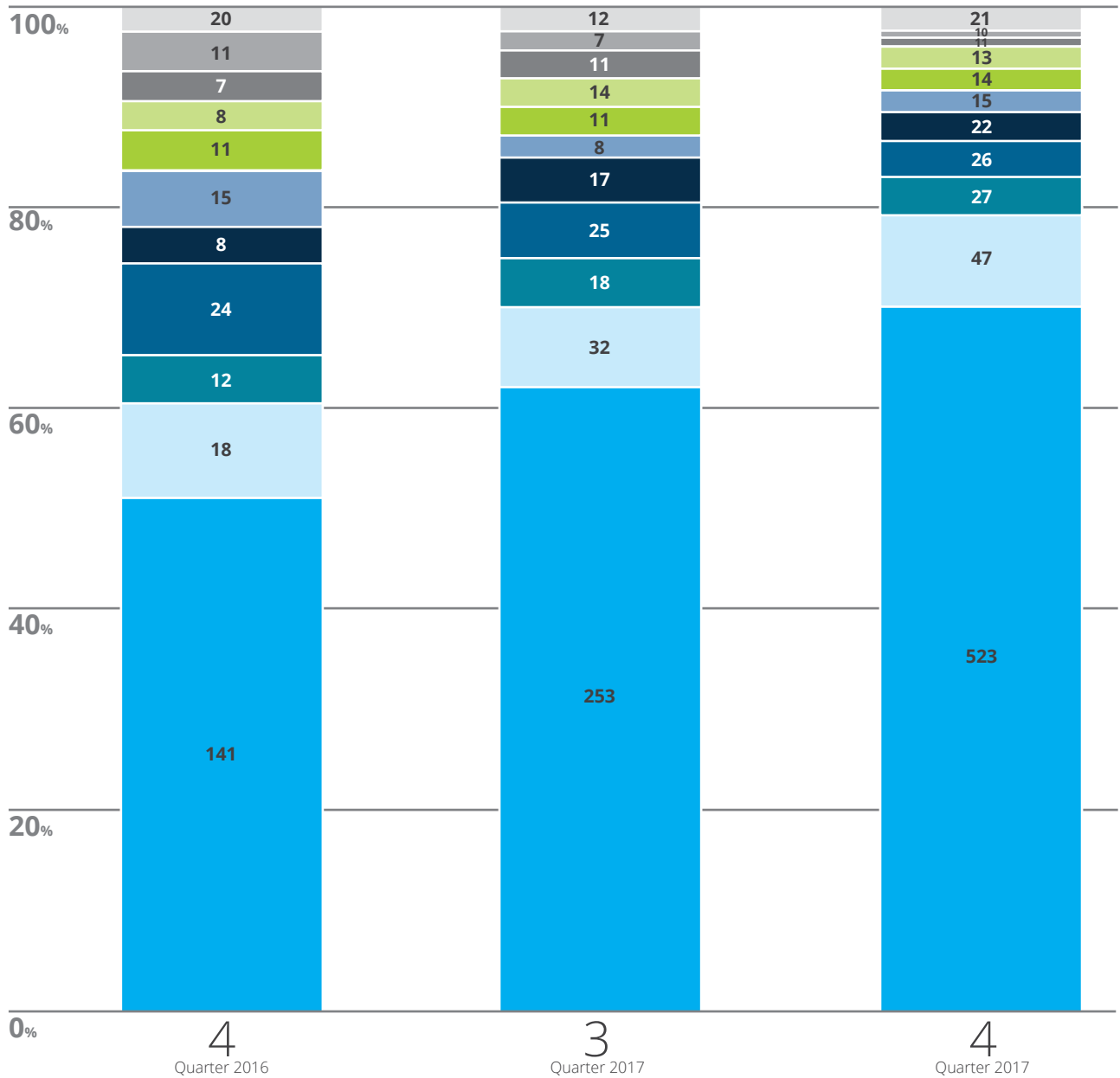
In the fourth quarter of 2017, the Business Ombudsman received

729
complaints

Total number of complainants received since launch of operations in May 2015:

3091

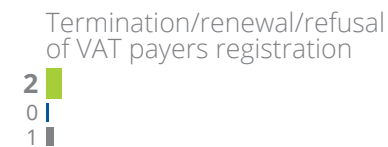
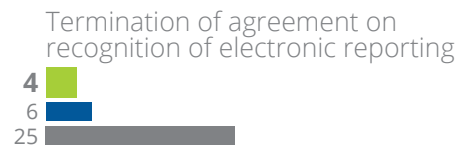
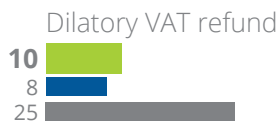
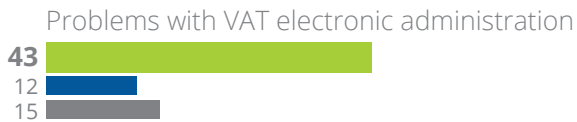
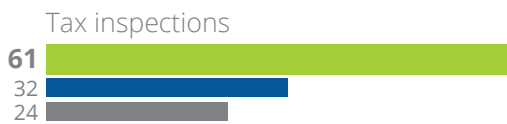
TOP-10 SUBJECTS OF COMPLAINTS RECEIVED IN QUARTER 4 2017



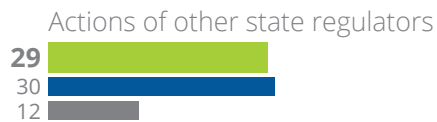
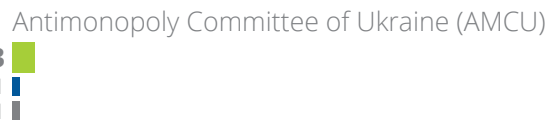
- TAX ISSUES
- PROSECUTOR'S OFFICE ACTIONS
- STATE SECURITY SERVICE ACTIONS
- ACTIONS OF STATE REGULATORS
- LEGISLATION DRAFTS/AMENDMENTS
- MINISTRY OF JUSTICE ACTIONS
- NATIONAL POLICE ACTIONS
- CUSTOMS ISSUES
- ACTIONS OF STATE COMPANIES
- OTHER
- ACTIONS OF LOCAL COUNCILS/MUNICIPALITIES



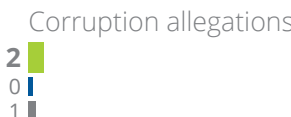
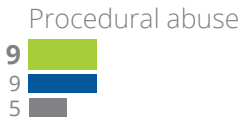
523 **253** **141** TAX ISSUES



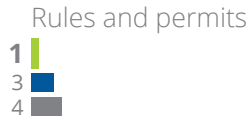
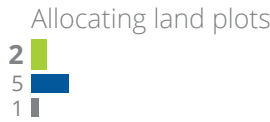
47 **32** **18** ACTIONS OF STATE REGULATORS



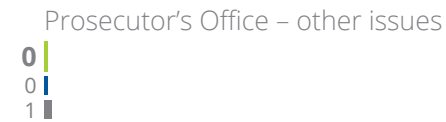
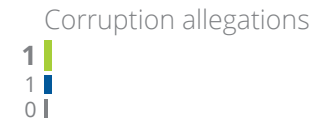
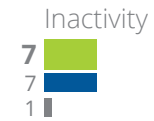
27 **18** **12** NATIONAL POLICE ACTIONS



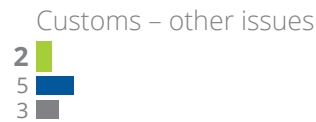
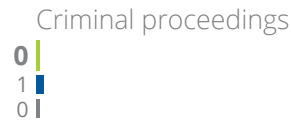
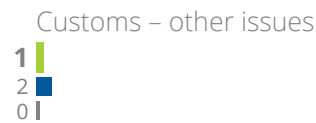
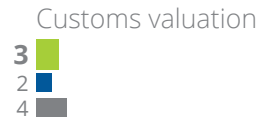
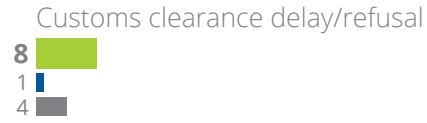
26 **25** **24** ACTIONS OF LOCAL COUNCILS/MUNICIPALITIES



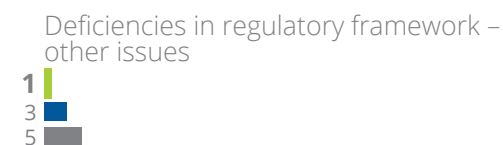
22 **17** **8** PROSECUTOR'S OFFICE ACTIONS



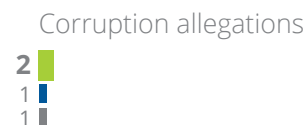
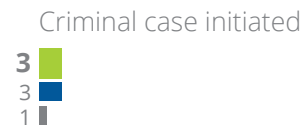
14 **11** **11** CUSTOMS ISSUES



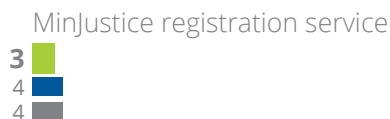
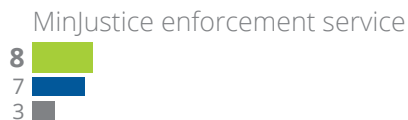
15 **8** **15** LEGISLATION DRAFTS/ AMENDMENTS



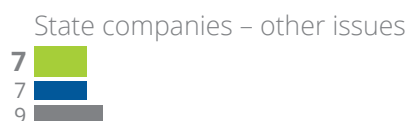
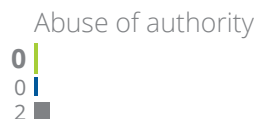
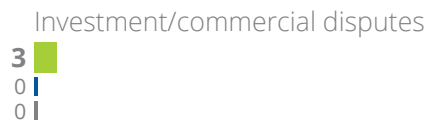
13 **14** **8** STATE SECURITY SERVICE ACTIONS



11 11 7 MINISTRY OF JUSTICE ACTIONS



10 7 11 ACTIONS OF STATE COMPANIES



Almost three quarters of complaints pertain to tax issues. The flow of complaints concerning tax invoice suspension, which emerged in the past quarter, kept growing. In Q4 2017, this issue alone amounted to 50% of all complaints received in comparison with 40% in the previous quarter.

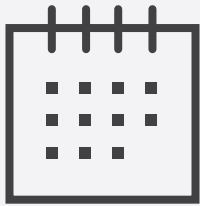
The number of complaints regarding tax inspections doubled since Q3 2017. Problems with VAT electronic administration increased almost fourfold since the previous period.

Inquiries regarding law enforcement agencies amounted to 8.5% of total appeals. The quantity of complaints regarding National Police and Prosecutor's Office actions has increased 1,5 and 1,3 times respectively, while there was a slight decrease in the number of inquiries regarding the State Security Service.

The noticeable trend is the 32% increase of complaints concerning the actions of state regulators, which constitutes 6% in the general number of inquiries. Namely, there was a growth of inquiries regarding the work of StateGeoCadastre.

1.2. Timeliness of the preliminary review of complaints

(Clause 5.3.1 (b) of Rules of Procedure)



The average time for preliminary review of complaint:

6 working days

For reference, according to our Regulations, the average time for preliminary review should not exceed 10 working days, so we perfectly fit in the required timeline.

1.3. Number of investigations conducted and grounds for declining complaints

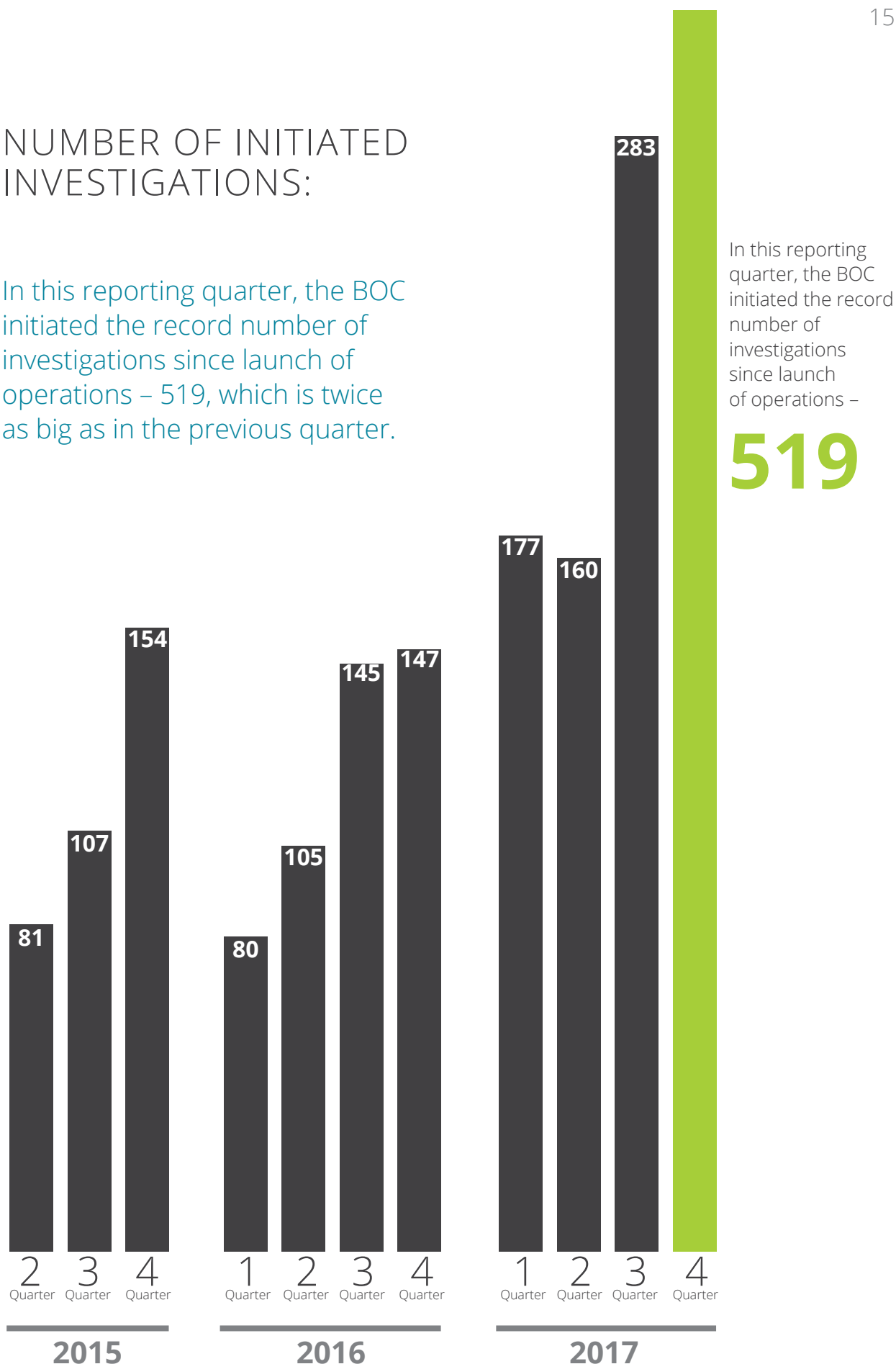
(Clause 5.3.1 (c) of Rules of Procedure)



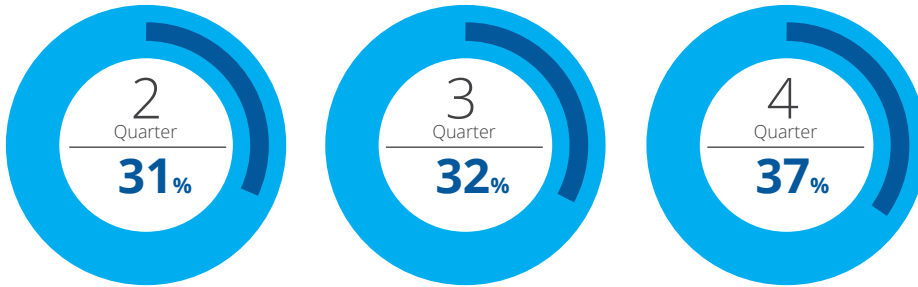
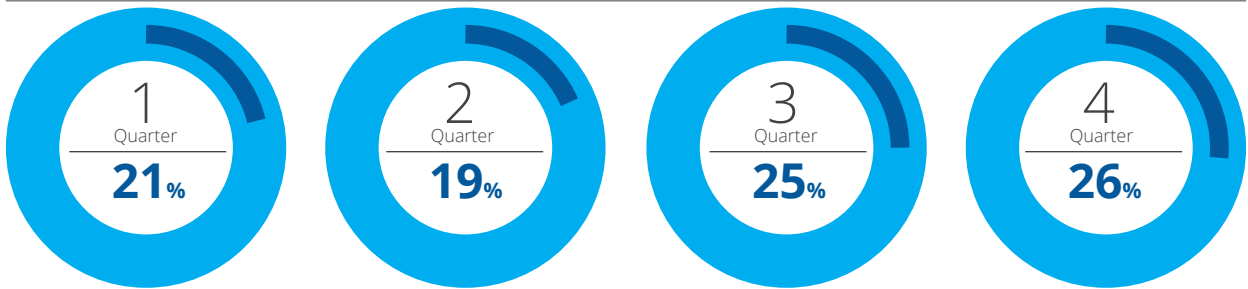
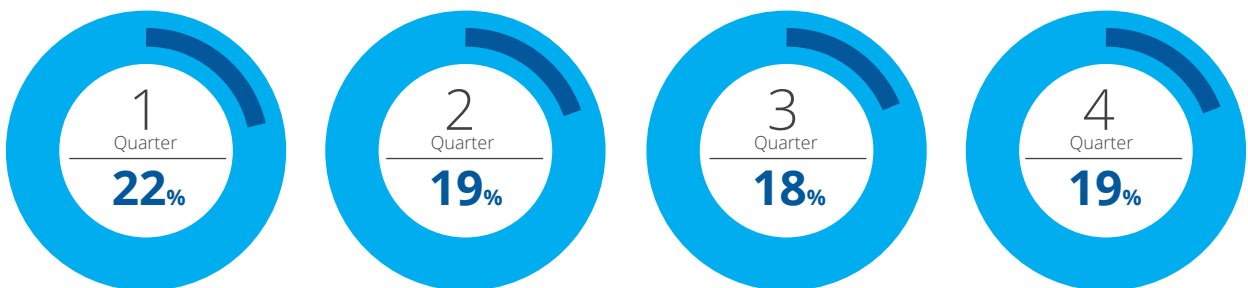
as of 31.12.2017

NUMBER OF INITIATED INVESTIGATIONS:

In this reporting quarter, the BOC initiated the record number of investigations since launch of operations – 519, which is twice as big as in the previous quarter.

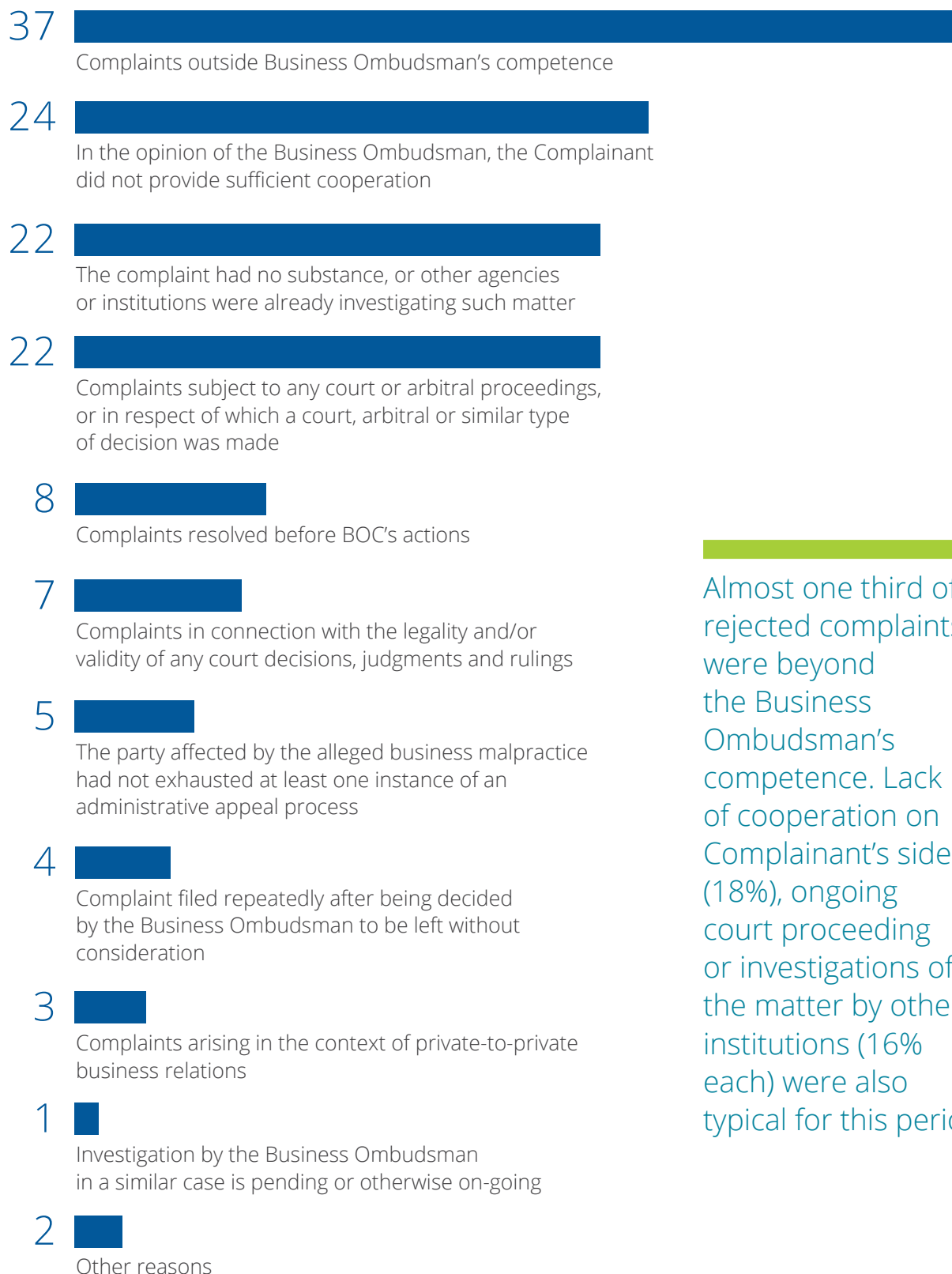


RATIO OF DISMISSED COMPLAINTS:

2015**2016****2017**

No matter the upward curve of complaints, we managed to maintain the ratio of dismissed complaints at a level of 19%. We reduced the rate of rejections by 7 percentage points compared to Q4 2016. This testifies that awareness about our mandate is growing.

MAIN REASONS FOR COMPLAINTS' DISMISSAL IN QUARTER IV 2017



Almost one third of rejected complaints were beyond the Business Ombudsman's competence. Lack of cooperation on Complainant's side (18%), ongoing court proceeding or investigations of the matter by other institutions (16% each) were also typical for this period.

1.4. Timeliness of conducting investigations

(Clause 5.3.1 (d) of Rules of Procedure)

In this reporting period, the BOC's team showed the best timeliness of conducting investigations since launch of operations. Perfectly fitting in the average investigation duration of 90 days envisaged by our Regulations, we even managed to reduce it by 7 days from the previous quarter.

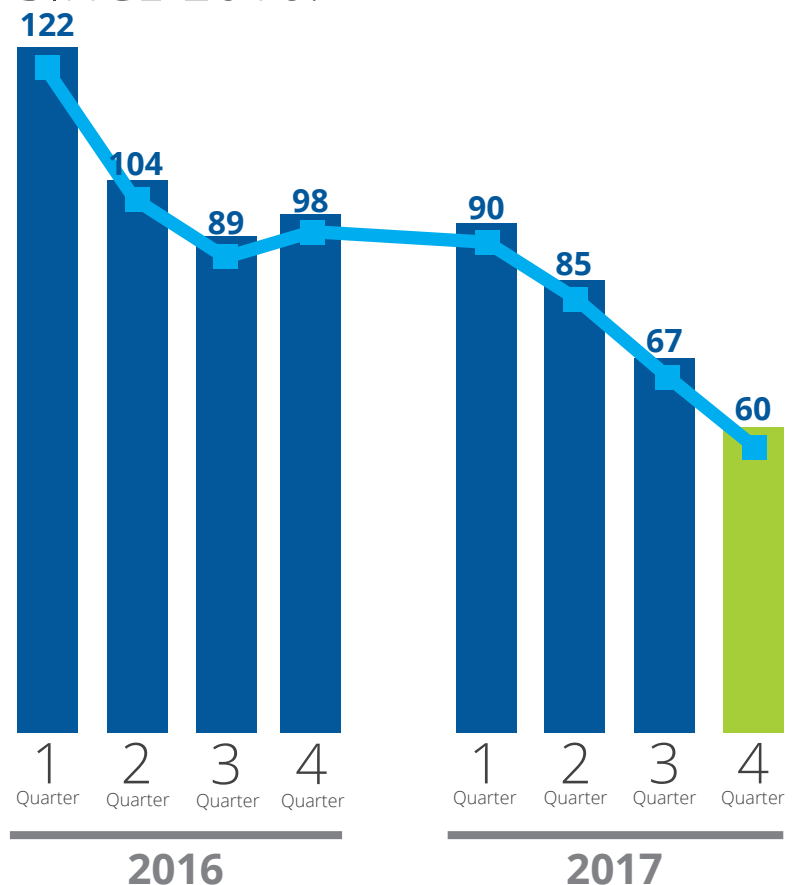
In the reporting quarter,
the BOC closed

429
cases

Average time for
conducting these
429 investigations:

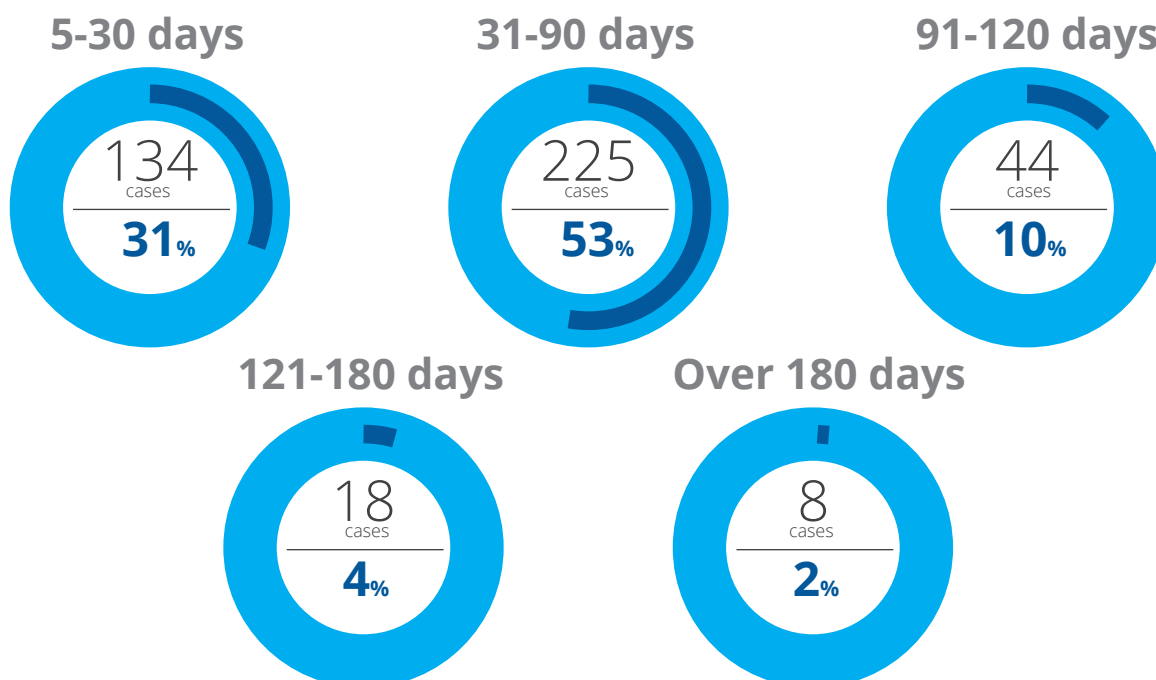
60
days

AVERAGE TIME FOR CONDUCTING INVESTIGATIONS SINCE 2016:



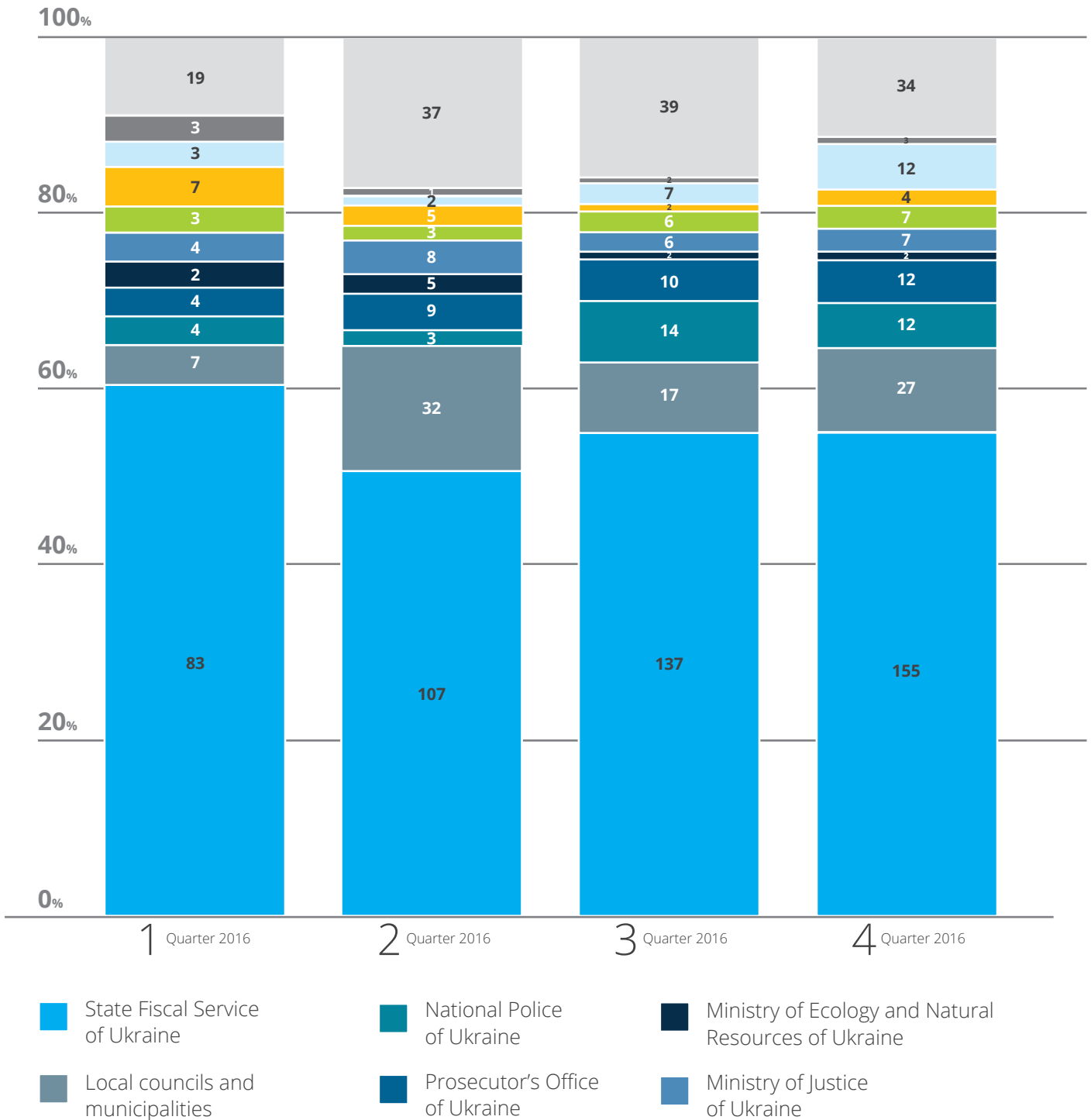
RATIO OF CLOSED CASES BY DAYS:

The biggest part of cases – 359, which is 84% of all closed investigations in Quarter IV – was conducted within 90 days as the Rules of Procedure envisage. Almost one third of all cases were closed within a month. Only 2% took over 180 days to investigate.

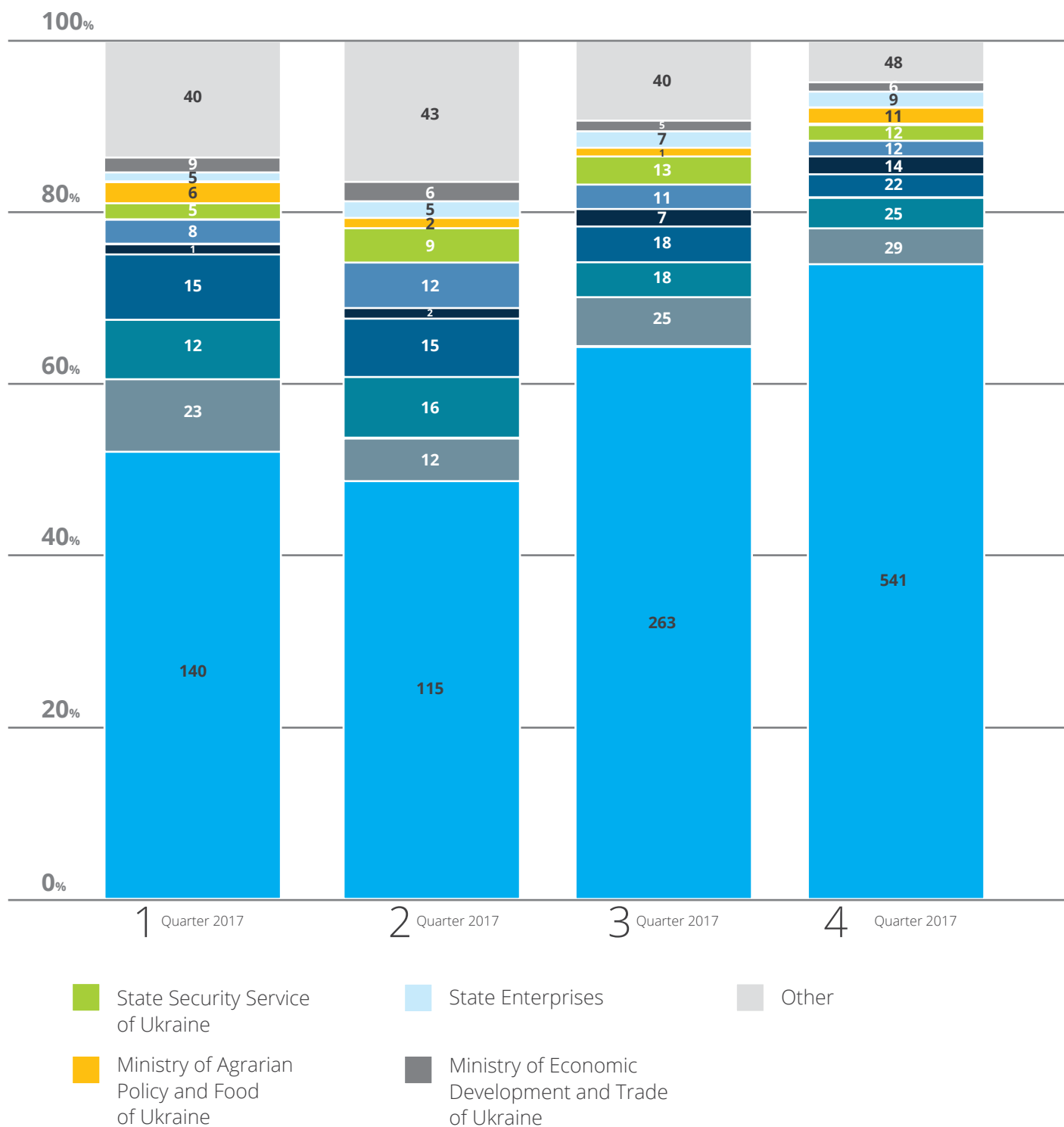


1.5. Government agencies subject to the most complaints

TOP-10 COMPLAININEES



In the long trend, we can observe an established TOP set of complainees, namely the SFS, the law enforcement agencies block, local councils/ municipalities. While the slight decrease of SFS-related issues is particular to the first half of 2017, the Q3 and Q4 trend changed drastically. In the reporting period, the number of complaints against SFS (including the State Tax Inspection and Customs Service) reached its all-time high of 74%. Complaints regarding tax invoice suspension were a key driver of such sharp increase.

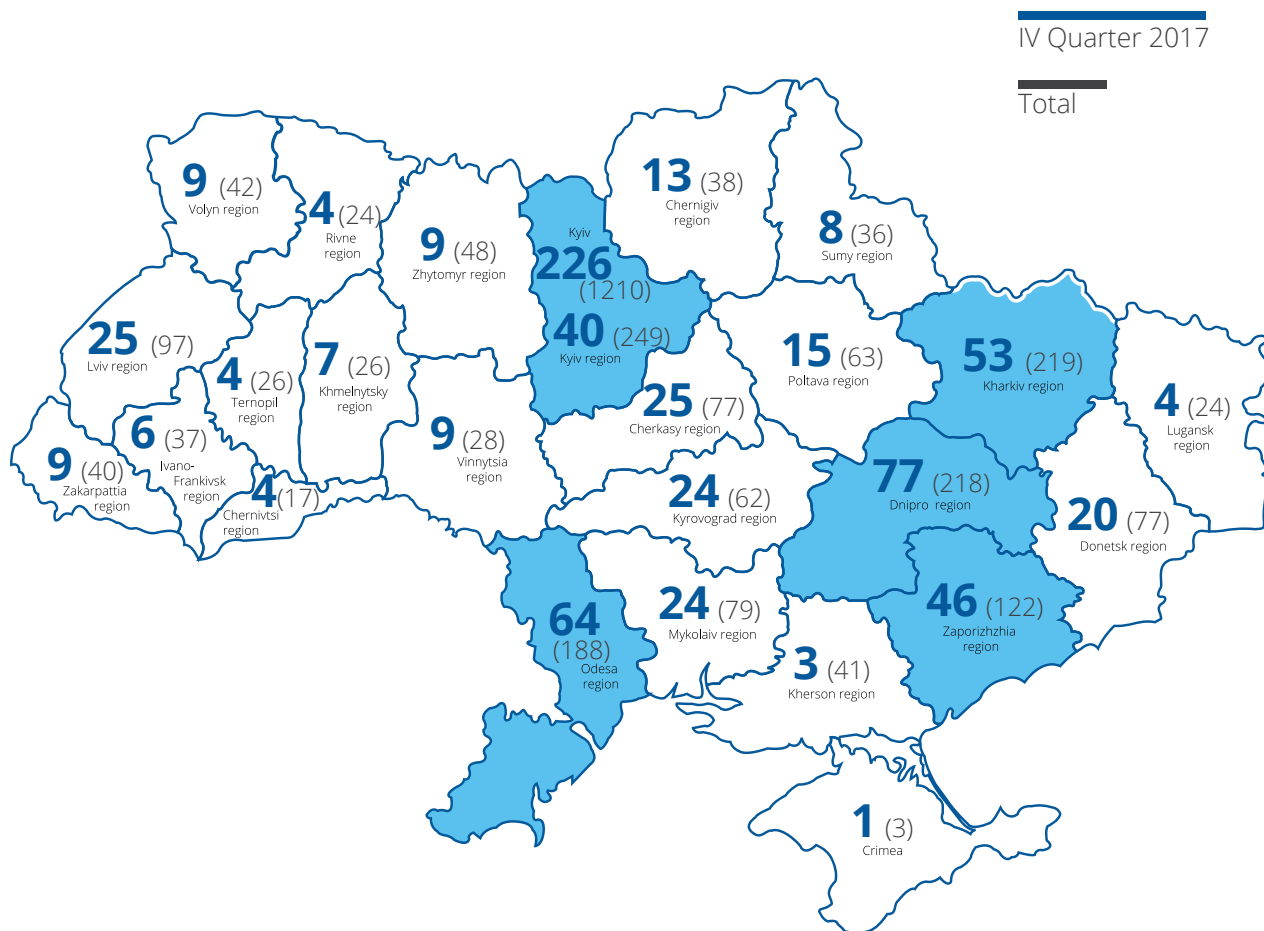


OTHER COMPLAINNEES INCLUDE:

Parliament, the Cabinet of Ministers, the President of Ukraine	5
Ministry of Social Policy and Labour of Ukraine	5
Ministry of Infrastructure of Ukraine	4
Ministry of Regional Development	4
Ministry of Energy and Coal Industry of Ukraine	3
Ministry of Internal Affairs	3
Antimonopoly Committee of Ukraine	3
State Funds	2
Ministry of Finance of Ukraine	2
Ministry of Defense of Ukraine	1
Ministry of Health of Ukraine	1
NABU	1
National Commission for State Regulation of Energy and Public Utilities	1
State Emergency Service of Ukraine	1
National Bank of Ukraine	1

Number of complaints regarding other government agencies remained almost unchanged. A couple of institutions generated more complaints in the quarter, namely the Ministry of Ecology and Natural Resources of Ukraine (+7 inquiries) and Ministry of Agrarian Policy and Food of Ukraine (+10 inquiries), although their share in the bulk of inquiries is quite modest (2% and 1.5% respectively).

1.6. Geographical distribution of complaints received



THE GEOGRAPHY OF COMPLAINTS WIDENED

We observed a sharp increase in complaints from Zaporizhzhya, Odesa and Dnipro regions.

Thus, the share of complaints from Kyiv is gradually decreasing in favor of other regions –

III Quarter 2017

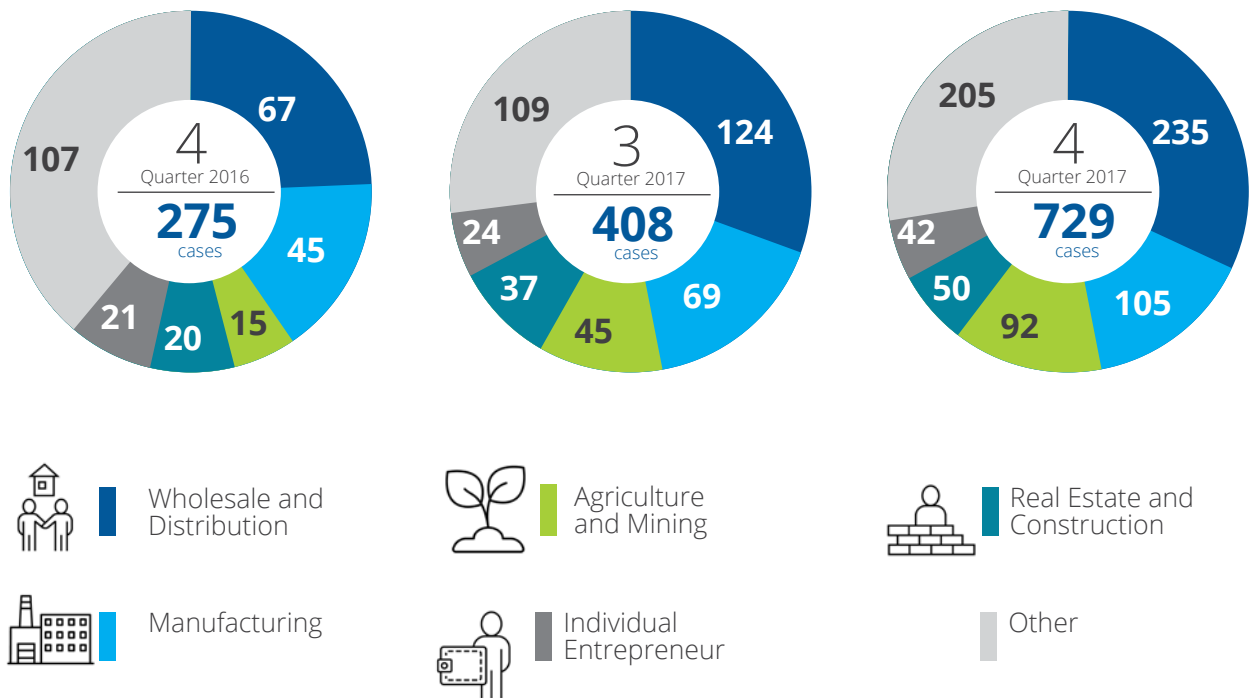
38%

IV Quarter 2017

31%

1.7. Complainants' portrait

TOP-5 COMPLAINANTS' INDUSTRIES



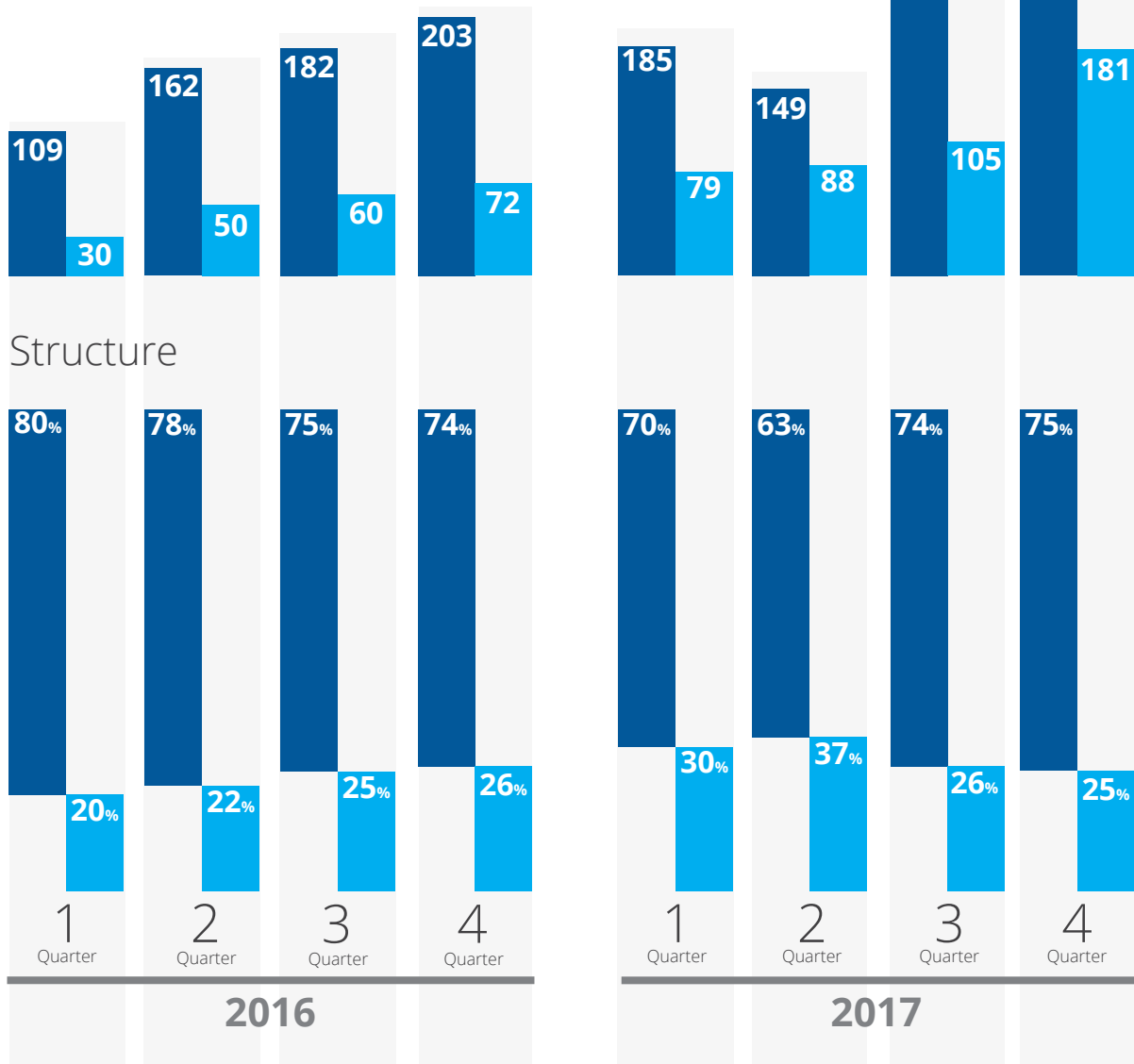
Complaints were coming predominantly from wholesalers and distributors, manufacturers, agriculture, real estate market players, as well as individual entrepreneurs. The volume of inquiries grew by half in all the industries listed above. Obviously, this increase was stipulated by the bulk of complaints regarding tax invoice suspension, as mentioned areas of business are the most vulnerable to the issue.

OTHER INDUSTRIES INCLUDE:

Retail	32	Maintenance of buildings and territories	2
Auto transport	23	Economic and commercial activity	2
Farming	15	Hire, rental and leasing	2
Transportation and Storage	13	Activities in the field of broadcasting	2
Energy and Utilities	10	Waste collection and disposal	2
Repair and maintenance services	10	Technical testing and research	2
Financial services	9	Publishing and printing services	2
Electric installation works	8	IT companies	2
Public organizations	7	Oil and Gas	1
Telecommunications	7	Education	1
Consulting	6	Activity in the field of law	1
Engineering, geology and geodesy areas activity	5	Building of ships and floating structures	1
Warehousing	5	Accommodation services	1
Individuals	4	Ground and pipeline transport	1
Supply of electricity, gas, hot water, steam and air conditioning	4	Consumer Services	1
Processing industry	4	Restaurant business	1
Activities in the field of culture and sports, recreation and entertainment	4	Private security firms activity	1
Health, Pharmaceuticals, and Biotech	3	Metallurgical production	1
Advertising	3	Insurance	1
		Scientific research and development	1
		Non-profit	1

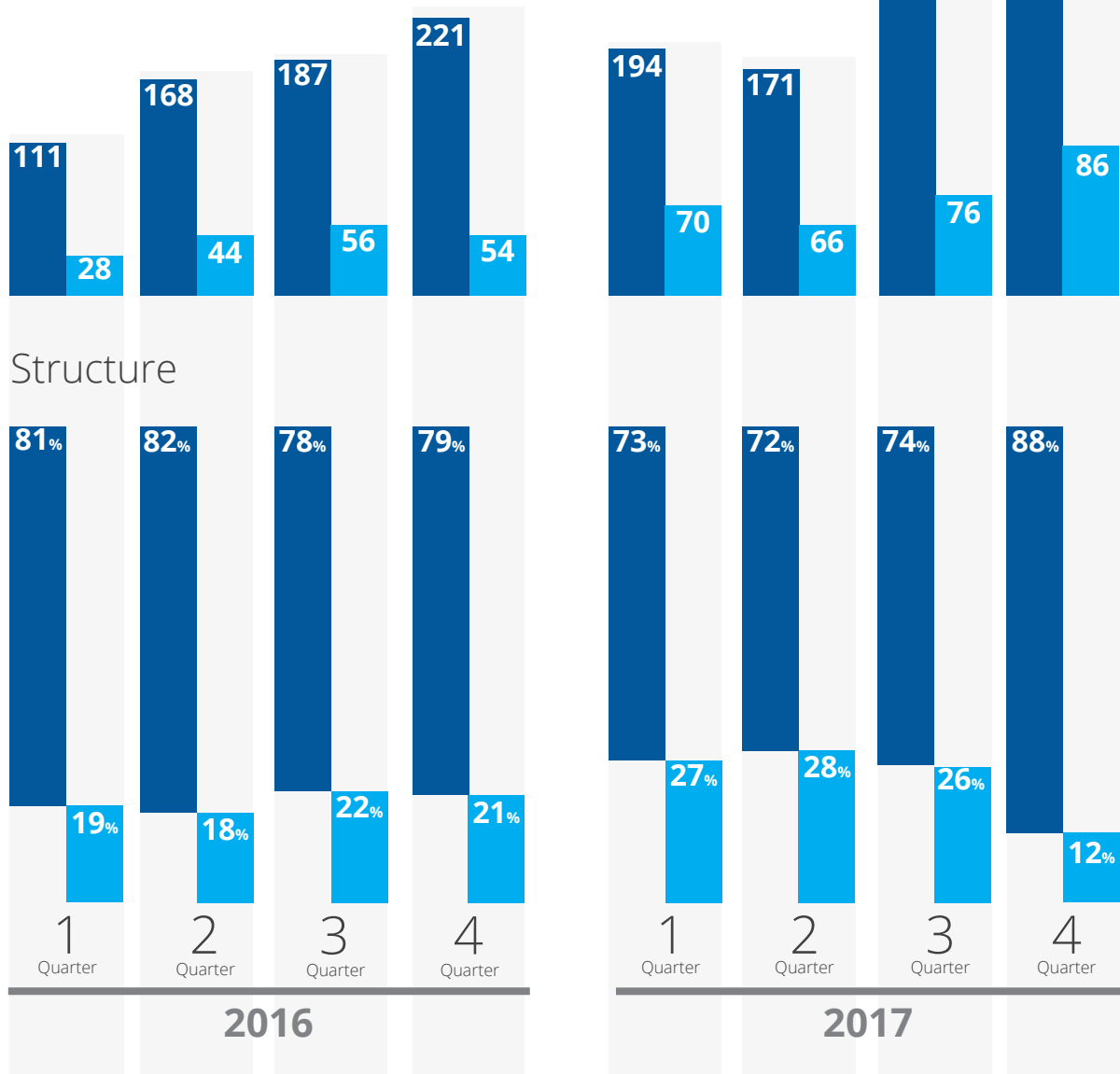
SIZE OF BUSINESSES

Number of complaints



LOCAL VS FOREIGN COMPLAINANTS

Number of complaints



Local



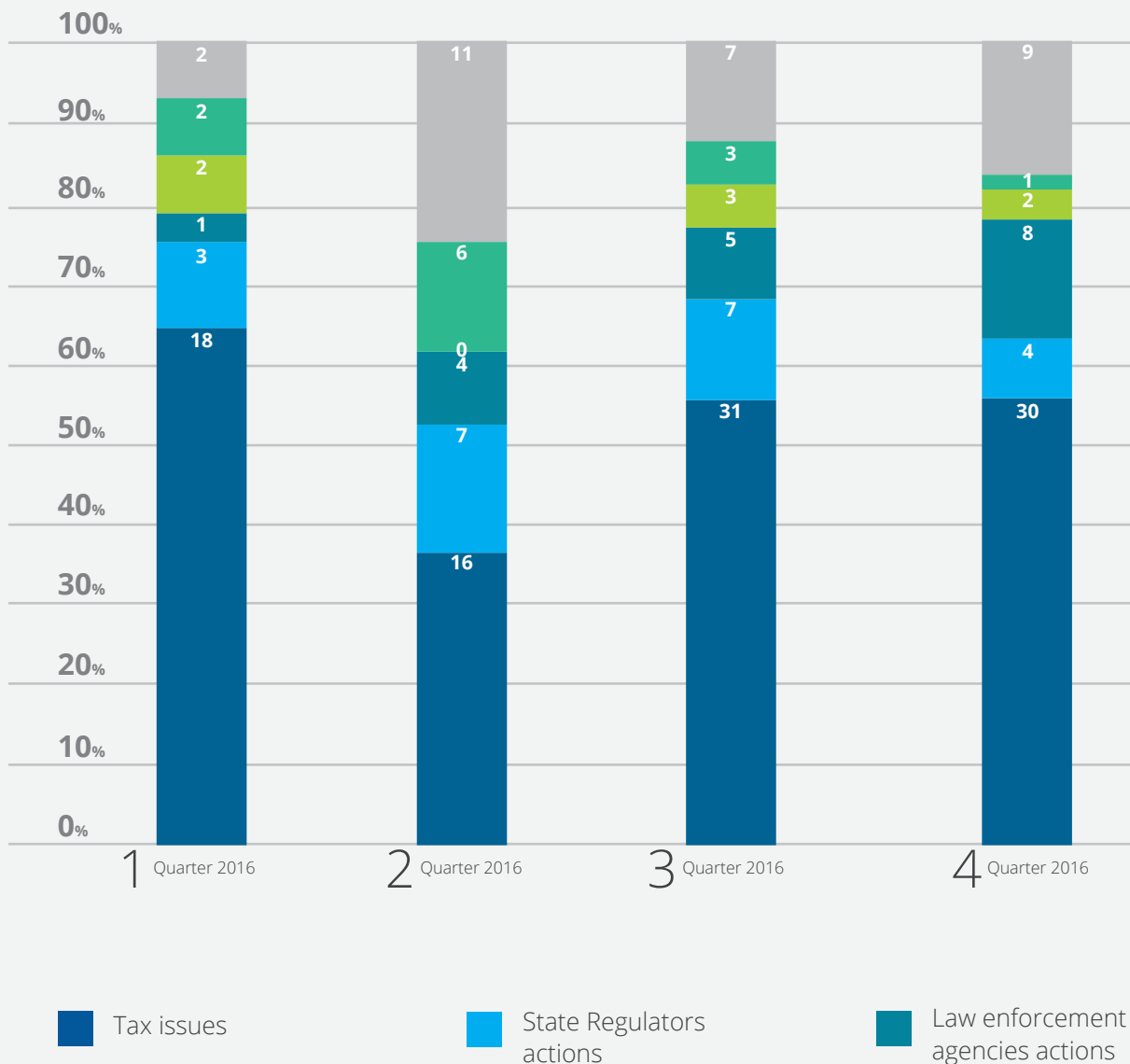
Foreign

Local small/ medium business remains a key source of complaints to the Business Ombudsman. Still, in the long run, a growing number of complaints from large foreign enterprises is recorded. Please see a deeper analysis of foreign business that seeks the BOC's support on a separate page.

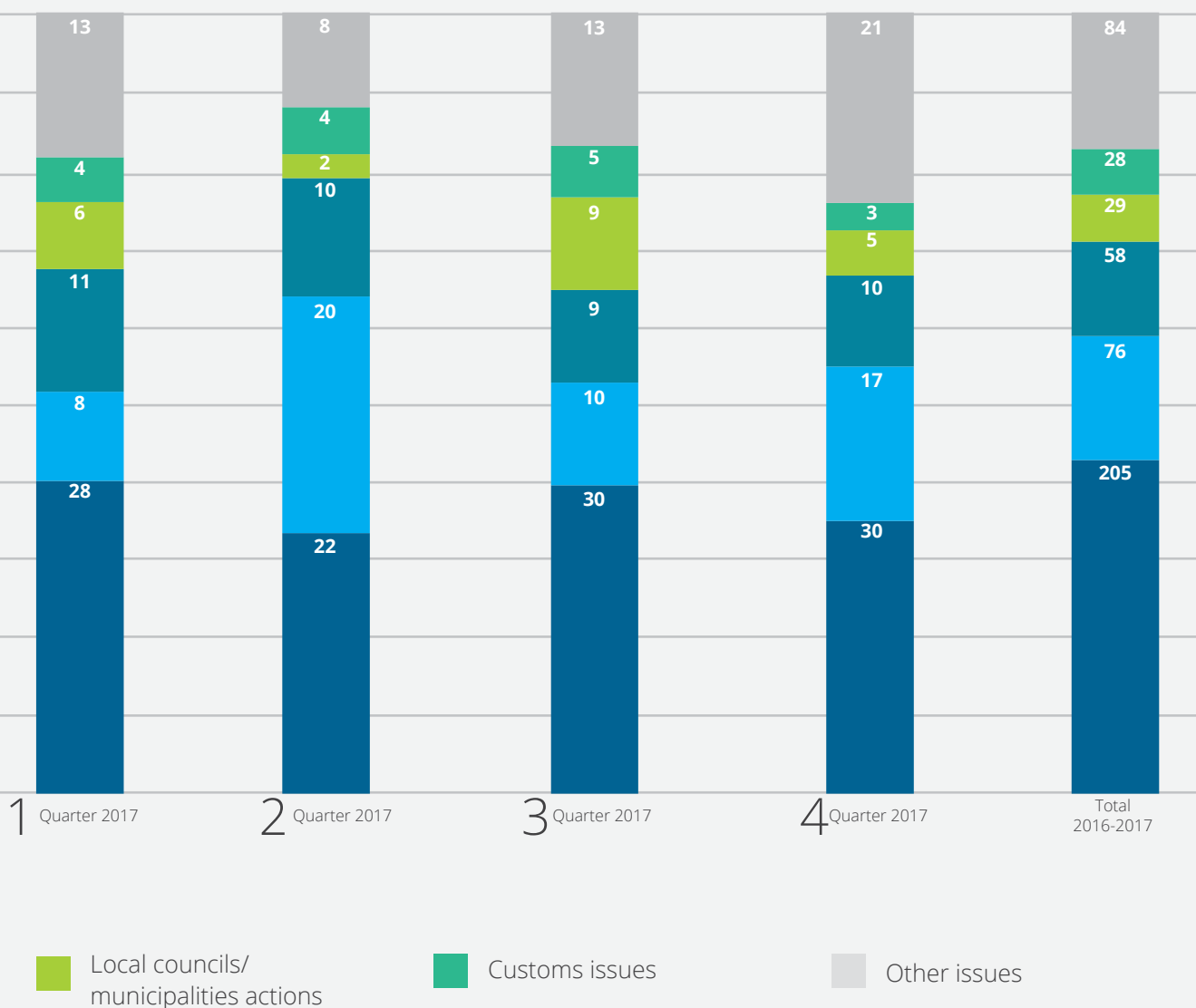
ANALYSIS OF COMPLAINTS FROM FOREIGN BUSINESS

During 2016-2017, we have received 480 complaints from foreign businesses, which is 19% in total. We managed to close 72% of investigations, i.e. 346 cases.

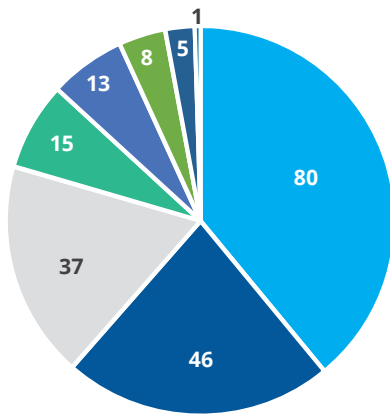
TOP-5 SUBJECTS OF COMPLAINTS FROM FOREIGN BUSINESSES



Resulting from 2016-2017 cumulative data, tax issues (43%) were the most widespread subject of appeals from foreign investors. However, their share is substantially smaller, compared to the one of total applicants' complaints (61%). At the same time, the percentage of complaints against actions of state regulators (16%) and law enforcement agencies (12%) is higher. Local councils and customs issues round out the top five with 6% of inquiries.

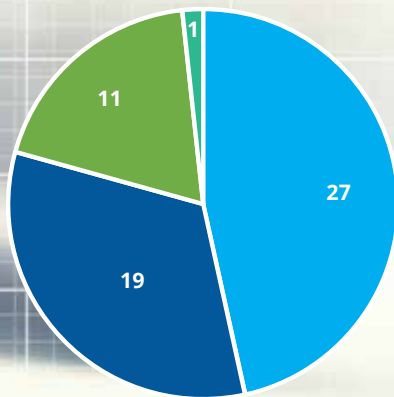


2016-2017 KEY SUB-TOPICS OF COMPLAINTS FROM FOREIGN BUSINESSES



TAX ISSUES

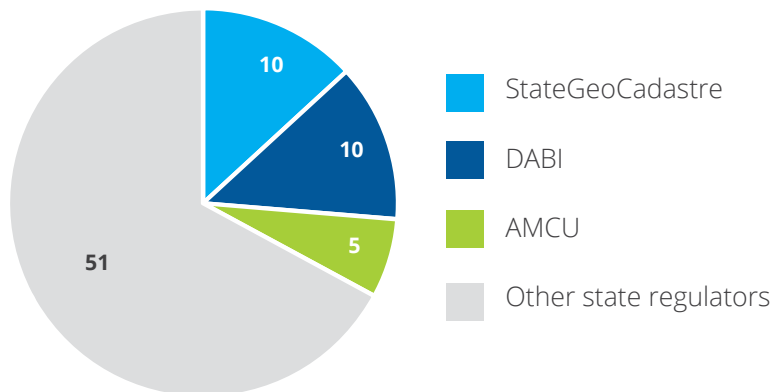
- Tax inspections
- Tax VAT refund
- Tax criminal cases
- Tax VAT invoice suspension
- Tax VAT electronic administration
- Tax termination of agreement on recognition of electronic reporting
- Tax termination/renewal/refusal of VAT payers registration
- Tax other



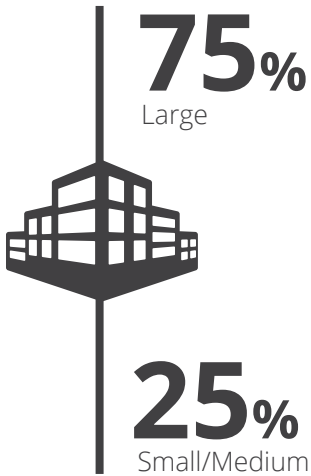
LAW ENFORCEMENT AGENCIES

- Prosecutors' office
- National Police
- State Security Service
- Ministry of Internal Affairs

STATE REGULATORS



SIZE OF BUSINESS



Naturally, the biggest part of international companies addressing us with complaints concerning their activities in Ukraine are large businesses.

GEOGRAPHY

■ Kyiv
269



Similar to the general bulk of complaints, most active regions are the Kyiv city and Kyiv, Odesa, Zaporizhzhya and Dnipro regions. We also find Mykolaiv in TOP-5 regions when analyzing complaints from foreign companies.

99%

of foreign companies that addressed the BOC said that they were satisfied with the result of our cooperation.



ALGIRDAS ŠEMETA FOR FACTY ICTV

01 December 2017

Considering the Ukrainian environment, do you expect new foreign investors to come to the country? Is Ukraine able to awake interest of international business today?

– As for me, potential investors are keeping an eye on Ukraine. However, if we improve our business climate, everything can be changed. Particularly, a Financial Investigation Agency should be established that will take away the right to investigate economic crimes from other law enforcement agencies. We also recommend changing the system of sanctions in international trade. Besides, it is important to introduce disciplinary responsibility of civil servants. It is not the law being so bad, but simply its poor implementation and insufficient responsibility of officials. If we change it all, then Ukraine is potentially very interesting for international investors. They do need to be attracted – the economy of Ukraine should grow at least by 5-7% per year.

If at least half of these reforms were implemented, would you recommend entrepreneurs to start their business in Ukraine?

– Potential investors often come to us and ask about the business climate. Moreover, over the past year, I have been emphasizing that, from my point of view, it is the right time to take risks. Entering the market is not that expensive now. Those who come now will beat competitors who will enter the Ukrainian market a bit later. This is also true when we are talking about such international giants as H&M or IKEA so long awaited by the Ukrainians. With the appearance of such companies, Ukraine will be able to attract more than \$10 billion of direct foreign investments annually in some 5 years.

1.8. Feedback

In the reporting quarter,
we received

213

feedback forms
from our
complainants.



said they felt
good about working
with us.

COMPLAINANTS ASSESS OUR WORK BASED ON SEVERAL CRITERIA:

They also indicate areas,
in which they are most
satisfied in working with
us, and what aspects
need to be improved.

client care and
attention to the matter

understanding the
nature of the complaint

quality of work product



“The existence of your office allows businesses to effectively protect their interests. Thank you very much for your efforts and the work of your team”.



“Thank you for your caring attitude, understanding and support, skills to get to the bottom of the issue, prompt response and professionalism”.



“While repeated complaints to public authorities have been without result, your team’s efforts helped get our issue successfully resolved”.



“We believe, that is was due to your support that we managed to achieve swift resolution of the dispute and avoided years of judicial appeal procedure. This proved to be invaluable”.



“We think that the Business Ombudsman Council little by little “educates” officials: makes them read the law, give the reason where they do not comply with it, and act according to the law”.



“We would like to express our deep respect and acknowledgement for your kind assistance with solving our long-lasting problems with a tax registration of CEB”.



“We have managed to win in this complicated and long-lasting combat against corruption in our country and restore our legal rights. You help us staying confident about the successful business development in Ukraine”.



“Let us express our deep respect and gratitude for your commitment to high standards of law and equity, European values, interests of state-building through ensuring sustainable and favorable conditions for the functioning and development of entrepreneurship in our country”.



“We are striving for the common good which is the development of private business in Ukraine for economic empowerment of our Motherland”.



“Let us express our sincere gratitude for the robust, impartial and serious work of the BOC's team”.



“We greatly appreciate your responsiveness and commitment and hope for further fruitful and mutually beneficial co-operation”.

SUMMARY OF KEY MATTERS

AND FOLLOW-UP OF RECOMMENDATIONS

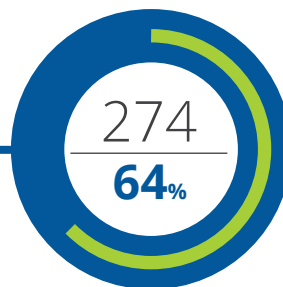
Information on closed cases

429

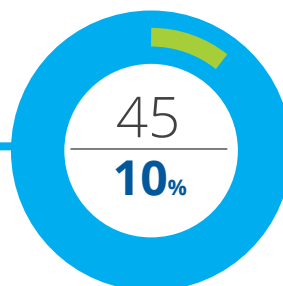


Closed cases
in the reporting period

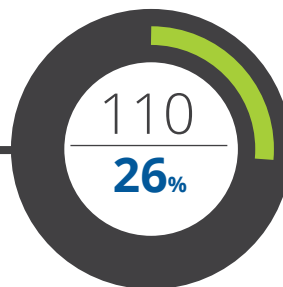
In the reporting
quarter,
we closed
64%
of cases
with immediate
desirable (either
financial or
non-financial)
outcome for
complainants.



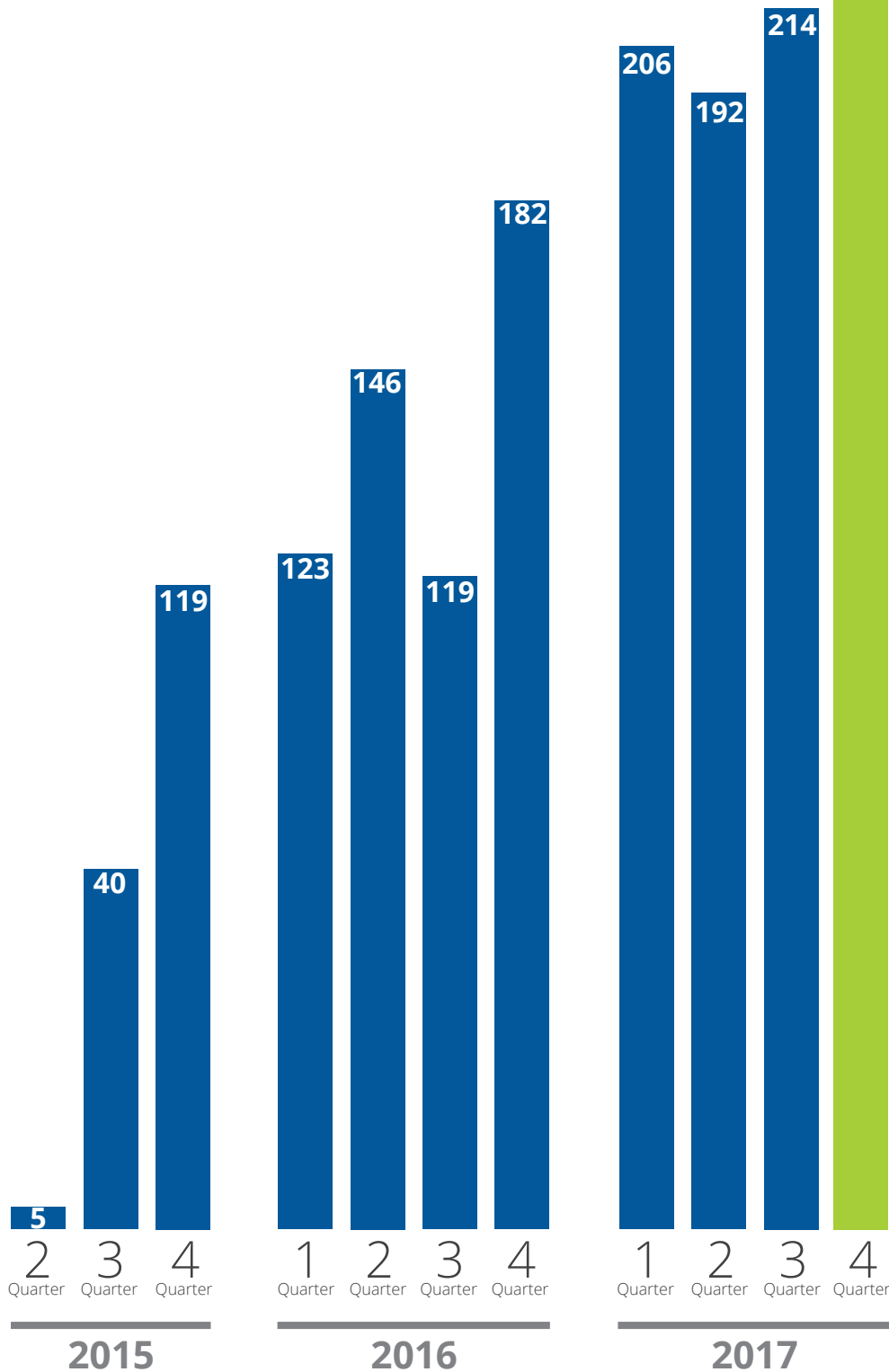
Cases closed
with result



Cases closed with
recommendations



Cases
discontinued



In the reporting quarter, we closed

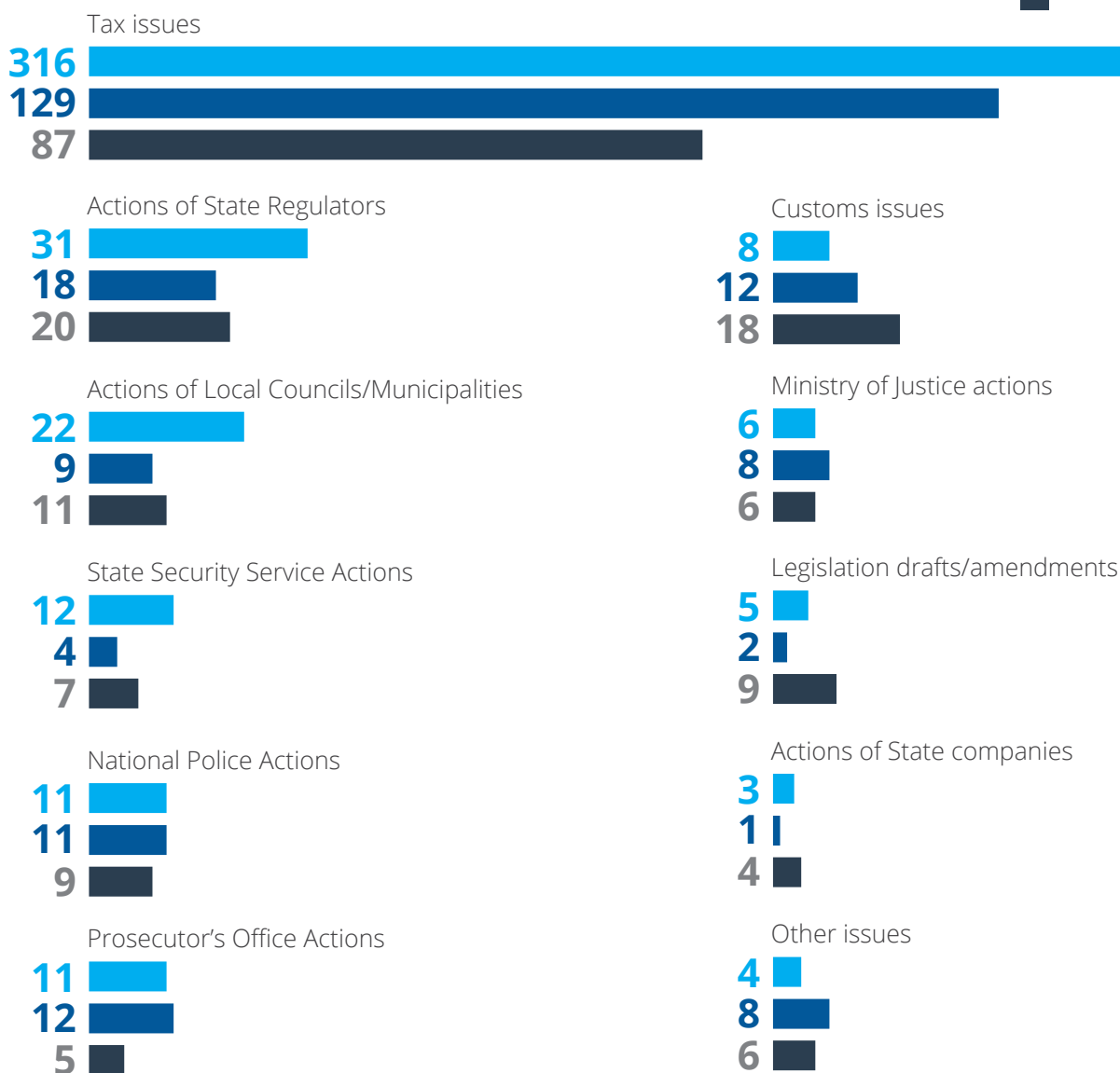
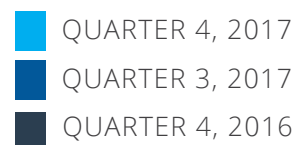
429
cases

In this reporting quarter, we closed the largest number of cases since launch of operations.

Total number of closed cases since launch of operations:

1775

TOP-10 SUBJECT OF CLOSED CASES IN QUARTER IV 2017:



The breakdown of closed cases subject reflects the incoming complaints' trend. Thus, our team closed 217 complaints regarding VAT invoice suspension, which amounts to 51% in the total number of closed cases. Generally, we closed 316 tax-related cases, which is 74% of all investigations conducted.

The second and the third top subject of closed cases were actions of law enforcement bodies and state regulators, although their total share is quite modest – 8% and 7% respectively.

FINANCIAL IMPACT
IN IV QUARTER 2017:

UAH

858 409 392

Tax
inspections

563 458 863

VAT invoice
suspension

39 920 886

State Security Service –
other actions

321 500

VAT refund

148 862 895

Other tax issues

15 923 561

Overpaid customs
duties refund

60 908

VAT electronic
administration

76 910 979

MinJustice
enforcement service

12 949 800

DIRECT FINANCIAL IMPACT
OF BOC'S OPERATIONS

UAH 11.3 billion

20 May 2015 – 31 December 2017



NON-FINANCIAL IMPACT OF BOC'S OPERATIONS IN QUARTER IV 2017:

■ QUARTER 4, 2017
■ QUARTER 3, 2017
■ QUARTER 4, 2016

Malpractice ceased by complaine



Tax records reconciled, tax reporting accepted



Criminal case against the Complainant closed; property/accounts released from under arrest



Malpractice by officials, which we helped to cease in this quarter, remains the key non-financial impact of our work. Acceptance of tax documents, closed criminal cases and help in obtaining permits were also among key intangible results of our work in Q4 2017.

Permit/license/ conclusion/registration obtained



Legislation amended/ enacted; procedure improved



Contract with state body signed/executed



Claims and penalties against the Complainant revoked | Sanction lifted



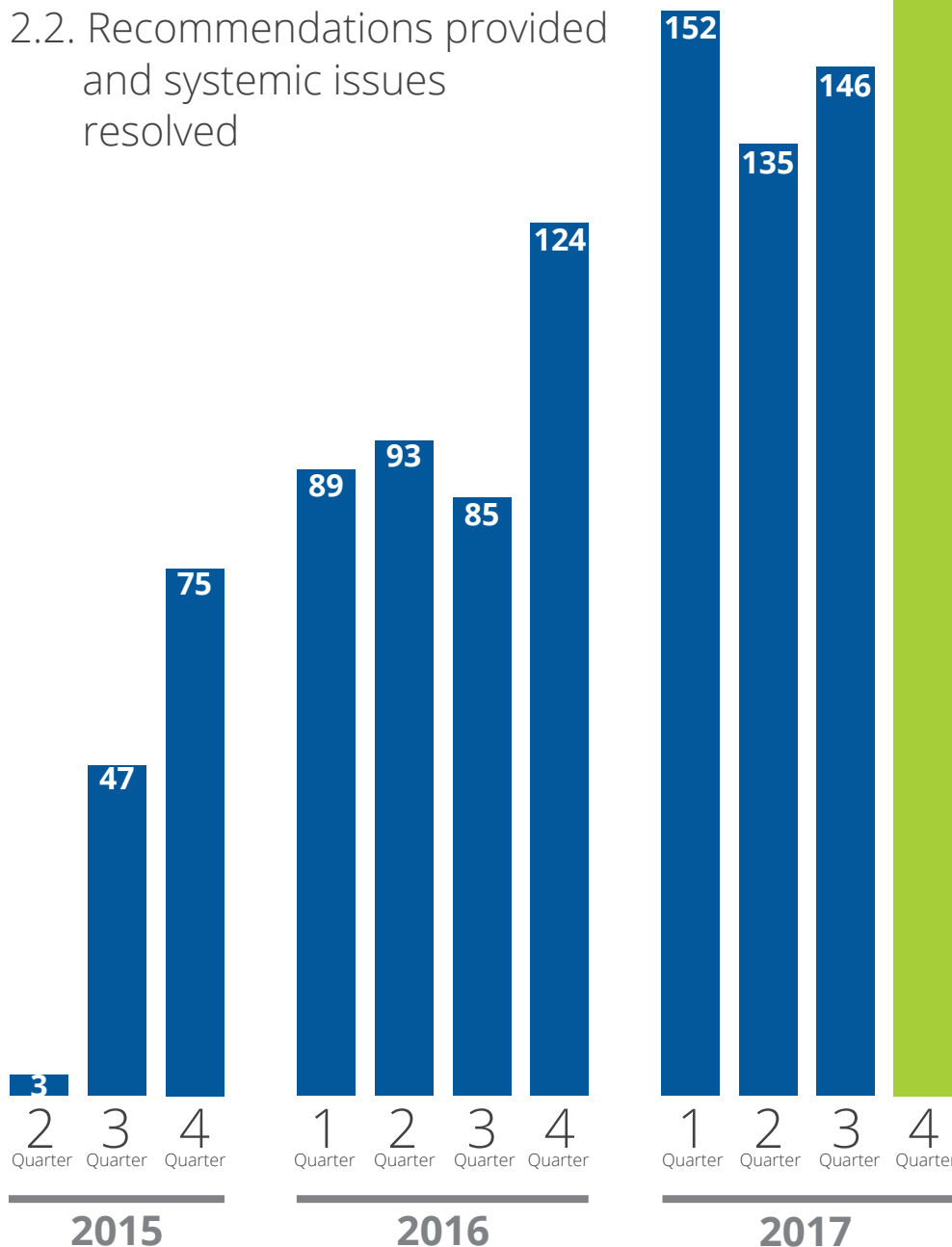
Criminal case initiated against state official/3rd party



State official fired/penalized



2.2. Recommendations provided and systemic issues resolved



Recommendations issued in Quarter IV 2017:

319

The BOC provides recommendations to government agencies on case-by-case basis and monitors their implementation.

Total number of recommendations issued since launch of operations:

1254

Number of recommendations implemented:

1137
91%

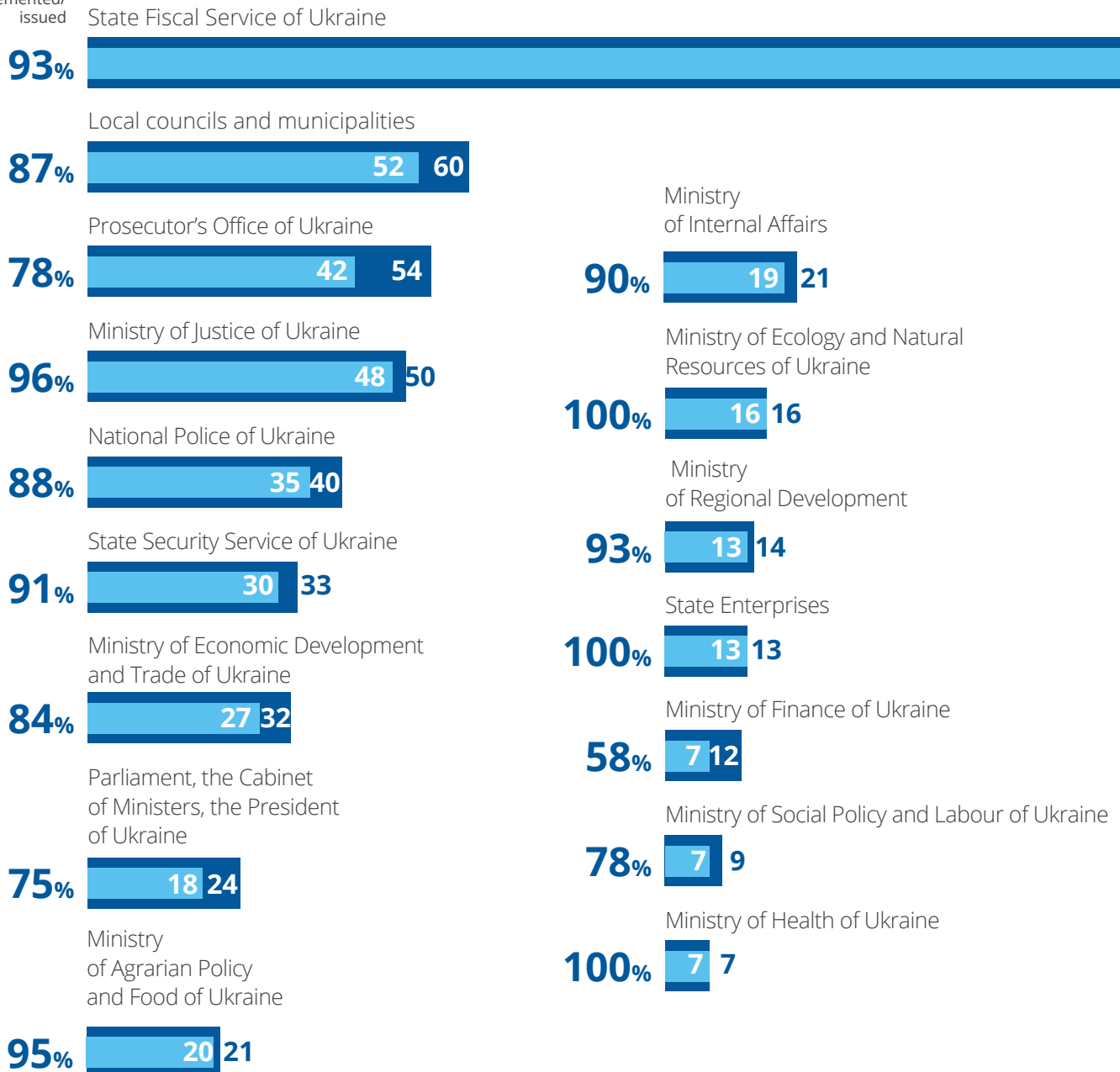


Number of recommendations subject to monitoring:

117
9%

GOVERNMENT AGENCIES WHOM THE BOC ISSUED RECOMMENDATIONS IN 2015-2017 (CASE-BY-CASE BASIS) AND RATIO OF IMPLEMENTATION

Ratio
of implemented/
issued




Recommendations implemented

Recommendations issued

745

800





By the end of reporting quarter, government agencies implemented 91% of all recommendations issued by the BOC since launch of operations. This is 4-percentage point's improvement from Q3 2017, which means that our cooperation with state bodies is becoming more and more efficient.

The State Fiscal Service, whose activities are of a particular concern, shows very high ratio of implemented recommendations – 93%. Meanwhile, the enforcement block's performance ranges from 91% for State Security Service to 88% for National Police and 78% for Prosecutor's Office. Local councils implemented 87% of recommendations issued by the BOC.

Although the majority of issues the BOC receives are now successfully resolved on a case-by-case basis, we wish that government agencies put more emphasis on the implementation of systemic recommendations in reports we publicized.

SYSTEMIC ISSUES RESOLVED

The BOC focuses not only on fixing problems arising from particular investigations, but also digs deeper into systemic issues influencing the business environment as a whole. Below are examples of recommendations – both originating from particular investigations and from systemic reports – that were implemented by government agencies in Quarter IV 2017.

RECOMMENDATIONS IMPLEMENTED ON A CASE-BY-CASE BASIS

GOVERNMENT AGENCY	ISSUE ARISING FROM INVESTIGATION	RESULT ACHIEVED WITH THE BOC FACILITATION
State Fiscal Service (SFS)	Importers of medical equipment were unable to get a postponement of VAT as envisaged by recent amendments of the Tax Code.	With the assistance of the Council, the Cabinet of Ministers approved the VAT deferral procedure for importers of the relevant equipment.
State Fiscal Service (SFS)	Tax audits results were incorrectly presented in the electronic administration of VAT system (SEA).	MinFin prepared a technical amendment to the Tax Code. After approval of the law by the Verkhovna Rada, the SFS adjusted the software and documented the correct algorithm for displaying the results of tax audits in the SEA.

GOVERNMENT AGENCY	ISSUE ARISING FROM INVESTIGATION	RESULT ACHIEVED WITH THE BOC FACILITATION
Ministry of Justice of Ukraine (Moj)	Creditors could not enforce collateral on their claims with respect to property that had not been disposed via electronic auction process.	Due to the support of the BOC, the Moj has amended the disposition procedure of arrested property. In case auction trading has not taken place, the act of disposition of property by way of claims set-off is issued on the basis of a protocol.
SFS, Ministry of Finance	Farmers producing biofuel had to create a fuel warehouse supervised by the SFS employee.	Ministry of Finance initiated amendments to the Tax Code to solve this inconvenience. Automated fuel production control system, connected to the SFS base, was implemented.
Dobropilskyi City District Court in Donetsk region	Creditors could not collect obligations from persons registered at temporarily uncontrolled territories of Ukraine.	Ministry of Justice initiated amendment to legislation to enforce extramural rulings in civil cases when the defendant is registered at temporarily uncontrolled territories of Ukraine. The procedure, analogous to situation when the registration or location address of the defendant is unknown was introduced.

GOVERNMENT AGENCY**ISSUE ARISING FROM INVESTIGATION****RESULT ACHIEVED WITH THE BOC FACILITATION**

Ukrainian Sea Ports Authority

Ukrainian Sea Ports Authority initiated the channel fee, which contradicts the Ministry of Infrastructure directive, for crossing the channel, which leads to Quarantynna, Nova, Cabotazhna and Lanjeronna Harbors of the Odessa Sea Port.

The Ministry of Infrastructure of Ukraine settled the issue and cancelled the mentioned channel fee in the Odessa Sea Port.

StateGeoCadastre, Ministry of Ecology and Natural Resources

Commission of StateGeoCadastre issuing special permits for subsoil use was blocked, which paralyzed business activity of subsoil users.

With the BOC intervention, the Commission renewed its activities.



RECOMMENDATIONS IMPLEMENTED FROM SYSTEMIC REPORTS

In this quarter, we managed to achieve some notable results in implementing recommendations issued in the BOC's systemic reports.



SYSTEMIC REPORT

“REDUCING THE RISK OF CORRUPTION AND ATTRACTING INVESTMENT TO THE CONSTRUCTION INDUSTRY”

ISSUED IN JULY 2016

1. ACCESSIBILITY AND TRANSPARENCY OF THE STATE ARCHITECTURAL AND CONSTRUCTION INSPECTION (DABI)

- Reduction of permits registration deadlines for buildings /structures with CC1* consequences of responsibility (low consequences of responsibility);
- Introduction of permitting documents automatic registration (online). Previously, only hardcopies were accepted by architectural and construction control authority; In December 2017, the DABI approved an inspection plan for developers in 2018 (by consequences classes);
- The DABI hotline for general issues was launched; online connection with the DABI employees concerning interpretation of regulatory acts and registration of permits is being implemented;
- All oblast centers (except for Poltava and Khmelnytsky) obtained newly created construction supervision powers (CC1, CC2) within the framework of decentralization reform implementation. We recommended transferring architectural and construction control
- powers to local authorities within the framework of decentralization. Presently it is implemented in most Ukrainian cities and towns. However, key issues of training and onsite architectural and construction control staff development still remain;
- Supervision of the DABI over newly created architectural and construction control authorities within the framework of decentralization. We recommended to introduce additional mechanism of appealing decisions of the newly created architectural and construction control authorities on sites from the DABI side.

Classes of consequences (liability) of buildings and structures

CC1 – insignificant consequences

CC2 – medium consequences

CC3 – significant consequences

2. CITY PLANNING DOCUMENTATION

The Government announced its plans to provide the whole Ukraine with city planning documentation. This is extremely important for

attracting investments in the construction industry, because the very first thing a potential investor gets familiar with is the city planning documentation that ensures planning, zoning

and territory development. In the absence/imperfection of such documentation, a developer may give up project implementation.



SYSTEMIC REPORT

“ABUSE OF POWERS BY THE LAW ENFORCEMENT AUTHORITIES IN THEIR RELATIONS WITH BUSINESS”

ISSUED IN JANUARY 2016

ISSUE/TASK

Groundless refusals to commence criminal proceeding, when representatives of pre-trial investigation authorities assert non-existent discretion to determine whether application on committed criminal offence shall be registered or not.

BOC'S RECOMMENDATION

To amend the Criminal Procedural Code of Ukraine (the “CPCU”) to impose a duty on investigator/prosecutor to notify an applicant about their receipt of application or notification about committed criminal offence; registration of the respective data with the Unified Registry of Pre-Trial Investigations; as well as commencement of pre-trial investigation thereunder.

ACTIONS TAKEN BY GOVERNMENT AGENCIES

On 07 December 2017 the Law of Ukraine #2213-VIII “On introducing amendments to certain legislative acts aimed at ensuring respect of rights vested with the parties to criminal proceedings as well as other parties thereto at the part of the law enforcement authorities while carrying out pre-trial investigation”, – adopted by Verkhovna Rada on 16 November 2017, – entered into force (the “**Business Pressure Relief Act**”).

According to this law, anyone who lodged application to report about committed criminal offence is entitled to receive an extract from the Unified Registry of the Pre-trial Investigations within 24 hours after such an application is made, certifying the fact of such submission; whereas an investigator or prosecutor are respectively obliged to provide an applicant with such an extract (amendments introduced to Articles 60, 214 of the CPCU).

ISSUE/TASK	BOC'S RECOMMENDATION	ACTIONS TAKEN BY GOVERNMENT AGENCIES
<p>Inefficient nature of pre-trial investigation, comprising inactivity of the pre-trial investigation authorities and inadequate supervision at the part of the public prosecutor's office in criminal proceedings that are lasting for years.</p>	<p>Amend Article 308 of the CPCU to enable third parties, whose rights are being restricted and/or violated in course of the pre-trial investigation (in whose relation a pre-trial investigation is taking place) with the right to challenge failure to observe reasonable time limits to the superior prosecutor.</p>	<p>According to the Business Pressure Relief Act Persons whose rights are restricted during the course of a pre-trial investigation, but are not granted any procedural status (such as a chief accountant, financial director, members of the management or supervisory board) are entitled to approach a prosecutor, investigatory judge or a court with the petition seeking adherence of the course of a pretrial investigation with the reasonable time principle; or lodge a protest with the superior prosecutor to challenge failure to observe reasonable terms (amendments introduced to Articles 28, 303 and 308 of the CPCU).</p>

ISSUE/TASK	BOC'S RECOMMENDATION	ACTIONS TAKEN BY GOVERNMENT AGENCIES
<p>Abuses while carrying out searches, exercising temporary access to objects and documents and arresting property</p>	<ol style="list-style-type: none"> 1) The CPCU shall be comprehensively amended to provide for a special procedure of seizure of digital data, which, inter alia, would not contemplate seizure of computer hardware and would allow avoiding stoppage in the work of businesses due to seizure of servers. 2) To consider amending Article 236 of the CPCU to introduce mandatory video recording of such 	<ol style="list-style-type: none"> 1) Law enforcement officers, in general, will be prohibited from seizing computer hardware and must make copies of any required data without seizing the hardware where it is stored (amendments introduced to Article 168 of the CPCU). Further, these copies must now be treated by a court as if they were originals of the documents (amendments introduced to Article 99 of the CPCU).


investigatory action as search. In the Council's view it might be appropriate to provide that such video recording shall commence when the manager of the entity is furnished with the ruling issued by an investigatory judge sanctioning such search and shall last until he/she is provided with the copy of the protocol of search. It is also worth providing that only that evidence, whose collection was video recorded, could be acknowledged admissible.

3) To improve mechanism of personal liability of employees of law enforcement agencies for violations committed while carrying out investigatory actions. In particular, in addition to the existing Disciplinary Charters (Codes) of the Public Prosecutor's Office of Ukraine and Draft Law of Ukraine "On Disciplinary Charter of the National Police", both of which represent internal institutional mechanisms, to consider the opportunity of involving NGOs to the work of such disciplinary commissions.

2) Searches are now subject to mandatory video recordings; those actions taken and/or evidence collected that were not recorded by video would be inadmissible as evidence in subsequent court proceedings; video recording now constitute an integral part of the search protocol (amendments introduced to Articles 27, 104 and 107 of the CPCU)

3) Adjudication of matters by an investigating judge is also subject to mandatory video recording (amendments introduced to Articles 27 and 107 of the CPCU); hence, evidence collected during a search authorized by an investigating judge that was not video recorded will similarly not be admissible as evidence in subsequent court proceedings (amendments introduced to Article 87 of the CPCU);

4) When seeking authorization from an investigating judge for temporary access to materials and documents, law enforcement officials are now required to substantiate the necessity to seize not only originals, but also copies of the documents (amendments introduced to Articles 160, 164 and 165 of the CPCU);



The Cabinet of Ministers of Ukraine will establish a commission (comprising representatives of the state authorities as well as NGOs operating in the sphere of protection of business) tasked to issue recommendations to the heads of law enforcement agencies in respect of the liability of officers who appear to have abused their authority during the conduct of the investigation of a business. (amendments, introduced to Article 15 of the Law of Ukraine “On Democratic Civil Control Over Military Organization and Law Enforcement Authorities of the State”).



SYSTEMIC REPORT

“SYSTEMIC REPORT “COMBATTING RAIDERSHIP: CURRENT STATE AND RECOMMENDATIONS”

ISSUED IN JULY 2017

ISSUE/TASK

Lack of proper information interaction between data of the State Registry of Real Rights Over Immovable Property (the “**Registry of Rights**”) and the State Land Cadastre (the “**Land Cadastre**”)

BOC’S RECOMMENDATION

The Ministry of Justice of Ukraine and the StateGeoCadastre shall, – in compliance with the Clause 10 of the Resolution of the Cabinet of Ministers of Ukraine No. 509, dated 12 July 2017, – prepare and approve the protocol determining the structure and format of the information files to be transferred and accepted through information interaction of information systems of the Registry of Rights and the Land Cadastre.

ACTIONS TAKEN BY GOVERNMENT AGENCIES

Starting from 15 November, 2017 the proper information interaction between the Registry of Rights and the Land Cadastre, – required by the Resolution of the Cabinet of Ministers of Ukraine No. 509, dated 12 July 2017, – has become fully operational. From the practical standpoint, it means, inter alia, that a cadastral registrar is now finally granted with the technical opportunity to receive information about right of ownership or lease vis-à-vis a particular land plot by virtue of the direct access to the Registry of Rights. Moreover, when the state registrar enters certain changes with the Registry of Rights, the respective land plot data is being automatically synchronized with the Land Cadastre.

2.3. New systemic report on control over controllers

CONTROL OVER CONTROLLERS: SUPERVISORY AUTHORITIES REFORM IMPLEMENTATION STATUS

Ensuring effective state supervision (control) over observing the rules of doing business is an important factor in creating a well-functioning society and trust in the government. Over the past few years, **a series of legislative changes were adopted that created a legislative basis as a whole and, in fact, is a reform of supervisory authorities.** It is expected that, as a result of these changes, the number of supervisory authorities will be reduced, procedures and inspections frequency simplified, control procedures streamlined, unnecessary permits and

licenses cancelled, etc. **The idea of the Systemic Report is to analyze the supervision system reform progress, to identify the main “bottlenecks” of legislative innovations implementation and to prepare recommendations to the Government of Ukraine to fill the existing gaps.**

The report highlights and analyzes issues for the success of supervisory authorities' reform. These issues include the **need for an exhaustive list of supervisory authorities** since a large proportion of enterprises (especially small and medium enterprises) do

not have the opportunity to independently understand the specifics of each supervisory authority activity. The main technical innovations being offered now also refer to a specific list that is not in any way formalized. It is proposed to amend the Law of Ukraine “On Basic Principles of State Supervision (Control) in the Sphere of Economic Activity”, which establishes principles for the exhaustive and mandatory list of supervisory authorities. One is to provide for that in case of absence of an authority on the list of supervisory authorities, a business entity will have the right not to admit the representatives of such

an authority to inspection, and when developing the regulatory act, amendments to the relevant register will be made solely in case of amendments to the relevant laws on supervisory authorities.

Another important issue is the fully – fledged implementation of a risk-based approach to inspections. According to official figures, more than half of the identified supervisory authorities did not implement a risk-oriented approach to control.

An important innovative tool for ensuring transparency and predictability in the implementation of inspection measures **is the creation and maintenance of Integrated Automated System of State Supervision (Control), the so-called IAS**. It is therefore recommended to integrate and synchronize the work of

IAS with existing open source data systems to stipulate powers of officials to enter information into IAS in the corresponding supervisory authority and their personal responsibility for entering false or misleading information into IAS.

Perhaps, the most crucial issue for the reform success is the question of responsibility of officials of supervisory authorities. It is **important to establish effective mechanisms for practical implementation of regulatory acts, which assume responsibility for officials of supervisory authorities** and improve the norms of current legislation **in the part of personal (including disciplinary) responsibility of officials and officers of supervisory authorities**, which will prevent violations of legislation currently

committed by these persons when performing their duties. Such changes will be preventive in relation to possible violations of rights of business entities that will ensure creation of appropriate conditions for conducting entrepreneurial activities and improve the relationship between businesses and supervisory authorities.

The State Regulatory Administration is the authority whose monitoring capacity of supervisory authorities reforming process depends on its institutional capacity. The analysis made in this systemic report showed the need to equip the SRS with additional leverages to better use existing legal instruments and the ability to maintain a proper pace in the reform of supervisory authorities.



The full version of systemic report “Control over Controllers” is available on the BOC’s website **www.boi.org.ua**.

2.4. Summary of important investigations

In this chapter, you may read the illustrations of recommendations the BOC issued to various government agencies and the results of their implementation.

TAX ISSUES

SUBJECT: TAX VAT INVOICE SUSPENSION

#1

SFS registers Cherkasy enterprise's tax invoices worth over UAH 680,000

Subject of Complaint:
State Fiscal Service (SFS),
Cherkasy State Tax
Inspectorate (Cherkasy tax
office)

Complaint in brief:

On September 15, 2017, an enterprise distributing mineral fertilizers applied to the BOC with complaint against the SFS and the Cherkasy tax office. The Complainant could not register tax invoices worth over UAH 680,000.

During August, the automatic tax invoice registration system stopped 11 of the firm's tax invoices. In order to unblock them, the Complainant provided to the SFS through the Cherkasy STI additional confirmation proving validity of the firm's operations, and a taxpayer data sheet. This data sheet explained the nature of its operations, including the codes of goods being purchased and produced by the applicant. However, the SFS commission did not take this information into account and continued to refuse to register the tax invoices. Nor did the Commission offer any reasons for the refusal.

With its tax invoices blocked, the firm's counterparties could not use a tax credit worth more than UAH 680,000 in time. According to the Complainant, the firm had to compensate the losses to partners in order to continue working with them.

Action taken:

The BOC investigator officially addressed the SFS Commission Head asking for an explanation for ignoring the Complainant's data sheet and possible ways to resolve the reasons. In addition, the investigator sent a written request to the SFS Complaints Commission to conduct a comprehensive and impartial analysis of the company's case.

Result achieved:

On October 19, the Complainant reported that all 11 disputed tax invoices had successfully been registered. Indeed, since the SFS adopted the company's taxpayer data sheet, this guaranteed that tax invoices on similar operations would not be blocked in future.

SUBJECT: TAX INSPECTIONS**#2****SFS drops VAT demand against “Bravo” airlines worth UAH 8 million****Subject of Complaint:**

Main Department of the State Fiscal Service in Kyiv Oblast (Kyiv Oblast SFS)

* Here and further in the report the Complainant has kindly agreed to disclose his name for communication purposes

Complaint in brief:

On July 19, 2017, Bravo Airlines turned to the BOC with a complaint concerning the Kyiv Oblast SFS. The enterprise disagreed with results of a tax audit, according to which it was liable for additional VAT worth UAH 8 million.

According to the SFS, the airline was leasing aircraft on the territory of Ukraine and therefore had to pay VAT. Meanwhile, the Complainant insisted that VAT should not be paid, since the craft were being leased on location from a leasing company registered in the Arab Emirates, Lebanon and Cyprus.

The enterprise sent reasoned objections regarding the conclusions of the tax audit to the SFS, but the tax agency ignored them.

Action taken:

The BOC investigator sent an official letter to the SFS and took part in a hearing of the airline’s case, where he argued in support of its position. The investigator noted that the SFS was incorrectly interpreting provisions of the Tax Code and that, in this situation, the presumption of legality should be applied to the Complainant’s decisions.

Result achieved:

With the Council’s assistance, on October 27, the SFS accepted the airline’s challenge and canceled the decision regarding additional payments. The case was successfully closed.

#3**SFS reduces fertilizer distributor’s tax liabilities by UAH 5mn****Subject of Complaint:**

Odesa Oblast Main Department of the SFS (Odesa Oblast SFS)

Complaint in brief:

On August 23, 2017, a distributor of mineral fertilizers turned to the BOC with a complaint concerning actions of Odesa Oblast SFS. The company was challenging the results of a tax inspection that added taxes and penalties worth UAH 12mn to the company’s bill.

The additional VAT and profit tax were related to three episodes in the Complainant’s activity:

1. The distributor took a bank loan and paid interest on it. Before the loan had been fully repaid, the company gave an interest-free loan to an employee. Due to what it considered a “commercially unjustified action,” the SFS refused to classify the company’s

interest payments as expenses and to reduce the company's profits by that amount.

2.The Odesa Oblast SFS deemed several of the company's operations with counterparties "unrealistic." Specifically, the tax office was of the opinion that the contractors involved lacked the resources to actually carry out the tasks set out in contracts. As a result, the SFS did not allow the company to treat those payments as costs and claim a tax credit for them.

3.There was a mistake in the Complainant's tax invoices, where, instead of the supplier's tax ID, the tax office tax ID had been written in. The SFS rejected the company's claim to a tax credit for this transaction.

Disagreeing with the SFS assessments in the three situations the Complainant filed a challenge with the Odesa Oblast SFS, but the challenge, too, was rejected. After this, the Complainant submitted a complaint to the national SFS office.

Action taken:

After examining the circumstances of the case, the BOC investigator sent an official letter to the SFS, in which he presented his position regarding the Complainant's operations:

1.Since the Complainant's expenses for loans were real, the enterprise's profit could be reduced by that amount. The SFS judgment as to their relevance was an unwarranted interference in the Complainant's business.

2.The Complainant's documents, confirming the actuality of the transactions with contractors should be taken seriously.

3.Since the Complainant's technical errors did not lead to any losses to the budget, it was unreasonable to treat the firm as though it had not paid the tax.

In addition, the investigator participated in the SFS hearings of the Complainant's case.

Result achieved:

At the end of October, the SFS partly considered the BOC recommendations, which allowed the company to save UAH 5mn. The distributor plans to appeal the remaining controversial issues in the court.

#4

Large Taxpayer Office drops company's technical debt

Subject of Complaint:
Large Taxpayer Office
of the SFS (LTO)

Complaint in brief:

On September 21, 2017, a global manufacturer of escalators turned to the BOC with a complaint about the LTO. The company was complaining about a tax audit certificate, according to which it was required to pay taxes and a fine of more than UAH 1.5mn.

In 2013, the company made an advance payment of profit tax that resulted in an overpayment. This, the company used to cover subsequent liabilities for March-July 2014. However, the automated SFS system calculated a debt and penalties on profit tax worth more than UAH 1.5mn. The system did not calculate the tax liabilities as being paid using the firm's overpayment.

The Complainant objected to this approach and appealed to a major business association in 2016. With its help, the company signed an act of reconciliation with the LTO that affirmed that the Complainant had no tax liabilities before the budget. However, in 2017, the situation repeated itself, and the SFS once again saw a "technical debt" in its system. It was then that the Complainant turned to the BOC.

Action taken:

The BOC investigator participated in an administrative hearing of the complaint at the SFS office. He pointed out that the company had overpaid in 2013 and the SFS verification report in 2016 confirmed this. Specifically, the investigator appealed to the fact that the budget received appropriate tax revenues, and that a change in the algorithm for processing the taxpayer's integrated card was not a valid reason for imposing fines on the Complainant.

Result achieved:

With the assistance of the Council, this fairly commonplace situation for business was handled at the level of the SFS of Ukraine. On November 3, the Complainant informed the Council that the SFS had complied with his request and canceled the fine.

SUBJECT: PROBLEMS WITH THE ELECTRONIC VAT ADMINISTRATION**#5****SFS and MinFin changed formula for VAT refund calculations based on BOC recommendations**

Subject of Complaint:
State Fiscal Service (SFS)

Complaint in brief:

Starting on July 2016, the BOC has investigated three similar complaints about the incorrect presentation of tax audits results in the electronic administration of VAT system (SEA).

After companies submitted VAT refunds declarations for VAT refunds to local tax authorities, the SFS conducted inspections, and found reasons not to completely refund the tax. Yet, in the column "Refund Sum," the SEA automatically showed the original amount claimed and not amount the actually refunded. As a result, the column "Tax Invoice Sum," against which the payer has the right to register additional tax invoices, showed the amount of eligible, but not actually refunded, funds.

In one case, the Complainant filed a declaration of VAT refund worth UAH 10 million. After its inspection, the SFS completely refused to reimburse the VAT, but the company's "Tax Invoices Sum" was reduced by UAH 10 mln. In order to continue business operation, the Complainant had to replenish the VAT account at his own expense.

Action taken:

- After several rounds of negotiations with the SFS, BOC investigators discovered that the situation was simply the result of the SEA's incorrect algorithm. According to the tax office position, the SFS was unable to increase the "Tax Invoices Sum," even if it was reduced to a smaller amount than required. For the tax office to record the amount actually refunded in this column, the BOC recommended that the SFS and MinFin to make changes to Para. 200 of the Tax Code in one of two ways:
- Reduce the "Tax Invoices Sum" by the amount actually reimbursed, based on results of inspections, or
- Allow for the SEA to automatically display the verification results for the declared sum where "Tax Invoice Sum" is automatically reduced: if the declared amount is greater the amount reimbursed, the SEA should increase the previously reduced "Tax Invoices Sum" automatically, without any additional requests from taxpayers.

Result achieved:

After a year of regularly monitoring how its recommendations were being implemented, meeting with the SFS and making dozens

of telephone calls, the problem was solved on a systemic level. MinFin prepared a technical amendment to the Tax Code. A, after which approval of the law by the Verkhovna Rada, approved the SFS adjusted the software and documented the correct algorithm for displaying the results of tax audits in the SEA. The BOC recommendations were successfully implemented.

SUBJECT: OTHER TAX ISSUES

#6

Importers of medical equipment can now pay VAT in installments

Subject of Complaint:
State Fiscal Service (SFS)

Complaint in brief:

On June 16, 2017, the Council received a complaint about actions of the SFS from a leading Ukrainian manufacturer of medical products, when the company was unable to get a postponement of VAT on imported equipment.

On January 1, 2017, amendments to the Tax Code (TC) entered into force that introduced breaks for importers of certain categories of equipment for the production of medical products. They were given the right to pay VAT on the DCV of the equipment not at the time of customs clearance, but in equal installments for up to 36 months.

The Complainant, planning the purchase of preferential equipment in accordance with new rules of the TC, asked the SFS to provide a list of documents required for installment payment of VAT.

However, it appeared that, at the time of filing the complaint, the procedure for allowing taxpayers to pay in installments did not provide for the deferral of VAT when importing equipment into Ukraine. The declared preferences were effectively unavailable to domestic manufacturers.

Action taken:

After thoroughly examining the circumstances of the case, the Council's investigator sent a letter to the SFS and the Ministry of Finance asking them to work up, agree and submit for Cabinet approval the provisions allowing for VAT to be paid in installments on imported equipment in the preferential categories as quickly as possible.

Result achieved:

With the assistance of the Council, on October 4 the Cabinet of Ministers approved the VAT deferral procedure for importers of the relevant equipment and a system error was successfully fixed.

CUSTOMS ISSUES

SUBJECT: CUSTOMS CRIMINAL PROCEEDINGS

#7

SFS drops a long-lasting criminal case against management of "Agrokhim 2001"

Subject of Complaint:
Cherkasy Oblast Office of SFS (Cherkasy SFS)

Complaint in brief:

On June 30, 2017, a fertilizer distributor "Agrokhim 2001" turned to the BOC with a complaint about actions taken by the Cherkasy SFS. The Complainant had been unsuccessfully trying for over 18 months to have a criminal case against the company's management closed.

In June 2015, the Cherkasy SFS initiated criminal proceedings over alleged non-payment of taxes by the director of the company for 2013-2014. The distributor challenged the results of the tax audit in the court. The court ruled in the company's favor and declared the tax decision null and void. Nevertheless, the Cherkasy SFS continued to pressure the company and insisted that the investigation continue.

Since there was an open criminal case against the firm, the company lost several customers and was forced to downsize its business. The Complainant even changed its registration address to Kyiv in order to report to a different tax office.

Action taken:

The BOC investigator thoroughly investigated the circumstances of the case and then sent a request to the Prosecutor General's Office requesting sting to audit the continuation of the pre-trial investigation, since the decisions of the Cherkasy SFS had been declared null and void by the court. The PGO then delegated the case to the Cherkasy Prosecutor's office. However, the CPO sent a form letter saying that there were no grounds for closing the criminal case.

The BOC investigator continued efforts to get the case dropped. In early September, the investigator brought the issue up at a

meeting with the SFS expert group. Based on the results, the SFS Investigation Department ordered the Cherkasy SFS to carry out an additional review as to the expediency of continuing the investigation.

Result achieved:

At the end of October, after carrying out the review, the Cherkasy SFS dropped the criminal case against the distributor's management. With the assistance of the Council, a case that had dragged on for more than two years was finally closed.

SUBJECT: CUSTOMS VALUATION

#8

Rivne Customs stops adjusting declared customs value of imported fabrics

Subject of Complaint:
Rivne Customs Office of the State Fiscal Service (Rivne Customs)

Complaint in brief:

On August 28, 2017, a Ukrainian manufacturer of upholstered furniture addressed the BOC with a complaint against Rivne Customs.

The Complainant reported that Rivne Customs did not accept the declared customs value (DCV) indicated in the accompanying documents for fabric imported from China. Instead, it applied another, higher price at which previous supplies from Poland were assessed.

The furniture maker did not agree with the overstated DCV. However, to avoid delays at Customs and promptly import its goods, the firm took the advantage of the "90-day procedure," which allows the release of goods in free circulation while guaranteeing the payment of customs duties, in accordance with Customs calculations. At the same time, the importer may, within those 90 days, request an administrative adjustment to the DCV assessed by Customs.

The company then submitted to Rivne Customs confirmation documents, such as the sales contract, invoice and proof of transport costs, required for a customs value assessment based on the value of the contract. However, Rivne Customs did not change its assessment because it was unclear what is the procedure of payment for the delivered goods.

Action taken:

At the beginning of September, the BOC investigator sent a written request to the State Fiscal Service regarding the Complainant's case. He also organized and personally participated in a meeting

#9

Zakarpattia Customs releases equipment of “Promlyt” factory

Subject of Complaint:
Zakarpattia Customs of the SFS (Zakarpattia Customs)

between the importer and Rivne Customs to identify the reasons for adjusting the DCV and to eliminate them. As a result of the meeting, the Complainant made changes to the sales contract that described the procedure for payment of the goods more clearly and confirmed the contract value.

Result achieved:

Rivne Customs agreed with these clarifications, and stopped adjusting the DCV of the goods. The case was successfully closed.

Complaint in brief:

On November 8, 2017, a factory “Promlyt”, importing used equipment from the European Union, turned to the BOC to challenge the actions of Zakarpattia Customs. The Complainant’s cargo had been detained at Customs without explanation.

In early October, five “Promlyt” cars with imported goods came one after another to the Zakarpattia Customs checkpoint. However, on one of the imported spare parts, the year of manufacture did not match the date in the documents, which became the reason for detaining one of the cars.

However, the company only found out the reason after a call to the SFS hotline. In the meantime, customs officers held back for additional checks, not only the cargo that they had questions about, but also all other cars belonging to the importer — without offering the Complainant any reason for delaying other cars.

Action taken:

The BOC investigator contacted Zakarpattia Customs about the delays in the customs clearance of the Complainant’s cargo. The investigator agreed that inconsistencies in the components of the imported equipment arose indeed. However, since there were no significant violations of customs rules in the Complainant’s case, the inconsistencies could be eliminated on the spot by correcting the accompanying documents.

Result achieved:

At the end of the day during which the BOC investigator spoke to Zakarpattia Customs, three of the importer’s cars were released; the next day, the remaining two were. The case was closed successfully.

ACTIONS OF STATE REGULATORS

SUBJECT: STATE REGULATORS – OTHER ISSUES

#10

MEDT drops trade sanctions against Italian importer

Subject of Complaint:

Ministry of Economic Development and Trade (MEDT)

Complaint in brief:

On August 17, an Italian company that imports walnuts to Italy from Ukraine addressed the Council with a complaint against the MEDT. When irrigation equipment was delivered to a Ukrainian counterparty at the beginning of 2017, the European company turned out to be on the MEDT sanctions list, which that firm did not know. The importer, who has settled its accounts in time and in full with suppliers, became concerned and upset. Moreover, the enterprise had never received any notices from the MEDT regarding the imposition of sanctions. More importantly, this caused the Italian importer difficulties in its international operations, as every delivery now required separate licensing.

Meanwhile, the Complainant had enquired with the MEDT three times to find out why sanctions were being imposed and cancel them. The Complainant found out that the trade restrictions had actually been the initiative of the State Fiscal Service. According to its data, one of the Ukrainian exporters had not received payment from the Complainant for the supply of commodities in time in 2015. After the Complainant's appeal in March 2017, the SFS agreed with the firm's arguments and sent a request to MEDT to drop the sanctions. However, the trade restrictions against the importer were still in place at the time when the Complainant turned to the BOC.

Action taken:

The BOC investigator determined that yet another international counterparty was involved in the payment scheme between the Complainant and the Ukrainian exporter. This counterparty actually did receive the payment from the Italian company. With this explanation, the investigator turned to MEDT and SFS and proposed that the sanctions against the importer be dropped. The investigator also asked the Deputy EDT Minister to personally follow up on the case.

Result achieved:

On October 5, the MEDT issued an order dropping sanctions against the Italian company. The case was successfully closed.

#11

Officials release cargo of corn for export from Mykolaiv port

Subject of Complaint:

Northwest Black Sea Region Environmental Inspection (environmental office), Mykolaiv Customs of SFS (Mykolaiv Customs)

Complaint in brief:

On October 17, 2017, the BOC received a complaint regarding a prohibition on exports by officials of ecological office and Mykolaiv Customs officials from a port operator that reloads, forwards and registers export goods in the Port of Mykolaiv. The laden ship was not released from the port due to a negative stamp on the manifest of radiological control.

Three days before its appeal to BOC, the Complainant was planning to ship a load of corn for export. The cargo was completely ready to go: phytosanitary certificates and other permits were in hand, all the necessary procedures and inspections had been completed. In addition, the cargo successfully passed radiological control through a special stationary system. Still, ecological inspection officials did not allow the export of goods because of its alleged environmental hazard.

The Complainant's perishable cargo was then blocked in the Mykolaiv port for an indefinite period.

Action taken:

After analyzing the port operator's various permit documents, the BOC investigator turned to the administration of the regional ecological office and directly to the State Ecological Inspection of Ukraine. Investigator recommended to audit the grounds for banning the cargo's export and to take actions so that the ship would be released to its destination. The investigator emphasized the urgency of the shipment, given its short shelf life.

Result achieved:

On October 20, ecological inspection's officials amended in the Complainant's documents information regarding the radiological control and allowed the vessel to leave the Port. Thanks to the intervention of the BOC, the case was successfully closed within a few days.

STATE SECURITY SERVICE ACTIONS

SUBJECT: STATE SECURITY SERVICE – OTHER ISSUES

#12

Individual licensing and longstanding criminal case against agricompany are finally discontinued

Subject of Complaint:

Security Service of Ukraine (SSU), Kyiv Customs of the SFS (Kyiv Customs), Ministry of Economic Development and Trade (MEDT).

Complaint in brief:

From January till September 2017, the BOC had received three complaints from an agricultural enterprise that distributes pesticides, concerning actions of the SSU, the Kyiv Customs and the MEDT.

According to the Complainant, in 2016, the SSU unreasonably opened a criminal case against him for smuggling plant protection products. Company's imported goods worth over UAH 300k were seized.

Apart from it, the MEDT imposed a fine of individual licensing on the company. To conduct any foreign economic transaction, the Complainant had to receive a license.

Agribusiness operations were completely paralyzed and only caused owners losses, employees of the company faced the risk of dismissal.

Action taken:

During the year, the BOC has been working on the enterprise's complaints. The BOC investigator turned with a reasoned position in support of the Complaint to the Prosecutor General's Office, the National Police, the MEDT and the Kyiv Customs. In addition, the agricompany cases were several times considered at working group meetings of the BOC with appropriate state bodies.

Result achieved:

During the year, the BOC has been working on the enterprise's complaints. The BOC investigator turned with a reasoned position in support of the Complaint to the Prosecutor General's Office, the National Police, the MEDT and the Kyiv Customs. In addition, the agricompany cases were several times considered at working group meetings of the BOC with appropriate state bodies.

#13

Lviv Customs releases soy lecithin shipment

Subject of Complaint:

Lviv Oblast Office of the Security Bureau of Ukraine (Lviv SBU), Lviv Customs of the SFS (Lviv Customs)

Complaint in brief:

On November 3, 2017, a distributor of food ingredients addressed the BOC with a complaint concerning the SBU.

The company has been importing food additives for more than 5 years and supplying them to leading Ukrainian confection makers. In September, however, the Complainant says that Lviv Customs began putting pressure on the company—under orders from the SBU.

Lviv Customs detained two lots of soy lecithin to check the content for genetically modified organisms (GMOs). Subsequent test results from UkrMeterTestStandart, the state food testing agency, confirmed the absence of GMOs, but Lviv SBU officials sent samples for further testing to an unaccredited laboratory in Odesa without any explanation. That lab claimed that the product contained more than 0.01% of GMO content. According to Ukrainian law, a product is considered genetically modified if the content includes more than 0.9% of GMOs.

Nevertheless, the Complainant's shipment remained blocked at the customs for two more weeks, which cost the company in many ways: temporary storage, renting transport, and loading and unloading at Customs. Most importantly, the delivery deadline for the goods was missed. This created problems for the Complainant's contractors, the makers of finished confections. In some cases they were forced to stop production.

Action taken:

The BOC investigator thoroughly studied the positions of the Complainant and the state agencies involved. She sent a letter to the SBU and SFS asking to explain why the goods had been re-tested in the first place. The investigator contacted the Deputy Director of Lviv Customs, who announced that a third test would be undertaken to make a final determination of the content of the product.

Result achieved:

The results of the third check showed that GMOs were absent in the imported soy lecithin. On December 6, the Complainant informed the Council that all the company's goods had cleared customs. The case was closed successfully.

PROSECUTOR'S OFFICE

SUBJECT: PROSECUTOR'S OFFICE PROCEDURAL ABUSE

#14

Kyiv Prosecutor's Office returns unlawfully seized property to investment firm

Subject of Complaint:
Kyiv Municipal Prosecutor's Office (Kyiv Prosecutor's Office)

Complaint in brief:

On October 26, 2017, the BOC received a complaint from an investment firm concerning the failure to act on the part of the Kyiv Prosecutor's Office.

Over a year ago, in October 2016, the Office's investigative unit had searched the Complainant's offices and removed company equipment and documents without actually having the necessary warrant to remove said property.

A month later, the Pechersk Court ruled in favor of the company and ordered the investigator to return the property seized during his search. However, the inspector was in no hurry to comply with the court order.

The firm spent the following year addressing district courts, the National Police, and the Kyiv Prosecutor's Office in vain. Its property remained confiscated, and its operations were paralyzed.

Action taken:

After examining the circumstances of the case, the BOC investigator wrote to the Kyiv Prosecutor's Office requesting that the enforcement of the court decision be verified and the Complainant's property returned. While reviewing the complaint, the investigator also contacted the supervisor of the investigator in charge of the case.

Result achieved:

As a result, the Kyiv Prosecutor's Office informed the Complainant that it was prepared to return the company's seized property. On December 20, the Complainant confirmed that all the confiscated property had been returned. The case was successfully closed.

MINISTRY OF JUSTICE ACTIONS

SUBJECT: MINJUSTICE REGISTRATION SERVICE

#15

MOJ drops seizure of gas station chain “AMIC Ukraine” real estate

Subject of Complaint:

Ministry of Justice (MoJ),
Podil District Office of Kyiv
Enforcement Service under
the Main Territorial Justice
Administration in Kyiv City
(Podil enforcement office)

Complaint in brief:

On September 27, 2017, the Council received three complaints regarding the Podil Enforcement office's failure to act, from an enterprise with foreign investments “AMIC Ukraine” that owns a chain of gas stations throughout Ukraine.

More than a year ago, the company was fined UAH 1mn. In order to ensure this payment, the Podil Enforcement office had arrested all the company's real estate, which is worth much more than the fine. Based on a lawsuit filed by the Complainant, the court cancelled the fine. In order to comply with the court ruling, the Podil enforcement office issued a decree cancelling the seizure in September 2016. However, a year later, it turned out that the arrest still remained effective in the real estate register. The enterprise itself addressed this problem to the Podil Enforcement office, but its requests did not lead to the result, and so, the company could not freely dispose of its property.

Action taken:

Representatives of the BOC wrote to the Podil enforcement service asking them to investigate the circumstances of the case and to remove it. On October 4, the BOC investigators met with the director of the Podil Enforcement office and discussed withdrawing the arrest and removing of the incorrect record from the property register. In addition, investigators spoke to the state executive responsible for enforcement proceedings against the company.

Result achieved:

On October 23, The Complainant informed the Council that the incorrect entry had been removed from the register. The case was successfully closed within a month.

SUBJECT: MINJUSTICE ENFORCEMENT SERVICE**#16****Moj improves the procedure of arrested property disposition****Subject of Complaint:**

the Ministry of Justice of Ukraine (Moj), State Enforcement Service Department of the Moj (Moj enforcement service)

Complaint in brief:

On July 4, 2017, UkrSibbank appealed to the BOC with a complaint concerning actions of the Moj enforcement service. The Complainant could not enforce collateral – the property that had not been disposed via electronic auction process.

In September 2016, the Moj enforcement service arrested an apartment located in the center of Kiev belonging to the bank. At the end of May 2017, it was advanced for auction conducted by the state-owned enterprise CETAM. However, the auction was not held due to absence of admitted participants. Therefore, the bank decided to draw on the mortgage title to the property amounting to the owed loan debt.

In order to redeem the mortgaged property at the base initial price, the bank had to receive an act on the disposition of the object of the mortgage loan. However, to issue an act the state enforcement service required a protocol from CETAM on the disposition of property by way of claims set-off.

However, the state enforcement service stated that this was not possible due to the automatic nature of the formation of CETAM protocols. The Moj enforcement service itself acted according to the procedure prescribed by law and insisted on the existence of the aforementioned act. Thus, the situation became a vicious cycle that the Complainant could not resolve.

The bank addressed this issue several times with the management of the Moj enforcement service, however, without success.

Action taken:

The BOC investigator studied the materials of the complaint in detail and found a systemic fault in the disposition procedure of arrested property as has been approved by the Moj. The BOC addressed the Moj in the written form and organized a working meeting with the state body. At the meeting of the working group, the BOC suggested changing the disposition procedure of arrested property, as approved by the act of the Moj on September 29, 2016, No. 2831/5.

Result achieved:

As per the support of the BOC, the Moj has amended the disposition procedure of arrested property. In case auction trading has not taken place, the act of disposition of property by way of claims set-off is issued on the basis of a protocol. The systemic fault has been successfully corrected.

ACTIONS OF LOCAL COUNCILS/ MUNICIPALITIES

SUBJECT: LOCAL COUNCILS' OTHER ACTIONS

#17

Kyivavtodor allows 11 t per axle to be transported on Kyiv's ring road

Subject of Complaint:
Kyivavtodor Municipal Road Corporation (Kyivavtodor)

Complaint in brief:

On December 27, 2016, a company transporting oversized farm equipment turned to the BOC with a complaint against Kyivavtodor. When granting permits for the transport of oversized cargo by Route T-10-27, which is part of the Kyiv ring road, Kyivavtodor set more restrictive limits than standard regarding the axle load of the carrier—10 t per axle instead of 11 t. This is why the Complainant could exploit this road.

To transport its oversized farm equipment, the Complainant uses special combine trailers with independent axles that, according to European road transport standards, cause the least damage to road surfaces. Despite the fact that the full weight of the trailer can be up to 40 t, the weight distribution means that the load on a driving axle is no more than 11 t. According to current Ukrainian law and international standards, the load on a trailer axle can be up to 11 t.

In December 2016, the Complainant received an order to transport a large batch of new farm machinery: 580 combines, 750 tractors and 310 items of other large-sized equipment. According to the Complainant it is technically impossible to carry some items from the order with 10 t axle load.

However, Kyivavtodor when granting route use permits insisted that maximum allowable axle load on the Kyiv ring road was 10 t. Such a position of Kyivavtodor jeopardized goods delivery.

Action taken:

In spring 2017, the BOC investigator turned to the Ministry of Infrastructure, Ukravtodor, the national roadways agency, and Kyivavtodor with a request to clarify the maximum allowable load on the axles of vehicles moving along T-10-27. Ukravtodor answered, that this route was divided into several sections that were controlled by Ukravtodor and Kyivavtodor. The section controlled by Ukravtodor did allow a maximum load of 11 t per axle under normal weather conditions. As to the section controlled by Kyivavtodor, the BOC was not able to obtain full information through official correspondence.

#18

Mamalyga gypsum plant receives its mining claim from Chernivtsi Oblast Council

Subject of Complaint:
Chernivtsi Oblast Council

At the request of the Council's investigator, the Infrastructure Ministry held a working meeting on November 7 with officials from Kyivavtodor, Ukravtodor and the State Transport Security Service. At this meeting, Kyivavtodor confirmed that, at present, those sections of T-10-27 that were under their authority were also adapted for large vehicles with an axle load of up to 11 t under normal weather conditions. Ukravtodor also confirmed that oversized transport was permissible on the sections of the route under its control.

Result achieved:

Thus, due to the BOC investigator facilitation the Complainant in November received permission to transport vehicles with an axle load up to 11.00 t along T-10-27. The carrier is now able to supply farm equipment to Ukrainian enterprises.

Complaint in brief:

On November 17, 2017, the Mamalyga gypsum plant – a leading domestic manufacturer of plaster finishing materials, turned to the BOC with a complaint against the Chernivtsi Oblast Council. The enterprise was unable to get a mining allotment for developing a gypsum deposit.

The Complainant has been mining minerals in the village of Mamalyga in Chernivtsi Oblast for several years already. In February 2017, the State Geology and Subsoil Service (Derzhgeonadra) extended the company's permit to extract gypsum for 20 years. This permit established the geographical coordinates of the extraction area. However, to extract minerals from the soil, the plant had to get a mining claim for the minerals extraction, which gives the right to engage in specific work on a project, directly from the local council.

In May, after preparing the necessary package of documents, the company filed a claim with the Chernivtsi Oblast Council. That was when the delays began. Over five months, the Complainant's issue was not brought up at council sessions, yet the committee said nothing about the package of documents that had been submitted

#19

Odesa Oblast grain terminal's developer finally receives permits

Subject of Complaint:

Odesa Oblast grain terminal's developer finally receives permits

in support of the claim. And in October, the oblast council website posted a draft decision that the plant's claim had been turned down, although the application had never been reviewed at any session.

The Complainant has repeatedly turned to the committee chair and members for an explanation as to why the claim had been turned down, but received no response. Meanwhile, the company's Turkish investors even asked the Turkish Consul, for assistance.

Action taken:

On November 27, the BOC investigator asked the Chernivtsi Oblast Council a request to explain reasons of not granting the mining claim. The BOC also asked for explanations from the committee chair. On December 4, after analyzing the information received, the BOC investigator turned once more to the oblast council chair with a request to disseminate the claim and the Council's position on the case among the oblast deputies. The investigator noted that there were no valid reasons for refusing to grant the mining claim to the Complainant. The Council also made a written request to the oblast governor. As a result, the oblast governor personally addressed the deputies about this case.

Result achieved:

On December 7, the Mamalyga gypsum plant finally got the right to extract gypsum from the deposit. With the assistance of the BOC, the case, which had been unresolved for more than six months, was closed within a few weeks.

Complaint in brief:

On November 3, 2017, the developer of a large grain terminal in Odesa Oblast addressed the BOC, saying that the company couldn't obtain permits for four construction projects.

The company had built a facility for receiving large volumes of grain, processing them, storing them, and loading them onto seagoing vessels. After construction was completed in August 2017, the Complainant sent the necessary applications and documents confirming the facility's readiness for operation to the Chornomorsk SACC. The developer successfully passed the verification of compliance with building codes, standards and rules. In addition, the company paid the required fee for the development of Chornomorsk infrastructure.

But the SACC office neither accepted nor rejected the Complainant's application within the statutory 10 days. At this point, the company

had addressed this problem three times to the State Architectural and Construction Inspectorate (DABI) without success.

Action taken:

The BOC investigators reviewed the circumstances of the case in detail and received additional information about the registered numbers of the facilities from the Chornomorsk SACC. With this in hand, the BOC staff appealed to DABI with a request to register the Complainant's facilities as soon as possible.

Result achieved:

Within few hours of the BOC's request, records of the company's grain terminals appeared in the registry. On November 9, the Complainant received permits for its real estate. The case was closed successfully.



COOPERATION WITH STAKEHOLDERS

One of the key commitments of the Business Ombudsman Council is furthering progress towards transparency among state, regional and local authorities, and among companies owned or controlled by the state. The Council also facilitates ongoing, system-wide dialogue between business and the government.

3.1. Cooperation with government agencies

The General Prosecutor signs the Orientation Letter aimed at preventing violations during searches

As ordered by the President of Ukraine Petro Poroshenko on 14 September 2017 during his and Prime Minister Volodymyr Groysman's meeting with business community, – on 05 October, 2017 the General Prosecutor of Ukraine signed Orientation Letter, aimed at eradicating typical procedural abuses committed by law enforcers during searches.

Deputy Business Ombudsman Iaroslav Gregirchak together with experts of the American Chamber of Commerce, the Union of Ukrainian Entrepreneurs and the European Business Association was directly engaged in elaboration of the text of this document.



The Orientation Letter obliges Deputies Prosecutor General (by liaising with investigators at the headquarters of the pre-trial investigation authorities) as well as management of

the regional prosecutor's offices (by cooperating with leadership of the respective law enforcement agencies) to maintain certain homogeneous approaches while carrying out searches.



Business Pressure Relief Act entered into force

On December 7, the Law No. 2213-VIII (generally referred to as either the Business Pressure Relief Act or #MaskShowStop) has entered into force. The Law is designed to strengthen the protection of the rights of businesses, prevent abusive practices on the part of law enforcement bodies during the course of investigations, and to introduce liability for any unlawful behavior on the part of investigating officers.

The Law, – which was developed in close cooperation between the Cabinet of Ministers of Ukraine, the Ministry of Justice of Ukraine, the Business Ombudsman Council and UkraineInvest implements some ¾ of recommendations set out in the BOC's Systemic Report "Abuse of Powers by the Law Enforcement Authorities in Their Relations with Business", which was published in January 2016.



The key novelties of the Business Pressure Relief Act can be summarized as follows:

1. Searches are subject to mandatory video recording;
2. Adjudication of matters by an investigating judge are also subject to mandatory video recording;
3. Law enforcement officers, in general, are prohibited from seizing computer hardware and must make copies of any required data without seizing the hardware where it is stored.
4. A person in whose premises the search is being carried out is entitled to the assistance of an advocate at any stage of a search. If an advocate is barred access by the law enforcement body carrying out the search, any evidence collected is not admissible in court;
5. It is prohibited to re-open criminal proceedings on the basis of facts identical to those that were the subject of an earlier criminal proceeding, which has already been closed;
6. Anyone commencing criminal proceedings against the activities of the investigating authority is entitled to receive an extract from the Unified

Registry of the Pre-trial Investigations within 24 hours after such an application is made;

7. Persons whose rights are restricted during the course of a pre-trial investigation, but are not granted any procedural status (such as a chief accountant, financial director, members of the management or supervisory board) are entitled lodge a submission with the prosecutor or investigatory judge seeking compliance with “reasonable time” principle on the part of an investigator or a prosecutor;
8. When seeking authorization from an investigating judge for temporary access to materials and documents, law enforcement officials are required to substantiate the necessity to seize not only originals, but also copies of the documents;
9. The Cabinet of Ministers of Ukraine will establish a commission to receive complaints and to issue recommendations to the heads of law enforcement agencies in respect of the liability of officers who appear to have abused their authority during the conduct of the investigation of a business.

The BOC continued its work within expert groups established after signing 9 memoranda of cooperation.

Expert group meetings held in Quarter IV 2017:

State Fiscal Service	12
National Police	2
Prosecutor’s Office	1
State Security Service	1
Kyiv City State Administration	1
Ministry of Ecology and Natural Resources	1

3.2. Ukrainian Network of Integrity and Compliance

On October 9, 2017, the Ukrainian Network of Integrity and Compliance (UNIC) officially launched its operations in Ukraine. The network brings together responsible businesses throughout Ukraine and promotes the idea of doing business ethically through educational events, developing exemplary policies, and evaluating the members' compliance on the annual basis.



Basically, the fight is usually waged on the side of the demand against corruption. Instead, we focus on the offer – if business behaves ethically, this reduces unlawful acts. One of the key objectives of UNIC is to provide companies with tools and procedures to implant compliance into their business core”, **stressed Algirdas Šemeta**, Business Ombudsman of Ukraine, the initiator of UNIC. He added that the initiative is nationwide and aims at bringing together businesses showcasing integrity in Ukraine regardless of size and region.

At the Founding meeting, UNIC established the list of its current members and governing bodies, sources of financing, objectives and tasks. Now, UNIC comprises over 50 Ukrainian and international companies.

UNIC governing bodies were also approved at the Founding Meeting. The Executive Committee is made up of Podiiskyi Tsement PJSC, Oriflame Ukraine LLC, KPMG Ukraine, Sandoz Ukraine LLC, KTD Group LLC, ORGANIC SYSTEMS farming company, Business Ombudsman, representatives of the OECD and the Ukraine Investment Promotion Office in Ukraine. The Committee will be responsible for day-to-day activities of UNIC and will represent it before the public. The Ethics Committee responsible for monitoring the members' compliance and tracking violations was also established. Two expert groups will focus on internal policies working tools for UNIC members.



UNIC members agreed to support the Network's sustainability through annual membership fee. Depending on the number of employees and annual revenue (or the number of participants for business associations), the fee will range from 100 to 3,000 EUR. International donors, such as EBRD and the OECD, will also support the project.

MEMBERSHIP ADVANTAGES

- 1 Good business reputation
- 2 Collective counteraction to corruption
- 3 Regulatory pressure reduction
- 4 Easier access to crediting
- 5 Sharing best compliance practices
- 6 Using UNIC logo as a marketing tool (upon certification)

Applications to join UNIC are being accepted. Companies wishing to join the network should fill in the questionnaire via www.unic.org.ua website. Each candidate will undergo the open data screening. Reports with results will be passed to governing bodies to decide on the approving or rejecting the membership. Any company or business association can join the Network regardless of its size or area of activity. The key to becoming a member is to favor a high standard of integrity and compliance in doing business.

UNIC IN NUMBERS

55

companies

62 805

employees

46

cities

Companies wishing to join the network should fill in the questionnaire via www.unic.org.ua website





UNIC

Ukrainian Network
of Integrity and Compliance

Join
the Ukrainian
Network of Integrity
and Compliance

www.unic.org.ua

3.3. Public outreach and communication

Communication with the public is essential to the Business Ombudsman's role. Our Office uses media and technology wherever possible to engage and inform Ukrainians – and to ensure public appearances by the Business Ombudsman and his team reach a wide audience.

Our experts spoke at a range of important events, namely:



4/10/2017

Industrial Legal Forum – Infrastructure and Foreign Trade



12/10/2017

Press breakfast, organized by Liga Business Club



19/10/2017

International CFO Forum, organized by FAService



10/10/2017

Participation in the discussion on business climate within the USAID Leadership in Economic Governance Program “Developing SME – building future”, plenary session on “Foreign economic activity – how to simplify life for business”

13/10/2017

Swiss Business Day (hosted by the Embassy of Switzerland)



18/10/2017

2nd Annual “Corporate Security” Conference organized by the Association of Professionals in the Sphere of Corporate Security, Yuridicheskaya Praktika and Sayenko Kharenko Law Firm



20/10/2017

Open Meeting hosted by the League of Ukrainian Entrepreneurs (SUP) for Businesses with Business Ombudsman

20/10/2017

“GET Business Festival” organized by Delo.ua and Oshchadbank and focused on problems faced by SMEs in Ukraine

26/10/2017

Meeting with students of “Dominanta” gymnasium

**26/10/2017**

First Hub of Investors and Global Communities

**10/11/2017**

Conference by the All-Ukrainian NGO “Lawyers Association”, IV All-Ukrainian Conference on Criminal Law”

15-17/11/2017

Ninth Regional Conference on Nurturing an Anti-Corruption Culture in the Asia-Pacific Region in Seoul, Korea hosted by the Korean Government

**16/11/17**

DEF Economic Forum organized by the Dnipro Regional State Administration

**17/11/2017**

Joint Press-Conference at Ukrinform (the Ministry of Justice of Ukraine, the BOC, AmCham and EBA) to present key provisions of the Business Pressure Relief Act.

**17/11/2017**

Program of the Kyiv-Mohyla Business School “Effective Communications: Reputational Management in practice”

**24/11/2017**

First Tax Forum “Tax & Business Talks”, organized by the Ukrainian Association of Attorneys



28/11/2017

Workshop on Business Ethics and Compliance organized by the Office of Coordinator of OSCE Economic and Environmental Activities, Bishkek, Kyrgyz Republic

29/11/2017

International Round Table Discussion "Role and Place of Special Services in Protecting Objects of Critical Infrastructure", organized by the Security Service of Ukraine with OSCE Project Coordinator in Ukraine

30/11/2017

Professional master-class for the membership of NGO "League of Students of the Ukrainian Bar Association"



30/11/2017

Seminar for the journalists from local and regional media, organized by the Reanimation Package of Reforms



4/12/2017

"Towards open and evidence based land reform" Conference, organized by the World Bank's "Capacity Development for Evidence-Based Land & Agricultural Policy Making" Project



6/12/2017

IX International Conference "Doing Agribusiness in Ukraine", organized by the Association "Ukrainian Agribusiness Club"



7/12/2017

Annual Forum of Mediators and Dialogue Facilitators organized by the OSCE PCU



8/12/2017

Round Table "How to protect consumer in times of complicated reforms of energy market", organized by the Verkhovna Rada of Ukraine with the support of the British Embassy



12/12/2017

BO's meeting with the Polish business community (organized by the Embassy of the Republic of Poland)



15/12/2017

VII Winter Forum On Criminal Law and Process, organized by the Association of Advocates of Ukraine



6/12/2017 – Iaroslav Gregirchak gave a lecture for students enrolled to the Certified Human Rights' Advocacy Program at the Ukrainian Catholic University, which is implemented with the support of the Embassy of Germany. Iaroslav spoke about international standards of ombudsman institution's functioning and the BOC's experience and achievements thereto.



In November 2017, Deputy Business Ombudsman Tetyana Korotka became a trainer of the STEM Girls Project. This is an international social initiative aimed at encouraging women to choose their education and careers in the field of STEM (Science, Technology, Engineering and Mathematics).



On October 10 – November 17, 2017, investigator Tetiana Kheruvimova participated in the Professional Fellows Program under the auspices of the US Government. As a BOC's representative, she had an internship in the Better Business Bureau, an organization designed to help build a virtuous business by accrediting companies in North America. As part of the internship, Tetiana gained practical experience, met representatives of companies and government agencies. Our colleague also attended the international congress, which brought together 270 professionals from various fields of business from more than 50 countries around the world.

The media

The Business Ombudsman Council communicates with the media to exchange information and does not, in any shape or form, provide financial compensation to editors or journalists for mentioning its activity or its speakers.



In this quarter, our interviews were published in the leading Ukrainian media:

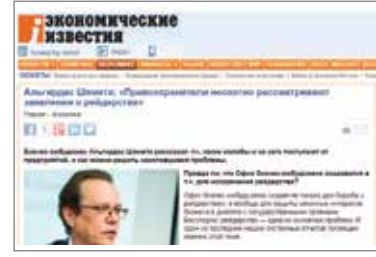
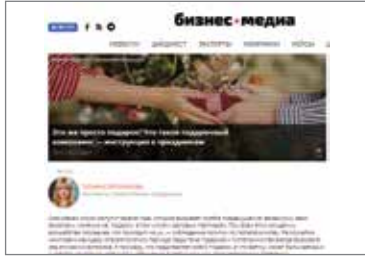
Segodnya;
Business Ukraine;
Delovaya stolitsa;
Ekonomicheskie izvestiya;
Interfax,
KyivPost;
Novoye Vremya Business,
UkrInform



We also made a number of TV (Bihus info, Espresso TV, ICTV, Pershyi Dilovyy, Ukraina) and radio appearances (Hromadske Radio, Golos Stolytsi) to mention a few.



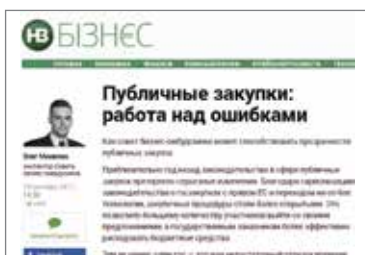
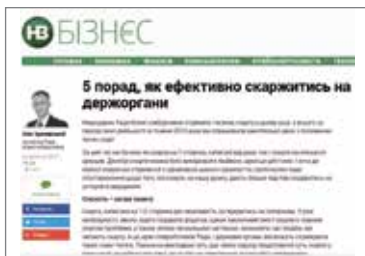
We organize roundtables on a quarterly basis and invite journalists to see and feel how the Business Ombudsman works.



Since launch of operations, the BOC was cited

15 000+ times

99% mentions being positive and constructive.



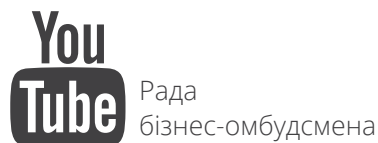
We also actively use social media to get our message through.

We pay close attention to:



Facebook

3300+ followers so far (no paid ads, organic reach only) getting the message in front of around 10,000 people in each post. We use Facebook to share information about our Office, our work, and news of interest in the oversight field.



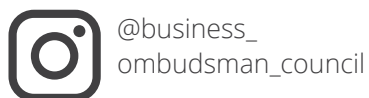
YouTube

We produce useful and emotional videos on submitting complaints, cast success stories of our complainants, provide legislative life hacks. YouTube channel enables us to build trust and authority with our audience.



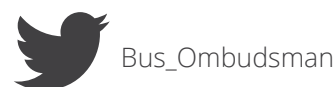
LinkedIn

We constantly keep the business community updated about our recent developments.



Instagram

Instagram account enables us to display our work environment and gives a great opportunity to connect on a deeper level with our online audiences by sharing with them what's important to our company's core values.



Twitter

We use this channel to quickly get our message out for the English-speaking audience.



The BOC's Communication team is also working on strengthening communications of the recently launched Ukrainian Network of Integrity and Compliance.

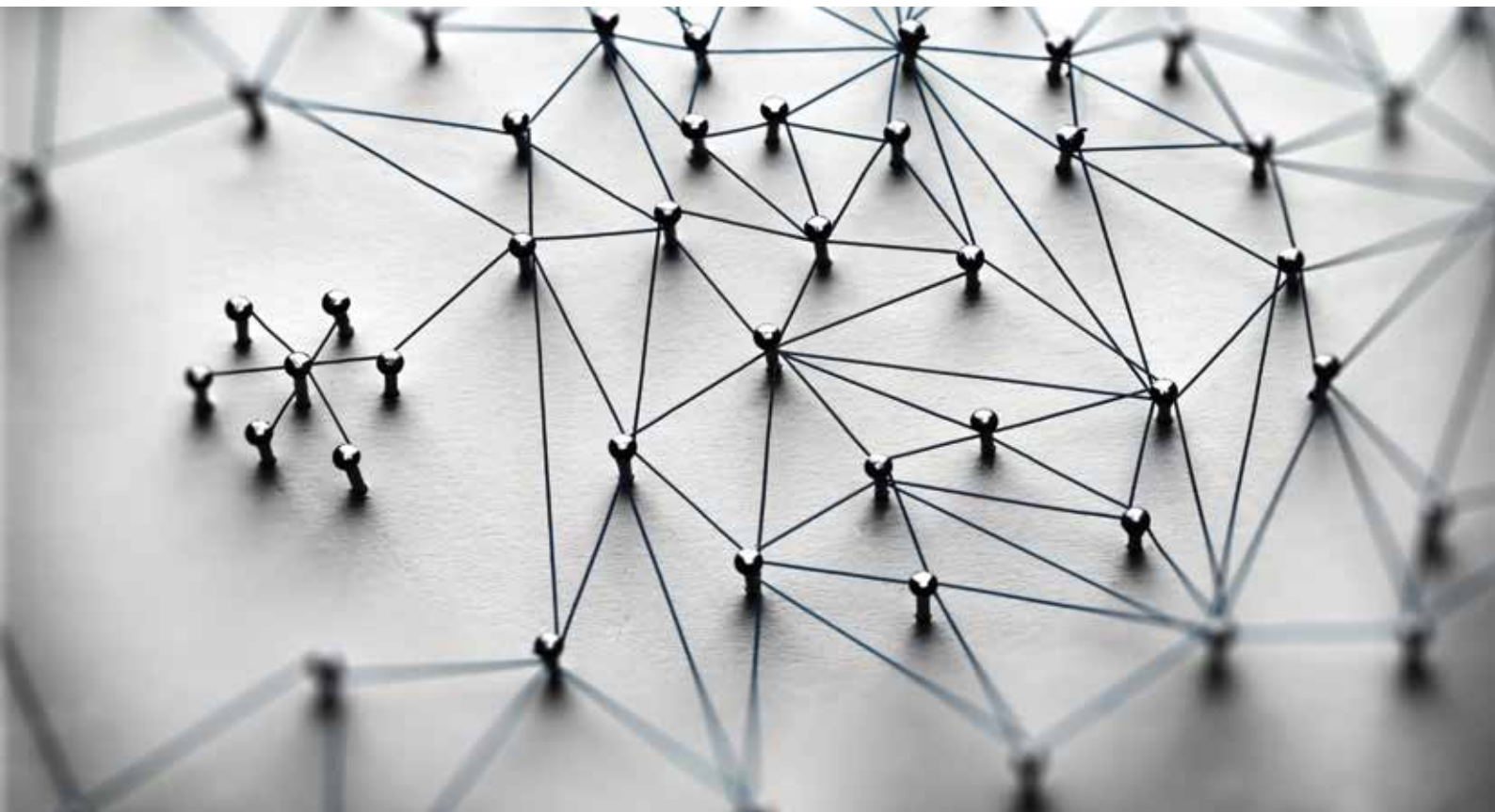
- Launch of UNIC's website www.unic.org.ua in October 2017
- Facebook page @UNIC2017 constantly updated
- Regular digest for members prepared, the pioneer one sent out in December
- Full-fledged communication support of events



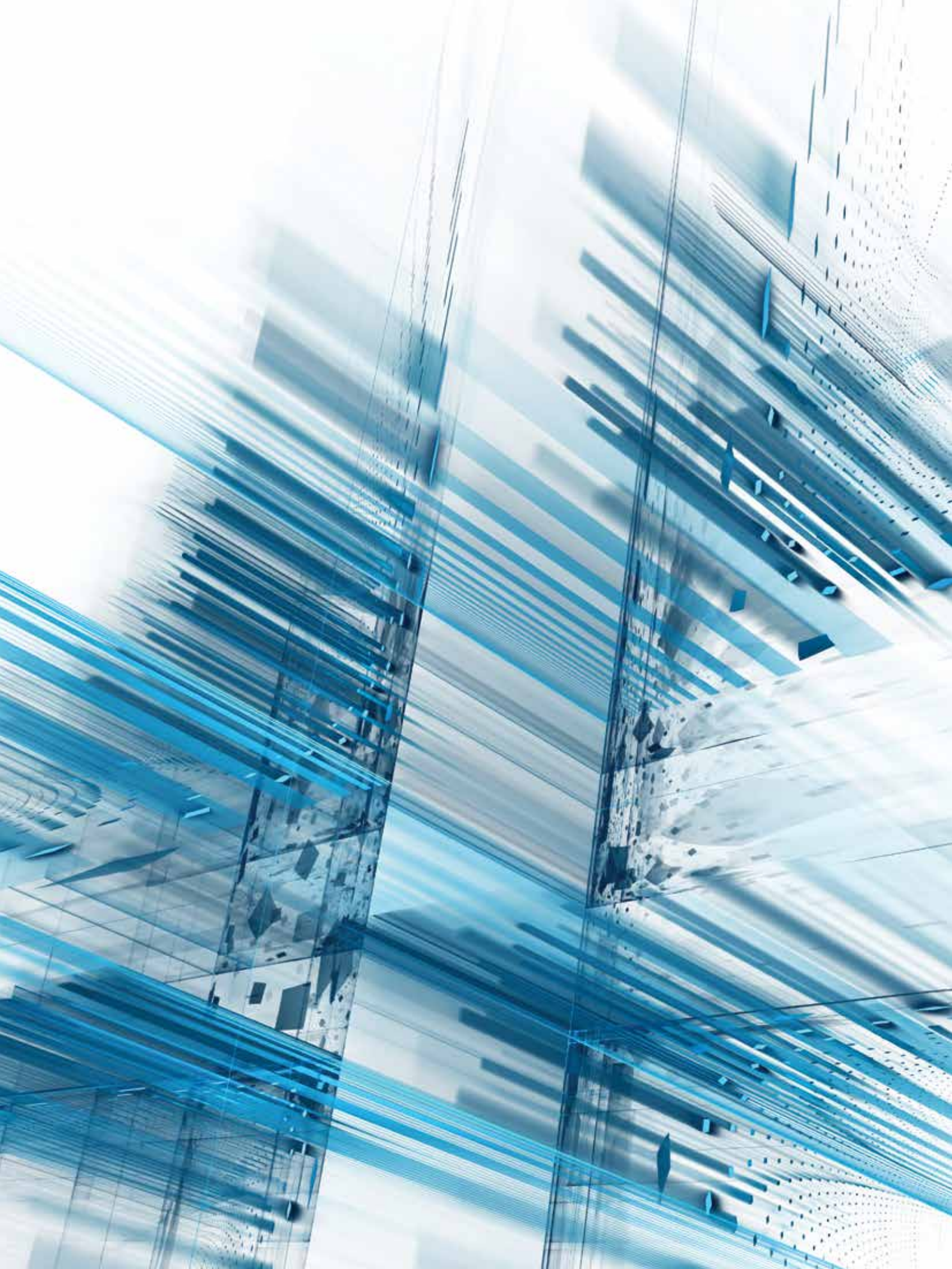
New team members

4 new employees
joined our team

32 employees
As a result of appointments
our team has grown to
with experience in law, strategic
management, economics, audit,
and risk management







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