

Nevertheless, the entity always possesses advantages or disadvantages relative to others because two entities similar in all aspects can never exist. An entity's best estimate of fair value does not necessarily equal the "real" fair value. If an entity measures an asset or liability at fair value or, in general, if an entity re-measures an asset or a liability, it tends to take into account its perceived advantages or disadvantages relative to others marketplace participants. Such a practice can result in the deviation from requirements of financial reporting standards; however, this fully corresponds to the Mises' (1966, p. 328) inferences regarding functioning of markets. It is impossible to set the fair value from the view of a "common market participant". A "common market participant" is the economic nonsense.

The low reliability of fair value measurement is the main issue esp. when market prices are rapidly falling and/or when markets suffer from the lack of liquidity. The estimates of fair value may become distorted by forced sales or fire sales (compare with Bernanke's speech). However, the definition of fair value does not work with the force sale, but with an orderly transaction. The issue, that should be resolved, is whether more reliable and relevant information is provided by measurement based on actual market data or by using specific measurement model under conditions of falling markets.

For the enhancement of usefulness of financial statements, I would recommend to split up income statement to several subgroups. Income from operating activities should be divided into a realised and unrealised part with the separate disclosure of fair value changes (Abdelkhalik, 2008, suggests another interesting solution). Fair value changes are an important indicator of an entity's ability to foresee future development and to react on actual market conditions. Therefore, they should be reported and they should be disclosed separately. Even if market prices are rapidly increasing or decreasing, fair values are more accurate and comparable across different entities. The current critique of fair value in terms of its low reliability and relevancy is not well founded. It is only purpose-built cry of those who previously profited on the increasing prices, but who must cope with bigger losses now. The fall in prices during credit crunch was a real economic phenomena and financial reporting should reflect the economic course to provide the users with useful information. If the market price drops suddenly from 1 000 € to 50 €, it is still the market value and it is still fair market value. All other opinions trying to find the "real" fair value not based on "fire sales" are merely normative value judgements without any solid economic background.

Moreover, all unrealised gains and losses should be a subject of detailed explanation by management of entity. If managers failed to explain those gains and losses appropriately, the users would gain an indicator that something important happened. The fair value measurement and the detailed disclosure of all relevant changes is a useful source of information for the users of financial statements, esp. as far as evaluation of financial performance concerns.

Suboptimal behaviour

Regardless fair value accounting is pro-cyclical or not, the pro-cyclicality cannot be a justification for the rejection of fair value as a measurement basis. If fair value provides relevant information for decision-making of individuals, their interests cannot be given up in the favour of undefined aggregate "entity". The problems, to which financial institutions faced during the credit crunch, were the real economic issues with the roots in excessive monetary expansion of central banks and unaccountable behaviour of financial institution in times of the monetary expansion. Any consequent difficulties (e.g. the necessity to raise

capital in order to meet minimal capital requirements) shall not be solved by ignoring the reality (i.e. by the dismissing of fair value measurement). The regulatory level should step into the process and set the basic conditions for doing the business. The redefinition of capital with the respect to fair value measurement is needed (Heaton et al., 2009, p. 11 – 12). In this context, fair value measurement can serve as a tool for evaluation the risks which endanger financial position of an entity.

Moreover, fair value measurement is a useful indicator of an entity's ability to foresee the future price movements. Recent financial crunch has many losers, but also some winners have appeared. Those who had seen the seeds of the crisis in advance, have undertaken respective measures, and have changed their assets portfolios won. They not only survived the crisis, they became even stronger than they had been before the start of credit crunch. Fair value accounting is neutral in respect of excessive prudence. If fair value measurement is implemented properly, it portrays the reality as it is. Under unfavourable market development, fair value accounting enables the users to distinguish the winners from the losers. The latter ones cannot manage their earnings using the hidden reserves acquired in good times.

Conclusions

Fair value is the measurement concept that possesses the ability to represent truly and fairly the economic reality in the way, which is found useful by the users of financial statements. From the economic point of view, only current and market-based value is relevant for the decision-making. Conceptually, fair value is superior to the other measurement bases. In order to be a useful measurement basis, fair value must refer to market prices – directly or at least indirectly.

However, current definition of fair value is somehow unclear. There are some questions, which need a deeper explanation, e.g. should fair value be an exit price, an entry price, a mid price, a neutral price. Moreover, I can see a conceptual contradiction between requirements on the fair value determination and the approach to the classification with particular element of the balance sheet. Fair value should be independent on the entity, but the classification of an element often depends on the purpose why the entity acquired the element. The classification influences the subsequent measurement of the element. The discretion in the classification of balance sheet elements can lead to the outcome that the same element is treated differently across entities (some entities may measure the element at its fair value, others at its historical costs, etc.). The comparability and relevance of financial statements are then reduced. The definition of fair value and principles of its usage are crucial factors in achieving true and fair view of economic reality in financial statements.

Abstrakt

Článek pojednává o některých (domnělých) slabinách oceňování fair value, které se objevily zejména v souvislosti s finanční krizí z let 2007-2009. Hlavní námitky proti užití této oceňovací základny jsou podrobněji analyzovány a následně jsou uvedeny hlavní protiargumenty k těmto názorům.

Klíčová slova: Oceňování, fair value, nerealizované zisky

Summary

The paper discusses some relevant issues regarding fair value measurement that influence the usefulness of information presented by financial statements. The discussion has developed in the connection with the financial and economic crisis during 2007 – 2009. The author of the paper believes that all arguments against fair value are odd as they do not respect the principles of market economy and corresponding economic features of fair value.

Key words: Measurement; fair value; unrealised profits.

JEL klasifikace: M41

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Kontakt

David Procházka, Ing., Ph.D., Katedra finančního účetnictví a auditingu, Vysoká škola ekonomická v Praze, Nám. W. Churchilla 4, 130 67 Praha 3, Tel.: (+420) 224 095 195, e-mail: prochazd@vse.cz

OCEŇOVÁNÍ PODNIKU V KONKURZU¹⁰⁰

Evaluation of Company upon Bankruptcy

Monika Randáková

Úvod

Vzhledem k podnikání v České republice bylo nutné přepracovat zákon o konkurzu a vyrovnání. Dnem 1. 1. 2008 vstoupil v účinnost nový insolvenční zákon, který z pohledu českého práva vnesl do insolvenčního řízení novou filosofii.

V okamžiku, kdy na podnik je podán insolvenční návrh, je nutno položit si základní otázky. Nachází se tento podnik skutečně v úpadku? Je skutečně porušena zásada nepřetržitého trvání podniku v dohledné budoucnosti? Tato fáze zjišťování je podle mého názoru tou nejdůležitější, neboť její podcenění může mít fatální důsledky pro daný podnik. Na základně chybného rozhodnutí může být na podnik vyhlášen bankrot, i když ekonomická a finanční situace tomu neodpovídá, nebo bude určeno, že podnik je sice v úpadku, ale vzniklá situace bude podhodnocena nebo nadhodnocena a následně bude rozhodnuto o nesprávném řešení vzniklého úpadku (konkurz, reorganizace). V praxi existuje celá řada metod, jak ocenit podnik, ale ne všechny jsou aplikovatelné na podnik v úpadku.

Konkurz

Konkurz je základním, ale ne preferovaným způsobem řešení úpadku dlužníka. Cílem konkurzu je poměrně uspokojit zjištěné pohledávky věřitelů z výnosu zpeněžení majetkové podstaty. Neuspokojené pohledávky nebo jejich části nezanikají, na rozdíl od jiných způsobů řešení úpadku.

Účinky prohlášení konkurzu nastávají okamžikem zveřejnění rozhodnutí o prohlášení konkurzu v insolvenčním rejstříku. Prohlášením konkurzu přechází na insolvenčního správce oprávnění nakládat s majetkovou podstatou. Prohlášením konkurzu nekončí provoz dlužníkovy podniku. Jeho provoz může skončit buď prodejem podniku jednou smlouvou v rámci zpeněžení majetkové podstaty, nebo rozhodnutím insolvenčního soudu na návrh insolvenčního správce po schválení věřitelským výborem.

Insolvenční správce svoji činnost v rámci konkurzu zaměřuje především na zjištění, zajištění a soupis majetkové podstaty včetně jejího ocenění, zpracování seznamu přihlášených pohledávek, přípravu přezkumného jednání, přípravu schůze věřitelů a následně pak na zpeněžení majetkové podstaty a vydání výtěžku konkurzním věřitelům.

Majetková (podniková) podstata a její ocenění

Podkladem pro zjišťování majetkové podstaty je seznam majetku, který je dlužník povinen předložit současně s insolvenčním návrhem (pokud návrh podává sám) nebo na základě rozhodnutí insolvenčního soudu (pokud návrh podává věřitel). Insolvenční nebo předběžný správce provede vlastní šetření o tom, zda do majetkové podstaty nepatří i jiné věci, práva, pohledávky a majetkové hodnoty než ty, které dlužník uvedl v seznamu majetku. Čím přehlednější a podrobnější seznam majetku dlužník vypracuje, tím bezproblémověji bude

¹⁰⁰ Tento příspěvek byl zpracován jako jeden z výstupů řešení projektu *Rozvoj finanční a účetní teorie a její aplikace v praxi z interdisciplinárního hlediska* registrovaného u MŠMT pod evidenčním číslem RP 6138439903