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**PROSPECTS OF PUBLIC BANKING SUPERVISION  
DEVELOPMENT IN COMPULSORY HEALTH INSURANCE:  
WORLD EXPERIENCE**

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**Abstract**

The rapid development of relations connected to the provision of financial services to consumers and their transformation under the influence of digitalization of the economy determines the need for an effective system of control and supervision of the activities of financial organizations by the state. The most important type of services provided by financial market entities are insurance services. As part of its activities, the Bank of Russia suppresses unfair practices on the insurance market, as well as prevents insurance fraud. A special place in the system of insurance business entities is occupied by insurance medical organizations that operate exclusively in the field of compulsory health insurance. The article reveals the peculiarities of the Central Bank of the Russian Federation of insurance activity supervision, as well as the experience of central (national) banks of some foreign countries in this sphere, the possibility of transformation of the legal regulation of the financial commissioner activities in order to secure the necessary permissions to the disputes subject between the insurance medical organizations and medical organizations operating within the compulsory health insurance. The authors pay special attention to the trends in the development of legal regulation of the supervision of insurance activities by the Central Bank of the Russian Federation using digital financial technologies, and the possibility of interaction between insurance medical organizations, medical organizations and the financial commissioner is considered through the use of such technologies in pre-trial disputes settlement.

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## **1. Introduction**

The last decade has been characterized by an increase in the number of existing financial institutions and the financial service packages they offer to consumers. For example, an increase in the need of subjects to minimize risks through the use of insurance determines the development of the insurance market. The actions of financial organizations in relation to consumers of financial services are not always legitimate, which makes it necessary to have an effective system of public control and supervision over the activities of financial organizations, including insurance organizations.

In some countries (for example, the Republic of Armenia, the Republic of Azerbaijan, Belgium, the Republic of Ireland, Iceland), the central (national) banks of the states are responsible for monitoring and supervising of the activities of insurance organizations. Such countries include the Russian Federation. The Central Bank of the Russian Federation regulates insurance activities and supervises compliance with insurance legislation by insurance organizations.

A large number of disputes between financial organizations, including insurance companies, and consumers of financial services creates the need to find the most effective and fast ways to resolve conflict situations. One of the entities that advocate for the protection of the rights and legitimate interests of consumers of financial services is the commissioner for the rights of consumers of financial services (hereinafter referred to as the financial commissioner, financial ombudsman).

## **2. Problem Statement**

As part of the development of the insurance market, the number and variety of products offered by insurance organizations to consumers of financial services is being improved. In order to make a profit from their activities, insurance companies do not always act honestly and conscientiously towards their customers. In order to prevent unfair practices and prevent insurance fraud, an integrated system of control and supervision over the activities of insurance business entities is necessary. In the course of the study it is necessary to identify features of the legal status of entities whose activity is aimed on regulation of insurance legal relations, and disputes related to the rights of consumers of insurance services. A special place in the insurance activity is occupied by compulsory health insurance. The characteristic features of the composition of subjects and the mechanism of implementation of this type of insurance do not allow forming an integrated understanding of the issue of protecting the rights of consumers of financial services provided under the compulsory health insurance. It is important to form a possible model for the implementation of pre-trial settlement of disputes related to the provision of financial services in the implementation of relations on compulsory health insurance.

## **3. Research Questions**

Features of the legal status of entities whose activities are aimed at regulating insurance legal relations, as well as at resolving disputes related to the observance of the rights of consumers of insurance services, it is possible to identify by studying the norms governing the activities of these entities. The world experience of organizing their functioning is also interesting for study. Such entities in Russia are the Central Bank of the Russian Federation and the commissioner for the consumers rights of financial services.

It is necessary to study the role of the Bank of Russia in the implementation of control and supervisory activities for insurance organizations that carry out exclusively compulsory health insurance. Within the framework of identifying the features of regulation by these subjects of relations on compulsory health insurance, it is necessary to study the issue of transformation of the legal personality of the commissioner for the rights of consumers of financial services for the possibility of considering disputes with the participation of medical organizations. The issue of implementing a distributed registry system in the activities of medical insurance organizations, medical organizations and the commissioner for the rights of consumers of financial services and the interaction of these entities on the basis of such a system is also subject to study. The capabilities of distributed registry systems will make the provision of financial services within the framework of compulsory health insurance more transparent and open.

#### **4. Purpose of the Study**

The purpose of the study is to develop the features of transformation and implementation of the legal personality of participants in public banking relations aimed at regulating insurance activities as one of the components of the Central Bank of the Russian Federation's supervision of insurance business entities. The study is also aimed at highlighting the problems of implementing public banking legal relations and developing proposals for adjusting the legal personality of participants in relations for pre-trial settlement of disputes between insurance organizations and consumers of financial services within the framework of compulsory health insurance when using distributed registry technologies in the financial relations under consideration. It is necessary to trace the role of the central banks of countries in regulating the activities of insurance organizations. It is important to study the experience of foreign countries in the legal consolidation of this issue. The legal mechanism of modernization of financial and legal regulation of insurance activities in order to ensure the development of the digital economy includes a change in the format of interaction between insurance business entities. It is necessary to understand how the introduction of technologies based on distributed registries will affect the activities of medical insurance organizations and medical organizations. It is also important to analyze the possibility and prospects of interaction between medical organizations and the institution of the commissioner for the rights of consumers of financial services in the framework of pre-trial dispute resolution in order to ensure fair and rapid resolution of disputes between insurance medical organizations and medical organizations.

#### **5. Research Methods**

In the course of the study, the methods of induction, deduction, and hypothesis were successfully applied. The authors used methods and principles of determinism. The study also used methods of system analysis. Using the methods of current, prospective and statistical analysis and synthesis, the authors summarized the current prospects for the development of banking supervision of insurance activities, including in the field of compulsory insurance. With the help of a comparative legal method, the peculiarities of public control over insurance activities in a number of foreign countries were established. In order to systematize the data obtained, the methods of institutional and functional classification were used. The use of these methods allowed us to identify a number of issues that need detailed scientific analysis.

## 6. Findings

Financial relations are closely related to any human activity. Currently, there is a tendency to expand the state regulation of such public relations. Among the varieties of legal relations in the field of financial activity, financial legal relations in the field of insurance are particularly distinguished. The development of such legal relations is facilitated by the increase in the need of subjects to minimize risks by using the insurance mechanism, the emergence of new types of compulsory insurance.

State regulation of financial relations in the field of insurance in Russia and some foreign countries is carried out by central (national) banks. The Central Bank of the Russian Federation, as a mega-regulator, has been monitoring and supervising the activities of insurance entities since 2013. One of the reasons for the transfer of powers to the Central Bank of the Russian Federation to regulate insurance relations was the low level of control over the activities of insurance organizations, which led to unscrupulous entities receiving income through fraudulent transactions, violating legislation and legalizing (laundering) money, as well as transferring Russian capital to foreign countries. In many foreign countries, the functions of supervision of insurance activities, as well as in Russia, are carried out by central (national) banks. These countries include, for example, Armenia, Azerbaijan, Bahrain, Belgium, Iceland, Ireland, Lithuania, Qatar, and Slovakia.

The vastness of insurance activity is confirmed by the presence of more than 100 types of insurance. In 2019, insurance premiums totaled 1.48 trillion rubles (Bank of Russia, 2020). The tendency of the Central Bank of the Russian Federation to regulate insurance activities is an annual decrease in the number of insurance organizations. Thus, as of January 01, 2016, 334 insurance organizations were operating in Russia, as of January 01, 2017 – 256 insurance organizations, as of January 01, 2018 - 226 insurance organizations, as of January 01, 2019 – 199 insurance organizations, and as of January 01, 2020 – 178 insurance organizations. The systematic reduction in the number of operating insurance organizations is based on the effective implementation by the Central Bank of the Russian Federation of the functions of control and supervision of insurance business entities. One of the main tasks of the Bank of Russia in the field of insurance regulation is to ensure the protection of the rights and legitimate interests of consumers of insurance services. Foreign researchers indicate that the activity of protecting the rights of consumers of financial services significantly affects the efficiency of banking activities (Gaganis et al., 2020).

Protection of the rights of consumers of financial services, including insurance services, is expressed in the independent identification and elimination by the Bank of Russia of unfair practices that threaten the interests of consumers of financial services, as well as in dealing with complaints and appeals. An important entity of public law operating in the sphere of protection of rights and legitimate interests of insurance consumers through the review of appeals and resolution of disputes is the ombudsman for financial services consumers (hereinafter - the financial commissioner, the financial ombudsman). The presence of a financial commissioner is a fairly common global practice. Some foreign countries have a separate financial ombudsman service (for example, in the UK), while others (for example, in Korea) have a financial consumer protection unit within the Federal Financial and Budgetary Supervisory Service (Park Sunjong, 2019). Within the framework of international cooperation, the International Association of financial ombudsmen operates, which currently includes 60 institutions of subjects for the protection of consumers of financial services from 40 states. The Institute of the financial commissioner in Russia was established with the support of the Central Bank of the Russian Federation in 2019. The legal status of this subject

contains a sufficient number of features and, to some extent, is similar to the legal status of the Central Bank of the Russian Federation. Thus, commissioner for financial services consumers rights has certain authority, however, it is not a public authority; it acts on the basis of the principle of independence, which is reflected in property and human employee aspect (fund for financing activities of financial commissioner mainly formed by contributions of financial institutions and owned on the basis of the ownership right to the service supporting the activities of the financial commissioner, and the appointment of the chief financial commissioner is happening in a particular order) (Rozhdestvenskaya & Guznov, 2018). Given the characteristics of public-legal status and importance of the commissioner for financial services consumers, it is possible to include this entity in the first level of the banking system of the Russian Federation.

The institution of the commissioner for the rights of consumers of financial services is a complex mechanism and has an impact on the balance of private and public interests in the financial sector by regulating the activities of financial organizations and solving the problem of consumer protection as an important socially significant task of the state, as well as ensuring the protection of the private interests of a particular individual (Klimov, 2020). In some countries, the financial ombudsman has quite broad powers in the field of consumer protection of financial services. For example, in Ireland, in order to prevent abuse by financial service providers, regulatory disclosure is implemented as a way to increase transparency in the provision of financial services (Mulcahy et al., 2019).

Currently, in Russia, all insurance organizations interact with the financial commissioner on a mandatory basis, except for insurance organizations that operate exclusively in the field of compulsory medical insurance. This situation is due to the fact that the financial commissioner does not consider appeals, the subject of which is relations arising from the compulsory health insurance. In the sphere of medical activity, this subject considers only appeals of consumers of financial services arising from contracts of life insurance, insurance against accidents and diseases, as well as voluntary health insurance. It is noteworthy that, for example, in the Republic of Kazakhstan, the insurance ombudsman resolves disputes on all types of insurance (Finombudsman, 2020).

It should be noted that the protection of consumers of financial services is an important social task and is covered by the task of implementing the public interest in the financial sector. Note that the relations resulting from compulsory health insurance is ultimately also financial, however, the consumer of financial services in this case will be very specific. Individuals who are insured receive health care services under compulsory health insurance, but the financial relationship that are formed between the insurance medical organizations (they make payment of medical care to insured persons within the terms, which were embodied in the territorial program of compulsory medical insurance) and medical organizations (those entities directly providing medical care to insured persons within the framework of the territorial program of compulsory health insurance, and receive payment for implementing the activities).

It is medical organizations that act as recipients of financial services and quite often insurance medical organizations violate the rights of medical organizations by refusing to provide payments for medical care provided to insured persons. This is evidenced by numerous legal disputes between these entities (see, for example, Supreme Court of the Russian Federation, 2018; 2019)).

Federal laws governing the operation of financial commissioner in the protection of rights and legal interests of consumers of financial services, significantly narrows the scope of disputes analyzed by this

subject, identifying as a consumer of financial services only natural persons (part 2 of article 2 of Federal law No. 123-FZ of June 4, 2018 "On the commissioner for consumer rights of financial services" (2018)). In this case, individuals who are insured under mandatory health insurance cannot act as consumers of financial services, since they directly receive only medical services. They can also act as entities for whose benefit the contract is concluded, as the parties in the contract for provision and payment of medical aid on compulsory medical insurance are the insurance medical organization and medical organization, and the agreement is to assist not any particular face, but an indefinite number of insured persons.

The commissioner for the rights of consumers of financial services is an important public entity for consideration of appeals of consumers of financial services in the framework of pre-trial settlement of disputes arising with financial organizations. It seems that the possibility of considering as consumers of financial services not only individuals, but also medical organizations operating under the compulsory health insurance, will help to reduce the number of disputes between insurance medical organizations and medical organizations, as well as more rapid and fair resolution of such situations.

As part of the digitalization of the economy, researchers, legislators and legal professionals are increasingly addressing the issue of the use of information technologies in financial activities. Some foreign researchers talk about the need to introduce an expert information system for monitoring the stability of insurance markets, which can help the insurance market regulator by tracking the financial situation of individual insurance entities and the entire insurance market as a whole, and will also predict the cycles and threats to the insolvency of insurance organizations (Owadally et al., 2019). Russian researchers are increasingly talking about the introduction of distributed registry systems in various activities that will automate the implementation of a number of financial transactions. Given that organizations involved in banking and insurance legal relations occupy one of the main places in the digital economy system currently being formed in Russia, we believe that it is possible and appropriate to introduce a distributed registry system in financial activities carried out within the framework of compulsory health insurance as one of the most important conditions for increasing the transparency of financial transactions with mandatory medical insurance funds carried out between insurance medical organizations and medical organizations.

## **7. Conclusion**

Summarizing the above, it can be assumed that there is a prospect of strengthening supervision by the Central Bank of the Russian Federation over the activities of medical insurance organizations that carry out exclusively compulsory medical insurance. Currently, the Bank of Russia, as part of its supervisory activities, licenses their activities and monitors the financial stability and solvency of medical insurance organizations. Based on the experience of foreign countries, the role of the financial commissioner in the relations on regulation of the activities of insurance organizations is determined. The identified problem is the lack of possibility of consideration of disputes between the insurance medical organizations and medical organizations, working at compulsory health insurance in the framework of pre-trial settlement of disputes by financial commissioner due to the regulatory directive. This regulatory directive indicates that the financial ombudsman activities are submitted for consideration of appeals of financial services consumers with which only individuals can stand with. To solve this problem, we suggest to amend part 2 of article 2 of Federal law No. 123-FZ of June 4, 2018 "On the commissioner for consumer rights of financial services"

(2018), including in the category of financial services consumers, medical organizations, carrying out activity on obligatory medical insurance, and to present this norm as follows: "...under the consumer of financial services is an individual... and medical organization, carrying out activity in sphere of compulsory health insurance". It is possible to monitor the legality of operations with compulsory health insurance funds by insurance medical organizations and the timeliness of transferring funds to medical organizations for medical care provided by implementing a distributed registry system in financial relations between these entities. This will help to increase the transparency and openness of the actions of medical insurance organizations and will allow the Bank of Russia to promptly monitor the legality of financial transactions performed by these entities.

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