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**FINANCIAL LEGAL PERSONALITY OF BANK OF RUSSIA:  
DEVELOPMENT TRENDS**

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**Abstract**

The article analyses the major aspects related to the transformation of the financial and legal status of the Bank of Russia in connection with the creation on its basis of the public relations mega-regulator in the field of finance, the mainstreaming of digital enablement, the introduction of the treasury payment system and other changes in Russian legislation. The authors focus on the necessity of sectoral identification of the financial legal personality of the Bank of Russia while governing relations concerning the issue, account and circulation of digital financial assets. They made a reasonable conclusion about the financial and legal nature of these powers. This article shows the problems of legal regulation of the insurance sector by the Bank of Russia, revocation of licenses from insurance enterprises, monopolization of the insurance market and loss in the quality of insurance services. It also indicates the need to resolve these problems using legal decisions of the Bank of Russia. The authors assessed the scope and the subject of its budget authorities associated with the transition to the treasury payment system in implementing the budgets of the budgetary system of the Russian Federation. In this paper the new rights and obligations of the Bank of Russia as a participant in the budgetary process were characterized and a group of powers for regulating fiscal relations was found. The proposals were made to improve fiscal legislation in reference to including the acts of the Bank of Russia in the number of regulations governing fiscal relations.

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*Keywords:* Bank of Russia, digital financial assets, financial legal personality, insurance activities, mega-regulator, treasury payment system



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## 1. Introduction

One of the most important trajectories of modern development of the legal standing of the Central Bank of the Russian Federation (Bank of Russia) over the past decade has been the accretion of its powers and, accordingly, the strengthening of its role in various spheres of financial activities of the state. As Bank of Russia was given regulatory and oversight functions in the area of financial markets in 2013, it caused the formation its current status as a mega-regulator of public relations in the financial sector. The fast-moving digitization in various areas of public and private finance, as well as the informatization of the activities of the Bank of Russia itself, have a certain impact on public financial relations, including the scope of the legal personality of their participants. Including in particular, the increasing use of digital technologies in the financial sector has led to a greater number of types of controlled persons and the emergence of additional rights and obligations for the Bank of Russia in new segments of the financial market. Besides, introducing a treasury payments system from 2021 based on the use of modern technological solutions had an effect on providing larger interaction between the Federal Treasury and the Bank of Russia and creating a number of new budget authorities of the latter. Thus, the foregoing implies the problem statement of the issues of transformation and development of the legal personality of the Bank of Russia as a participant in financial legal relations in modern context.

## 2. Problem Statement

The significance of studying the category of "legal personality" in the sectoral legal sciences is predetermined by its influence on the legal status of the subject as a mandatory condition and the initiation of the agreeable legal relation in the form of its special prerequisite. This category is the research subject of various financial and legal theories, including those as applied to the Bank of Russia (Arzumanova, 2012; Dreval', 2009; Pastushenko & Zemtsova, 2018; Rozhdestvenskaya, 2014).

As a mega-regulator in the sphere of financial markets, the Bank of Russia put into a practice legal regulation of statutory and voluntary insurance. However, this diversity impedes the legal response mechanism of the Bank of Russia to emerging issues, including those related to monopolizing the insurance market.

In the context of the formation and development of the digital economy modern scholars debate a lot the problems concerning the matter and boundaries of financial and legal regulation by the state and its relations bodies in the area of financial and legal regulation (Artemov et al., 2017; Bryans, 2014; Gorbunov, 2018; Guadamuz & Marsden, 2014; Kozenko, 2017; Kyncl, 2015; Povetkina & Ledneva, 2018; Raskin & Yermack, 2016; Stepanov & Pechegin, 2017). The Federal Law of July 31, 2020 No. 259-FZ (hereinafter referred to as the Digital Financial Assets Law), enacted on January 1, 2021, in some way has regulated the relations arising in the course of the issue, accounting and circulation of digital financial assets, as well as the circulation of digital currency in the Russian Federation. However, the matter and scope of the financial legal personality concept of the Bank of Russia still have not been given a proper theoretical justification.

The institutional (subsectoral) type of financial legal personality of the Bank of Russia is the budgetary legal personality, due to vesting it with budgetary authorities. Their exercising allows the Bank

of Russia to be a participant in budgetary legal relations, to be the institution granted the budgetary and legal status of a “participant in the budgeting process,” to exercise its powers when dealing with specific legal relations regulated by budget legislation (Tsindeliani, 2018). Significant changes from January 1, 2021 in the sphere of budget execution procedures affected the scope and subject of the financial legal personality of various participants in budgetary legal relations, including the Bank of Russia, that also requires a special science assessment. The issue of legislative recognizing the powers of the Bank of Russia to regulate budgetary relations remains open, which has already been paid attention to in financial law theory (Pastushenko, 2020). The problem is caused by the absence of the Bank of Russia among the subjects adopting normative legal acts regulating budgetary relations in accordance with Article 3 of the Budget Code of the Russian Federation.

In the research literature, some attention is paid to certain issues of the transformation of the financial legal personality of the Bank of Russia within the framework of the digital economy, including the initiative development of its competence for the formation and implementation of financial and legal policy in the area of the growth of financial technologies and the financial services availability (Belikov & Pastushenko, 2019). However, there are still not enough studies related to a comprehensive understanding of the issues of transformation and development of the financial legal personality of the Bank of Russia under current conditions.

### **3. Research Questions**

The research tasks require the solution of a number of issues that make it possible to lay down the main guidelines of developing the financial legal personality of the Bank of Russia in modern conditions.

#### **3.1. Financial and Legal Assessment of the Powers of the Bank of Russia in the Sphere of Issue and Circulation of Digital Financial Assets**

The adoption of the Digital Financial Assets Law in Russia led to the extension of the competence of the Bank of Russia. Firstly, this was shown in the extension of its existing powers concerning new subjects (operators of the information system within which digital financial assets are issued, and operators of exchange of digital financial assets) in the area of financial markets. From January 1, 2021, these entities are classified as non-bank financial institutions that are respectively subject to the Bank of Russia as a body regulating, controlling and supervising in the area of financial markets. The specified sphere of public relations as an object of financial and legal regulation has been studied in detail in science (Guznov, 2016). Secondly, the present law gives the Bank of Russia regulatory and control and oversight powers in the field of issue and circulation of digital financial assets. The content of this Law indicates the relations being a component of the scope of its regulation, relate to both the object of civil and public law, including financial and legal regulation. In this regard, the question arises concerning the sectoral affiliation of the legal personality of the Bank of Russia, which determines its new powers.

### **3.2. Special Issues of Legal Regulatory Activity of the Insurance Sphere by the Bank of Russia**

Implementing the functions of regulation, controlling and supervising in the field of insurance activities, the Bank of Russia achieves a solution of a number of tasks regarding the matters of prevention, human rights and efficient development of this market. However, the statistical data in recent years show a steady trend towards a reduction in the number of insurers as a result of revoking their licenses, including due to the unconformity of their indexes to the criteria approved by the Bank of Russia. It results in monopolizing the insurance market following the trend towards the affiliating insurance organizations with banks, which negatively affects the customers who are forced to seek the services of the working assurers that actually monopolized this market. The problem of some lack of legal clarity in the insurance market that was not resolved by the Bank of Russia threatens further increasing in the number of bankruptcy cases and a loss in quality of insurance services provided without broad competition.

### **3.3. Transformation of the budgetary authorities of the Bank of Russia**

The budgetary authorities of the Bank of Russia are presented in Article 155 of the Budget Code of the Russian Federation, the content of which has undergone significant change in connection with introducing a single treasury account and from January 1, 2021 the transition to the treasury payments system while executing the budgets of the budgetary system of the Russian Federation. The essence of the new treasury accounts system is that all settlements on personal accounts opened in the Federal Treasury and financial bodies of the constituent entities of the Russian Federation are produced through the Treasury of Russia. This has made it necessary to transform the budgetary authorities of the Bank of Russia, most of that are concerning the organization and implementation of the budgetary process. The legislative innovations include regularizing the powers for handling the single treasury account and bank accounts of the Treasury of Russia and other bank accounts in the currency of the Russian Federation, bank accounts in foreign currencies for registering monetary fund transactions of the National Wealth Fund and others.

A special reference should be made to the regulation of relations powers of the Bank of Russia that are connected to the treasury payment system. In some cases, the Bank of Russia passes the regulations (for example, those ones on the specifics of interaction between the treasury payment system and payment systems), in other cases it coordinates the adoption of such acts with competent public authorities (e.g., the Rules for Organizing and Operating the Treasury Payment System, approved by the Federal Treasury).

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

This study is aimed to identify the main directions of transformation and development of the legal personality of the Bank of Russia as a participant in financial legal relations in digital economy.

## **5. Research Methods**

The research is based on the methodological principle of systematicity. The methodological approach of the system analysis of the regulatory framework in the financial sphere is formed on the idea of the determinism of the legal personality of the subjects of financial law upon incurrance of financial legal relations, including these ones with the participation of the Bank of Russia in the context of the development of the digital economy. In particular, the analysis of legislative acts was treated. It was aimed at regulating financial relations considering the assessment of the transformation of the legal personality of the Bank of Russia within the conditions of the growth of digital economy.

## **6. Findings**

The analysis of the Bank of Russia's powers of in the area of circulation of digital financial assets revealed the predominantly imperative nature and focus of these powers to create additional conditions to ensure the stable activity and financial stability of operators tied to issuing and exchanging digital financial assets. In this regard, the conclusion was made about the financial and legal nature of these powers. Thus, the creation of the Bank of Russia's powers and the expansion of its already existing regulatory and oversight powers for these operators as new types of non-bank financial institutions show increasing the scope and substance of the financial legal personality of the Bank of Russia in the field of financial markets in the digital economy.

Some challenges of the Bank of Russia have been revealed in the sphere of its activity related to exercising regulatory powers in the insurance market sphere that works towards the directing the efforts to eliminating them as part of the legal decisions of the Bank of Russia itself.

The conclusion has been made about the transformation of the budgetary legal personality of the Bank of Russia due to introducing a single treasury account. A group of powers for the Bank of Russia's regulating budgetary relations has been distinguished. The proposal of the necessity of codifying in Article 3 of the RF Budget Code of the Bank of Russia normative is among the normative acts regulating budgetary relations (Pastushenko, 2020).

## **7. Conclusion**

The study allowed determining the main directions of development and transformation of the legal personality of the Bank of Russia as a participant in financial legal relations in modern conditions. The separate segments of the Bank of Russia activity have been identified, notably the Bank of Russia serves as a mega-regulator in the sphere of financial markets and as a participant in the budgetary process requiring special research and development.

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## References

- Artemov, N. M., Arzumanova, L. L., Sitnik, A. A., & Zenin, S. S. (2017). Regulation and Control of Virtual Currency: to Be or Not to Be. *Journal of Advanced Research in Law and Economics*, 8(5), 1428–1435.
- Arzumanova, L. L. (2012). Legal Status of the Central Banks of Foreign Countries and Russia in Regulation of Monetary System: The Comparative Research. *Actual Problems of Russian Law*, 1(22), 50–66.
- Belikov, A., & Pastushenko, E. N. (2019). Transformation of Financial Legal Personality of Bank of Russia in the Context of Digital Economy. Legal Science and Practice. *Journal of Nizhny Novgorod Academy of the Ministry of Internal Affairs of Russia*, 2(46), 73–77.
- Bryans, D. (2014). Bitcoin and Money Laundering: Mining for an Effective Solution. *Indiana Law Journal*, 89, 441–472.
- Dreval, L. N. (2009). *Subjects of Russian Financial Law: a Theoretical and Legal Study*. Khabarovsk.
- Gorbunov, S. V. (2018). Problems of State Regulation of Digital Financial Assets. *Modern Jurisprudence: Current Issues, Achievements and Innovations*, 217–219.
- Guadamuz, A., & Marsden, C. (2014). *Bitcoin: The Wrong Implementation of the Right Idea at the Right Time*. <https://ssrn.com/abstract=2526736>
- Guznov, A. G. (2016). *Financial and Legal Regulation of the Financial Market in the Russian Federation*. Moscow.
- Kozenko, Yu. A. (2017). Formation of the Limits of Competence in the Management of Digital Financial Assets. *Siberian Financial School*, 3, 36–39.
- Kyncl, L. (2015). *Financial Market Supervision in the System of Financial Law. System of Financial Law: Financial Markets*. Masaryk University.
- Pastushenko, E. N., & Zemtsova, L. N. (2018). The Role of Legal Acts of the Central Bank of the Russian Federation in Ensuring Bank Security. *Journal of Legal, Ethical and Regulatory Issues*, 21(1), 45.
- Pastushenko, E. N. (2020). The role of the regulations of the Central Bank of the Russian Federation in the legal support of the functioning of the unified treasury account. In *Modernization of the legal regulation of budget relations in the context of the digitalization of the economy* (pp. 160–165). Saratov.
- Povetkina, N. A., & Ledneva, Yu. V. (2018). Fintekh and Redtekh: Boundaries of Legal Regulation. *law. Journal of Higher School of Economics*, 2, 46–67. <https://doi.org/10.17323/2072-8166.2018.2.46.67>
- Raskin, M., & Yermack, D. (2016). Digital Currencies, Decentralized Ledgers, and the Future of Central Banking. *Research Handbook on Central Banking*. <https://ssrn.com/abstract=2773973>
- Rozhdestvenskaya, T. E. (2014). Bank of Russia as the Megaregulator of the Financial Market: Features of Legal Status. *Kutafin University Law Review*, 4, 54–69.
- Stepanov, O. A., & Pechegin, D. A. (2017). Protecting National Economy: Modern Issues of Currency Regulation. *law. Journal of Higher School of Economics*, 4, 83–96. <https://doi.org/10.17323/2072-8166.2017.4.83.96>
- Tsindeliani, D. T. (2018). The Central Bank as an Authority Exercising the State Monetary Policy. *Financial Law*, 11, 44–47.