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**LEGAL IDENTITY OF BANKS IN THE SPHERE OF NATIONAL  
(PUBLIC) DEBT**

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**Abstract**

The article deals with legal public and private aspects of banking legal identity in the sphere of national (public) debt; identifies the types of bank legal identity in public relations; considers the requirements of banking and budget legislation. It presents proposals for the development of competition and procurement legislation, introduces socially significant approaches to the activities of banks as instruments for improving financial literacy and implementing complex investment products. This notes the relevance of trust environment formation including banks participation in national (public) debt sphere. The given research paper also studies general, special, delegated and initiative legal bank identity and specifies the necessity to improve the legislation, strengthen the rule of law and the proper level of law and order to prevent misselling and unfair bank activities, including issues of banking legal identity in the sphere of national (public) debt. Certain attention is also paid to the issues of legal environment harmonization: improving the quality of legal regulation at the legislative level and at the level of ethical principles and norms; translating ethical norms into legislative norms in order to form lawful behaviour in the area of national (public) debt. The research emphasizes the importance of banking information given to the consumers of financial services in the field of national (public) debt related to the content of the financial product.

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## 1. Introduction

In modern socio-economic and political-legal realities, the significant social nature of banking activities, which are legally publicly and privately oriented, is noticeably increasing.

The trust environment formation, unfair business practices and misselling constraint, financial literacy improvements by the finance service consumers and protection of their rights and legitimate interests are the priorities in financial and legal policy of the Russian Federation. The Financial and Legal Institute of National (Public) Debt regulates these issues, particularly, when individuals purchase investment products from banks including federal loan bonds, also in a digital format. It is important to observe the principles of proportionate interest and risk regulation by qualified and unqualified investors acquiring investment products, especially government securities. Bank loan applications of public legal entities require compliance with budget, banking, competition legislation, and legislation in procurement sphere.

The interdisciplinary nature of legal relations in the sphere of national (public) debt with bank participation requires a doctrinal study of banking legal identity, an analysis of legal regulation and the quality of legislation, and an understanding of law enforcement practice. It is necessary to identify the role of the Central Bank of the Russian Federation as a regulator of banking activities in ensuring a proper legal environment, financial and legal culture, law and order in relation to the participation of banks in the area of national (public) debt. The above mentioned indicates the relevance of the stated research topic.

## 2. Problem Statement

The study of problematic issues requires the understanding of budget legislation development in globalization context (Krylova, 2018); the mutual influence of financial and economic security (Kudryashova, 2019), public debt and economic growth (Law et al., 2021); consideration of law as a value (Alekseev, 2008); study of socially significant goals in legal regulation of economic development (Tikhomirov & Talapina, 2020).

There is the understanding of the legal regulation mechanism (Tarasov, 2020); determining the criteria of legal regulation effectiveness (Rybakov, 2019), legal norms integration and differentiation processes (Semyakin, 2020); the ethos of financial and legal science (Gracheva, 2020); improving budget legislation (Yalbulganov, 2019), the principles of the budget system and process (Boltinova, 2018). This includes budget legislation foundation of the EURASEC (Vinnitskiy, 2012); interaction between banking and budget systems in temporarily free budget funds (Tkachenko, 2018), reducing financial risks in the budget sphere (Omelekhina, 2018).

The financial and legal aspects are connected with economic and social significance of national (public) debt institution and need to be improved by taking into account certain doctrinal studies (Belikov, 2016; Pokachalova & Rybakova, 2018; Tsaregradskaya, 2016). The mutual legal regulation influence of banking system and national (public) debt proves the importance of trust environment formation, protecting rights and legitimate interests of financial legal relation subjects, improving financial literacy and culture (Pastushenko, 2020). It is necessary to comply with banking, budget,

competition legislation, and procurement legislation in the sphere of national (public) debt and bank participation in it.

### **3. Research Questions**

#### **3.1. Legal identity of banks as legal relations participants in the national (public) debt sphere from the perspective of complex legal regulation**

It is important to distinguish between general and special bank legal identities. The first one is enshrined in the Federal Law "On Banks and Banking Activities": giving the bank concept, the list of banking operations and transactions, as well as prohibited types of activities, the bank's activity basis at the securities market. The understanding of general bank legal identity is presented in scientific works done at positive and negative law interface (Alekseeva et al., 2019).

Special legal identity is regulated by the Budget Code of the Russian Federation. Debt obligations of the Russian Federation and its subjects, in accordance with the Budget Code of the Russian Federation (Article 98), can be in various forms. They include loan obligations from credit organizations, budget loans, as well as government securities issued on behalf of the Russian Federation and its subjects.

It is also essential to look at competition and procurement laws. By the Federal Law "On Protection of Competition", the executive authorities of the Russian Federation and its subjects enter into contracts with financial organizations only after the results of an open tender or an open auction.

This must comply with the provisions of the Federal Law "On the Contract System in Procurement of Goods, Works and Services for Government and Municipal Needs". The rules are also relevant for the following financial services provision: raising funds for deposits, opening and maintaining bank accounts, making settlements, trust management of securities. Lending bank policies are not included in that list. This gap needs to be filled. Compliance with competition and procurement laws is necessary for public entities to determine the best market offer of credit products.

It is requisite to fix bank legal identity in national (public) debt sphere in a coordinated manner: in the Budget Code of the Russian Federation and the Federal Law "On Banks and Banking Activities" (by the analogy with the budget powers by the Central Bank of the Russian Federation for servicing the Federal Treasury single account – they are given in the Budget Code of the Russian Federation and the Federal Law "On the Central Bank of the Russian Federation (Bank of Russia)"). The bank legal identity in national (public) debt sphere can be divided into delegated (when working with state securities) and initiative (when providing loans to public legal entities).

The need for a systematic construction of legislative structures determines the relevant reflection of banking legal identity in the sphere of national (public) debt in the Federal Law "On Banks and Banking Activities", which is based on the novelties of legal regulation connected with the Bank of Russia: Federal Law No. 479-FL of December 27, 2019 "On Amendments to the Budget Code of the Russian Federation in Terms of Treasury Services and the Treasury Payment System" and Federal Law No. 20-FL of February 24, 2021 "On Amendments to Certain Legislative Acts of the Russian Federation in Connection with the Adoption of the Federal Law "On Amendments to the Budget Code of the Russian Federation in Terms of Treasury Services and the Treasury Payment System".

### **3.2. Trust environment formation in bank activities with debt instruments as a vector of bank legal identity development reflecting banks participation in the national (public) debt sphere**

Ethical professional standards and moral principles are also applied to the bank legislation. There is even a proposal to treat violations of ethical professional norms and moral principles as illegal activity (Shvetsov, 2021). Such is the impact of law enforcement activities by the Central Bank of the Russian Federation on the legal field formation. It is connected with financial service consumers groups: qualified and unqualified investors, protecting the rights of unqualified investors and restricting the sale of complex investment products to them by banks.

There is a great demand for banks to properly inform consumers of financial services about the financial product and possible risks. There is a tendency to change bank legal identity stating its role as agents helping to improve financial literacy of finance service consumers. It is important that banks are customer-oriented and form trust environment in the public debt segment. There is an acute problem of misselling constraint, unfair practice prevention offering complex investment products to qualified and unqualified investors. The mentioned above is relevant when banks work with government securities issued on behalf of the Russian Federation and its subjects.

It is important to introduce the law enforcement banking practice in the sphere of national (public) debt; client-oriented approaches to properly inform the consumer of financial services about the commercial product key characteristics in order to achieve a better understanding of the financial product essence and its risks; consumer's responsible decision purchasing the corresponding products. This direction of financial and legal policy makes it necessary to give the Central Bank of the Russian Federation the authority to establish rules for banking information disclosure about financial products and the forms of their passports. The mentioned above indicates the role of banking transparency in the sphere of national (public) debt from the standpoint of protecting consumers' rights acquiring commercial products.

### **3.3. Socially significant aspect in credit legal identity of banks as participants in the national (public) debt sphere**

Modern budgetary legal relations emphasize the application of procurement legislation when the Russian Federation and its subjects take bank loans. The question arises about the feasibility of commercial loans at a higher interest rate in comparison with budget loans. This indicates the accessory role of bank legal identity in public debt sphere. It should be noted that the original version of the Federal Law "On Protection of Competition", have included the provision of loans and services in the securities market among the financial services that require competitive procedures. It seems to be the right decision, and it is still of crucial importance today.

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

The purpose of this research work is to form the concept of bank legal identity reflecting its role as a participant in the national (public) debt sphere, including public and private legal aspects, having an

interdisciplinary nature and public significance for the protection of subjects' rights in financial legal relations, excluding unfair bank practices and introducing banking proper procedures informing the consumer's about the financial product.

## **5. Research Methods**

Dialectical and formal-legal methods help to study the relationship between various aspects of banking activity regulations in national (public) debt sphere. The comparative legal method is used to identify the development of general and special legislation of bank legal identity in the abovementioned sphere. The inductive method analyses the Russian legislation, bank operation activities and transactions from the point of view of customer orientation and protection of consumers' rights at financial services market.

## **6. Findings**

The results of this study are presented in discourse on public and private aspects of bank legal identity in national (public) debt sphere. This is interdisciplinary and has a complex legal regulation, including banking and budget legislation and the need for legal regulations in competition and procurement legislation. The general and special, delegated and initiative bank legal identity is also highlighted in the given research paper.

Proposals have been made to expand the bank authority to prevent unfair behaviour in the sphere of national (public) debt; to introduce informing mechanisms about commercial products from banks to consumers of financial services; to develop new banking methods to improve the financial literacy of consumers, including the area of national (public) debt.

## **7. Conclusion**

In conclusion, it should be noted that the role of banks in national (public) debt sphere, its legal identity and power require certain coordinated consolidation and need to be enshrined in the Budget Code of the Russian Federation and the Federal Law "On Banks and Banking Activities". This includes the restoration requirement to conduct procurement procedures by public legal entities taking bank loans in the Federal Law "On Protection of Competition", coordinated with the Federal Law "On the Contract system in the Procurement of Goods, Works and Services for Government and Municipal Needs".

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