

## THE LAW AS THE REGULATOR OF BANKS IN THE CONTEXT OF GLOBALIZATION

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The strategic objective of sustainable development of the state - raising the level and quality of life based on the dynamic development of economic and social development, preservation of reproductive potential of the natural complex. Formation of the model of social market economy in a state suggests the appropriate transformational changes in the economy, the modernization of national financial institutions and other changes resulting from the strategic interests of the country and the modern trends of development in a globalizing world.

Priority of the national socio-economic policy is to ensure high and sustainable rates of economic growth. Under these conditions, building a strong, competitive and independent of the national banking system that is able to saturate every cell in the life-giving blood of the economy of financial resources is one of the most important tasks of the state. Solving problems in the banking sector will largely depend on the state of the legal environment of banking regulation.

The dynamic development of the banking sector in an ever-changing economic environment brings to the activities of banks and new aspects of the problem whose solution depends on the level of their financial stability. Sound financial position of banks - is not only the basis of viability and the possibility of further development of the banking market, but creating conflict-free internal and external environment, that under modern conditions of development of "civilized" of the banking business is an important factor. That is, banks may, on the one hand, completely insulate the economy from the financial crisis, or at least reduce its depth, on the other hand, the banks are the main source of vulnerability of the financial system due to the fact that banking has become a zone of heightened risk in a competitive and economically volatile market, regulation, which has become extremely complex process. Taking place in the present global financial crisis has a clear confirmation.

Regulatory measures taken by the legal opportunity to strengthen confidence in the financial system and provide a solid economic basis for citizens, to help financial institutions gain access to needed capital, support systemically important financial institutions and help to prevent their collapse, "unfreeze" the credit markets, including mortgage loans, deposits and protect the savings of citizens.

At the same time, be aware that the bank is not only financial but also social, public institution, which combines the interests of various and numerous economic agents, each of which evaluates its activities through its range of individual problems. Only financially sustained the bank is able to maximize the needs of all economic actors. Legal regulation of the financial stability of banks, its current level, taking into account the macro-and microeconomic factors impact on financial stability, has a public and social importance and serves as a measure of public confidence in banks and national banking system as a whole, state. Banks act as a kind of "circulatory system]" of the economy. Institutionally, the banks play a central role in financial intermediation, outperforming other financial intermediaries in

economic potential. It is therefore important that the banking system of the state functioned smoothly, stably and efficiently. Of its sustainable development depends largely on the success of the economic activity of enterprises and organizations, calmness and confidence of citizens in the safety of their savings. What better way to see how the accumulated money is spent and redistributed in the life of society and the state than it carries out the banking system as a whole.

Banks and banking system as a whole, functioning in the economic environment can not be grounded in the realization of only their own interests, they have a definite social purpose - first, to concentrate temporarily idle funds for the benefit of accelerating the economic development of the state, and secondly, to streamline cash turnover. Financial stability of the banking system so that we associate with the positive development of its, which increases not only the volume of banking activities, but also rationalized money turnover, that is, non-inflationary development is ensured, improving payment discipline, introducing new financial products and services, increasing their quality. At the level of individual bank's financial stability - that is not only focused its development from the perspective of scale, but also improve the investment portfolio and stable deposit base, reducing the arrears, the timeliness of payments, conducted through the bank, the development of its activities by introducing new and more attractive banking products and services.

Banking operations throughout the world, coming forward of one of the most important sectors of the economy is high, it is most sensitive to changes at both macro and micro levels. All of the major changes in social relations in the banking sector related to the globalization of the economy, affecting all countries without exception. As practice shows, these changes are related to the increasing internationalization of banks and financial markets, the improvement of modern computer technology, increased levels of competition, the emergence of the financial markets of new banking products and services. Therefore, in our opinion, it is impossible to form and implement an effective strategy for the domestic banking sector of the economy without taking into account priorities and behavior major world economic activity participants. In this regard, and updated the importance of theoretical understanding of the legal regulation of social relations in the banking sector, including the legal regulation of the financial stability of the fundamental (basic) elements - the banks, taking into account the integration processes in the world economic community.

Over the past decade, high rates of innovation in financial markets and the internationalization of financial flows have reshaped the banking almost beyond recognition. The traditional practice of banking is based on attracting deposits and granting loans, is now the only part of the bank, and often the least profitable. Modern banks have moved beyond traditional credit and deposit operations and established a presence in virtually all segments of the financial system. The innovation process has led to increased diversity of financial instruments, markets are constantly expanding. Today, new, based on information technology types of banking activities such as trade in financial markets and income from commission payments, are the main sources of profitability of banks. The use of financial innovation on the basis of asset securitization, credit derivatives in particular by mortgage and consumer lending, extensive use of "off balance sheet" financial instruments such as futures, options, guarantees and letters of credit, not only is the area of risk in banks, but also fraught with complex issues relating to management of emerging risks. In addition, profits derived from these financial instruments is high and, as appropriate, and financial markets are very unstable and, thus, increases the for banks not only traditional banking risks, but also exposes them to new ones.

**Financial stability** by the end of last century was a pressing social need, the increasing scope of responsibility of the state. Since the beginning of the 70s of last century local or systemic financial crises have been felt in varying degrees in more than 120 countries. Their financial and negative economic and social impacts have affected the industrialized countries and countries with transitive economy. Finally, the mortgage crisis in the U.S. in 2007 and followed in 2008 and continuing up to now the global financial crisis are clear signs of significant financial instability. Internationalization of financial markets, national dramatically increased the “likelihood of contamination crises” of national financial systems.

The consequences of financial instability are large and can be expressed as a slowing of economic growth and the destruction of public confidence in financial markets. What we now observe. The World Bank estimates the damage from financial instability may reach a quarter the gross domestic product, in which she had place.<sup>1</sup>

In our view, globalization is a process of erasing not only economic, but also the limits of national jurisdiction between the states. In these circumstances, remarkable feature of recent decades - to change the relationship between international and national law. The primacy of international law over national (domestic) was currently prevailing recognition. Analyzing the relationship of contemporary international law and national laws, note that international law has become hard competitor to national law.

The specifics of economic globalization, reflected in the legal field and is in the fact that this process is reflected in varying degrees in all the structural parts of the state's legal system, which covers, in our opinion, all of its components both static and dynamic orientation . We are talking primarily about the legal and regulatory framework, as well as a system of legal sources and their correlation.

Financial globalization objectively leads to the supranational / transnational regulatory elements. A growing number of domestic jurisdiction of states passed under the international legal regulation. Under these conditions, the gradual convergence of the law states is inevitable. Therefore, considering the legal regulation of financial relations in the banking sector in modern times, we can not ignore global integration processes in the financial sector.

Today, because of globalization and liberalization of the economy as a whole, the internationalization of financial flows and innovation in financial markets, in particular, the fundamental problem in banking is that, on the one hand, adequate freedom of banks in making decisions under changing market conditions allow them to work compensate for racing conditions, but on the other - the concentration of banking risks as a result of banking activity leads to increased instability of the banking sector as a whole and its main constituents - banks. The correlation between different types of risk, both within a single bank, and the scale of the banking system increased by orders of magnitude and more complex. Legal regulation of banks in a competitive and volatile market has become extremely difficult. All of this challenges traditional approaches to banking regulation, requires a fully fledged implementation of the ideas of the Basel process.

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<sup>1</sup> Financial Stability in Emerging Market Economics // Report of the Working Party on Financial Stability / ashington: World Bank. 1997. April.

Financial stability of the banking sector in general and the stability of individual banks and bank holding companies depend on the internal structural and macroeconomic factors that form the environment of banking activities. Internal and external risk factors may reinforce each other, destabilizing the banking system, and on the contrary, mutually compensate for dangerous influence of stabilizing the financial situation. The main trend of development of the legal regulation of banking activities in the economically developed countries - primarily the development of risk-based approach to the assessment of banks and supervisory measures to respond, based on the content and a realistic assessment of banking risks in terms of their potential impact on the financial stability of banks. This is a fundamentally new starting point in the development of banking regulation, the transition of administrative-legal regulation to risk-oriented and legal support.

In these circumstances the social responsibility of the Central Bank, which the society represented by the state has delegated powers to regulate banking activities, to ensure the financial stability of banks, since errors in this area may not only provoke a systemic banking crisis, but also cause social tensions.

Thus, new conditions of banking due to innovations in financial markets and the internationalization of financial flows, the new face of banking innovation radically changed approaches to legal regulation of banks, the study which was an actual problem of modern legal science.