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**Kulistan Djamalovna BORLAKOVA**

**THE BANK OF RUSSIA'S ACTIVITIES IN THE FIELD OF  
ATTRACTING INVESTMENTS USING INVESTMENT PLATFORMS:**

**LEGAL ASPECT**

5.1.2. – Public law sciences

Abstract of the thesis  
for the degree of Candidate of Law

**Academic adviser:**  
Candidate of Law  
Shamil Shagabanovich Uzdenov

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**Relevance of the dissertation.** Financial technologies ("fintech") are currently actively and dynamically developing both in the Russian Federation and in foreign countries, which cannot but have an impact on all areas of government functioning, including economics and law. Financial technologies are a natural product of the new digital reality, in which the remote format of market participants' interaction is steadily replacing traditional formats. Digitalization affects all spheres of society, and virtual instruments are becoming in demand by the market, including capital raising, which requires government influence (regulation and supervision). Accordingly, these trends should be the subject of scientific research.

The government and business entities actively use the platform approach, which allows the use of digital technologies to make transactions between an unlimited number of participants. Entities strive for comprehensive solutions in the market of goods and services, creating ecosystems and marketplaces that allow for effective and rapid interaction between market participants without reference to a specific place of transactions. New formats require relevant new laws, new legal forms and legal regimes to do within digital economy.

Nowadays, law is taking on new challenges of the digital age in the form of the introduction of new institutions and tools, reinterpretation of traditional concepts, including in the field of investment. In addition, financial law is currently undergoing a significant transformation with digital influence exerting on financial relations, the subject of public digital financial control is expanding, and consideration of financial and legal aspects of regulating investment relations in a digital environment is becoming relevant. At the same time, we note that we adhere to the point of view that investment relations should be considered in the system of financial law, as it is done in the works of E.M. Ashmarina, L.G. Vostrikova, O.N. Gorbunova, E.A. Gorokhov, G.V. Petrova, E.N. Reshetina, E.V. Terekhova, S.O. Shokhin.

The legal regulation of the Bank of Russia's activities in the field of attracting investments using investment platforms within the framework of financial law

allows the state (represented by the Bank of Russia) to regulate and supervise, and, accordingly, to ensure the protection of public interests when investing in the financial market in a digital environment. This topic is directly related to issues of ensuring national interests and national security, since the financial market is the "circulatory system" of the national economy of a modern state. The state is interested in developing the digital economy, but at the same time, the digital market should be subject to certain legal restrictions that are necessary in the public interest. These circumstances entail the relevance of corresponding issues. In this regard, it should be noted that domestic legislation is developing in the direction of legal registration of new digital relations. Federal Law No. 259-FZ dated 08/02/2019 "On Investments' Attraction using Investment Platforms and on Amending Certain Legislative Acts of the Russian Federation" (hereinafter referred to as the Law on Investment Platforms) is currently being actively used in practice, but its provisions have not been adequately studied in the scientific legal literature. At the same time, the Bank of Russia as a financial market mega-regulator plays a special role in regulating relations arising out of investments through digital platforms.

All of the above makes it relevant and necessary to conduct a comprehensive study of the legal regulation of the Bank of Russia in the field of attracting investments using investment platforms.

**The academic study of the dissertation topic.** Currently, there are no relevant comprehensive monographic studies on the legal regulation of the Bank of Russia's activities in the field of attracting investments using investment platforms, containing a comprehensive analysis of the concept of "investment platform" and legal forms of investing using investment platforms, as well as the Bank of Russia's participation in regulating investments using investment platforms. In modern scientific legal literature, one can find scattered theoretical studies of individual investment problems using investment platforms, but there has not been a full-fledged study aimed at streamlining the issues of legal regulation of the Bank of Russia's activities in the field of attracting investments using investment platforms in the legal literature.

Among the dissertation studies on related topics, the following works should be highlighted: Papascua G.T. Legal regulation of the use of financial technologies in the context of the digitalization of the Russian economy: diss. ... kand. jurid. M., 2022. 210 p.; Razdorozhny K.B. Financial and legal regulation of digital financial assets in the Russian Federation and abroad: diss. ... kand. jurid. M., 2022. 211 p.; Tokolov A.V. Legal regulation of information relations in the sphere of turnover of digital financial assets: diss. ... kand. jurid. nauk. Moscow, 2022. 215 p. The concept and legal regulation of the use of investment platforms is considered in the works of Russian scientists in fragments.

In particular, Y.S. Kharitonova, L.V. Sannikova, A.A. Kartskhiya, A.E. Molotnikov, E.V. Arkhipov consider investment platforms in terms of the digital economy, A.I. Saveliev, from the point of view of personal data protection, T.V. Soyfer, G.T. Papascua from the point of view of collective forms of activity, S.Y. Reutsky, I.V. Sarnakov from the point of view of banking supervision of investment platforms.

Attraction of investments using investment platforms as a segment of the financial market has also been the subject of research by individual scientists. For example, A.V. Belitskaya, A.V. Mayfat, A.A. Kirillov, D.A. Kotenko, V.A. Snezhnev, and others considered investment platforms from the point of view of the possibility of attracting investments through them.

The legal groundwork for ensuring the Bank of Russia's regulation and supervision of the functioning of investment platforms was considered in their works of such scientists as I.Sh. Ismailov, M.V. Sigova, O.S. Miroshnichenko, K.B. Razdorozhny and others.

**The purpose of the dissertation** is to formulate, study and resolve the fundamental theoretical and practical problems of the legal regulation of the Bank of Russia in the field of attracting investments using investment platforms.

**The objectives of the dissertation** are determined to achieve the above-mentioned goal and include the following main objectives:

- define the concept and substantiate the legal nature of the investment platform;
- consider the legal status of entities involved in activities using investment platforms and the legal requirements for them;
- to identify the specifics of the legal regulation of activities using investment platforms;
- to identify the legal position of the Bank of Russia as a regulator of investment platforms;
- to consider the legal framework for the regulation of the Bank of Russia aimed at the creation and functioning of investment platforms;
- to reveal the specifics of the legal groundwork for ensuring the Bank of Russia's supervision of the organization and functioning of investment platforms;
- to determine the legal basis for the Bank of Russia's participation in the use of the investment platform in the organizational and legal mechanism of the financial market;
- to identify the role of the Bank of Russia in the market of investments attracted using investment platforms;
- to reveal the specifics of the Bank of Russia's participation in protecting the rights and legitimate interests of investors using investment platforms.

**The object of the dissertation** was the social relations that develop in the process of legal regulation of the Bank of Russia's activities in the field of attracting investments using investment platforms.

**The subject of the dissertation** consists of the norms of Russian law governing the activities of the Bank of Russia, as well as other subjects of law in the field of attracting investments using investment platforms, including the regulations of the Bank of Russia, law enforcement practice, scientific views, concepts, theories of both domestic and foreign scientists in this field of legal regulation, documents, statistical and other data from international organizations.

**The methodological basis of the dissertation** was the general scientific (dialectical) method of cognition, general techniques of formal logic (analysis and

synthesis, deduction and induction, analogy and comparison, etc.) and related private scientific methods: historical, sociological, technical and legal, linguistic, comparative law. Thus, the historical method was used to analyze the emergence of relationships in the digital environment, which is still recent. The comparative legal method allowed the author to compare approaches and legislative regulation of activities using investment platforms in the public law aspect, in particular, to assess the role of the central bank of the state in regulating relations in the financial market in the case of using investment platforms. To record the current state of scientific achievements on this issue, the method of systematic review of literature was used, mainly domestic, but for the purposes of comparison foreign was used as well. Many problems of the dissertation were studied as interdisciplinary at the intersection of law and computer science, as well as economics, which is due to the tasks of a comprehensive analysis of investment relations using investment platforms.

**The normative basis of this dissertation research** consists of the provisions of the Constitution of the Russian Federation, federal laws (both valid and invalid), other normative legal acts, draft laws, as well as foreign legislation.

**The empirical basis of this dissertation** is legal precedents and arbitration practice, explanatory acts, and statistical data.

**The scientific novelty of the dissertation.** In this paper, for the first time in modern Russian law, a comprehensive study of the legal regulation of the Bank of Russia in the field of attracting investments using investment platforms has been conducted, the legal status of the Bank of Russia as a regulator of investment platforms and the specifics of the legal framework establishing the Bank of Russia's regulation aimed at the creation and functioning of investment platforms, as well as the Bank of Russia's supervision of the organization and functioning of investment platforms have been determined. Based on the theoretical provisions formulated in the course of this study, a single integrated system of regulatory legal regulation and banking regulation of attracting investments using investment platforms in the Russian Federation can be built.

**The following provisions are submitted for thesis defence, reflecting the scientific novelty of the research:**

1. It has been determined that an investment platform, as a type of digital platform, is a special object of legal regulation, an information system on the Internet (website) that is used to conduct transactions using digital technologies (with large amounts of data in a short period of time) between an unlimited number of participants in investment relations and acts as the operator of such a system, performing the technical and technological function of an intermediary in the digital environment, and having a special legal status (requirements for the amount of the operator's own funds, the legal and financial status of the operator's founders (participants) and controlling entities, etc.). By its legal nature, an investment platform is an organizational and legal means of state regulation of the economy, which allows us to consider the legal regulation of platforms mainly in the public law aspect. *(The article corresponds with paragraph 26 of the Passport of the scientific specialty 5.1.2. "Public Law (State Law)").*

2. It has been proven that the subjects of investment attraction using investment platforms, which include investors (consumers of financial services and professional market participants – qualified investors), persons who attract investments (the final recipient, an institutional investor), and the operator of investment platforms, are subject to requirements aimed at protecting public legal interests. The operator of the investment platform is, on the one hand, a financial institution supervised by the Bank of Russia and therefore subject to public law requirements, and, on the other hand, an intermediary in the investment services market. As a result, the requirements imposed on it must minimize the risks inherent in investment activities, which are largely related to protecting the rights of investors, ensuring the fulfillment of obligations assumed by investment recipients, and generally performing certain functions of self-regulation. It is necessary to establish a requirement for the Bank of Russia to issue a special license to the investment platform operator, while simultaneously imposing on the operator the obligation to thoroughly verify the persons who are attracting investments in

accordance with the methodology determined by the Bank of Russia. In the event of a violation, the burden of responsibility will be shared between the investment platform operator and the person who is attracting investments, as well as the obligation to monitor the intended use of borrowed funds. The legal status of a financial services consumer should include additional guarantees from the state, as well as restrictions on access to activities with high investment risk, while the legal status of a professional participant should meet the higher requirements imposed by the state. With the participation of individuals who attract investments through the use of investment platforms, the Bank of Russia needs to reduce information asymmetry through mandatory legal requirements, which can be implemented through the Bank of Russia's regulatory and supervisory requirements for investing through investment platforms. *(The article corresponds with paragraph 24 of the Passport of the scientific specialty 5.1.2. "Public Law (State Law)").*

3. It has been revealed that the state seeks to ensure a balance between private and public interests in regulating investment relations using investment platforms, providing additional guarantees to consumers of financial services in the form of establishing requirements for individual investors, investment platform operators, and individuals who attract investments, as well as through the implementation of state supervision by the Bank of Russia, including the targeted use of funds accumulated on the platform. It is also based on the assignment of public law interests to self-regulatory organizations and investment platform operators. At the same time, it is impossible to allow the processes to be overregulated and to create unnecessary administrative barriers when using investment platforms. For example, it is unacceptable to impose on the operator of an investment platform unnecessary requirements and responsibilities that are typical for individuals who professionally attract and place funds (credit institutions, microfinance organizations, credit cooperatives, and pawnshops). In addition, the maximum threshold for the total amount of investment using investment platforms for individuals should be significantly increased to 1,500,000 rubles, similar to the minimum amount of funds raised by microfinance companies from individuals as



the level from which a more professional approach to investment begins. Taxpayers of the professional income tax as business entities are directly specified in paragraph 2 of article 1. 23. The Civil Code of the Russian Federation shall be named in the Law on investment platforms along with individual entrepreneurs as persons who are not subject to the restrictions on the total amount of investment established in paragraph 1 of Article 7 of this Law. *(The article corresponds with paragraph 24 of the Passport of the scientific specialty 5.1.2. "Public Law (State Law)").*

4. It has been revealed that the means of regulation by the Bank of Russia (similar to the means of state regulation, which include legal, administrative, organizational, and economic means) in the field of creation and operation of investment platforms can be structured as follows: requirements for the creation of an investment platform operator and requirements for the operator; requirements and restrictions on combining with other types of business activities; requirements for the size and composition of the investment platform operator's own funds (capital); Qualification, reputation, and other requirements for founders, members of management bodies, and officials of the investment platform operator; requirements for disclosing information about the state and functioning of investment platforms, and for developing and approving investment platform rules. All of these funds are subject to regulation and supervision by the Bank of Russia in relation to the activities of entities that use investment platforms. Due to the risk of information asymmetry, incompleteness, and insufficient investor awareness about the quality of the investment project, as well as the risk of unscrupulous behavior by the operator of the investment platform, it is necessary to ensure the financial stability of the person who is attracting investments, the repayment of borrowed funds when concluding a loan agreement using an investment platform (an analogue of credit risk), what is the main object of the Bank of Russia's behavioral supervision, which should implement an individualized approach depending on the specific legal status and functions of a particular supervised financial institution, including the operator of an investment platform. *(The article corresponds with paragraph 24 of the Passport of the scientific specialty 5.1.2. "Public Law (State Law)").*

5. It has been revealed that with the emergence of digital platforms, including investment platforms, the Bank of Russia has become a regulator of the digital platform market, combining prudential and behavioral regulation of the activities of investment platform operators. In this regard, a proposal has been developed according to which the regulation and supervision of the competitive behavior of investment platform operators may be assigned to the Federal Antimonopoly Service, as in the case of other financial institutions, in the event of amendments to Article 4 of the Law on Protection of Competition. (*The article corresponds with paragraph 24 of the Passport of the scientific specialty 5.1.2. "Public Law (State Law)"*).

6. A proposal has been developed to establish a requirement in the Law on Investment Platforms for mandatory insurance of funds on the nominal account of the investment platform operator in the mandatory deposit insurance system, which will serve as an additional guarantee for protecting the rights and legitimate interests of the investor in the form of a public legal requirement imposed on the investment platform operator. When introducing requirements for checking individuals who attract investments, as well as for deducting a portion of the commission to form a special fund for paying insurance premiums, introducing insurance for nominal accounts, and defining the essential terms of contracts in the Bank of Russia's regulations, it is advisable to remove the ban on sending a public offer provided for in the Law on Investment Platforms. (*The article corresponds with paragraph 24 of the Passport of the scientific specialty 5.1.2. "Public Law (State Law)"*).

**The practical significance** of the dissertation is determined by its scientific nature and consists in the fact that the findings of the dissertation research can be applied in the development of regulatory legal acts, including the law on investment platforms, as well as in law enforcement activities related to the functioning of investment platforms. Analytical findings can be used as a basis for the development of scientific and practical recommendations for employees of the Bank of Russia. The provisions of the dissertation can be used in the teaching process when reading

special courses related to the activities of the Bank of Russia or the investment process, including as part of the retraining and advanced training of Bank of Russia employees. The research results can be used in the development of educational and methodological materials for financial and legal disciplines and textbooks for students studying under the program of training in the field of Law, the specialty of Legal Support for National Security, the specialty of Legal Support for Economic Security, and the specialty of Judicial and Prosecutorial Activities.

**The theoretical significance** of the dissertation research lies in the fact that the results of the dissertation research, which contain scientific conclusions, allow for a contribution to the scientific system of knowledge about the regulation of the Bank of Russia's activities in the field of investment platform functioning, and can also be used for further development of the theory of the legal status of the Bank of Russia.

**Reliability of the provisions and results** of the conducted research stems from the methodological validity of the theoretical provisions; the use of various research methods that are adequate to the tasks, subject, and logic of the research; various sources of scientific information; and the combination of theoretical and empirical aspects of the research. The reliability of the provisions and results is confirmed by the author's analysis of Russian and foreign regulations, court practice, and doctrinal sources, as well as by the formulation of the research objectives and tasks and the chosen research methodology. At a meeting of the Department of Banking Law and Financial and Legal Disciplines, it was concluded that the provisions put forward for defense and the research results are highly reliable, and that the research topic is relevant and the research results have scientific and practical significance. The experts' comments on the dissertation were discussed and the results of the applicant's work on addressing these comments were reviewed. In addition, the applicant's revision of the dissertation materials was positively evaluated. The assessment of the reliability of the research results revealed the author's ability to logically formulate a scientific problem and find a solution in accordance with the requirements of theory and practice. The proposed ideas are

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based on a scientifically sound analysis of the opinions of scientists and empirical data, which allowed the applicant to draw well-founded conclusions that can be considered reliable.

**Approbation and implementation of research results.** This dissertation was prepared, discussed and approved at the Department of Banking Law and Financial and Legal Disciplines of the M.M. Speransky Law Faculty of the Institute of Law and National Security of the Russian Presidential Academy of National Economy and Public Administration.

The main theoretical and practical provisions were discussed at international and All-Russian scientific and practical conferences and seminars," including the author's report on "The role of the Bank of Russia in regulating investment platforms" at the International Scientific Conference dedicated to the 25th anniversary of the Faculty of Law of the Financial University under the Government of the Russian Federation "The Transformation of law in the context of digitalization of banking activities) in Moscow on 06/20/2022; a report of the author on the topic "State regulation of crowdfunding as an alternative type of financing in a crisis" at the section "Problems of ensuring the stability of the banking system under sanctions" within the framework of the XII Moscow Legal Week in Moscow on 11/25/2022; a report on the topic "Legal regulation of the Bank of Russia's activities in the field of attracting investments using investment platforms" at the round table "Transformation of banking regulation: Challenges of sanctions policy" within the framework of the International Scientific and Educational Forum "The Role of Law and Economics in ensuring National Security: New Strategies and Challenges" in Moscow 09.12.2022; a report on the topic "Assistance of the Bank of Russia in attracting investments: organizational and legal aspects" at the banking law section "Legal mechanisms of cooperation between the Russian Federation and Arab countries: digital currencies, tokenization of banking services, Islamic finance" within the framework of the X Moscow International Legal Forum "Sustainable Development of Russia: a Legal aspect" in Moscow on 04/07/2023.

The abstracts of the reports of the above-mentioned conferences and round tables were not published. The main provisions of the dissertation were published by the author in peer-reviewed scientific journals. The results of the research were implemented through the use of the results of the dissertation in teaching courses at the Department of Banking Law and Financial and Legal Disciplines of the M.M. Speransky Law Faculty of the Institute of Law and National Security of the Russian Presidential Academy of National Economy and Public Administration, including the course "Regulation and Supervision monitoring the activities of financial organizations."

**The structure of the dissertation** corresponds with its purpose and objectives. The thesis consists of an introduction, three chapters with three paragraphs each, a conclusion, and a bibliography.

  
Kulistan D.  
Borlakova