

THE ESSENCE OF FINANCIAL UNCERTAINTY***Margarita K. Borodavina¹, Svetlana V. Rybakova¹, Anna V. Savina², Alina P. Khakhulina²**¹ *Saratov State Law Academy, Saratov, Russia*² *Derzhavin Tambov State University, Tambov, Russia***Article info**Received –
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The subject of the research is the concept and content of financial uncertainty as a new institution of financial law and, at the same time, a new phenomenon of financial and legal science.

The purpose of the article is to determine the essence of financial uncertainty, to analyze the features and practical significance and identify factors that affect the occurrence of financial uncertainty.

The methodology of the study includes methods of dialectical logic, analysis and synthesis, as well as formal legal analysis of legal acts.

The main results and scope of their application. The financial uncertainty is a new institution of financial law and, at the same time, a new phenomenon of financial and legal science. Although the elements of financial uncertainty as the economic phenomenon are not new and are known to the practice of financial legal relations and the norms of financial legislation.

Since the system of financial law is multi-spectral, especially in modern economic conditions, the institution of financial uncertainty, like many other institutions of financial law, is multifaceted and has its own characteristics in the framework of tax law, budget law, institutions of financial and legal regulation of banking and insurance, as well as other. For the general part of financial law, it is necessary to determine the definition of the concept of "financial uncertainty", its signs and elements. It is important to distinguish between the content of the institution of financial uncertainty in the legal regulation of fiscal interests of the state, as well as the interests of the state in public law regulation of finance of the private sector of the economy. In addition, to understand the problems of the institution of financial uncertainty in the subject of financial law, it is important to distinguish between financial and monetary relations. In all cases, the key, initial condition for scientific discourse is the risky nature of financial planning and forecasting. It is the principle of planning as one of the important principles of financial law that must be studied in the development of the desired institution.

Conclusions. Financial uncertainty as a legal institution is complex because uncertainty and risks permeate the entire sphere of public financial activity: fiscal, parafiscal, monetary (including payment). In this regard, it can be argued that aspects of financial uncertainty relate, in fact, to each link of the financial, credit, monetary, and payment systems, and, accordingly, to each institution of a special part of financial law.

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1 Introduction

In various sciences, the concept of "uncertainty" is an ambiguous, multidimensional phenomenon that can be considered with the application and analysis of the points of view of scientists in the field of mathematics, economics, philosophy, law and other fields of knowledge. For example, in the field of linguistics, scientists note that this phenomenon is inherent in the knowledge of the surrounding world and permeates all areas of human cognitive activity, i.e., activities related to modeling and planning. V. V. Tur writes: "... the inevitability of "blurring" the boundaries between mental constructs presented to our consciousness, apparently, is already laid down in the mechanism of the human nervous system" [1]. We should agree with this judgment, since the mental activity of a person that forms the activity of the state, including financial, includes the factor of uncertainty of certain phenomena arising from a series of predetermined actions.

It is obvious that the concept of "financial uncertainty" is multifaceted. It seems that this is due to the process of creating various systems – technical, economic, social, industrial, legal, etc., the functioning of which is affected by a number of external factors – incompleteness of information, a lot of accidents, the complexity of the system, the so-called human factor. This, in turn, increases the interest in understanding this concept.

Turning to the history of the origin of the concept of financial uncertainty, we can note Frank Knight's interesting judgments about uncertainty in General, which the author writes: "... it cannot be eliminated from any decisions made, but there are a number of ways to reduce its degree" [2]. The science of mathematics knows the concept of multiple uncertainty, which is characterized by progressive errors. Moreover, in the world practice, there is an approach to managing uncertainty – uncertainty management.

Financial management is based on information obtained from numerous sources through measurements, analyses, and calculations. However, it is important to understand that any

group of financial relationships operates in conditions of partial, and sometimes complete, uncertainty. This uncertainty is associated with a number of objective and subjective reasons (flexibility and cyclical economic processes due to constant changes in the social, political and economic life of any state, errors and inaccuracies in calculations).

Before we start thinking about financial uncertainty in financial law, we would like to note that in the theory of law there are requirements for formal certainty as a guarantee of effective protection of constitutional rights and freedoms. There is a principle of certainty designed to maintain reasonable stability, stability and predictability of legal regulation, which should ensure the confidence of individuals in the law and the court. O. O. Zhuravleva notes that the principle of legal certainty presupposes formal and material certainty of norms [3].

Financial uncertainty is an economic phenomenon that represents the inability of an individual element to maintain its financial stability and stability in the face of constant changes in market conditions. There is no denying that financial uncertainties are more economic and political in nature. However, in the current financial activity of the state, the presence of such factors is not always mandatory for uncertainty to arise. This can be compared in some way to the visibility horizon. An example here is the different timing of budget planning in different countries. In particular, in Russia, the timing of budget planning has also been subject to changes. Currently, in the Russian Federation and its constituent entities, the budget is planned for three years (the current year and the planning period), and municipalities have the right to choose (1 year or three years). It seems that in this way the state is striving for greater financial certainty, expanding the horizons from one year to three years.

In tax law, there is a principle of tax certainty, which is fundamental (Articles 3 and 17 of the Tax Code of the Russian Federation). Some legal experts, comparing the principle of certainty with

the principle of legality, refer to the words of A. Smith, who noted that the tax that a person is obliged to pay should be determined accurately, and not arbitrarily. The payment term, payment method, and payment amount must be clear to both the payer and the other person [4]. A. Smith wrote: "the Exact certainty of what each person should pay, in the matter of taxation, seems to be a matter of such great importance that a very significant degree of unevenness is a much lesser evil than a small degree of uncertainty" [5]. Along with the above, this is important in order to avoid misunderstandings when generating budget revenues due to tax payments of individuals and organizations. Non-elimination of such uncertainty in the tax sphere can create conditions for tax planning by using conflicts in tax legislation.

2 Materials and methods

Financial uncertainty in a broad sense can be understood as a certain probability of an adverse outcome of certain events related to the activities of participants in financial legal relations. In other words, financial uncertainty is a risk: the risk of unprofitable investment, a fall in the stock market, a sudden change in the value of the currency, an unreliable forecast of socio – economic development, etc. [6]. Thus, financial uncertainty is the probability of loss of financial resources or loss of their value. The narrower meaning of this financial category will vary depending on the type of legal relationship it is associated with.

The following aspect is worth noting: in economic theory, there is a concept of an economic black hole, which is directly related to the problem of uncertainty in the economic space. K. V. Pavlov, emphasizing the connection between certainty and uncertainty, writes: "the Peculiarities of dialectics of the relationship between these two categories are also manifested in the fact that in the social sphere, due to the fundamental static nature of social laws and laws, the boundaries between certainty and uncertainty are more blurred and less defined, so the very identification of these opposite moments in social processes is much more complicated, although this does not mean the

absolute relativism of these categories and the Erasure of any boundaries between them" [7]. It seems that economic activity (which is characterized by dynamics), carried out by subjects of economic relations, includes a combined assessment by such subjects of the certainty and uncertainty of factors that are important for financial success, namely, directs to making decisions based on risk.

In the ordinary mass consciousness, risk is associated with courage on the verge of prudence, "wrong, i.e. unclear business", sometimes even "noble business", rather than with failure and losses. Referring to examples of interpretations of the content of the concept of "risk" in the theoretical models of individual researchers allows us to speak of terminological inaccuracies. The definition of "possible danger", as scientists note, does not save the situation, since the concept of "danger" is difficult to accurately characterize as a state (the state of danger is very variable), it is difficult to measure and evaluate the possible danger, as well as the "driving force of risk" [8].

At the same time, A. p. Algin and M. F. Orzikh rightly pointed out that one of the primary tasks of legal science is to substantiate the theoretical basis of economic risk, its content, and criteria for the effectiveness of a social subject based on risk [9]. It seems that an equally important task of legal science in modern times is to justify the theoretical basis of management risks, which is directly related to Finance.

The legislative experience of foreign countries and analytical reports on the implementation of the Federal budget in Russia suggest that it is impossible to completely overcome financial uncertainty when developing a draft budget in modern realities. We can only hope that over time Russia will reach a level of stability that will allow us to speak with full confidence about a stable financial future, at least for the next few years.

In the context of the technological revolution, financial uncertainty in the financial market, which is traditionally divided into investment, credit, stock, insurance and currency markets, is particularly relevant. It seems appropriate to quote the words Of E. Mekhtiev, who noted in an interview: "Trust is the soul of the

financial market" [10].

It seems that a large-scale supranational socio-economic task of any state is to justify such trust, create a stable investment environment and reduce various risks: currency, market, price, etc. At the same time, we should agree with the opinion of a number of scientists who rightly note that the shortcomings and unbalance of the Russian financial market are caused not only by the low level of development of financial institutions and instruments, but by a whole complex of economic, managerial and political problems [11].

In 2015, the international financial reporting standard (IFRS) 7 "Financial instruments: disclosure of information" was introduced in the Russian Federation, which consolidated the concepts and types of risks. For example, currency risk is defined in the document as the risk that the fair value of a financial instrument or its future cash flows will fluctuate due to changes in exchange rates. Interest rate risk means that the fair value of a financial instrument or its future cash flows will fluctuate due to changes in market interest rates. Market risk is the risk that the fair value of a financial instrument or its future cash flows will fluctuate due to changes in market prices.

As previously noted, financial uncertainty is primarily a risk, and one of the main tasks of the state is to aim political and economic reforms to minimize them or to create an adequate regulatory environment in which financial market participants can be recognized as properly informed and fully accept the fact of adverse consequences when participating in such transactions. It is considered that the securities market is the main lifeblood of the global financial system, which ensures the efficiency of management and functioning of the economy of any country [12].

For example, paragraph 7 of article 4.1 of the Federal law dated 22 April 1996 No. 39-FZ "On securities market" (further – FZ "On securities market") provides the following rule: "a Forex dealer to enter into framework agreement with a natural person is not an individual businessman, is obliged to obtain from him confirmation that the specified physical person acquainted with the risks associated with the conclusion, execution and

termination of obligations under the framework agreement and individual contracts, and take such risks." At the same time, the list of risks that the specified individual must be familiar with and the form for confirming their acceptance are established by the Bank of Russia's regulatory acts.

In article 6.2. The Federal law "on the securities market" stipulates the obligation of the investment adviser to provide recommendations to the client, which must contain information about the return on operations with financial instruments, the period of time for which such a return is determined, as well as the risk of losses from such operations allowed for the client, if the client is not a qualified investor. If, for example, the client performs a transaction with securities, the individual investment recommendation should include a description of the security and a description of the risks associated with it.

It should be noted that the government is pursuing an active policy to reduce the factor of financial uncertainty in the financial market. Article 5 of Federal law No. 223-FZ of July 13, 2015 "on self-regulating organizations in the financial market" sets out the basic standards and bases for the activities of the standards Committee for the relevant type of activity of financial organizations under the Bank of Russia.

Thus, the law stipulates that draft basic standards, in particular the risk management project, must be developed by a self-regulatory organization and submitted for approval to the standards Committee for the relevant type of financial activity at the Bank of Russia. At the same time, article 10.1 of the Federal law "on the securities market" contains requirements for the management bodies and employees of a professional participant in the securities market, among which the position of the responsible person for the organization of the risk management system is highlighted. Detailed requirements for the organization of this system are set out in the Bank of Russia's Instruction No. 4501-U dated August 21, 2017.

I would like to refer to the project of American scientists (Nick Bloom, Steven Davis, Scott Ross Baker), who created a methodology for calculating the index of economic policy uncertainty.

The authors use three important factors in their calculations: 1) analysis of publications in the press, which allows us to determine how often the media talk about economic uncertainty; 2) differences between economic forecasts as to which of the variables is the most significant; 3) reports of the us congressional budget office, which make up temporary tax measures and reflect uncertainty .

It seems that the use of this method for calculating economic uncertainty in Russia can reduce strategic risks and, as a result, prevent a threat to the national economic security of the country, since the lack of financial certainty in General is a prerequisite for maintaining and developing conditions for corruption and criminalization of economic and financial relations.

3 Results obtained

In science, you can find judgments about the distinction between uncertainty and risk, which seems to apply to financial law. Risk is characterized by the fact that its result can be obtained by calculating, studying statistics, as well as on the basis of existing experience. For example, in budget law, financial uncertainty and attempts to eliminate it in stages are observed in the frequency of adoption of laws on amendments to budget laws, where it is possible to observe how budget indicators change. In the sphere of banking law, financial uncertainty is manifested in changes in the key rate of the Bank of Russia, which determines the stability of the national currency. This uncertainty creates consumer distrust of the credit system in the Russian Federation. However, it seems that the most striking example of financial uncertainty is the financial market, whose indicators change so quickly that any forecasts give way to accidents.

Eliminating financial uncertainty (or rather, anticipating and managing it) is a long and gradual process that should be based on a well-structured system of forecasts. It seems that it is important for financial law to come to a conceptual model of the principle of certainty in the legal regulation of public Finance and the monetary system, which could be applied to any type of financial legal relations and contribute to the formation of a

stable understanding of the processes in this area.

It seems that the high quality of legal regulation serves as a criterion of public confidence in the financial and monetary system. Financial uncertainty also has a negative impact on investment demand, which is currently experiencing a downturn.

It seems that an important measure to reduce financial uncertainty can be the expansion of information horizons and the implementation of a state guarantee policy.

The legal basis for such a policy is reflected in Federal law No. 39-FZ of February 25, 1999 "on investment activities in the Russian Federation carried out in the form of capital investments" . For example, in paragraph 2.1. article 11 of the said law the forms and methods of state regulation of investment activities carried out in the form of capital investments include the measure of granting by the subjects of the Russian Federation on a competitive basis of state guarantees for investment projects at the expense of the budgets of the subjects of the Russian Federation. At the same time, the procedure for providing state guarantees at the expense of the budgets of the subjects of the Russian Federation is determined by the laws of the relevant subjects of the Russian Federation. This measure is intended to increase investor confidence in socially significant projects and thereby increase the stability of investment relations.

At the same time, we should pay attention to state guarantees in the sphere of state debt policy. E. S. Tkach rightly emphasizes that the implementation of large-scale borrowings requires a serious analysis and evaluation of all the "cons" and "pros". The author points out the need to compare the acquired financial benefits with possible financial risks, study the effectiveness of the direction of using the received funds, methods that are not provided with the possibility of their repayment [13].

4 Discussion

Problems of financial uncertainty are closely related to the principle of planning (one of the principles of financial law). It is considered that financial planning is a system of scientifically based measures to determine the sources of education,

criteria for allocating funds and directions for using financial resources [14]. O. V. Boltinova notes: "the principle of planning the budget process means that the activities of representative and Executive bodies of state power and local self-government on the formation, distribution and use of the centralized monetary Fund — the budget is based on the forecast of socio-economic development of the Russian Federation for the purpose of financial support of expenditure obligations of the Russian Federation" [15].

Planning and forecasting accompany the functioning of all parts of the financial system: the budget system, budgets of extra-budgetary funds, finances of commercial and non-profit organizations, credit and insurance. Of course, first of all, planning and forecasting concerns the monetary system and forecasts of the stability of the national currency. It is the stability of the currency that is the basic condition for the stable functioning of all parts of the financial system. At the same time, numerous risks may be associated with unsuccessful calculations, force majeure factors, and other circumstances. This is why a consistent combination of short-term, medium-term, and long-term planning that reduces risk is important. It can be assumed that this condition is one of the significant conditions for reducing risks.

Financial planning acts, which permeate all areas of financial activity, are a legal form of ensuring the stability of financial relations, in which the idea of planning and forecasting finds its implementation.

It is interesting to discuss the problem of legal liability for failure to meet the indicators of plans and forecasts: both from the point of view of formal and material nature (by analogy with the formal and material composition of the offense). As a matter of discussion, it is important to identify the question: are planning entities liable for failure to fulfill financial plans and non-confirmation of financial forecasts? It is obvious that the corresponding scientific discourse is inevitable.

5 Conclusion

In the study of financial uncertainty, we can distinguish at least two areas: the study of financial

uncertainty as a legal phenomenon and a legal institution. In the latter case, we can talk about the complex nature of this institution, since uncertainty and risks permeate the entire sphere of public financial activity: fiscal, other financial resources of a public nature, monetary (including payment). In this regard, it can be argued that the aspects of financial uncertainty relate, in fact, to each link of the financial, credit, monetary, and payment systems and, accordingly, to each institution of a special part of financial law: individual forms of financial control, the Institute of taxation, tax administration, budget process, monetary regulation, ensuring financial stability in banking, insurance and other areas of the financial market.

In the context of digitalization, additional risks are also caused by electronic document management and electronic transactions (which are characterized by both advantages and disadvantages (carry risks)).

Among the advantages of electronic document management, first of all, it is necessary to include the obvious fast speed and efficiency of information transfer, which, in turn, allows you to ensure procedural savings. In addition, the possibilities of electronic document management allow a wider range of people to work with the transmitted information more efficiently (from the content side). For example, by defining a certain group of criteria or indicators, compare data, conduct monitoring, analysis, and so on.

However, electronic document management and transactions have drawbacks, as well as certain dangers. First of all, we are talking about the potential danger of disclosure of information, loss of funds, etc.

Speaking about the risks associated with calculations, changes in market conditions, etc., it is important to emphasize that digitalization, on the contrary, provides ample opportunities for forecasting and anticipating certain scenarios, the key to the successful development of which is often a high-quality intellectual potential (not artificial intelligence, but human).

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