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**SECURITIES MARKET REGULATION: NATIONAL AND INTERNATIONAL ASPECTS
OF THE KEY INSTRUMENTS' FUNCTIONING**

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Abstract

The article is devoted to the analysis of the current legal regulation of the securities market in the Russian Federation. The securities market in Russia is relatively young and, as a result, many aspects of it are not clearly regulated by Russian law, which naturally creates numerous problems for participants. The purpose of this study is to analyze the legal regulation of the securities market, summarize the results, present conclusions, and offer recommendations for improving the regulatory framework to address the identified problems. The article shows the great importance of the securities market in the modern economic sphere, the dynamics and volume of investments in major financial instruments, and prospects for further development.

Keywords

Market – Securities – Regulation – State regulatory bodies – Self-regulating organizations

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Introduction

The securities market (SM) of any country is a tool for attracting free funds. It is part of the country's financial market, combining various segments of the capital market. The very role of the SM in the Russian economy is very significant because it performs and regulates important functions of attracting, distributing, and concentrating financial flows, which allows investing a certain part of financial resources in production, as well as in many national projects. Another of the tasks of the modern Russian SM is to regulate investment flows, through which financial resources are transferred to the most profitable areas of the economy¹.

The state has the opportunity to attract funds (including foreign ones) to the public and private sector with a developed SM. This gives an additional impetus to the development of territories. Therefore, there is interest in both government agencies and the private sector in the development and strengthening of the SM. The economic significance of the SM and its scale are demonstrated by such indicators as the capitalization of issuers of securities traded on it and the volume of the debt market. Thus, the capitalization of public companies as of September 25, 2019, was more than 44 trillion rubles, compared to 9.6 trillion rubles in 2008². In the same year, the Ministry of Finance of the Russian Federation raised a significant amount of funds on the debt market by placing federal loan bonds at 2.104 trillion rubles, borrowers from the corporate sector – bonds at 2.231 trillion rubles. In 2018, these indicators were 34.3% lower³.

Since the Russian SM is developing, i.e. it has some problems common to emerging SMs, some many issues and problems require urgent solutions⁴. Such problems greatly slow down the development of the market, which has quite positive growth prospects⁵. Many authors dealing with the development of the SM believe that its legal regulation is currently insufficiently developed⁶.

¹ S. A. Anesyants, *Osnovy funktsionirovaniya rynka tsennykh bumag* (Moscow: Finansy i statistika. 2017).

² How the Russian market has changed over the past 10 years. Retrieved from: <https://bcs-express.ru/novosti-i-analitika/kak-izmenilsia-rossiiskii-rynok-za-poslednie-10-let>

³ The ruble debt market is on the threshold of a new reality with low rates and narrow spreads. Results of the year on the debt market. Retrieved from: <https://www.interfax.ru/russia/689483>

⁴ Y. V. Mikhaleiko; E. G. Shadrina y A. I. Rashidova, "On the Issue of Criminal Prosecution for Market Abuse in Russia and the EU", *Journal of Advanced Research in Law and Economics* Vol: 9 num 4 (2018): 1362-1364; A. S. Troshin; A. P. Sokolova; E. O. Ermolaeva; R. M. Magomedov y T. L. Fomicheva, "Information Technology in Tourism: Effective Strategies for Communication with Consumers", *Journal of Environmental Management and Tourism* Vol: 11 num 2 (2020): 322-330 y V. A. Bykov; R. V. Kolesov; S. A. Sirotkin; A. Y. Tarasova y A. A. Fedulin, "Improving external state financial control at the regional and municipal level", *Revista Inclusiones* Vol: 7 num Especial (2020): 178-187.

⁵ T. P. Nikolaeva; T. A. Panovaz y A. A. Vershinina, "Specifics of the Microfinance Market Development in Russia", *Journal of Advanced Research in Law and Economics* Vol: 10 num 2 (2020): 625–630; K. Pisenko y S. Botvinnik, "Protección contra la imposición de cláusulas abusivas por parte de la posición dominante en la legislación rusa: aspectos para garantizar un equilibrio de intereses", *Jurídicas CUC* Vol: 16 num 1 (2020): 251–268 y I. A. Strelkova; V. V. Antropov; V. V. Zubenko y P. I. Tolmachev, "The role of E-Commerce in global SCM practice", *Revista Inclusiones* Vol: 7 num Especial (2020): 414-423.

⁶ N. Yu. Stupen y I. A. Dikareva, "Sovremenniy rossiiskii ryok tsennykh bumag: rol v ekonomike, perspektivy razvitiya", *Ekonomika i biznes: teoriya i praktika* Vol: 5 num 3 (2019): 69-71 y T. N.

The problem of legislative regulation of the SM is relevant and significant in modern conditions, due to both the development of legislation and the role of the SM, which is constantly changing and requires adequate legal regulation. Turning to the practical side, it should be noted that there has been an increase in cases of violations of the legislation on the SM in recent years, as well as legal conflicts caused by its imperfection.

These circumstances generate considerable interest in research on the legal regulation of the SM. Many issues of SM regulation were considered in the writings of such scientists as N.Yu. Stupen⁷, T.N. Podgornaya⁸, D.O. Romanov⁹, and many others. Nevertheless, comprehensive research on the SM is clearly not enough. However, a common position on the legal nature of this market has not yet been developed.

Therefore, research with the proposal of new reasoned provisions of the legal doctrine of the SM may have a certain scientific novelty.

Research hypothesis: certain elements of the experience of regulating the SM of the US and the EU can be used to improve the regulation of the Russian SM and create supranational bodies and regulatory framework for regulating the common SM of the EAEU countries.

Methods

Taking into account the fact that the sphere of regulation of SM refers to both civil and financial law, the work used general and special scientific research methods that are characteristic of private and public legal sciences. The main research method is the dialectical cognition method of reality, which combines the statistical method that allowed confirming the relevance of problems with specific figures, as well as the synthesis method, the method of transition from a general concept to a particular one. The comparative method of research showed that it is possible to solve several problems of legal regulation, using approaches that take into account international experience. The formal legal method allowed developing the terminology necessary to determine the essence of legal regulation of the SM.

Results

There is no clear definition of the concept of "regulation of securities" in the Federal Law of April 24, 1996. No. 39 – Federal Law "On the SM"¹⁰. Author N.N. Kistaeva in her work notes that "a system of measures of economic, legal, and organizational impact, establishing restrictions and rules, as well as responsibility for their non-fulfillment, is

Podgornaya, "Zakonodatelstvo o rynke tsennykh bumag: ponyatie, osobennosti, tendentsii i perspektivy", Vestnik nauki Vol: 3 num 4. 20-27.

⁷ N. Yu. Stupen y I. A. Dikareva, "Sovremenniy rossiiskiy rynek tsennykh bumag: rol v ekonomike, perspektivy razvitiya", Ekonomika i biznes: teoriya i praktika Vol: 5 num 3 (2019): 69-71.

⁸ T. N. Podgornaya, "Zakonodatelstvo o rynke tsennykh bumag: ponyatie, osobennosti, tendentsii i perspektivy", Vestnik nauki Vol: 3 num 4(13): 20-27.

⁹ D. O. Romanova y E. V. Pustynnikova, "Problemy i perspektivy funktsionirovaniya rynka tsennykh bumag", Territoriya nauki num 1 (2019): 64-67.

¹⁰ Federal Law N 39-FL (as amended on December 27, 2019, as amended on April 7, 2020) "On the Securities Market". April 22, 1996. Collected Legislation of the Russian Federation num 17 (April 22, 1996) Article 1918.

generally understood as state regulation of a market economy, including the SM¹¹. The author Zh.N. Skorina identifies two forms of state regulation: direct and indirect¹². Direct regulation refers to a method of regulation that is based on law and legal norms. It involves establishing mandatory requirements for all participants, registering market participants and the securities themselves; having a license to conduct professional activities in the SM; monitoring compliance with law and order established by law. Indirect regulation is carried out through the use of state economic funds, including the tax system, monetary policy, the state budget and various extra-budgetary funds, and the management of state-owned shares¹³.

The system of state regulation of the SM includes such elements as regulatory acts (legislation) and regulatory bodies, i.e. it has regulatory and institutional components¹⁴. Applying a systematic approach, it is possible to consider successively the set of laws and other normative legal acts that apply to relations arising in the SM and the structure of management bodies that are responsible for regulating relations in the SM.

Turning to the concept of legislation on SM in the modern scientific literature shows that there are different points of view regarding this concept. The totality of legal norms contained in the laws of the Russian Federation regulating public relations in the field of SM should be understood as legislation on SM. Modern researchers rely more on the financial and legal nature of the SM legislation¹⁵. In their opinion, the legislation on the SM is an internally agreed system of regulations that establishes a certain financial mechanism. However, it is worth noting that many aspects of the SM fall within the scope of civil law regulation. First of all, within the framework of civil law regulation, it is necessary to mention securities as objects of civil rights. The Civil Code of the Russian Federation¹⁶ distinguishes the concept of substantive and intangible rights. The legal regulation of securities as objects of civil rights is established in subsection 3 of the Civil Code of the Russian Federation "Objects of civil rights". An analysis of the Civil Code of the Russian Federation shows that many new rules have been introduced in recent years, as part of improving the legal regulation of the SM, in particular regarding issues: requirements for documentary securities (Article 143.1 of the Civil Code of the Russian Federation), reclamation of securities from a bona fide purchaser (Article 147.1 of the Civil Code of the Russian Federation), issues of transfer of rights on uncertificated security (Article 149.2. Civil Code of the Russian Federation), and others. Thus, in recent years, the legislator has sought to eliminate contradictions that exist in practice related to the recovery of securities, their transfer, transfer of civil rights, enforcement of securities, as well as the regulation of the consequences of loss of accounts in relation to securities (Article 149.5 of the Civil Code of the Russian Federation) The norms of the Civil Code of the Russian Federation contain

¹¹ N. N. Kistaeva, "Gosudarstvennoe regulirovanie rynka tsennykh bumag na sovremennom etape", Vestnik Pskovskogo Gosudarstvennogo Universiteta. Seriya "Ekonomika, pravo i upravlenie" num 3 (2016): 70–78.

¹² Zh. N. Skorina, Osnovy regulirovaniya rynka tsennykh bumag. Yuridicheskaya nauka kak osnova formirovaniya pravovoi kultury obshchestva: sbornik statei Mezhdunarodnoi nauchno-prakticheskoi konferentsii. 2019.

¹³ Zh. N. Skorina. Osnovy regulirovaniya rynka tsennykh bumag...

¹⁴ Ya. V. Solomatin; A. V. Solomatin y I. V. Penkova, "Analiz institutsionalnoi i normativno-pravovoi struktury rynka tsennykh bumag v Rossii", Vestnik MIRBIS Vol: 1 num 21 (2020): 59–67.

¹⁵ Ya. V. Solomatin; A. V. Solomatin y I. V. Penkova, Analiz institutsionalnoi i...

¹⁶ Civil Code of the Russian Federation (Part One) No. 51-FL (as amended on December 16, 2019; as amended on April 28, 2020). November 30, 1994. Collection of legislation of the Russian Federation num 32 (1994) Article 3301.

general provisions on securities and special regulatory legal acts regulating the circulation of securities specify the general norms of the Civil Code of the Russian Federation, supplementing them. At the same time, the Civil Code of the Russian Federation contains references to special regulatory legal acts, for example, in part 2 of Article 142 of the Civil Code of the Russian Federation, reference is made to special rules – a law that calls documents securities. The main importance in the legal regulation of the SM is the aforementioned Law "On the SM". This law establishes the legal regulation of entities of the SM, admission of securities to trading, issues of regulation of the issue of securities, information support for the circulation of securities, etc. Currently, legal regulation also covers the protection of rights to the SM, which is regulated by the Federal Law of the Russian Federation dated March 5, 1999 No. 46-FL "On the Protection of the Rights and Legal Interests of Investors in the SM"¹⁷.

One of the most important problems of legal regulation of the SM is the problem of its effective state regulation. In modern conditions of development, in connection with the needs of the financial market and its actors, the legislation is changing. At the end of December 2018, new provisions on "perpetual" bonds and preferred shares with priority in the order of receiving dividends came into force. At the end of 2018, the President of the Russian Federation signed Federal Law dated December 27, 2018, No. 514-FL "On Amending the Federal Law "On the SM" and certain legislative acts of the Russian Federation regarding the improvement of the legal regulation of the issue of securities" (hereinafter – Law No. 514-FL). The law fully entered into force on January 1, 2020. In addition to the amendments that entered into force earlier, only uncertified securities remain from that moment. Paper bond certificates are a thing of the past. Also, the requirements for issuing bonds with collateral, the procedure for issuing securities, including the requirements for the prospectus, the terms of registration of the issue, etc. have been changed. The issues of responsibility, ensuring the economic security of the SM, and protecting the legitimate interests of investors are among the issues that have yet to be resolved. The regulation of these issues by current legislation is currently insufficient, in its current state it does not cover the entire volume of relations between participants in the SM.

Next, consider the regulatory authorities of the Russian SM and the legal framework for their functioning. The main volume of regulatory functions in relation to the SM is assigned to the Central Bank of Russia (CBR). CBR is the Central Bank of the Russian Federation and is responsible not only for controlling all banking operations, registering new shares in Russian banks, conducting banking activities, but also activities on the SM, establishing clearing and currency control procedures. Since September 1, 2013, in accordance with Federal Law of July 23, 2013 251-FL, the CBR has been appointed a "mega-regulator" of the Russian SM, replacing the now abolished FFMS (Federal Financial Markets Service) and performing the following functions in this role: regulation of the issue and trading of securities, professional stock market participants, private pension funds and their SROs, investment funds and their management companies; ensures compliance with reporting and disclosure rules by stock market participants in accordance with Russian law; licensing of various professional SM participants, such as brokers, stock and commodity exchanges, registrars, depositories and management companies. The Federal Antimonopoly Service (FAS) cooperates with the CBR in the areas of supervision and control

¹⁷ Federal Law No. 46-FL on the Protection of the Rights and Legal Interests of Investors in the Securities Market (as amended on April 1, 2020). March 5, 1999. Collection of Russian Laws of 1999, num 10 Article 1163.

of the SM and maintaining competition between market participants¹⁸. The Ministry of Finance is the executive body responsible for implementing state policy and coordinating the activities of other federal authorities in the financial sector (in particular, in the SM). The Ministry performs many functions, which include preparing budgets, managing public debt (in particular, government debt securities), fiscal reforms, accounting and auditing, financial regulation, and more. In addition, the Ministry directly regulates the government SM and acts as an issuer of government securities¹⁹. The above list of state bodies that exercise supervision/control over the Russian stock market and/or have the ability to change regulations related to it is far from complete. Several regulatory functions have the Federal Tax Service of the Russian Federation, Rosmonitoring, and other departments that are not considered in detail in this article. The role of self-regulating organizations (SRO) in the SM should be noted. SRO are non-profit organizations uniting certain institutions of the SM. Full-fledged SRO on the stock market were introduced by the Federal Law of July 13, 2015, N 223-FL "On SRO in the Field of the Financial Market"²⁰. They are entrusted with the main function of developing more detailed rules/requirements than the Bank of Russia and monitoring their compliance, and thereby bringing the market regulator closer to its participants. According to Russian law, every professional participant in the SM must be a member of at least one SRO. At the moment, there are 21 SRO registered in the Russian Federation in the financial market. The largest of them are the Professional Association of Registrars, Transfer Agents, and Depositories (PARTAD), NSMA, and NAUFOR²¹. Gradually, their importance in the regulation of the SM increases.

Discussion

In the framework of this article, an attempt is made to systematize state regulatory procedures on the SM using the example of the United States, which has one of the most developed SM in the world, which has undergone a long evolution, and, as practice shows, a fairly effective system of its regulation.

In June 2017, the US Department of the Treasury submitted to the president a report on the US financial system based on compliance with the above principles²².

The above report listed the main components of the US financial system. In particular, it was noted that the financial system covers a wide range of institutions and services, several which can be combined into the group "financial markets"²³.

¹⁸ Federal Antimonopoly Service. Retrieved from: <https://fas.gov.ru>

¹⁹ Decree of the Government of the Russian Federation N 329 (as amended on 04/12/2020) "On the Ministry of Finance of the Russian Federation". June 30, 2004. Collected Legislation of the Russian Federation num 31 (August 2, 2004) Article 3258.

²⁰ Federal Law N 223-FL (as amended on November 28, 2018) "On Self-Regulatory Organizations in the Sphere of the Financial Market". July 13, 2015. Collected Legislation of the Russian Federation, July 20, 2015, No. 29 (Part I), Art. 4349.

²¹ Ya. V. Solomatin; A. V. Solomatin y I. V. Penkova, "Analiz institutsionalnoi i normativno-pravovoi struktury rynka tsennykh bumag v Rossii", Vestnik MIRBIS Vol: 1 num 21 (2020): 59–67.

²² A Financial System: That Creates Economic Opportunities Banks and Credit Unions. Report to President Donald J. Trump. 2017. Retrieved from: <https://www.treasury.gov/press-center/pressreleases/Documents/A%20Financial%20System.pdf>

²³ O. V. Protopopova, "Printsipy regulirovaniya finansovoi sistemy SShA", Sotsialno-politicheskie nauki num 3 (2018): 119-123.

The report of the Ministry of Finance also named the main regulators of the US financial system focused on financial markets – the securities and exchange commission and self-regulatory organizations²⁴.

The Securities and Exchange Commission (SEC) is an independent government agency tasked with overseeing the US SM, enforcing securities laws, and monitoring stocks, options, and other securities. The Commission, created by Congress in 1934, also oversees corporate takeovers. The Commission has units focused on regulation: corporate finance, trade, and markets, investment management²⁵.

SRO in the system of financial regulators. FINRA is the US Financial Industry Regulatory Authority; in other words, it is a large non-governmental organization that oversees the activities of professional participants in the US SM. FINRA members are US financial companies that work with securities and are not controlled by other regulators, such as financial brokers. FINRA is an SRO, funded by annual contributions from its members, as well as accrued and collected penalties²⁶.

The main law that laid down the foundations of the US financial system was the Federal Reserve Act of 1913, based on which the Federal Reserve was created as the central banking system of the United States. The issue of securities and exchange activity is regulated by the Securities Act of 1933 and the Stock Exchange Act of 1934²⁷.

The Gramm-Leach-Bliley Act of 1999 (GLBA), which allowed banks to join securities dealers and underwriters, insurance, and other financial firms, also participate in this regulation. The Gramm-Leach-Bliley Act of 1999 provided banks and insurance companies with the opportunity to compete with brokerage houses by offering sophisticated investment products. The GLBA also focuses on the security of personal financial information of consumers through the application of various rules governing how financial institutions and related industries collect and protect confidential information²⁸. The Sarbanes-Oxley Act of 2002 tightened corporate governance and reporting requirements. The Dodd-Frank Act 2009, adopted after the 2008 financial crisis, enshrines many financial instruments to protect the rights of consumers, financial institutions, and systemic protections. According to this law, the Consumer Financial Protection Bureau was established. The structure and powers of the main financial regulators were strongly affected by the 2008 financial crisis. These changes are reflected in the Dodd-Frank Act of 2009²⁹. It can be concluded that the regulation of the US financial system is extremely complex and multi-level, covers a very wide range of relations, which distinguishes it from the Russian system, and can serve as a positive example for the latter.

²⁴ A Financial System: That Creates Economic Opportunities Banks and Credit Unions. Report to President Donald J. Trump. 2017. Retrieved from: <https://www.treasury.gov/press-center/pressreleases/Documents/A%20Financial%20System.pdf>

²⁵ Teslik Lee Hudson. The U.S. Financial Regulatory System. Retrieved from: <https://www.cfr.org/backgrounder/us-financial-regulatory-system>

²⁶ E. P. Ermakova, Regulyator FINRA i ego funktsii v razreshenii finansovykh sporov v SShA. Sravnitel'no-pravovyye aspekty pravootnoshenii grazhdanskogo oborota v sovremennom mire: Sbornik statei Mezhdunarodnoi nauchno-prakticheskoi konferentsii pamyati prof.V.K. Puchinskogo 13 oktyabrya 2017 g. Moscow: RUDN. 2017.

²⁷ Teslik Lee Hudson. The U.S. Financial Regulatory System. Retrieved from: <https://www.cfr.org/backgrounder/us-financial-regulatory-system>

²⁸ Teslik Lee Hudson. The U.S. Financial Regulatory System...

²⁹ O. V. Protopopova, Printsipy regulirovaniya finansovoi sistemy SShA...

An interesting example can also be the experience of creating the institutional and legal framework for regulating the SM in the EU. The powers to regulate the SM on a supranational scale are exercised in concert: profile committees under the EU Council on Economics and Social Affairs Committee on European Securities, which is assigned by the Commission of the EU dated June 6, 2001 No. 2001/528/E to coordinate EU activities in the field of SM regulation³⁰.

To date, the EU does not have a single regulatory body for the SM, which would be fully endowed with the functions of control and supervision. The EU's SM regulation system is based on EU Directives, the main of which is the EU Directive "On markets in financial instruments" of April 21, 2004, no 2004/39/EC, which regulates issues similar to those regulated by the Federal law "On the SM". Both these documents, although they have several common features, and primarily — the subject of regulation, however, differ both in structure and content. In particular: the EU Directive of April 21, 2004, on Financial Instrument Markets (MiFID) contains 5 sections, 6 chapters, 3 sections, and 73 articles, while the SM Law — 6 sections, 13 chapters, and 53 articles. Moreover, if the first and last sections of these normative acts (general and final provisions) are similar, then there are several significant substantive differences in the rest. Thus, MiFID attaches great importance to the protection of investors — market participants, while our Law practically does not regulate these issues.

At the same time, much attention is paid to the types of participants in the SM, issue-grade securities, and disclosure of information. More recently, on January 3, 2018, it entered into force, and the EU Regulation "On Markets of Financial Instruments" (MiFIR) entered into force. As noted by R.A. Kasyanov, the main goal of the ongoing reforms in the legal regulation of the SM in the EU is an attempt to build a single European integrated financial services market. European legal science considers these legal acts of integration legislation on the SM as a "backbone of financial regulation", pretty much, "skeleton", which should later "grow" a full array of legal acts regulating relations in this area³¹.

The experience gained by the EU in regulating financial markets can find its application in the process of creating a system of normative legal regulation of a single SM of the Eurasian Economic Space.

Conclusion

Thus, it may be concluded that the SM plays a significant role in the development of the country's economy and its financial system, affects the redistribution of financial resources of the state, and therefore is under constant regulatory influence from the Bank of Russia and other government bodies. It is for these reasons that the development and regulation of the SM should be and is the primary task of state policy. The identified problems in the development of the Russian SM are largely due to the imperfection of our country's legislative system.

The hypothesis of the study, which suggests the feasibility of borrowing the experience of developed countries in creating institutional bodies and regulatory regulation

³⁰ I. V. Buturlin, "Postroene kompleksnoi sistemy regulirovaniya rynka tsennykh bumag v Evropeiskom Soyuze", *Voprosy ekonomiki i prava* num 135 (2019): 37-44.

³¹ R. A. Kasyanov, "MIFID II i Rossiya: Sopostavimo li regulirovanie", *Zakony Rossii: opyt, analiz, praktika* num 5 (2018): 86–91.

of the SM, was fully confirmed. It is also a priority to improve the system of regulation and control of the SM by differentiating functions between the Bank of Russia, other state bodies, and self-regulatory organizations, which need to allocate a significant part of the regulatory functions. This topic may become promising for further research conducted in the framework of this article.

References

A Financial System: That Creates Economic Opportunities Banks and Credit Unions. Report to President Donald J. Trump. 2017. Retrieved from: <https://www.treasury.gov/press-center/pressreleases/Documents/A%20Financial%20System.pdf>

Anesyants, S. A. Osnovy funktsionirovaniya rynka tsennykh bumag. Moscow: Finansy i statistika. 2017.

Buturlin, I. V. "Postroene kompleksnoi sistemy regulirovaniya rynka tsennykh bumag v Evropeiskom Soyuze". Voprosy ekonomiki i prava num 135 (2019): 37-44.

Bykov, V. A.; Kolesov, R. V.; Sirotkin, S. A.; Tarasova, A. Y. y Fedulin, A. A. "Improving external state financial control at the regional and municipal level". Revista Inclusiones Vol: 7 num Especial (2020): 178-187.

Civil Code of the Russian Federation (Part One) No. 51-FL (as amended on December 16, 2019; as amended on April 28, 2020). November 30, 1994. Collection of legislation of the Russian Federation num 32 (1994) Article 3301.

Decree of the Government of the Russian Federation N 329 (as amended on 04/12/2020) "On the Ministry of Finance of the Russian Federation". June 30, 2004. Collected Legislation of the Russian Federation num 31 (August 2, 2004) Article 3258.

Ermakova, E. P. Regulyator FINRA i ego funktsii v razreshenii finansovykh sporov v SShA. Sravnitel'noppravovye aspekty pravootnoshenii grazhdanskogo oborota v sovremennom mire: Sbornik statei Mezhdunarodnoi nauchno-prakticheskoi konferentsii pamyati prof.V.K. Puchinskogo 13 oktyabrya 2017 g. Moscow: RUDN. 2017.

Federal Antimonopoly Service. Retrieved from: <https://fas.gov.ru>

Federal Law N 223-FL (as amended on November 28, 2018) "On Self-Regulatory Organizations in the Sphere of the Financial Market". July 13, 2015. Collected Legislation of the Russian Federation, July 20, 2015, No. 29 (Part I), Art. 4349.

Federal Law N 39-FL (as amended on December 27, 2019, as amended on April 7, 2020) "On the Securities Market". April 22, 1996. Collected Legislation of the Russian Federation num 17 (April 22, 1996) Article 1918.

Federal Law No. 46-FL on the Protection of the Rights and Legal Interests of Investors in the Securities Market (as amended on April 1, 2020). March 5, 1999. Collection of Russian Laws of 1999, num 10 Article 1163.

How the Russian market has changed over the past 10 years. Retrieved from: <https://bcs-express.ru/novosti-i-analitika/kak-izmenilsia-rossiiskii-rynok-za-poslednie-10-let>

Kasyanov, R. A. "MIFID II i Rossiya: Sopostavimo li regulirovanie". Zakony Rossii: opyt, analiz, praktika num 5 (2018): 86–91.

Kistaeva, N. N. "Gosudarstvennoe regulirovanie rynka tsennykh bumag na sovremennom etape". Vestnik Pskovskogo Gosudarstvennogo Universiteta. Seriya "Ekonomika, pravo i upravlenie" num 3 (2016): 70–78.

Mikhaleiko, Y. V.; Shadrina, E. G. y Rashidova, A. I. "On the Issue of Criminal Prosecution for Market Abuse in Russia and the EU". Journal of Advanced Research in Law and Economics Vol: 9 num 4 (2018): 1362-1364.

Nikolaeva, T. P.; Panovaz, T. A., Vershinina y A. A. "Specifics of the Microfinance Market Development in Russia". Journal of Advanced Research in Law and Economics Vol: 10 num 2 (2020): 625–630.

Pisenko, K. y Botvinnik, S. "Protección contra la imposición de cláusulas abusivas por parte de la posición dominante en la legislación rusa: aspectos para garantizar un equilibrio de intereses". Jurídicas CUC Vol: 16 num 1 (2020): 251–268.

Podgornaya, T. N. "Zakonodatelstvo o rynke tsennykh bumag: ponyatie, osobennosti, tendentsii i perspektivy". Vestnik nauki Vol: 3 num 4. 20-27.

Protopopova, O. V. "Printsipy regulirovaniya finansovoi sistemy SShA". Sotsialno-politicheskie nauki num 3 (2018): 119-123.

Romanova, D. O. y Pustynnikova, E. V. "Problemy i perspektivy funktsionirovaniya rynka tsennykh bumag". Territoriya nauki num 1 (2019): 64-67.

Skorina, Zh. N. Osnovy regulirovaniya rynka tsennykh bumag. Yuridicheskaya nauka kak osnova formirovaniya pravovoi kultury obshchestva: sbornik statei Mezhdunarodnoi nauchno-prakticheskoi konferentsii. 2019.

Solomatin, Ya. V.; Solomatin, A. V. y Penkova, I. V. "Analiz institutsionalnoi i normativno-pravovoi struktury rynka tsennykh bumag v Rossii". Vestnik MIRBIS Vol: 1 num 21 (2020): 59–67.

Strelkova, I. A.; Antropov, V. V.; Zubenko, V. V. y Tolmachev, P. I. "The role of E-Commerce in global SCM practice". Revista Inclusiones Vol: 7 num Especial (2020): 414-423.

Stupen, N. Yu. y Dikareva, I. A. "Sovremennyyi rossiiskii ryok tsennykh bumag: rol v ekonomike, perspektivy razvitiya". Ekonomika i biznes: teoriya i praktika Vol: 5 num 3 (2019): 69-71.

Teslik Lee Hudson. The U.S. Financial Regulatory System. Retrieved from: <https://www.cfr.org/backgrounders/us-financial-regulatory-system>

The ruble debt market is on the threshold of a new reality with low rates and narrow spreads. Results of the year on the debt market. Retrieved from: <https://www.interfax.ru/russia/689483>

Securities market regulation: national and international aspects of the key instruments' functioning pág. 185

Troshin, A. S.; Sokolova, A. P.; Ermolaeva, E. O.; Magomedov, R. M. y Fomicheva, T. L. "Information Technology in Tourism: Effective Strategies for Communication with Consumers". Journal of Environmental Management and Tourism Vol: 11 num 2 (2020): 322-330.

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