

# Functions of the Bank of Russia as a Regulator of Investment Turnover of Digital Financial Assets

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**Abstract:** In the 2020s, special regulations came into force in our jurisdiction aimed at streamlining investment relations implemented by means of communication on the Internet. Digital financial assets that have a special economic nature have gained legitimacy. In this capacity, computer technology for the remote application of digital investment tools and digital constructions of investment and financial relations regarding virtual assets have been created and regulated for the Russian financial market. Each investment relationship provides for mandatory procedures for the interaction of the investor, the recipient of the investment, the operator of the information system in which the issue of digital financial assets is carried out. As investment tools, they have targeted qualitative characteristics – these are crypto-protected computer algorithms controlled only by an authorized user through Internet communications. As investment assets, they mediate four digital images of the economic ties between the investor and the recipient of the investment. The current functional regulation by the Bank of Russia of the actual practice of investment transactions is of great importance for scaling new investment technologies in the financial market. The article examines the legally established functions of the Bank of Russia implemented in the development of investment turnover of digital financial assets.

## 1 INTRODUCTION

The Bank of Russia has the highest level of legitimation in our country, enshrined in the Constitution of the Russian Federation (Article 75). At the same time, its functions as the central bank of the state are detailed in a special law (Federal Law No. 86-FZ of 10.07.2002 "On the Central Bank of the Russian Federation (Bank of Russia). Initially, the Bank of Russia, as a mega-regulator, had very significant goals: protecting and ensuring the stability of the rouble; developing and strengthening the country's banking system; developing and ensuring the stability of the national payment system, the financial market of Russia. The achievement of these goals is carried out by implementing a number of (37) functions that are regulated by the above-mentioned law on the central bank (Article 4), and their list is not closed.

Digital financial assets have a special economic nature, as such, computer technology for remote application of digital investment instruments and four virtual structures of investment and financial interaction between issuers and investors have been created and regulated in the Russian financial market. Each investment relationship provides for the mandatory interaction of the investor, the recipient of the investment, the operator of the information system in which the issue of digital financial assets is carried out. As investment tools, they have targeted qualitative characteristics – these are crypto-protected computer algorithms controlled only by an authorized user through Internet communications. By their economic nature, as investment assets, they mediate four digital images of the economic relations of the investor and the recipient of the investment (issuer): 1) liquid bearer debt that allows splitting; 2) the equivalent of a classic equity security (a share of a non-public joint-stock company, a bond, an issuer's

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option, a Russian depository receipt) with a fractional nominal value; 3) a digital version of a non-public joint-stock company that is legally created, exists and terminates exclusively and only in the formation system; 4) the equivalent of a classic depository receipt with a fractional amount of issue-grade securities received.

Scientific research allows us to abstract, conditionally identify and analyze the functions of the Bank of Russia, which most closely reflect its influence as a regulator on the investment turnover of digital financial assets, although we emphasize that such segregation is conditional, since in any state there are no primary and secondary, etc. functions of the central bank. Considering most of the functions of the Bank of Russia, one can see, albeit indirectly and implicitly, but still there is a relationship with the financial market and its investment segment, even now moved to the "Internet".

The hypothesis of the study is the need for state institutions to offer an alternative option for the issuance and turnover of digital financial assets for the financial market, which is currently limited to only one scheme for the initiative creation of private economic entities – operators of information systems in which the issue is carried out, as well as operators of the exchange of digital financial assets. The purpose of the study is to develop a methodological approach to the formation of an alternative approach to the issuance and turnover of digital financial assets with the key role of the Bank of Russia, which does not go beyond the regulatory framework of its functionality. The specific objectives of the study are: identification and evaluation of the effectiveness of the functions of the Bank of Russia as a regulator of the investment turnover of digital financial assets; development of recommendations on the organization of an alternative model for the issuance and turnover of digital financial assets in the financial market.

## 2 RESEARCH

When studying scientific sources, it was revealed that it is not possible to find publications that coincide with our subject of research. Nevertheless, scientists pay a lot of attention to the activities of the financial market mega-regulator. In this regard, we can support the position of JPMorgan Chase International Chairman of the Board of Directors J. Frankel says that for central banks, "the function of supervision and regulation of the financial sector has become a critical factor in managing the stability of the

economic system" (Frankel, J., 2018., p. 109). We also agree with the conclusions of Maramygin M.S., Chernova G.V., Reshetnikova L.G. that "Russia lags behind developed countries in terms of the degree of digitalization of its national financial market, it is in line with global trends." (Maramygin, M.S., 2019, p. 78). Therefore, we cannot support the point of view of N.E. Leontieva that "The absence of essential differences between digital financial assets and non-documentary securities indicates that there is no need to create special regulation in relation to digital financial assets." (Leontieva, N.E., 2022, p. 157). N.E. Leontieva mistakenly insists, "The approach of foreign jurisdictions should also be perceived by the Russian legislator, since the formalist approach will inevitably lead to the need to adopt special regulation for all new objects of civil turnover, the list of which will expand faster and faster due to the acceleration of technological progress and the development of innovations." (Leontieva, N.E., 2022, p. 157). If digital tokens are identified with securities abroad and the current regulation is applied to them, this does not mean that such an approach is automatically useful for Russia. In addition, the new special regulation for each newly emerging object of civil turnover is very useful for improving and developing legislative techniques and the activity of institutional regulators.

Bobrova O.G., Gorlov K.V., in contrast to the above-mentioned scientist, justified the point of view that we support: "each state should implement legal regulation individually, apply various methods of legal regulation, including prohibition, based on the peculiarities of national legislation or political peculiarities. ... Within the framework of gradual liberalization, the development of the digital economy and new technical means, there may be a tendency for gradual progress of legal regulation, moving away from prohibition to permission." (Bobrova, O.G., 2020, p. 41)

The O.V. Sodel suggests classifying the powers of the Bank of Russia to regulate the turnover of digital financial assets "depending on the subjects to which they are addressed and on the content of the powers." (Sodel, O.V., 2022, pp. 209-210). The author includes all participants in the turnover (and the companies themselves and their managers) in the composition of the subjects, the mysterious "beneficial owners of digital financial assets" are also added (Sodel, O.V., 2022., pp. 209-210). We do not find such owners in the most relevant federal law, nor in any of the 12 regulatory acts of the Bank of Russia concerning the regulation of the turnover of digital financial assets. According to the content, the powers of the Bank of Russia O.V. Sodel suggests grouping as: "regulatory,

supervisory, monitoring, experimental" (Sodel, O.V., 2022., pp. 209-210).

The latter are particularly surprising – the experimental powers of the Bank of Russia, even considering the possibility of piloting regulatory sandboxes. In general, we do not find the scientific and practical significance and expediency of the proposed classification of the powers of the Bank of Russia. The selected groups are easily absorbed by the well-known and universally recognized term - financial regulation. At the same time, in the work itself, as expected from its title, the powers of the Bank of Russia in the field of circulation of digital financial assets were not analyzed. We consider the term "powers" inappropriate for the Bank of Russia, the norms for the central bank provide for goals and functions.

E.I. Dyudikova, summarizing in her dissertation some fragments of the current legislation on digital financial assets, concludes, with which we disagree, that: "the analyzed documents limit the introduction of innovative technologies into the national payment system and do not contribute to its development." (Dyudikova, E.I., 2021, p. 199).

All norms initially define that digital financial assets cannot be used as a means of payment instead of money. The relevant law on digital assets itself refers indirectly to the national payment system, digital financial assets are intended primarily for investment, and not for the payment segment of the financial market.

We consider it unacceptable in scientific publications to report what actually did not happen, so, for example, Shelepov A.V. wrote, "Sberbank in January 2021 submitted an application to the Bank of Russia for registration of a blockchain platform for issuing its own cryptocurrency, Sberbank." (Shelepov, A.V., 2021, p. 211).

In fact, Sberbank PJSC has been the operator of the information system in which digital financial assets are issued since 02/17/2022, but no more. On the contrary, we support the fair position of Professor D.A. Kochergin that "the regulation of transactions with crypto assets at the national level in most countries is aimed at strengthening state control over their turnover and is carried out both in the monetary/ payment and investment spheres, as well as in the areas of countering money laundering and taxation." (Kochergin, D.A., 2022, p. 114).

Developing the topic of our research, we will clarify that in this formulation the issue is being considered for the first time, and we clearly distinguish digital financial assets in the interpretation of Russian legislators and often

appearing in scientific publications "digital assets", "crypto assets", "cryptocurrencies", "digital currencies".

The search for analogies and differences between these categories in the presentation of certain authors may be useful, however, in real investment practice, investors and recipients of investments need to understand and correctly apply digital financial assets that are legitimate in our financial market. It is logical that foreign authors, for obvious reasons, do not investigate Russian digital financial assets and their regulation by the Bank of Russia.

*The legislative level of regulation.* In cooperation with the Government, the Bank of Russia develops and implements measures to develop and ensure the stability of the functioning of the financial market. One of the new and promising results of such development was the innovative technology of digital financial assets, created in 2020 purposefully for the domestic investment segment of the "Internet". A special regulatory act on digital financial assets has been in effect since 2021 (Federal Law No. 259-FZ of 31.07.2020 "On Digital Financial Assets, Digital Currency and on Amendments to Certain Legislative Acts of the Russian Federation"). For three years, during 2021-2023, operators of information systems that issue digital financial assets have been entering the market. Before this release, according to the results of a rather complicated procedure, companies are included in the Register on the Bank of Russia website, which, in our opinion, replaces traditional licensing (Table 1) (compiled by the authors according to the Bank of Russia).

Table 1: Dynamics of admission of information system operators, digital financial asset exchange operators to the financial market.

Operators for digital financial assets	2021	2022	2023
Information System Operators, in which the issue is carried out digital financial assets	0	3	7
Exchange Operators digital financial assets	0	0	1

As can be seen from Table 1, according to the law on the central bank, the Bank of Russia regulates controls and supervises the activities of non-credit financial organizations, including operators of information systems in which digital financial assets are issued and exchange operators. It is possible to discuss whether there are many or few information system operators in Russia in 2023, to discuss that

there is only one exchange operator in general, but it is impossible to introduce innovations into the investment process quickly and on a large scale in any financial market.

At the same time, the Bank of Russia solves the task (implements the function) of sustainable, and therefore – without jerks, jumps and recessions, the development of the financial market while simultaneously managing risks. As part of this function, crises are promptly identified in the financial market, and the necessary counteraction is organized to threats. A separate priority task (function) is to protect the rights and legitimate interests of investors. If there is an opportunity established by law, the Bank of Russia actively intervenes in the operational activities of non-credit financial organizations; when necessary, regulates, controls, and supervises the provision of professional services in the financial market. The number of private investors in the domestic financial market is continuously growing; this can be seen, for example, by the activity of citizens on the Moscow Exchange (Table 2) (compiled by the authors according to MOEX).

Table 2: Dynamics of the number of individuals conducting investment operations on the Moscow Ex-change.

Characteristics of the investment process	2020	2021	2022	2023
Number of private investors (million people)	9,5	17,0	22,9	27,0
The number of transactions of private investors – million per month (average)	0,847	2	2,1	2,5

As shown in Table 2, in three years the number of private investors on the Moscow Exchange alone has increased by more than 3 times. According to our estimates, by the beginning of 2024, the number of citizen investors will exceed the level of 33 million people in the financial market as a whole. Consequently, the Bank of Russia implements the function of financial market development quite effectively.

An equally important function is the approval by the Bank of Russia of industry accounting standards, the accounting chart of accounts, and the procedure for its application for non-credit financial

organizations. For example, since January 1, 2017, the Regulation of the Bank of Russia No. 487-P of September 2, 2015 has been in effect (Bulletin of the Bank of Russia. 2015. No. 97-98). This is a basic document for accounting and reporting for operators of information systems in which digital financial assets are issued, for exchange operators. This standard is valid until 31.12.2024, which is provided for the Bank of Russia's Instruction No. 5494, dated July 6, 2020 (Bulletin of the Bank of Russia. 2020. No. 45).

The Bank of Russia monitors compliance with the requirements of legislation on countering the misuse of insider information and market manipulation. The corresponding federal law has been in force on the Russian financial market since 2010. This law was adopted and applied with the aim of "ensuring fair pricing of financial instruments, foreign currency and (or) goods, equality of investors and strengthening investor confidence by creating a legal mechanism for preventing, detecting and suppressing abuses at organized auctions in the form of misuse of insider information and (or) market manipulation." (Article 1) (Federal Law No. 224-FZ of 27.07.2010).

This regulatory act regulates in detail the functions and powers of the Bank of Russia to solve this problem existing in the financial market, undoubtedly, this package of regulatory measures (articles 13, 14, 14<sup>1</sup>, 14<sup>2</sup>, 14<sup>3</sup>, 15-18) it fully applies to the turnover of digital financial assets.

Protection of the rights and legitimate interests of investors in financial markets is a function separately highlighted in the law on the central bank. Similarly, these measures of the Bank of Russia are detailed in the relevant federal law in force in Russia since 1999. In particular, complaints and applications of investors are subject to consideration by the Bank of Russia within a period not exceeding 2 weeks from the date of filing a complaint or application (Article 7).

In addition, the Bank of Russia, through its website, is obliged to inform investors about the cancelled licenses of professional market participants; about Self-regulating organizations in the financial market; about penalties imposed by the Bank of Russia; about judicial acts issued following the Bank of Russia's appeals to the courts (Article 8).

In order to stop and prevent violations, regulations may be issued that are mandatory for organizations, their managers, individual entrepreneurs, and individuals on the territory of Russia (Article 11). In addition, "When considering disputes in court on claims or applications for the protection of the rights and legitimate interests of investors, the Bank of Russia has the right to enter into the process on its

own initiative to give an opinion on the case ... and to protect the rights of investors - individuals ..." (Article 14) (Federal Law No. 46-FZ of 05.03.1999).

The data on the dynamics of the number of complaints filed with the Bank of Russia are indicative (Table 3) (compiled by the authors according to the Bank of Russia).

Table 3.: Dynamics of the number of investor complaints filed with the Bank of Russia for the period 2019 – 2022.

Complaints to the Bank of Russia about the actions of organizations	2019	2020	2021	2022
total (thousand complaints)	246,6	278,0	250,5	368,1
measures taken to influence on violators: regulations / protocols	439 / 758	123 / 396	133 / 1209	199 / 1108

Table 3 shows the number of issued orders and protocols on administrative offenses, which were drawn up against violators by the Bank of Russia, but specifically for all complaints for the year. It should be noted that due to the short period of stay on the market, operators of information systems in which digital financial assets are issued are not yet among the recipients of investor complaints. In addition, it is not possible to single out specific statistics regarding the Internet investment segment of the financial market. For example, only indirect media data can indicate that the operator of ATOMIZE LLC attracted more than 3.5 thousand investors to operations with digital financial assets in early 2023. We believe that in the digital age, the content of the annual reports of the Bank of Russia should be modernized. You should enter a separate section in the Annual Report, for example, "Digital Internet platforms". This section should separately reflect the statistics of the functioning of operators of financial, investment platforms, operators of information systems in which digital financial assets are issued, operators of their exchange. The Federal Law on Digital Financial Assets has been in force for 3 years; however, in the annual reports of the Bank of Russia for 2021, 2022, we do not find any statistical data on their turnover.

The most important functions of the Bank of Russia include the transmission of electronic messages on financial transactions, which is currently being implemented continuously on a contractual

basis (around the clock, without days off and holidays) within the framework of the financial message transmission system and is regulated by the Bank of Russia Instruction No. 5263-U dated September 20, 2019. Of fundamental importance is that when providing services, the Bank of Russia: 1) controls the integrity and authenticity of the financial message; 2) identifies the sender of the financial message; 3) checks the structure of the financial message; 4) controls the transmission of the financial message based on information about the sender, recipient and format of the financial message contained in the User Directory; 5) notifies the recipient of the results of the control of the financial message, its sending (Bulletin of the Bank of Russia. 2019. No. 73).

Along with the construction of a financial message system, it should be clarified that the provision of services by the Bank of Russia for the transmission of electronic messages on financial transactions is allowed and in fact is also carried out through intermediaries (service bureaus), in such a scheme, a company that has a special permit for the transmission of data using crypto-protected technologies is added to the communication channel in front of the Bank of Russia.

One of the significant tasks (functions) assigned to the Bank of Russia is the implementation in tandem with the Government of the state program to improve the level of financial literacy of the Russian population and small and medium-sized businesses. In total, in 2022, the Bank of Russia conducted more than 8 thousand financial literacy events for various target audiences in all regions of the Federation, the total coverage of which amounted to more than 11.8 million people (Financial literacy research: the fourth stage. Bank of Russia).

Unfortunately, there are no measures at all concerning the popularization of digital Internet platforms, nowhere and no one mentions the information systems in which digital financial assets are issued, their advantages and purpose for investment turnover and the development of the economy as a whole. According to our estimates, in the very near future, the number of our citizens showing interest in investing on the Internet will grow rapidly and exceed 30 million people. It is necessary to form and implement the state program "Investment Internet Literacy of the population" at the federal level in 2023-2027. The program will undoubtedly be useful for Russian private investors, financial market companies and the economy as a whole.

The legislative functions of the Bank of Russia also include ensuring the availability of financial

services for the population and small and medium-sized businesses. It should be recognized that positive results have been achieved in cooperation with the Russian Government in solving this task.

We believe that given the intense desire of Russian citizens to invest in the Internet, it is necessary to create an "Internet Investments" tab on the GOSUSLUGI SERVICES portal in a citizen's personal account. Such a service should provide for the possibility of a direct transfer of a private investor to any Russian financial, investment platform, as well as to an information system in which digital financial assets are issued. The specified service must provide for a technical ban on investment transactions, depending on the permitted amount and qualification for a particular private investor. In addition, such a service should include express testing of the user for his intellectual and physical condition when entering the investment segment of the "Internet" before performing an operation. In addition, this service on the GOSUSLUGI SERVICES portal should provide for the transfer of data to the Federal Tax Service, it is advisable to add an electronic template for a claim to a counterparty (investment intermediary, recipient of investments), a template for a complaint-appeal if necessary to submit to the Bank of Russia.

*The subordinate level of regulation.* It is quite expected that a detailed description of the measures implemented by the Bank of Russia to regulate the investment turnover of digital financial assets is presented in detail in the Regulations and Instructions. Therefore, for example, the basic is the Regulation No. 746-P dated December 16, 2020 (Bulletin of the Bank of Russia. 2020. No. 93). It regulates all the processes of relations regarding digital financial assets. Maintenance of the Register of operators; submission by the operator of the Rules of the information system and other documents. Inclusion of the operator in the Register; appointment (release) of officials of operators. Presentation of information about certain persons-founders of operators. Submission and approval by operators of changes to the Rules of the information system, Rules for the exchange of digital financial assets. In addition, in 2023 there are 11 Instructions of the Bank of Russia on all possible features of regulating the turnover of digital financial assets.

For the investment turnover of digital financial assets in the information systems of the Internet, the Bank of Russia has regulated in detail and consistently all the necessary parameters and regulations for conducting operations.

Due to the lack of constructive recommendations from representatives of the scientific community, we

support the active implementation of the normative function of our mega-regulator: initiatives that deserve close attention come from the Bank of Russia itself. So, in November 2022, a special Report was presented on the mega regulator's website. The report provides an assessment of the development of the turnover of digital assets in the world and in Russia, and presents a completely viable set of directions for improving and developing their regulation (Development of the digital asset market in the Russian Federation. A report for public consultation. Bank of Russia).

### 3 CONCLUSIONS

Thus, the state regulation of the digital investment segment of the financial market clearly reflects a new vector. At the legislative level, intensive work is underway to form non-cumbersome and multifunctional platforms for remote access to a wide range of investors, primarily individuals. Many shortcomings in the regulation of digital financial assets in 2023 have been eliminated. There is no significant lag behind advanced foreign economies, especially any obvious failures, in the Russian approach to regulating the turnover of digital financial assets. It is necessary to highlight a drawback that we consider significant, namely, that only a mono approach to digital financial assets is being built in our economy. Legislators and financial authorities believe that if rules or at least a framework of behaviour is created, then companies and individual entrepreneurs will en masse, with enthusiasm and high speed, begin this economic activity. In the current regulatory framework, everything is focused exclusively on the private sector. However, for the past 3 years we have been observing rather weak initiatives on the part of private economic entities to participate in the development of the turnover of digital financial assets. The mono approach implemented contains a large risk, which we call "uncontrolled polysubject emission". In essence, each operator of the information system in which digital financial assets are issued is a unique issuing centre with its own blockchain, its own set of smart contracts and digital financial assets - unique digital tokens, the rights to which it is unclear how they will be transferred from owner to owner. In this regard, we believe that in the interests of both the state and private companies participating in the financial market, it is necessary that a model company be engaged in the creation and development of standard investment products in the shell of digital financial

assets, both for the mass retail investor and for institutional investors for 3 to 5 years, piloted by the Bank of Russia in the regulatory sandbox mode.

The Bank of Russia satisfactorily fulfils the legally established functions of regulating the turnover of digital financial assets in our economy. Along with this, the Bank of Russia has been and remains the leader in the construction, regulation and scaling of investment operations with digital financial assets in terms of the depth of elaboration of subordinate regulatory provisions and the accuracy of determining prospects. Unfortunately, the following remain outside the framework of the measures that have been prepared and will undoubtedly be implemented. Firstly, the allocation of a separate block of periodic statistics of transactions with digital financial assets. Secondly, the introduction of new options for remote investment in digital financial assets by citizens through a personal account on the GOSUSLUGI SERVICES portal. Thirdly, a pilot model company is an operator of an information system in which serial digital financial assets are issued, which could function in the financial market under the piloting of the Bank of Russia during 2023-2027. Fourth, the issues of formation and implementation of the federal state program "Investment Internet literacy of the population".

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