

New Industrialization: Financial and Legal Problems of Reserve Creation in Modern Public Corporations

Margarita Sh. Irizepova
 Volgograd State University,
 Institute of Economics and Finance
 Chair of Theory of Finance, Credit and Tax
 Volgograd, Russia
 irizepovams@volsu.ru

Abstract—The ideas of new industrialization [1] when the combination of an employee, computer equipment and automated tools form a new technetronic triad must necessarily include new approaches to the functioning of this triad in the modernized financial environment. Moreover, this modernization is connected with a new attitude to financial reserves, without which a sustainable economic growth in any economic system is impossible. Nowadays a number of issues of dealing with financial reserves do not have a proper theoretical study. The terms by which they are described are often incorrect (for example, there is no unambiguous understanding of how ‘reserves’ differ from ‘reserve funds’), the statistics equate reserves with expenditures in the system of financial flows, although in essence they represent their own element that requires a separate statistical group, there are no reliable classifications of their varieties, etc. In this paper the author draws attention to two important theoretical aspects: the terminological status of reserves and reserve funds, which are created in domestic state corporations, and the features of the created reserves functioning in the form of temporarily free funds. The results of the analysis should attract the attention of theoretical economists to the question whether it is necessary to burden the real production with the creation of financial reserves for what purposes, what their optimal volume should be, and how they should be described in the legal documents.

Keywords — *financial reserves; reserve funds; state corporations’ reserves; financial reserves of state corporations; special reserve funds of corporations*

I. INTRODUCTION

The study of the new industrialization problems, its financial and legal mechanisms inevitably faces the need for their careful analysis, primarily on the example of modern state corporations. Firstly, this situation occurs due to the fact that state-owned corporations include the vast majority of domestic viable enterprises that produce means of production for all sectors of the economy. According to the FAS – 2015 (Federal Antimonopoly Service), “the state is rapidly increasing its presence in the economy. The contribution of the state and the state-owned companies in GDP increased to

70% in 2015 from 35% in 2005” [2]. In 2018 these proportions remain. Secondly, the financial and legal mechanisms of state corporations can show what problems and contradictions are already present, and, therefore, identify the ways of analyzing and eliminating them [3].

II. MATERIALS AND METHODS

One of the most important areas of the analysis is the correctness of the terms describing the procedures for the organization of financial flows in the legislation dealing with state corporations. In this paper the attention is drawn only to one aspect of this legislation: how various provisions on state corporations’ reserves and reserve funds are presented in the laws on this kind of corporations. Today the language of law does not distinguish between these two concepts and equals them. Meanwhile the reserve denotes a set of different resources including financial ones which are temporarily not used in consumption. As a rule financial reserves are created in the financial sector of the economy. Financial reserves can also be created in the real sector of economy but they have to fulfill the function only self-insurance of enterprises otherwise the semantic load of the term “reserve” is inevitably distorted. In addition if an enterprise of the real sector of the economy creates a financial reserve it should describe the mechanism for its formation and the list of cases of its usage only in order which does not violate the regulatory documents related to taxation. However the practice shows that for state corporations that have as a rule a solid equity capital the formation of financial reserves provides the possibility of conducting not only the activities that are stated in their charter documents and which are basic for them but also financial activities. The latter is connected with the reserves created by state corporations, such reserves are created in accordance with paragraph 1 of Article 35 of the Federal Law No. 208-FZ of December 26, 1995 “On Joint-Stock Companies” [4]. Here it is important to distinguish the basic properties of the “fund” concept. The term “fund” is used when it comes to the process of accumulating funds that are constantly used in the process of consumption. Financial funds as a rule are a source of the financing of various economic

processes. If the term “reserve fund” is introduced into a legislative document its main specific feature is described by the word “reserve” and therefore it should be considered as a set of resources temporarily not participating in the consumption. The National Wealth Fund can be seen as an example of such a reserve fund. For the resources accumulated in it is important to keep their value. They are constantly invested in various highly profitable and liquid financial instruments. If the components of the fund are constantly used in the current consumption this fund’s resources cannot be classified as a reserve. However the legislator does not pay attention to this factor when developing regulations.

III. RESULTS AND DISCUSSION

The laws on state-owned corporations, as a rule, have a section that describes either their reserves, or special reserve funds, in other cases it simply states the need for their formation. For example in the Law “On the State Corporation for Promoting the Development, Production and Export of High-Tech Industrial Products Rostec” of 23.11.2007 No. 270-FZ, Article 5 “Corporation Property” states that “the Corporation forms in its assets a reserve fund and other trust funds in the way and amount determined by the supervisory board of the Corporation” [5]. Law No. 270-FZ does not specify the purpose of reserve and trust funds, their list or the requirements for publishing internal corporate provisions. This information is also missing in the “Rostec” website.

In the Law on the State Atomic Energy Corporation ROSATOM No. 317-FL there is an Article 20 “Special Reserve Funds of the Corporation”, which gives their list and their purpose[6]. However the analysis of this list does not allow to establish the reason why many ROSATOM funds are categorized as “a reserve”. In the Art. 20 the following funds are allocated:

- A. *The fund for financing the costs of ensuring nuclear, radiation, technical and fire safety, maintaining and equipping emergency rescue units, paying for their work (services) to prevent and eliminate the consequences of emergency situations*
- B. *The fund for financing the costs of providing physical protection, accounting and control of nuclear materials, radioactive substances and radioactive waste;*
- C. *The fund to finance the costs associated with the decommissioning of nuclear facilities, radiation sources or storage facilities, management of used nuclear fuel, and financing of research and development work in order to justify and improve the safety of these facilities;*
- D. *The fund for financing the costs of ensuring the organizational modernization of the nuclear power industry and nuclear weapon complexes of the Russian Federation, the development of atomic science and technology, design and exploration work and other investment projects;*

- E. *The fund for financing the costs of radioactive waste disposal.*

Each of these funds is a source of financing for the mentioned activities and thus it constantly participates in the process of using financial resources, directing them to specific recipients. However Law No. 317-FZ does not imply that these funds may (or should) be in the process of investing their resources if they are recognized as temporarily free. At the same time it should be noted that temporarily available funds of state corporations must be placed in highly remunerative and liquid assets on the basis of Government Resolution No. 1080 dated December 21, 2011 [7]. However, this decree does not give a full list of sources at the expense of which these “temporarily free funds” are formed. Thus it is impossible to determine unambiguously whether for example the funds which are specified in the Article 20 of Law 317-FZ can be the sources of temporarily free funds.

Special reserve funds are also formed in the ROSCOSMOS State Corporation. Here they are “centralized by the Corporation financial assets formed at the expense of deductions from the organizations of the Corporation in order to create the reserves intended for financial support of an efficient activity of corporation’s organizations” (Art. 19) [8]. It is necessary to emphasize that in this case we are not talking about emergency situations that are not predictable in case of which as a rule the reserves are formed but only about the reserves to ensure the efficiency of the economic activity. The order of allocations into special reserve funds for ROSCOSMOS is established by the Government of the Russian Federation (Art.5, P.2) and the procedure for their usage is set by the supervisory board of the state corporation. The same council forms the list of works and services which are carried out at the expense of the reserve funds. The funds of special reserves in this corporation are subjected to separate accounting; the control over their movement is carried out by the audit committee.

The mentioned examples show that reserve funds with different degrees of completeness and detail are described in the laws on state corporations but none of them explain the reason for the reservation of financial resources i.e. the reasons why financial resources are becoming reserves are not explained. It is obvious that self-insurance as a reason for its formation was not considered at all in these laws. In contrast, the above-mentioned Law No. 208-FZ establishes a provision that the society’s reserve fund is intended to cover its losses, as well as to redeem the society’s bonds and repurchase the society’s shares in the absence of other funds and cannot be used for any other goals. The analysis of such a reserve fund formation in some corporations shows that for example Gazprom company in 2015 formed the reserve fund counting more than 8 billion rubles [9]. According to the report in the ROSCOSMOS State Corporation of 2016 it received interest in the amount of than 1 billion rubles [10]. To receive such an interest rate it was necessary to issue loans of almost 13 billion rubles.

The deposits made up approximately 900 million rubles and brought more than 62 million rubles of income per year, and 69 million rubles of interest rate accrued on the

current account balances and it suggests that there were no problems with the financial flow in the state corporation. Such data was obtained when calculating the estimated values of temporarily free funds based on information on the accrued interest in 2016 in the ROSCOSMOS report.

TABLE I. DETERMINATION OF THE FINANCIAL RESOURCES USED BY ROSKOSMOS STATE CORPORATION FOR RECEIVING INTEREST INCOME BASIC SIZE BASED ON 2016 DATA [10, 11]

Types of Invested Financial Resources	Calculated Interest Rate, rub.	Estimated Interest Rate, %	Base Interest for Interest Rate, rub.
Issued loans (the average value of the deposit rate for the year is applied)	1367286000	10,53	12984672364
The balance of the current account (the average interest rate on deposits "on demand")	68903000	2,75	2507843494
Deposit agreements (the average value of the rate on deposits up to 1 year is used)	62078000	6,97	890539193

Tatyana Golikova as the Chairman of the Accounts Chamber of the Russian Federation in 2016 repeatedly pointed out that large state companies instead of using funds for the implementation of specific projects simply place them on bank deposits receiving additional income from this: "... in 2015, 440 billion rubles of budgetary funds were used ineffectively... A classical inefficiency is observed when budgetary funds are transferred to the state corporation are not used but simply lie in the accounts. Such inefficiency amounts to 78 billion rubles"[12]. The same source reports that "in 2014 the allocation of budget money on deposits of a state-owned company earned at least 7.4 billion rubles."

The sources of such income are financial reserves in the form of temporarily surplus funds however it is not possible to trace the movement of a heterogeneous reserve mass of financial resources since the accounting system does not provide this procedure in the reports. For more than a year the experts indicated that the volume and movement of the reserves should be provided in the reports beyond the balance. In particular to support this point S.V. Krivda notes: "Information on the amount of compulsory reserve fund created in accordance with the Law "On Joint-Stock Companies" in the amount of not less than 5% of its authorized capital is a formality that does not carry any information relevant for economic decision-making to an external user. ... such reserves should be reflected beyond the balance and the basis for creation and other information describing them in detail should be disclosed in the explanatory note to the accountancy balance" [13]. This position is considered to be correct.

When suggesting the analysis of the formation of financial reserves flows in an organization it should be noted that it is very difficult to carry out such an analysis due to extremely scarce information about the finances about state corporations. Some of them are generally exempt from the obligation to report in the open access on the state of their financial activities. According to the President of the Russian Federation there are reserves such as Rosneftegaz money, which is also a state corporation. In its regard V.V. Putin once pointed out that "... we finance some things from this money when the Government forgets that there are other priorities that need attention..." [14]. According to the estimations made by some media analysts, Rosneftegaz's accounts in 2016 could have accumulated up to 600 billion rubles [15]. However according to other data in 2016 Rosneftegaz company which does not conduct any independent economic activity unexpectedly recorded an accounting loss of 90.4 billion rubles which formally allowed it to not to pay to such a shareholder such the State [16]. The judgment of the Russian Federation President on the reserves of Rosneftegaz leads to at least two conclusions. Firstly, in modern state corporations the legal mechanisms for managing the financial flows can sometimes be replaced by "manual control" which causes some doubts in the quality of the legal mechanisms themselves. Secondly, the poor quality of state planning which does not always draw attention to certain state priorities is leveled by a chaotic and non-transparent formation and usage of financial reserves and trust funds of state corporations which remain uncontrolled for the society.

Not only the public authorities speak about the problems of managing state corporations' financial flows, a lot of research and publications are devoted to these issues [17]. A. Zeldner (Institute of Economics, RAS) noted that "substantial resources allocated for state corporations, the responsibility for their usage and as a result the innovation and technological breakthrough require working out a number of methodological problems and establishing strict control over the Civil Code activities" [18]. T.V. Rumyantseva having reviewed the existing trends in the cash flow management in the state corporations justified the need to optimize the cash flow management processes [19].

IV. CONCLUSION

The development of new industrialization should not ignore these facts and should also take the following circumstances in the organization of the financial flows of enterprises in the real sector of the economy into account.

A. The legal acts regulating the property relations of enterprises in the real sector should necessarily describe the possible reserve that they can create for self-insurance purposes. In this case it is necessary to describe the sources of financial reserves formation, list of events for which they are created, rules for their usage, procedures for their audit and control, as well as the decision-makers responsible for the movement of these funds. Besides it is necessary to describe the procedures for transforming these reserves into temporarily free funds and the directions of their investment in income-generating assets. These provisions should be consistent with the accounting and tax policies of enterprises

as well as include a normative document that such reserves should be recorded on special separate accounts.

B. When describing the financial activities of an enterprise, it is necessary to identify the sections in which the necessary financial funds will be presented, what are the sources of financing projects that are not connected with its main activity.

References

- [1] Silin Y.P., Animits E.G., Novikova N.V. (2016). Before the challenges of the third wave of industrialization: country, region, *News of the Ural State Economic University*, N 3, pp. 14-25 .
- [2] The state and state-owned companies control 70% of the Russian economy. FAS recognized the state as the main enemy of competition. (2016). *Vedomosti*, September 29, [Electronic source]. Retrieved from <https://www.vedomosti.ru/economics/articles/2016/09/29/658959-goskompanii-kontroliruyut-ekonomiki>.
- [3] Ashtaeva S.S., Rubeko G.D., Lidzheeva K.V. Ivanenko A.V. (2016) Financial control over the activities of state corporations in the Russian Federation, *Journal of Advanced Law Studies in the Economy*, vol.7, N6, pp.1294-1299.
- [4] Federal Law "On Joint-Stock Companies" N 208-FZ dated December 26, 1996 (last revised). *Information System "Consultant+"* [Electronic source]. Retrieved from: http://www.consultant.ru/document/cons_doc_LAW_8743/.
- [5] Federal Law "On the State Corporation for Promoting the Development, Production and Export of High-Tech Industrial Products Rostec" of 23.11.2007 N 270-FZ (last revised). *Information System "Consultant+"*, [Electronic source]. Retrieved from: http://www.consultant.ru/document/cons_doc_LAW_72710/.
- [6] Federal Law of 01.12.2007 N 317-FZ (amended on 03.07.2016) "On the State Atomic Energy Corporation" Rosatom". *Information System "Consultant+"*, [Electronic source]. Retrieved from: http://www.consultant.ru/document/cons_doc_LAW_72969/25ddf7c6325c1ad4814e46ce5001b50e66033277/.
- [7] On the investment of temporarily free funds of a state corporation, a state company. *Decree of the Government of the Russian Federation of December 21, 2011 N 1080*, [Electronic source]. Retrieved from: <http://rulings.ru/government/Postanovlenie-Pravitelstva-RF-ot-21.12.2011-N-1080/>.
- [8] "On the ROSCOSMOS State Corporation for Space Activity" *Federal Law N 215 dated July 13, 2015*, [Electronic source]. Retrieved from: <https://rg.ru/2015/07/16/roskosmos-dok.html>.
- [9] Charter of Public Joint-Stock Company Gazprom, Approved by the decision of the annual meeting of shareholders of OAO Gazprom dated June 26, 2015, Minutes N 1, [Electronic source]. Retrieved from: <http://www.gazprom.ru/f/posts/60/091228/gazprom-articles-2015-06-26-ru.pdf>.
- [10] Annual Report of the State Corporation for Space Activities. *Roscosmos Corporation website*, p. 29, [Electronic source]. Retrieved from: <https://www.roscosmos.ru/media/img/docs/Reports/otcet.2016.pdf> .
- [11] The official site of the Central Bank of Russia, [Electronic source]. Retrieved from: <https://www.cbr.ru>.
- [12] Prokopenko A. Interest on deposits of state corporations can get the Ministry of Finance, The official site of the newspaper "Vedomosti" from 04.02.2016, [Electronic source]. Retrieved from: <https://www.vedomosti.ru/economics/articles/2016/02/04/626765-protsenti-vkladam-goskorporatsii>.
- [13] Krivda S.V. The composition and structure of capital in the balance sheet management accounting, 2011, N2, URL: <http://upruchet.ru/articles/2011/2/5621.html>.
- [14] Vladimir Putin's great press conference, December 23, 2016. *Official network resources of the President of Russia*, [Electronic source]. Retrieved from: <http://www.kremlin.ru/events/president/news/53573>.
- [15] The government classified the reports of one of the richest state-owned companies, official TV channel "Dozhd" [Electronic source]. Retrieved from: https://tvrain.ru/news/pravitelstvo_zasekretilo_otchetnost_odnoj_iz_bogatejsih_gosudarstvennyh_kompanij-425123/?utm_campaign=breaking&utm_source=push&utm_medium=425123&utm_term=2017-01-10.
- [16] The state corporations again refused to pay increased dividends to the budget, The official site of the "Finans.ru", 25.10.2017, URL: <https://www.finanz.ru/novosti/aktsii/goskorporacii-snova-otkazalis-platit-v-byudzheth-povyshennye-dividendy-1005551485>.
- [17] Gorshkova N.V. (2012). Organization of consolidated accounting of cash flows in holdings, *International accounting*, Moscow, Publishing house "Finance and credit", , N 6 (204), p.19-26.
- [18] Zeldner A. (2008). State Corporation in the strategy of development of Russia". *Bulletin of the Institute of Economics of the Russian Academy of Sciences*, , N 4, p.129-136.
- [19] Rumyantseva T.V. (2017). Trends in the management of cash flows of state corporations. *In the collection: Russia and St. Petersburg: economics and education in the XXI century XXXVIII scientific conference of faculty, researchers and graduate students on the results of research activities of the university in 2015*, pp. 27-31.