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STATE AND LAW. LEGAL SCIENCE

THEORY AND HISTORY OF STATE AND LAW; HISTORY OF DOCTRINES ABOUT LAW AND STATE

COMPETENCE OF THE RUSSIAN FEDERATION SUBJECT AS PARTICIPANT OF LAND LEGAL RELATIONSHIP: LEGAL NATURE, CONCEPT AND SIGNS

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In this article it is analyzed the views of the Soviet and Russian scientists on the nature of the concept of “competence”, is given the author’s definition of “competence managing entity”, is analyzed the relationship between the concepts of “competence”, “authority”, “doing things”, based on the Russian Constitution norms and laws of the land. As a result of the research it is defined signs of the operating subject competence in the sphere of the land relations and each sign is characterized in interrelation with other signs.

Key words: competence, subject of the Russian Federation, Constitution of the Russian Federation, land relations, areas of jurisdiction, powers, functions of public administration.

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FINANCIAL LAW; TAX LAW; FISCAL LAW

FINANCIAL AND LAW ENFORCEMENT IN THE TAX AND CUSTOMS LAW AS A FORM OF STATE COERCION

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The article discusses the theory and regulations of financial and law enforcement in the tax and customs law. Formulated conclusion that the financial and legal science should define the prevention, suppression, restoration of rights and legal responsibility among the forms of state coercion. The features of the implementation of forms of financial and law enforcement in the tax and customs legislation are presented.

Key words: state compulsion, financial and law enforcement, prevention, suppression, restoration of rights, legal liability.

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**INSTITUTE OF TERMS IN FINANCIAL LAW
AS A SORT OF LEGAL TERMS**

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The article analyzes the nature of institute of terms, the concept of term and legal term, adjacent and interconnected definitions, relevant theoretical aspects and legislative framework. The paper considers the existing division of legal terms into periods and moments, as well as the inner content of the notion of the legal term. It also defines the place of terms in the system of legal facts and specifies various grounds of classification of terms in the Russian law.

Key words: time, term, date, legal term, moment, period, legal fact, classification, financial law.

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INTERNATIONAL LAW. EUROPEAN LAW**THE MAIN FINANCIAL ENTITIES OF RUSSIA (COMPARATIVE LEGAL ANALYSIS)**

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In the article the comparative analysis of Russian and Taiwan legislature regulating financial and banking sphere. The main accent is on the investigation of the issues: Particularities of the legal regulation of Russia and Taiwan financial and banking sphere, the levels of the legal regulation of the considered sphere, main acts of Taiwan lawmaking, the main directions of Taiwan financial and banking system legal mechanisms perfection. The results of the analysis are to be useful at the elaboration of the practical recommendations on the improvement of the RF financial and banking system mechanism.

Key words: finance, financial liberalization, financial regulation, legal system, financial law, banking law, Taiwan, China, Taiwan Government.

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THE FINANCIAL LIBERALIZATION AND FINANCIAL REGULATION OF TAIWAN*

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Since 1949 up to now, Taiwan has experienced the process, from financial repression to financial liberalization. In this process, Taiwan has suffered the financial crisis, too. Taiwan authorities also amended its financial regulation system in order to respond to the financial crisis resulted from the development of financial liberalization. This paper introduces Taiwanese financial liberalization and financial regulation system, and tried to carry out reviews and recommendations for the order of the financial liberalization and the structure of the financial regulation system in Taiwan.

Key words: finance, financial liberalization, financial regulation, Taiwan, China, Taiwan Government.

I. Overview: finance, financial repression, financial liberalization and financial regulation

1. Finance

“Jin (Chinese word)” is money. “Rong (Chinese word)” is financing. The meaning of “Jin Rong” is money financing. In the view of early economics, the three elements of production are lands, labor, and capital. Generally speaking, in the beginning period of economic development, among the production elements, a country usually does not lack lands and labor while the country is short of capital. The accumulation of capital is the decisive factor to promote the economic development¹, so the primary issue of economic development is accelerating the capital accumulation. The source of capital includes the domestic capital- people savings, and the foreign capital-foreign investment. In order to accumulate capital and accelerate the formation of capital, the country has to encourage people to make savings and attract the foreign investment. After the formation of the capital, the financial market will come out.

2. Financial Repression

However, when the capital is the factor to influence the economic development, the usage efficiency of capital is as important as the formation of capital. Ronald I. McKinnon, and Edward S. Shaw first brought this idea. They published these two books in 1973: “Financial Deepening in the Economic Development” and “Money and Capital in Economic Development.”

They observed that, for the developing countries to accumulate the capital and accelerate the capital formation, the most reasonable and easiest method is regulating finance, which includes controlling the price of capital (the interest rate), the collection of capital (the bank) and the flow of capital (the lending). In order to control these three things, the financial regulation shall be applied.

In this stage, the finance is highly repressed. The price and flow of the capital cannot be determined by the market mechanism. Therefore, the following situations will occur: 1. The rates of deposit and loan are both regulated or determined by the government, and they are usually very low. When the deposit rate is lower than the inflation rate, the real rate will turn into the negative value. When the saving is punished rather than rewarded, the saving rate is bound to decline. When the lending rate is too low, the capital is probably guided to the department of low usage efficiency. 2. Because the society is short of capital, the relationship with the government or financial institutions will decide who can obtain the capital. Publicly, the government is usually inclined to national or large enterprises, so the enterprise of low operating efficiency will survive because of the cheap capital. Privately, since the government or financial institutions have the power to decide whether the loan is granted, the rent-seeking is inevitable. 3. Under the situations that private or small and medium enterprises have the demand for funds and people are not willing to deposit to the bank, because of punishment as abovementioned, it is very easy to form

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informal or underground financial markets. In this situation, it is unavoidable that the use of capital is inefficient, and McKinnon and Shaw called this phenomenon “financial repression”².

3. *Financial Liberalization*

How can we deal with financial repression? The answer provided by McKinnon and Shaw is to apply “financial liberalization” in order to achieve “financial deepening”³. McKinnon and Shaw thought that “financial liberalization” is, through the reformation of financial system, to change the government’s excessive intervention over finance, to ease the restrictions on the financial institutions and markets, to enhance the domestic financing function, and to change the ultra dependence on the foreign capital. To ease the regulation on the interest rate and exchange rate and make them of the market principle will make the interest rate reflect the supply and demand of capital, and make the exchange rate reflect the supply and demand of foreign exchange, so that the domestic deposit rate will increase and the dependence on foreign capital will reduce. Finally, the purpose of full use of financial resource and promoting economic growth will be achieved. Briefly, financial liberalization is to ease or remove the unnecessary financial regulation, reduce the unnecessary financial intervention, create the fair competitive financial environment, and increase the efficiency of capital allocation⁴.

In terms of the time point of financial liberalization, when the developing country gradually accumulates the initial capital with the progressive development of economy, the demand for capital by the country and society will reduce and the efficiency of capital usage and allocation will improve. Sooner or later, the government will ease the financial repression measures inevitably and gradually, and make the financial liberalization.

4. *Financial Regulation*

The financial liberalization does not mean the abdication of financial regulation. While the financial repression needs the financial regulation, the financial liberalization needs the appropriate regulation as well. The reason is that, in the financial liberalization, financial institutions have more control on financial assets, and financial instruments are more complex; if a crisis occurs, it will be spread faster and broader than ever. Without proper regulation, once the crisis occurs, its impact will be more severe than that before the financial liberalization.

McKinnon made a little correction and supplemented his theory in his book “The Order of

economic liberalization: financial control in the transition to a market economy” in 1993. He thought that the financial liberalization should have the order and timing. Theoretically, the order of financial liberalization should be after the appropriate financial regulation system was established.

The financial liberalization and financial regulation are indeed two sides of one. Only with the proper regulation, the financial liberalization will make more advantage than harm; if the financial liberalization is invariably applied before the proper regulation is ensured, the financial liberalization is bound to make more harm than good. It would be better to return to the era of financial repression.

Taking the U.S. banking industry for example, in 1933 the United States legislated the Banking Act⁵ where provided the strict distinction of business scope between commercial banks and investment banks (i.e. securities), and stipulated that these two were not allowed to cross-border operations. The reason is that commercial banks absorbed public deposits, so it can only grant a loan to the borrower (for the borrower’s investment) rather than use the deposit on their own (for the bank’s investment). Otherwise, there will be the interest conflict between the banks and depositors. The U.S. commercial banks were long-term restricted by the Banking Act of 1933, which they can only engage in the deposit and loan business. With the development of commercial financial services, commercial banks are no longer willing to do the deposit and loan business only, they have repeatedly lobbied the Congress to ease the control on the Banking Laws. Finally in 1999, the U.S. Congress passed the “Financial Services Modernization Act of 1999”⁶, which abolished the restrictions that commercial banks cannot operate the cross-industry business provided in the Banking Act of 1933. In 2000, the U.S. Congress further passed the “Commodity Futures Modernization Act of 2000”⁷, allowing financial derivatives, for example, the credit default swaps (Credit Default Swap, CDS), traded in the OTC (Over-The-Counter, OTC) market rather than in the stock exchange market. It is easy for the government to regulate the transactions in the stock exchange market, whereas the government is beyond the reach of regulation on the transactions in the OTC market. Therefore, allowing financial derivatives traded in the OTC market is equal to excluding the transactions of financial derivatives from the government regulation. The U.S. did not accompany the appropriate financial regulation during a series of financial liberalization, so it eventually led to the financial crisis in 2007 and affected the whole world.

5. Summary

Since 1949 up to now, Taiwan has experienced the process, from financial repression to financial liberalization. In this process, Taiwan has suffered the financial crisis, too. Taiwan authorities also amended its financial regulation system in order to respond to the financial crisis resulted from the development of financial liberalization. This paper introduces Taiwanese financial liberalization and financial regulation system, and tried to carry out reviews and recommendations for the order of the financial liberalization and the structure of the financial regulation system in Taiwan.

II. Financial Liberalization in Taiwan

Since 1953, the Taiwan government began to implement the economic development plan. The goal of the first phase was “import substitution,” which was developing the industry of products relying on import originally. In order to achieve this goal, the Taiwan government took the tariff protection, import controls, and foreign exchange controls. This economic growth in this phase was driven by the import substitution industry.

After the import substitution market was saturated, the Taiwanese government began to promote the continued economic development plan. The goal of the second phase was “export expansion,” which was expanding the export value to promote economic growth. In order to achieve this goal, the Taiwan government devaluated the New Taiwan Dollar from NT\$25 for US\$1 to NT\$40 for US\$1, expanded export tax rebates, legislated the “Statute for the Encouragement of Investment” to encourage savings, investment and exports by tax incentives, and established the export processing zones.

The above strategies are very successful. The foreign exchange reserve of Taiwan was almost zero in 1953. In the end of 1968, it has grown to US\$300 million. In the end of 1972, it has grown to US\$650 million. Before the eve of first oil crisis in 1973, it has accumulated to US\$1.1 billion. In the end of 1980, it has reached US\$2.2 billion. In the end of 1981, it has reached US\$7.2 billion. In the end of 1983, it has reached US\$11.8 billion. In the end of 1985, it has reached US\$22.5 billion. In the end of 1986, it has reached US\$46.1 billion⁸.

Externally, the main country of Taiwan’s trade surplus was the United States. In the mid-1980s, the United States has expressed strong dissatisfaction on such trade imbalances, asked Taiwan to appreciate the New Taiwan dollar and open markets, and even threatened to impose trade sanctions on Taiwan.

Internally, when the Taiwan Central Bank absorbed so much foreign exchange, it had to release equal amounts of New Taiwan dollar into the Taiwanese society accordingly. Therefore, there was abundant, even inundated, private capital in the Taiwanese society. However, under the government control on interest rates, Taiwan’s financial institutions cannot use high interest rates to absorb deposits. Relatively, Taiwan’s strong financial needs of small and medium enterprises cannot be met from the formal financial institutions. With the two situations combined, Taiwan appeared the dual financial phenomena of formal financial institutions and informal private lending organizations.

For the external and internal reasons, the Taiwanese government had gradually applied financial liberalization. The financial liberalization in Taiwan was mainly implemented in the price (including interest rate and exchange rate) liberalization, business liberalization, liberalization of market access, and liberalization of capital flows. They are detailed in the following paragraphs.

1. Liberalization of Interest Rate

The government of Chinese Nationalist Party lost the regime in the mainland due to inability to control hyperinflation, so it learned a lesson. Therefore, when it came to Taiwan, it strictly controlled interest rates of financial institutions to curb inflation. At that time, the government specified the interest rates of banks. From 1956 to 1962, the deposit rate was as high as 17%. From 1963 to 1973, it was also remained at about 10%.

In 1974, the annual growth rate of the consumer price index began to decline, and the interest rates of financial institutions controlled by the government also began to drop accordingly. However, regardless of how the interest rates of financial institutions went down, the deposit rate of financial institutions was always much lower than the private lending rates. The dual financial phenomena of formal financial institutions and informal private lending organizations were very serious in Taiwan.

The interest rate is the price to use capital, and the signal of price should be decided by the supply and demand in the market mechanism. The human intervention to interest rates by the Taiwan government have been difficult to continue in the 1970s, and it is imperative to liberalize the control on the interest rates. However, the Taiwanese government took gradual methods. It first opened lending rates and eased a certain range of them only. After that, it enlarged the interval of range, and then opened the deposit rate. Finally it

opened the interest rates entirely. Its schedule is as follows:

1) Before 1975, the Taiwanese government implemented "The Interest Rate Control Statute," all deposit and loan interest rates were regulated by the central bank.

2) On July 4, 1975, the Taiwanese Government amended the Bank Act, which Article 41 stated: "A bank's interest rates shall be based on an annual rate. The highest rates of various deposits shall be determined by the central bank. The various lending rates shall be discussed by the association of banks and submitted to the central bank for approval." However, the floating range of lending rates was only $\pm 0.25\%$. It was more symbolic than practical.

3) In November 1980, the Taiwan Central Bank enacted the "Directions for Adjustments of Interest Rate of Banks," which authorized the association of banks to decide interest rates and to organize review panels to adjust interest rates. Thereafter, the floating range of lending rates expanded to more than $\pm 2\%$, and even reached 3.75% .

4) From March 1985, the government began to implement the basic lending rate (Prime Rate) system, which banks could lend by adding a percentile margin over the prime rate and apply different rates, based on each bank's fund amount and operating conditions, and the use and the period of the client's loan. In November 1985, the Taiwanese government abolished "The Interest Rate Control Statute."

5) On July 11, 1989, the Taiwan government amended the Article 41 of the Banking Act, the provisions amended to: "A bank's interest rates shall be based on an annual rate and shall be posted in the bank's place of business." It completely eliminated interest rate controls, and the interest rates of deposit and loan were full liberalization.

2. Liberalization of Exchange Rate

Since Taiwan was short of foreign exchange in the early stage, in 1949 the government announced "Foreign Exchange Control Act," which adopted exchange controls and the foreign exchange certificate system. It provided that 20% of foreign exchange earnings earned from the exports by enterprises must be forced to exchange into the NT dollars, and that the rest of the foreign exchange earnings were rewarded with the foreign exchange certificate. The foreign exchange certificate is negotiable, and can also be used in the settlement of exchange of imported goods. In 1951, the Taiwanese government regulated different exchange rates based on different products of import and export and different identities of importers and

exporters, so the exchange rate system was more complex. In 1958, the Taiwanese government changed from the aforementioned multiple exchange rate system to the single exchange rate system, and devalued the NT dollars from the original overvalue NT\$24.8 for US\$1 to the real value NT\$40 for US\$1, which fixed for up to 12 years, in order to suppress the public's demand for foreign exchange. In 1973, Taiwan abolished the foreign exchange certificate system.

At the same time, the "export expansion" economic development plan implemented by the Taiwanese government previously scored successes in the 1980s. The foreign exchange reserve of Taiwan was almost zero in 1953. In the end of 1980, it has reached US\$2.2 billion. In the end of 1981, it has reached US\$7.2 billion. In the end of 1983, it has reached US\$11.8 billion. In the end of 1985, it has reached US\$22.5 billion. In the end of 1986, it has reached US\$46.1 billion.

After Taiwan has implemented the foreign exchange controls for many years, huge foreign exchange has been accumulated. It is no longer necessary to continue to control foreign exchange. On the contrary, there have been counter-effects. The first one was the trade conflict. Taiwan's foreign trade surplus continued to expand, and it highly concentrated on the United States. For the year of 1987 only, the amount of the surplus to the United States reached US\$ 16.4 billion. The United States thus expressed strong dissatisfaction about the trade imbalances, asked Taiwan to appreciate the NT dollars and open markets, and even threatened to impose trade sanctions on Taiwan. The second one is inflation. Under the foreign exchange controls, all foreign exchange was bought by the central bank. The central bank absorbed so much foreign exchange, so it must issue equal NT dollars into the Taiwanese society accordingly. The domestic money supply increased, and the annual growth rate of currency supply maintained more than 20% for seven consecutive years since 1982 until 1989⁹, and promoted commodity prices going up and inflation. Easing foreign exchange controls is imperative. The Taiwanese government also took gradual methods. The schedule was as follows:

1) In December 1978, the Taiwanese government deleted the paragraph 1 of Article 4 of the "Foreign Exchange Control Act", which provided that the basic foreign exchange rate shall be determined by the ministry of finance and the central Bank. The Taiwanese government applied the floating exchange rate based on the central exchange rate, so the foreign exchange rate of the NT dollars was no longer pegged to the U.S. dollar.

2) In December 1978, the central bank assigned five banks, the Bank of Taiwan, China International Commercial Bank, First Commercial Bank, Hua Nan Commercial Bank, and Chang Hwa Bank, to organize the foreign exchange trading center. Thereafter, the exchange rate can be reflected timely and daily. In February 1979, the foreign exchange market was formally established.

3) In 1982, the trading of the US dollars between banks applied weighted average of the central exchange rate.

4) In March 1989, the central exchange rate system was abolished, and the trading system based on the free bargaining was adopted. However, the exchange rate for the small amount of ten thousand US dollars or less shall be still agreed by the nine major banks.

5) In 1990, the agreement system of the exchange rate for the small amount was abolished, and the exchange rate was completely determined by every bank itself.

3. *Liberalization of Business*

The business of financial institutions is providing credit and operating payment system. Once there is a problem, its impact is far higher than other industries. The stability and security of the financial system are fateful. Especially because of the feature of high leverage for banks, it is extremely high risk of bank operation essentially. Once the public begin to doubt about one bank's credit, it is very likely to bring about the bank run, even spread to other banks, and cause systemic risk. Therefore, the business scope of financial institutions is highly regulated by most governments around the world, and Taiwan is no exception¹⁰.

About the cross-industry business, such as banking and securities, insurance, futures and other financial industry, it became unmistakable trend after the United Kingdom in 1986 passed the "Financial Services Act," which cancelled the restrictions that the banking and securities industry shall operate separately. This was called "Big Bang." The U.S. commercial banks was restricted by the Banking Act of 1933 for a long time, and can only engage in deposit and loan business. However, the United States also followed the trend to pass the "Financial Services Modernization Act of 1999" in 1999, abolishing the restrictions that commercial banks cannot do cross-industry business.

The architecture of cross-industry business for financial institutions can be simply divided into three types: universal banks, financial subsidiaries, and financial holding companies. The universal banks fully integrate banking, securities, futures, insurance and other financial services in the same bank where divided

to different departments for operation. Customers can get all the services they need in one financial institution, and enjoy the convenience of one-stop shopping. European countries usually adopt this kind of system. Financial subsidiaries are that financial institutions can operate cross-industry business through the form of subsidiaries, and the United Kingdom is the representative of this kind of system. The financial holding companies, in the form of a holding company, hold the shares of subsidiaries for banking, securities, insurance and other business, and they have enough shares to control these subsidiaries. The United States and Japan are the representatives of this kind of system.

In terms of Taiwan, before 2000, the government opened the banking industry to do the cross-industry business and other financial industry point by point. Although the amended Banking Act expressly provides that "the business scope of banks includes the underwriting and proprietary trading or brokering of securities" since 1975 and in accordance with the provisions of Article 28 of the Banking Act, the trust department operates the securities business, the Securities and Futures Commission, the authorities, provided by administrative order that banks cannot operate the underwriting, proprietary trading, or brokering at the same time¹¹. In 2000, the Article 28 of the Banking Act was amended and provided that banks can establish the security department to directly engage in securities business, rather than through the trust department. In fact, this kind of cross-industry business is closer to the concept of universal bank.

In 2001, the Taiwanese congress passed the "Financial Holding Company Act," it was the official declaration that the era of the comprehensive cross-industry business for Taiwanese financial industry was coming. The paragraph 2 of Article 36 of the "Financial Holding Company Act" provides that a financial holding company may invest in the following industry: financial holding companies, banking, bills finance, credit card, trust, insurance, securities, futures, venture capital, foreign financial institutions which have been approved for investment by the competent authority, and other industries for which the competent authority determines to be financial related. After this Act, it clearly showed that, about the architecture of the cross-industry business for financial industries, the Taiwanese government chose the type of the financial holding company and abandoned the original type of the universal bank. According to the general information of the draft of "Financial Holding Company Act," the future of Taiwan's financial system will develop toward "equity centralized, organizations upsized, and business diversified."

When the “Financial Holding Company Act” was passed in 2001, there were 4 financial holding companies applying for and being approved for establishment¹². In 2002, there were 10 financial holding companies being set up¹³ (which, the BOCOM Holdings was established on February 4, but in the end it was merged into the Mega Holdings which was newly incorporated.) In 2003, 2008, and 2011, there was one financial holding company being established respectively¹⁴. In total, there are 16 financial holding companies in Taiwan so far.

4. Liberalization of Market Access

Financial institutions, especially banks, involve the general public savings and provide the service such as giving credit to individuals and enterprises and the function of payment system. When the problem happens, its impact is far higher than other industries. Therefore, most government in the world highly regulates the financial institutions. Taiwanese government is no exception. Before 1960, those existing banks in Taiwan are either restructuring financial institution that is left by the Japanese government (and they are all government-owned) or the banks coming from China. From 1961 to 1990, only eleven (11) banks were granted permits in Taiwan, and three of them were private-owned while other eight banks were state-owned.

Under the strict control on the establishment of new banks and the very low interest rate that is regulated by the government (compared to the interest rate of general public), the situation of coexistence of formal financial institutions and informal¹⁵ private lending in Taiwan was very serious. It is estimated that informal private lending accounted for forty percent of all proportion of financing in Taiwan. In other words, for every ten dollars loan, only six dollars are borrowed from financial institutions and other four dollars from informal private lending. In 1980s, huge foreign exchange reserves were accumulated in Taiwan. The Central Bank of Republic of China got so much foreign exchange reserves that it must take corresponding action to the release the equal amount of currency to the Taiwan's market, which led to abundant private capital in Taiwan. However, there was no sufficient and efficient way to make investment at that time in Taiwan and finally it came with a serious economy bubble. Not only did the stock market and real estate market in Taiwan reach unreasonable price, but also the informal investment companies in Taiwan caused serious problems¹⁶.

In order to cope with private capital, in the early 1980s, it has been requested within Taiwan to open

new banks. However, Taiwanese government has decided to start the establishment of new banks until the late 1980s. Banking Act was amended in 1989 and added paragraph 2 of Article 52: “The standard of establishing the banks or financial institutions which are established in accordance with this Act or other Acts is governed by the central authority,” in order to authorize the central authority to set up the standard of opening the new private banks. In 1990, the Ministry of Finance announced “The Establishment Standard of Commercial Banks”. One new bank was established in 1991 and fourteen more in 1992. In accordance with the Article 2 of “The Establishment Standard of Commercial Banks,” the minimum paid-up capital amount of NT \$ 10 billion in cash is required to apply for the permit to set up a new bank. Therefore, the capital amount of fifteen new banks can get to NT \$150 billion.

The liberalization of financial market access in Taiwan did not take the same gradual approach such as the liberalization of interest rate and exchange rate (for example, privatizing the government-owned banks first), yet Taiwan took the approach to directly open the new private-owned banks. It is worth to do the research about the background factors and the impact. This article will discuss the details later on.

III. The Evolution of Financial Regulation System in Taiwan

1. Financial Regulation

Financial Regulation is to supervise and control the financial industry. The main subject of the financial regulation is divided into three different parts including the internal control of financial industry, the external monitor through the market mechanism, and the regulation of government. The internal control of financial industry relies on the standard integrity and conduct of internal managers and employees of financial industry, and the external monitor through the market mechanism counts on the completely transparency of information. Both of these two subjects have their own limitations. Therefore, the regulation of government plays an important role in the financial regulation. Generally, articles of financial regulation also emphasize on the regulation of the government. The financial regulation discussed in this article is also limited to the regulation of government.

The power and capability of financial regulation can be divided into four sections including legislation, supervision, inspection and punishment. Legislation means the power to stipulate administrative rules and make administrative interpretation. Supervision is the

management of the establishment, change, suspension, and dissolution of the financial institutions, and the research of the whole industry to obtain the necessary information. Inspection is to checkup the finance and business of financial institutions and to give the ideas of improvement. Punishment is to apply administrative punishments when the government authority finds out the law violation of financial institutions during the supervision or inspection process.

If all of the abovementioned power and capability are put together in one administrative agency, it can be called unified financial regulation. On the contrary, it is diversified. Currently the trend in the world is toward unified financial regulation. The “Core Principles for Effective Banking Supervision”¹⁷, published by Basel Committee on Banking Supervision in 1997, encourages governments to integrate different financial regulation agencies. Hereafter, more and more countries have adopted the unified financial regulation system.

2. The Financial Regulation System in Taiwan in early years

Early years in Taiwan, because of the simple financial business and mostly nation-owned financial institutions, the financial regulation system was relatively manageable and all of the financial services have their own corresponding regulation agencies. It can be categorized as the diversified financial regulation system.

As for legislation and supervision, the Ministry of Finance is authorized to managerial and administrative work. The financial inspection rights are divided into three different government agencies including the Bureau of Monetary Affairs of the Ministry of Finance¹⁸ (corresponding to banking institutions), the Securities and Futures Commission of the Ministry of Finance¹⁹ (corresponding to the securities financial institutions), and the Insurance Division of the Ministry of Finance²⁰ (corresponding to insurance industries). The Central Bank²¹ and the Central Deposit Insurance Corporation²² have the financial inspection rights over the banking institutions as well²³. According to different business, the Bureau of Monetary Affairs of the Ministry of Finance, the Securities and Futures Commission of the Ministry of Finance, and the Insurance Division of the Ministry of Finance share the right of punishment. If the Central Bank of Republic of China and the Central Deposit Insurance Corporation find out the illegal affairs in financial institutions during the financial inspections, they can only report to the Ministry of Finance, which has the right to determine if the punishment will be imposed.

Problems under the diversified financial regulation system in Taiwan:

1) the regulation by different agencies is inefficient.

The innovative and emerging financial derivatives and trading strategy have increasingly been complex and it could lead to ambiguity and uncertainty between industries. For example, when banks securitize mortgage and credit loans, this new product is across the banking and securities business. Then the regulation authority reserved for the Bureau of Monetary Affairs or the Securities and Futures Commission would lead to the controversy. As for financial institutions, facing several different financial regulation agencies will result in duplication of reporting. And the standards and provisions of the respective regulation authority may not be the same, which could create controversy, and even cause the regulatory arbitrage.

2) The budget funding lacks independence

According to the Article 45 of Banking Act, the Article 148 of Insurance Law and the Article 38-1 of Securities Exchange Act, the competent authority may charge inspection costs to the financial industries. However, in practice, the government administrations still have to budget the inspection costs and send them to the congress for review. This process could be in jeopardy by non-professional interference from the congress.

3) The financial regulation agencies have no power of investigation.

The laws in Taiwan do not give the financial regulation agencies the power of investigation. Therefore, when financial institutions are involved in illegal issue, the financial regulation agencies can only seek help from prosecutors. It will lead to the inefficiency and time-consuming actions because the documents will go back and forth. If the prosecutor does not have the financial business-related knowledge, it may take more time and efforts through the whole process.

4) The separation of inspection rights and punishment rights.

When financial regulation agencies of doing inspection find out the violations of the law, these agencies can only transfer those cases to the financial regulation agencies of doing punishment. However, these two financial regulation agencies' recognition of illegal facts is not necessarily the same, which could lead to a situation that the inspection agencies find out the problem but the punishment agencies do not impose punishments on the case. Even if those two regulation authorities both have considered violations of the law, sometimes they still cannot impose the punishments timely because of the time-consuming administrative works. In order to avoid this kind of situation, in 1997,

the Executive Yuan instructed to set up a temporary agency “Financial Inspection Commission” under the Ministry of Finance. The Commission is co-convened by the Vice Finance Minister and the Vice President of Central Bank. The members of the Commission include the director of Monetary Bureau of the Ministry of Finance, the Director of Financial Inspections of Central Bank, the General Manager of the Central Deposit Insurance Corporation, the finance director of Taiwan province, Commissioner of Department of Finance of Taipei City, and Commissioner of Department of Finance of Kaohsiung City. This Commission integrates all of the tasks of financial inspections and is being the harbinger of unified financial regulation.

3. *Unified financial regulation system in Taiwan*

In 2003, the Taiwanese congress approved the law called “Organization Law of Financial Supervisory Committee of Executive Yuan,” and on July 1st, 2004, the Financial Supervisory Committee of Executive Yuan (referred to as “FSC”) has been formally established. The power and responsibility of financial regulation are put together under the FSC, which attributes to the unified financial regulation. Its main features are:

1) An independent agency and adopting collegial system.

The Article 8 and Article 9 provide that “the FSC exercises its powers independently. The total number of members of the committee is nine, which shall not exceed one-third of the same political party and the members have security of tenure. At the same time, the members shall be independent of political parties during his tenure and shall not participate in party activities.” The Article 11 provides that “The Commission adopts the collegial system. There must be more than two-thirds present and a majority of the resolution can make the decision.” Since it is an independent agency, the Chairman of FSC is not the Cabinet member, does not attend the meeting of Executive Yuan, nor follow with the Cabinet to take office or retire.

2) Banking Bureau, Securities and Futures Bureau, Insurance Bureau, and Inspection Bureau are under the FSC.

The Article 26, 27, 28 and 29 provide that “Under FSC, the Banking Bureau, Securities and Futures Bureau, Insurance Bureau, and Inspection Bureau are set up by different industries and become the regulation according to different agencies. The reason to adopt the regulation according to different agencies is primarily for convenience of both the financial industries and government agencies to gradually adapt to the cooperation, and then depending on the development,

establish the regulation system according to different functions. At least, in terms of inspections, the banking, securities and futures, and the insurance industry have been integrated under the Inspection Bureau.

3) The budget funding is more independent than ever.

The Article 6 and 7 provide that “the FSC may charge annual fee and inspection costs to the supervised financial institutions, and also get budget funding from the government, which will be used to establish the financial supervision and management fund for the expenses of FSC. Since the FSC still receives the government budget, the source of funding cannot be considered fully independent but we can say it is more independent than ever.

4) The FSC has the rights of legislation for laws and policies, supervision and management, inspection, investigation, and punishment.

The Article 4 gives the FSC the rights of legislation for laws and policies, supervision and management, inspection²⁴, and punishment, which previously owned by financial regulation institutions, and the Article 5 grants the FSC the right of investigation. FSC may require financial institutions and related persons and public companies to provide information or inquire them. If there is suspicion of financial crimes, the FSC may apply to the court for investigation ticket through prosecutors and participate in the search. This prosecutor who has a financial business background is stationed in the FSC and assigned by the Ministry of Justice. Through Prosecutor stationed at the FSC, the FSC and the Ministry of Justice could carry out inter-ministerial coordination and grasp the opportunities of the financial crimes prosecution.

4. *The restructuring in 2011*

In 2011, the “Organization Law of Financial Supervisory Committee of Executive Yuan” was amended to the “Organization Law of Financial Supervisory Committee.” Since July 1, 2012, the FSC has been changed from the collegial system to executive system. There is no security of tenure for the Chairman of Commission and the Chairman becomes one of the Cabinet members. The members of the Commission are financial professionals who are designated by the Minister of Finance, the Minister of Economy and Energy, the Minister of Justice, and the Premier. The Commission has become into advisory function. Hereafter, in the financial policy, the FSC will be subject to the control and supervision of the Executive Yuan. However, in the business of financial regulation, the FSC still independently exercises its powers on the approval or punishment of cases. The legislative reason

to change from collegial system to executive system is that most of the financial regulation agencies in the world rarely use collegial system for operation. Instead, executive system plays an important role in financial regulation and it authorizes the Chairman sufficient rights to deal with financial supervision business.

IV. Comments for Taiwan's financial liberalization and financial regulation

1. Financial Liberalization

In terms of liberalization of interest rate and foreign exchange rate, Taiwan adopted a gradual approach of opening up the market and led the public to make adjustment gradually. The general direction is in the right direction.

As for business liberalization, Taiwan has chosen the financial holding company as the framework of cross-industry business operation. Compared with the universal banks and financial subsidiaries, although the operation and switching costs of the financial holding company are the highest among the three, the independent degree of risk between different industries is also the best among these three types. Other countries, such as United States, which originally prohibited but later allowed financial institutions running cross-industry business, usually have adopted the financial holding company as the framework. Therefore, the choice of Taiwan is relatively a safe practice.

However, in the liberalization of the market access, there is a debate about the Taiwanese government's choice. Mr. Liang Guo Shu, who served as President of the Central Bank, suggested to the government in 1991: "In order to take into account both of liberalization and financial stability, the sequence of the liberalization is very important. The best sequence is to strengthen the financial inspection system, privatize government-owned Banks, and finally open new private-owned banks"²⁵. Frederic S. Mishkin also proposed in 2001: "If the government promotes the financial liberalization without establishing an appropriate regulatory framework, accounting and disclosure requirements, relationship lending limitations and effective functioning of the judicial system, the constraints on high-risk behavior will be too weak. Non-performing loans will have great impact on banks' balance sheets at some point in the future. In addition, before the implementation of liberalization, the bank may not have the expertise to grant loans when facing new opportunities that could cause poor quality of banks' loan portfolio. We have also observed that the financial deregulation and liberalization often lead to lending trend because the

increasing opportunity of bank lending and the financial deepening makes more money go into the banking system"²⁶.

However, the Taiwanese government did not follow the steps to first improve the financial regulation system, privatize the government-owned banks, and finally open of the new private banks. The government chose to open sixteen (16) private banks directly²⁷. This approach has triggered the Taiwanese banking crisis after several years.

That too many banks in the market causes excessive competition and excessive competition leads to lower profitability. Moreover, lower profitability could force banks to engage in high-risk loans and high-risk loans will inevitably lead to the increase of non-performing loan ratio. These bad cycles finally endanger banks themselves. From 1995 to 2001, the non-performing loan ratio of banks²⁸ in Taiwan was: 2.85 %, 3.70 %, 3.71 %, 4.37 %, 4.88 %, 5.34 %, and 7.48 %, respectively. In 2001, the non-performing loan amount of banks' alone (credit cooperatives and agriculture and fisheries council are not included) was up to NT \$1.087 trillion dollars. In order to deal with the problematic financial institutions, Taiwanese government set up a financial reconstruction fund, together with the Central Deposit Insurance Corporation, spending NT \$ 286.5 million dollars to dispose a total of 56 financial institutions²⁹ (including nine banks and 47 credit unions).

Tracing to its sources, Taiwanese government made the wrong decision on market access. One of the mistakes is to open the private-owned banks before the improvement of financial regulation system. For example, prior to opening new private banks in 1991, the interested related party of the Banking Act only included people, not included affiliated companies. As for the limitation of their behavior, only credit restrictions are included, but other services, such as purchasing securities or assets of the affiliated companies, are not included. The banking Act did not restrict the total amount of transactions with related persons or affiliated companies. Furthermore, the Banking Act did not regulate the behavior that two companies through their respective banks give credit to each other, resulting in large enterprises hollowed their owned banks (for example, the Pan Asia Bank and Zhong-Xin Bank) through above regulatory gaps.

Another mistake is opening the private banks before the privatization of government-owned banks. After the establishment of private banks, these private banks lured many financial professionals away from government-owned banks, which caused the serious personnel loss of government-owned bank. After the

establishment of the new banks, they also attracted customers of the original government-owned banks, resulting in the business atrophy.

The third mistake is granting too many permits of new banks within two years. There were not enough professionals to meet so many manpower needs, which led to a problem of lack of qualified talent in the new Bank, resulting in errors and omissions on business. At the same time, new banks were facing fierce competition in the industry and had to accept the less-qualified and higher-risk customers. With these two factors, the operational risk of new banks was increasing.

2. *Financial Regulation*

1) From diversified to unified financial regulation system.

Changing the financial regulation system from diversified to unified by the Taiwanese government should be endorsed. The unified financial regulation system has the following benefits. In terms of the regulation institution, the internal resources can be quickly integrated and the information of regulation can be shared. In addition, the software and hardware of regulation do not have to be built in multiple locations, which is cost-effective and matches the economies of scale, and the unified regulation system can avoid the regulation arbitrage because of the different standards of regulation. For those who are regulated, it can avoid the inconvenience of duplicate regulation and different standards. In terms of the government, it clears the powers and responsibilities of financial regulation, avoids evading responsibilities between the institutions, and promotes the administrative efficiency. Some arguments mentioned that it is very dangerous to let one institution managing the industry with overall value of the assets of NT \$ 50 trillion. However, this argument is specious. If so, it could be more dangerous to hand national executive power to the President or the Prime Minister.

2) The position of the FSC.

At the beginning of establishing the FSC, it was positioned as an independent agency adopting the collegiate system. All important decisions are made by the commission. Members have security of tenure and staggered terms. It also limits the proportion of the same political party. Although the appointment of members does not have to go through the consent of the congress, it is still sufficient to guarantee its independence. However, as for the legal democratic constitutionalism, the independent agency neither has the public opinion basis (not only they are non-elected, but also their appointment is not approved by the

institution of public opinion) nor has to be responsible for the policy (with tenure security), so the FSC shall not have policy-making powers. Even though the FSC proposes a financial policy, it should coordinate with the Ministry of Finance, Ministry of Economic Affairs, and other ministries and departments, and Executive Yuan still holds the final decision of the policy. Therefore, in 2003, it raised some doubt that the "Organization Law of Financial Supervisory Committee of Executive Yuan" granted the FSC the power of stipulating regulations and policies.

In 2011, the "Organization Law of Financial Supervisory Committee of Executive Yuan" was amended to "Organization Law of Financial Supervisory Committee"³⁰. Since July 1st, 2012, the FSC has been changed from the collegial system to executive system. There is no security of tenure for the chairman of the commission and the chairman becomes one of the Cabinet members. It diverges from the position of an independent agency, which is originally designed for the FSC by laws. Here is a question: when the chairman of FSC shall be appointed by the Premier and must take office and retire together with the Premier, how can he maintain its independence?

However, as the financial regulation agency, is it necessary for FSC to maintain its independence? Financial regulation agency is in charge of banking, securities, futures, insurance and other important financial industries. Because huge interests are involved, the structure design of this organization should maintain certain of the independence and avoid interfering by the executive power and legislative power. This is the main reason that the "Organization Law of Financial Supervisory Committee of Executive Yuan" in 2003 gave members the security of tenure and the independence of budget funding. In 2011, after the amendment of the law, the FSC only nominally exercise it powers independently under the provisions of Article 10. In fact, the FSC does not have independence.

This article suggests that the FSC has to be independent. We can get this conclusion based on the legal theory, legal practice in the world, and the original intention of Taiwanese legislation. Thus, whether it adopts the executive system or collegiate system in the FSC³¹, the members should be given a certain security of tenure. At the same time, in order to keeping with the principles of democratic constitution and balance of powers, the appointment of the chairman and members of the FSC should be nominated by the Premier and approved by the congress. As the financial regulation agency, the FSC should only focus on the financial regulation business and should not participate in the formation of financial policy. These policies,

which play an important role in the economic development and are the essential part of the government administration, shall be managed and in charge by the Ministry of Finance, and finally decided by the Executive Yuan. It is in line with the principles of responsible politics. This set up is similar with the legal system. The Prosecutor's Office focuses on the investigation business and exercises its power independently in accordance with laws, while the Ministry of Justice is in charge of the policy of justice administration.

¹ The Harrod-Domar model indicates that the deposit is directly related to the foreign aid and economic growth.

² McKinnon R.I. (1973) *Money and Capital in Economic Development*. The Brookings Institution, p. 69. See also: Shaw E.S. (1973) *Financial Deepening in Economic Development*. Oxford, p. 12.

³ Some commentators believe that the financial liberalization is the financial deepening, and the two are synonymous. But in fact, the two are not the same. The financial liberalization is the means, in order to achieve the purpose of financial deepening. In other words, the financial deepening is, by the means of financial liberalization, letting the market determine the interest rate and exchange rate, making financial institutions compete against each other, so as to improve the financial efficiency.

⁴ See: Huang Yu Cheng (2015) *Modern Financial Markets*. 8th Edition, p. 70.

⁵ The Banking Act of 1933. Since the Act was co-sponsored by Senator Glass and Steagall, it is also known as the "Glass-Steagall Act." The Article 16 of the Act provides that, the bank shall not underwrite securities and equities and shall not engage in the dealer business of equity and securities. The Article 20 stipulates that banks shall not set up securities subsidiaries, and banks shall not be affiliated to any organization or individual who engaged in securities dealer or underwriting. The Article 21 provides that any deposit-taking institutions shall not engage in the business of securities dealer or underwriting. The Article 32 prohibits banks from sending an employee or director to hold a post in the securities dealer office.

⁶ The Financial Service Modernization Act of 1999. Since the bill was co-sponsored by Senator Gramm, Congressman Leach and Bliley, it is also known as the "Gramm-Leach-Bliley Act."

⁷ The Commodity Futures Modernization Act of 2000.

⁸ See the website of the Central Bank of the Republic of China. Available from: <http://www.cbc.gov.tw/ct.asp?xItem=995&ctNode=523&mp=1>.

⁹ See the website of the Central Bank of the Republic of China Website. Available from: www.cbc.gov.tw/np.asp?ctnode=643. Last visited on July 1, 2016.

¹⁰ Taiwan's regulation on financial business can be divided into the cross-industry business within the banking and the cross-industry business between financial industries. About the cross-industry business within the

banking, the old banking law in Taiwan divided domestic banks into four types: commercial banks, savings banks, specialized banks, and trust and investment companies, and provided their business respectively with the specialized chapters. The Article 22 of the Banking Act also provides that: "A bank shall not conduct any business other than as approved by the central competent authority." However, the real operation is not the same as the regulation. For example, there is no professional savings bank in Taiwan. In order to enhance the comprehensive business capacity to comply with the trend of business integration for banks, the paragraph 22 of Article 3 of the Banking Law provides a general clause: "to conduct other relevant businesses which may be authorized by the central competent authority." The central competent authority also approved commercial banks to establish the savings and trusts departments. Therefore, although every kind of bank has its own specialized business, in practice, it is not an absolute restriction on cross-industry business within banks.

¹¹ The Article 14 of the "Standards Governing the Establishment of Securities Firms" provides that "With the exceptions of proprietary trading of government bonds or business for which a permission for concurrent operation has been obtained prior to the issuance of these Standards, a financial institution that concurrently engages in securities business shall restrict such concurrent operations to only one of the following: 1. Securities underwriting, 2. Securities dealing, 3. Securities trading brokerage or intermediary services, 4. Securities underwriting and dealing, and 5. Securities dealing and securities brokerage at its place of business."

¹² They are: Hua Nan, Fubon, Cathay Pacific, and China Development.

¹³ They are: E.Sun, FuhHwa, BOCOM, JihSun, Taishin, ShinKong, Waterland, JianHua, China Trust, and Mega.

¹⁴ In 2003, the first financial holding company was established. In 2008, Taiwan financial holding company was established. In 2011, Taiwan Cooperative Holdings was established. The government holds the majority of shares in these three companies.

¹⁵ Informal does not mean illegal. Lending to friends and family is the example. Another example is the loan club, which is popular in Taiwanese society. It is also informal financing, but still legal. The post-dated check, which is Taiwanese characteristic, is another example.

¹⁶ The most famous one is Hongyuan Investment Company. The company was founded in 1981, and its business model was actually a Ponzi scheme. It enticed more people to be fooled by paying fast earnings to the initial investors with later investors' money. The illegal fund of the Hongyuan company was up to NT \$ 100 billion. More than 160,000 people were the victims.

¹⁷ See the website of the Bank for International Settlements. Available from: <https://www.bis.org/publ/bcbs30.pdf>.

¹⁸ Before the amendment in 2008, the Article 19 of the Banking Act provided that "The competent authority of this Act is the Ministry of Finance." The paragraph 1 of

Article 45 provided that “The Central Competent Authority may, at any time, appoint a designee, entrust an appropriate institution or direct a local Competent Authority to appoint a designee to examine the business, financial affairs and other relevant affairs of a bank or related parties, or direct a bank or related parties to prepare and submit, within a prescribed period of time, balance sheets, property inventories or other relevant documents for examination”.

¹⁹ Before the amendment in 2005, the Article 3 of the Securities and Exchange Act provided that “The competent authority of this Act is the Securities and Futures Commission of Ministry of Finance.” The Article 38 provided that “In order to protect public interests or the interests of investors, the Competent Authority may require the issuer, securities underwriters, or other related parties to submit reference materials or reports, or make a direct examination of relevant documents and accounts. The Competent Authority may, at any time after the issuance of securities, order the issuer to submit financial and business reports or makes a direct examination of the financial and business conditions of the issuer”.

²⁰ Before the amendment in 2007, the Article 12 of the Insurance Act provided that “The competent authority of this Act is the Ministry of Finance”. The paragraph 1 of Article 148 provided that “The competent authority may, at any time, dispatch officers to inspect the business and financial conditions of an insurance enterprise, or order an insurance enterprise to report, within a prescribed time, the condition of its business”.

²¹ Before the amendment in 2011, the article 38 of the Central Bank of China Act provided that “In conformity with the powers and functions authorized by this Act, the bank may undertake the inspection of the operations of all financial institutions. The abovementioned inspection may be conducted with the examination consigned by the Ministry of Finance. The bank may entrust national financial institutions to inspect the credit cooperatives and the credit department of farmers’ association.

²² Before the amendment in 2007, the paragraph 1 of Article 21 of Deposit Insurance Act provided that “the central deposit Insurance Corporation, when necessary, after reporting the competent authority to consult with the Central Bank and getting its approval, may inspect the business accounts of insured institutions, or notify insured institutions to make a balance sheet, property catalogs or other reports within the prescribed time”.

²³ The work of the Ministry of Finance, the Central Bank, and the Central Deposit Insurance Corporation is divided by the “division program of financial business inspection” approved by the Executive Yuan. See the website of the Central Deposit Insurance Corporation. Available from: <http://www.cdic.gov.tw/public/Attachment/4121511322671.pdf>.

²⁴ However, as the authority of currencies and foreign exchange, the central bank still retains the specialized power of financial inspection to currencies, credit and foreign exchange business.

²⁵ See: Liang Guo Shu (1997) *Suggestions for Monetary and Financial Policy*, September, the first

edition, p. 66. The book gathers articles and publications of Mr. Liang GuoShu over the years. This reference is cited from the article “problems and countermeasures after the establishment of new banks,” published by Liang in July 1991.

²⁶ Mishkin F.S. (2001) *Financial Policies and the Prevention of Financial Crises in Emerging Market Countries*. *NBER Working Paper*, January, p. 31. Available from: <http://www.nber.org/papers/w8087>. If the proper bank regulatory/supervisory structure, accounting and disclosure requirements, restrictions on connecting lending, and well-functioning legal and judicial systems are not in place when liberalization comes, the appropriate constraints on risk-taking behavior will be far too weak. The result will be that bad loans are likely, with potentially disastrous consequences for bank balance sheets at some point in the future. In addition, before liberalization occurs, banks may not have the expertise to make loans wisely, and so opening them up to new lending opportunities may also lead to poor quality of the loan portfolio. We have also seen that financial deregulation and liberalization often lead to a lend boom, because of both increased opportunities for bank lending and financial deepening in which more funds flow into the bank system.

²⁷ The reason Taiwanese government did not privatize the government-owned banks is related to the political and economic background at that time. Originally Taiwanese government planned to privatize three province government-owned Commercial Banks (First Bank, Chang Hwa Bank and Hwa-Nan Bank), but the province government did not agree mainly because the privatization would lead the province government to lost funding of earnings which came from these three commercial banks. On the other hand, the provincial council did not agree because the personnel and budget of these three banks will not be reviewed by the provincial council and the impact of the provincial council members to these banks will be greatly reduced. Furthermore, the staff of these three banks did not agree with the privatization because of the potential layoffs. The trend of private capital getting into the banking industry is getting heated, which force the government to open new private banks rather than privatize the government-owned banks.

²⁸ See the website of the Banking Bureau of Financial Regulatory Committee. Available from: http://research.fsc.gov.tw/fsd/fnc1_od.asp?opendata=FBI010.

²⁹ See the website of the Central Deposit Insurance Corporation. Available from: <http://www.cdic.gov.tw/public/Attachment/67515404453.pdf>.

³⁰ In fact, this amendment of the name of this Law can be questioned. When the FSC is an independent agency with collegial system and security of tenure, its name is “Executive Yuan’s Financial Supervisory Commission,” which could lead to misunderstanding that FSC is under the jurisdiction of the Executive Yuan. However, after restructuring to executive system, the chairman being the Cabinet, and the chairman taking office and retiring together with the Premier, the FSC’s name has been changed to “Financial Supervisory Commission” without Executive

Yuan, which could lead people to misunderstand that FSC is an independent agency. Taking the Fair Trade Commission (FTC) which was established in 1992 as an example, FTC was called as “Executive Yuan’s Fair Trade Commission”, but taking collegial system and forming an independent agency. FTC’s members may be reappointed with four-year term and staggered terms; FTC’s members have the security of tenure and will not be forced to leave because of the change of governing party or the cabinet

reshuffle. After the “The Standards Law of the Central Executive Organization” passed in 2010, the FTC has been restructured and renamed to “Fair Trade Commission” since 2011.

³¹ The Executive system or collegial system has its own advantages and disadvantages. Japan, Singapore, Canada and Australia adopt the executive system while United Kingdom, South Korea, Norway, Denmark and Sweden take the collegial system.

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ECONOMY. ECONOMIC SCIENCE

ECONOMIC THEORY

METHODOLOGICAL SIGNIFICANCE OF THE CONCEPT OF EXPECTED VALUES TO STUDY THE PROBLEMS OF ECONOMIC UNCERTAINTY

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The author consider economic uncertainty as an attribute essential characteristics of contemporary globalized post-industrial economy. The article provides the author’s understanding of the methodological foundations of the analysis of the nature of uncertainty as an economic category.

Key words: economic uncertainty, determinism, variability, expected value, transformation of uncertainty into risk.

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ECONOMICS AND MANAGEMENT OF NATIONAL ECONOMY

FOOD SECURITY: FOOD ASPECT (THE “SECOND BREAD”)

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The article comprehensively discusses the problems of food security from a position of security in the country’s most popular food, in particular potatoes.

Key words: food safety, efficiency, production and consumption of potatoes.

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**CLUSTER “A SOCIAL FOOD MOSCOW”: THE POSSIBILITY
OF IMPROVING SCHOOL NUTRITION**

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The article discusses the questions of optimization of nutrition of schoolchildren in Moscow due to the capabilities of the created cluster “Social food - Moscow”. The authors analyzed the necessary adjustments in the process in conditions of transition to a 5-day school week and joining pre-school institutions to secondary schools. Evaluated according get students food regulatory documents of the Ministry of health and proposals for the development of a multi-day balanced menu. It is shown that school meals are based on the cluster approach will significantly improve the performance of the process by improving providing, technological, logistical and managerial components.

Key words: cluster, social nutrition, school meals, sustainable consumption, multi-day balanced menu.

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**THE DEVELOPMENT OF A FRAMEWORK OF ORGANIZATIONAL SUPPORT
INNOVATIVE ACTIVITY IN MODERN CONDITIONS**

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The article deals with the subjective and objective factors external and internal environment of the organization, influencing the development of the mechanism of organizational support of innovative activity in the conditions of the network economy.

Key words: internal environment, external environment, networking, innovation.

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**THE BENEFITS OF A STRATEGIC APPROACH TO BUSINESS MANAGEMENT
IN THE CONDITIONS OF ECONOMY NETWORK TYPE**

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The advantages of a strategic approach to the management of the organization in terms of economy network type. As one of the tools to increase the efficiency of the innovative development of the organization, the author examines the implementation of the network form of staff development.

Key words: strategic management, network economy, innovation.

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**MANAGEMENT OF INFORMATION RISKS
THE PROTECTED ECONOMIC SYSTEMS ON THE BASIS
ANALYSIS OF FUZZY TIME SERIES**

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The algorithm of control information risk management of protected economies implementing the idea of a linguistic approximation of fuzzy time series, allowing processing of heterogeneous information about the parameters of the control object provided in the form of a complex of high-quality linguistic descriptions and quantitative data and providing a number of significant advantages over traditional.

Key words: management of information risks, fuzzy time series, expert evaluations, indicators of value of information assets.

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EVALUATING THE EFFECTIVENESS OF RISK MANAGEMENT RUSSIAN INSURANCE COMPANIES INNOVATION IN TERMS OF REGULATION

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In this article, the authors provide an assessment of the dynamics of the financial potential of insurance and risk management at the regional segment of the Russian insurance market. The basic tools of normative-legal and financial regulation for the further development of certain types of insurance in the Russian Federation.

Key words: insurance companies, institutional structure, financial strength, risk management, regulation.

The relevance of risk management in current conditions as an essential factor for sustainable development of the economy.

The authors provide an assessment of the dynamics of the financial potential of insurance and risk management at the regional segment of the Russian insurance market. The basic tools of normative-legal and financial regulation for the further development of certain types of insurance in the Russian Federation.

The authors suggest further improvement of the legal regulation of insurance tools based on the creation of multi-level agricultural risk distribution system, expanding the list of objects of agricultural insurance, and efficiency of the state financial support.

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THE INSTITUTIONAL ENVIRONMENT OF MEASUREMENT OF ECONOMIC EFFICIENCY OF INVESTMENT ACTIVITIES IN RUSSIA

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The institutional environment of investing activities in Russia is considered in the article. Stages of investing activities of the enterprise are listed. Experience of an economic evaluation of efficiency of investing activities in foreign practice is provided. Shortcomings of methodical recommendations about assessment of economic efficiency of investing projects are listed and offers are given.

Key words: investing activities, institutional environment, investing projects, economic evaluation of efficiency, methodical recommendations, evaluation criteria.

In article the institutional environment of investing activities in Russia is considered: subjects, functions of the state on implementation of regulation of entrepreneurial, including investment activities and a form of direct participation of the state in investing activities. Stages of investing activities of the entity, including a stage on economic an efficiency evaluation of investing activities are listed.

The analysis of a foreign and domestic method of an economic evaluation of efficiency of investing activities is carried out. In foreign practice indicators net present value (NPV) or an internal return rate (IRR) which allow to determine an efficiency measure the investment projects are usually used. Foreign techniques are based on discounted cash flows method, which determinate future projects cash flows through their present cost.

In Russia the economic evaluation of investment soundness is performed with use of techniques which are developed abroad, with their insignificant modification.

Shortcomings of foreign and domestic methodical recommendations about assessment of cost efficiency of investment projects are listed and specific proposals on their enhancement are this.

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THE PUBLIC BENEFIT OF INNOVATIVE TYPE

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We propose a new mechanism for the formation of social partnership as a form of implementation of the model of management of regional system of health, which can be defined as the cooperation of three players in the process of creating public goods innovation: sectors of education and health, representing science and practice, and authorities.

Key words: socially important services, healthcare, education, government, public goods, innovation.

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