

Karapetian O. M.

candidate of sciences, associate professor of department economic security and financial investigation

Ternopil National Economic University

ORGANIZATIONAL AND LEGAL DETERMINANTS SOVEREIGN FUND FINANCIAL RESERVE: INTERNATIONAL EXPERIENCE

In the article the basis for the formation of an effective organizational and institutional system of sovereign funds. The basic principles and legal imperatives right software. Defined legal forms of formation of financial reserves and outlines the institutional framework for the formation of sovereign funds in the world of theory and practice.

Keywords: financial reserves, sovereign funds, stabilization funds, global economy.

Introduction. The key to success of the sovereign funds of financial reserves, particularly the implementation of their strategic goals is the effective organizational and legal support.

How proves the international experience, based on the formation of a sovereign fund are the provisions and principles fixed in national legislation. From the perspective of economic interests in the global economic environment to create legal framework for the management of sovereign wealth funds reflects primarily the will of the leaders of the world economy.

In terms of permanent financial crises and upheavals financial reserves accumulated in sovereign funds is the best anti-crisis tool to fill the shortfall in crisis budget revenues, stabilize financial markets state.

The analysis of previous research and publications. Theoretical foundations of sovereign funds saw F. Butynets, V. Geyets, I. Nahorna, A. Parkhomchuk, Y. Pikush, V. Kudryashov, A. Plotnikov, K. Savchenko.

Formulation purposes of the article. Issues that need further investigation is to determine the key elements of the organizational structure of the sovereign fund based on the study of international experience.

Presenting main material. The economic essence of sovereign fund related to the peculiarities of the legal status of the state as the managing entity - sovereign. Only the state owns such sovereign rights as the right to impose and collect taxes, right on budget. Sovereign Fund – is also the state, but the formation and use of resources is separate from other public funds.

The legal regime of sovereign funds includes the formation, administration and expenditure of funds received in the form of additional revenue.

The basis of forming the legal functioning of sovereign funds of financial reserves is generally accepted principles and practices that properly reflect appropriate governance mechanisms and accountability, which are called "Santiago Principles".

These principles cover the practice in three key areas, namely: 1) the legal framework, objectives and coordination with macroeconomic policies; 2) the institutional framework and governance structure; 3) foundation investment management and risk management.

In its essence principles Santiago consolidated requirements to limit the transparency of operations of sovereign wealth funds on the objectives, sources of resources and areas of investment. Moreover, in fact, these principles have brought the goal of investing sovereign funds with similar objectives placement reserve assets – acceptable yield with minimum acceptable risk.

Standing platform to debate issues of development and operation of sovereign wealth funds on the basis of Santiago is the international forum of sovereign wealth funds (The International Forum of Sovereign Wealth Funds), which formed the International Working Group in 2009 to the International Working Group of sovereign funds consist of representatives of twenty-three countries [1].

The basis of formation of effective organizational and institutional system of sovereign funds laid a solid legal basis. Imperative regulatory framework SWF based on key provisions:

- Establish clear criteria for the legal form and structure of sovereign funds, especially relations with state authorities (Ministry of Finance, Central Bank);
- Compliance with the sequence of procedural steps and increasing the control based on the legal framework for the regulation of budgetary processes of government;
- Providing legal justification and SWF transactions during economic activity;
- Increasing efficiency and achieve the goal of economic policies of sovereign funds;
- Promoting good governance, accountability and transparency.

In practice, there are a variety of legal framework for sovereign funds. These circumstances partially reflect the fact that countries have chosen different legal forms formation of financial reserves, including:

1. The sovereign funds formed as separate legal entities:

- According to the law have legal identity function in accordance with the established norms of legislation (the State Oil Fund of Azerbaijan, the Korean Investment Corporation, the investment management and Qatar Investment Authority, Abu Dhabi, UAE);

- Are based on common rules of company law as companies owned by the state, such as state investment company Temasek Corporation and in Singapore, China Investment Corporation.

2. Emerging as a pool of assets owned by the state or the central bank, no legal entity as separate cash accounts (collectively accounts) owned by the government, such as in Norway, where the state pension fund «Global» has Treasury bill Norwegian Central bank [2].

The above forms intertwined with the current practice and principles, but the legal framework for sovereign wealth funds built on the well-defined principles and features of formation of sovereign funds is imperfect. In practice, different forms can have legal implications for both fiscal position and for the integrity of investments. Concentrated in the sovereign funds of financial resources by sovereign immunity and may be subject to tax benefits in the beneficiary countries. The tax treatment of sovereign funds may depend on the provisions of bilateral tax treaties (Norway negotiates tax benefits for income transfers in sovereign fund).

In some countries the basic functions on organizational and legal support sovereign funds registered in normative legal acts and subordinate regulations. Institutional framework formation of sovereign funds in the world of theory and practice differ significantly. Despite features management structure, operational management to SWF in most countries is based on an independent basis, minimizing potential political influence or interference that can eventually lead to violations of the fundamental determinants of development.

Where as a strategic fund manager acting state authority as the rightful owner of the pool of assets that make up the financial reserves sovereign wealth funds (usually the Ministry of Finance) distinguish the following types of regulation:

A) The Central Bank manages assets in accordance with the legal authority delegated by the Ministry of Finance (including the Government Pension Fund Norway «Global»). In this case, the central bank may use external transfers of funds to replenish its investment portfolio.

B) Separate fund management entity that is subject to state authorities established for Asset Management (Investment Corporation (GIC) of Singapore). In this case, the fund manager may also have other powers asset management of the public sector. For example, GIC manages part of the reserves of the government of Singapore.

C) The Ministry of Finance has delegated powers directly to one or more external (private) managers.

The key to successful fund management contributes strategic work of the supervisory boards of funds that monitor human foundations of the current legislation, which determines the order of formation, management and use of funds.

In managing the funds of sovereign funds spread the practice of attracting private independent investment advisors for additional control over the fund and to develop investment policy. Services consultants can also be used and the operational manager. The duties of investment advisors include:

- preparing proposals for strategic asset allocation based on the objectives of the fund;
- comparative analysis of management with target values;
- development of criteria for the selection of external management companies,
- assessment of external management companies [3].

Conclusions. Thus, the sovereign funds of financial reserves is a significant source of funding for the global economy and, at the same time – a tool the growing influence of the state capital of individual countries in the global economy.

References

1. International working group of sovereign wealth funds (Iwg) 2008, “Sovereign wealth funds generally Accepted principles and practices (santiago principles)”, available at: http://www.ecgi.org/codes/documents/iwg_santiago_principles_oct2008_enpdf (Accessed 4 October 2008).
2. Savchuk A.M. (2012), “Organizational aspects of the activity of sovereign wealth funds”, Proceedings of the PGP named. V.G. Belinsky, vol. 28, pp. 514–512.
3. Bernstein, Shai, Josh Lerner and Antoinette Schoar. 2013, ”The Investment Strategies of Sovereign Wealth Funds”, *Journal of Economic Perspectives*, 27(2): 219-38.