

KAPITAL BOZORIDAGI VAKOLATLI ORGANNI TASHKIL ETISH BO‘YICHA YAPONIYA TAJRIBASI

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ANNOTATSIYA

Ushbu maqolada kapital bozorini tartibga vakolatli organning tuzilishi, uning mustaqilligi va tashkiliy tuzilma masalalarida Yaponiya tajribasi tahlil qilingan. Taqqoslash uchun ushbu mamlakatni tanlash ko‘pgina mamlakatlarda moliyaviy tartibga solish tizimining so‘nggi islohotlariga asoslanadi, ular asosan integratsiyalashgan model va ob‘ektiv modelning o‘zgarishlarini qabul qilishga qaratilgan. Oxirgi yigirma yil ichida 30 ta davlat yagona moliyaviy nazorat organini shakllantirdi, ulardan 23 tasida faqat so‘nggi o‘n yillikda yagona tartibga soluvchi organ tashkil etildi. Yaponiyada regulyator faoliyati bir nechta tartibga soluvchi organlarning manfaatlariga muvofiq muvozanatni ta‘minlash va moliya bozorini tartibga solish bilan shug‘ullanadigan boshqa tartibga soluvchilardan (Moliya vazirligi, Markaziy bank, Iqtisodiyot, savdo va sanoat vazirligi) mustaqilligini kafolatlash uchun yaxshi namuna bo‘lishi mumkin. Yaponiya tajribasini o‘rganish o‘zlarining moliyaviy tartibga soluvchi tuzilmalarini yanada yaxshilash niyatida bo‘lgan mamlakatlar uchun yaxshi misol bo‘lishi mumkin.

***Kalit so‘zlar:** kapital bozori, regulyatorning maqomi, moliyaviy tuzilish, regulyatorning mustaqilligi.*

ЯПОНСКИЙ ОПЫТ СОЗДАНИЯ УПОЛНОМОЧЕННОГО ОРГАНА НА РЫНКЕ КАПИТАЛА

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АННОТАЦИЯ

В данной статье анализируется японский опыт в вопросах структуры органа, уполномоченного регулировать рынок капитала, его

самостоятельности и организационной структуры. Выбор этой страны для сравнения основан на недавних реформах системы финансового регулирования во многих странах, которые в основном направлены на принятие изменений в интегрированную модель и объективную модель. За последние двадцать лет 30 государств сформировали единый финансовый надзорный орган, 23 из которых создали единый регулирующий орган только за последнее десятилетие. Опыт Японии может быть хорошим примером обеспечения баланса интересов нескольких регулирующих органов и обеспечения независимости от других регулирующих органов (Министерства финансов, Центрального банка, Министерства экономики, торговли и промышленности), участвующих в регулировании финансовых рынков. Изучение японского опыта может стать хорошим примером для стран, которые намерены и дальше совершенствовать свои структуры финансового регулирования.

Ключевые слова: рынок капитала, статус регулятора, финансовая структура, независимость регулятора.

THE EXPERIENCE OF JAPAN IN ESTABLISHING AUTHORIZED BODY IN THE CAPITAL MARKET

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ABSTRACT

This article analyzes the Japanese experience in matters of the structure of the body authorized to regulate the capital market, its independence and organizational structure. The choice of this country for comparison is based on the recent reforms of the financial regulatory system in many countries, which are mainly aimed at adopting changes to the integrated model and the objective model. Over the last twenty years, 30 states have formed a single financial supervisory body, 23 of which have established a single regulatory body in the last decade alone. In Japan, regulatory activity can be a good example to ensure balance in the interests of several regulators and to ensure independence from other regulators (Ministry of Finance, Central Bank, Ministry of Economy, Trade and Industry) involved in regulating financial markets. The study of the Japanese experience can be a good

example for countries that intend to further improve their financial regulatory structures.

Keywords: *capital market, status of the regulator, financial structure, independence of the regulator.*

KIRISH

Ko'pgina adabiyotlarda Yaponiyaning moliyaviy tartibga soluvchi tuzilmasi yagona tartibga soluvchi organ deb ataladi,¹ biroq ba'zi olimlar Moliya vazirligi ishtirokida "norasmiy hamkorlikni tartibga solish" mavjudligini ham ta'kidlaydilar.² Yaponiya moliyaviy tartibga solish tizimining tarixiy rivojlanishini o'rganish shuni ko'rsatadiki, 1992 yilda Qimmatli qog'ozlar va birjalarni nazorat qilish komissiyasi (SESC) tuzilgunga qadar Moliya vazirligi asosiy tartibga soluvchi bo'lgan.³ Luning so'zlariga ko'ra, SESC tashkil etilganidan keyin ham qimmatli qog'ozlar bozorida mustaqil tartibga soluvchi sifatida ishlay olmadi, chunki u faqat "tishlash tishlari bo'lmagan yangi qo'riqchi" edi.⁴ O'sha paytda Moliya vazirligi Yaponiyaning yagona tartibga soluvchi organi bo'lib, u "deyarli butun Yaponiya moliya tizimini nazorat qilgan".⁵ Moliya vazirligining bu roli adabiyotda maslahat va ma'muriy rahbarlikni ta'kidlagan "konvoy tizimi" sifatida tavsiflangan.⁶ Ammo so'nggi yigirma yil ichida Yaponiya moliyaviy tartibga solish tuzilmasi ko'plab islohotlarga duch keldi. 1998 yilda Yaponiya Moliyaviy Nazorat Agentligi Bosh vazir devonining tashqi organi sifatida tashkil etilishi bilan tuzilma tugatildi. 2000 yilda Moliyaviy nazorat agentligini qayta tashkil etish natijasida Moliyaviy rekonstruksiya komissiyasi yurisdiksiyasi ostida Moliyaviy xizmatlar agentligi (FSA) tashkil etildi. Ushbu islohotlar Moliya vazirligi o'rniga FSAni moliya tizimini rejalashtirish uchun mas'ul qildi. 2001 yildan FSA Vazirlar Mahkamasining tashqi organiga aylandi.⁷ Ba'zi olimlar bu islohotni tartibga solishni tashkil etishda nomutanosib siyosiy qiziqishning

¹ Jerry W. Markham, "Super Regulator: A Comparative Analysis of Securities and Derivatives Regulation in the United States, the United Kingdom, and Japan," *Brook. J. Int'l L.* 28 (2002): 405; Kenneth Kaoma Mwenda, *Legal Aspects of Financial Services Regulation and the Concept of a Unified Regulator* (World Bank Publications, 2006), 53; Pan, "Structural Reform of Financial Regulation," 853; Group of Thirty, *The Structure of Financial Supervision Approaches and Challenges in a Global Marketplace*, 2008, 145.

² Curtis J. Milhaupt, "Managing the Market: The Ministry of Finance and Securities Regulation in Japan," *Stan. J. Int'l L.* 30 (1994): 444.

³ Mitsuru Misawa, "Securities Regulation in Japan," *Vand. J. Transnat'l L.* 6 (1972): 447; Misao Tatsuta, "Enforcement of Japanese Securities Legislation," *J. Comp. Corp. L. & Sec. Reg.* 1 (1978): 95; Jerry W. Markham, "Super Regulator: A Comparative Analysis of Securities and Derivatives Regulation in the United States, the United Kingdom, and Japan," *Brook. J. Int'l L.* 28 (2002): 383-410; Andrew M. Pardieck, "Formation and Transformation of Securities Law in Japan: From the Bubble to the Big Bang, The," *UCLA Pac. Basin LJ* 19 (2001): 1

⁴ Shen-Shin Lu, "Securities Regulation in Japan: An Update," *Denv. J. Int'l L. & Pol'y* 22 (1993): 148.

⁵ Pan, "Structural Reform of Financial Regulation," 853.

⁶ Group of Thirty, *The Structure of Financial Supervision Approaches and Challenges in a Global Marketplace*, 147.

⁷ <http://www.fsa.go.jp/en/about/pamphlet.pdf>

natijasi deb izohlaydilar.⁸ va janjallarning kuchayishi⁹ Iqtisodiyot pasayganligi sababli aniqlangan va "MOFni hech bo'lmaganda tartibga solish eshigidan olib tashlashni talab qilgan"¹⁰

MUHOKAMA VA NATIJALAR

Xalqaro valyuta jamg'armasi hisobotiga ko'ra,¹¹ hozirda Moliyaviy xizmatlar agentligi (FSA),¹² Qimmatli qog'ozlar va birjalarni nazorat qilish komissiyasi (SESC),¹³ va Sertifikatlangan Davlat Buxgalteriya Hisobi va Audit Nazorat Kengashi (CPAAOB) Yaponiya qimmatli qog'ozlar bozorlarini tartibga solish va nazorat qilish uchun mas'uldir.¹⁴ Ushbu tashkilotlarning huquqiy maqomi bir-biridan farq qiladi: FSA Vazirlar Mahkamasi tarkibidagi agentlikdir, SESC va CPAAOB esa FSA tarkibidagi kengashlardir, ammo Xalqaro valyuta jamg'armasi baholashiga ko'ra "Moliyaviy vositalar almashinuvi to'g'risidagi qonun (FIEA) yuqori darajadagi mustaqillikni ta'minladi. FSAGA nisbatan."¹⁵ Binobarin, Pan ta'kidlaganidek, "Yaponiyaning Moliya vazirligi hokimiyatini tortib olish va JFSAni yaratishdagi eng katta yutug'i siyosiy jihatdan mustaqil yagona tartibga soluvchi organi tashkil etish bo'ldi".¹⁶ Ushbu bobning keyingi qismida ushbu mustaqillik qanday amalga oshirilayotganligi haqida so'z boradi.

"IOSCO tamoyillari va maqsadlari" ning ikkinchi tamoyili regulyatorning o'z funksiyalari va vakolatlarini amalga oshirishda operasion mustaqilligi va javobgarligi bilan bog'liq.¹⁷ Xalqaro valyuta jamg'armasi baholash hisoboti¹⁸ Yaponiyada ushbu tamoyilning amalga oshirilishini "keng miqyosda amalga oshirilgan" deb baholadi.¹⁹ Biroq, hisobotda qonunchilik bazasining "FSA (shu jumladan SESC va CPAAOB) mustaqilligi uchun xavf tug'dirishi mumkin bo'lgan" ba'zi xususiyatlari qayd etilgan.²⁰ Xususan, Baholash uchta asosiy masalani ta'kidlaydi: birinchidan, FSA

⁸ Pan, "Structural Reform of Financial Regulation," 853.

⁹ Мунозараларнинг тафсилотлари ҳақида қаранг: Andrew M. Pardieck, "Formation and Transformation of Securities Law in Japan: From the Bubble to the Big Bang, The," *UCLA Pac. Basin LJ* 19 (2001): 1; Markham, "Super Regulator," 385–88.

¹⁰ Ўша жойда, 396.

¹¹ IMF, *Japan: IOSCO Objectives and Principles of Securities Regulation-Detailed Assessment of Implementation*, IMF Country Report, August 2012, 6, <http://www.imf.org/external/pubs/ft/scr/2012/cr12230.pdf>

¹² <http://www.fsa.go.jp/en/index.html>

¹³ <http://www.fsa.go.jp/sesc/english/index.htm>

¹⁴ <http://www.fsa.go.jp/cpaaob/english/index.html>

¹⁵ IMF, *Japan: IOSCO Objectives and Principles of Securities Regulation-Detailed Assessment of Implementation*, 6.

¹⁶ Pan, "Structural Reform of Financial Regulation," 854.

¹⁷ IOSCO, *Objectives and Principles of Securities Regulation*, 4.

¹⁸ IMF, *Japan: IOSCO Objectives and Principles of Securities Regulation-Detailed Assessment of Implementation*, 30.

¹⁹ Бошқа баҳолаш тоифалари қуйидагилар эди: тўлиқ амалга оширилди, қисман амалга оширилди, амалга оширилмади ва қўлланилмади.

²⁰ IMF, *Japan: IOSCO Objectives and Principles of Securities Regulation-Detailed Assessment of Implementation*, 13.

funksiyalarini qonun bilan emas, balki vazirlar mahkamasi buyrug‘i bilan belgilash; ikkinchidan, MVFning FSA byudjetini tuzatishdagi ta’siri; uchinchidan, Moliyaviy xizmatlar vazirining muhim ishlarda ishtirok etishi.²¹ Ammo hisobotda aytib o‘tilganidek, MOFS tomonidan FSAning kundalik funksiyalariga aralashish haqida hech qanday dalil yo‘q.²²

FSA, SESC va CPAAOB ning operatsion mustaqilligi ularning mas’uliyatini taqsimlash orqali ta’minlanadi. FSA siyosat, joydan tashqari monitoring va qimmatli qog‘ozlar firmalari, kredit reyting agentliklari va auditorlarga nisbatan majburlov choralari qo‘llash, shuningdek qimmatli qog‘ozlar bo‘yicha xizmatlar ko‘rsatuvchi ro‘yxatdan o‘tgan moliya institutlarini joyida tekshirish uchun javobgardir, SESC esa: bozor nazorati va qimmatli qog‘ozlar firmalarini joyida tekshirish va CPAAOB auditorlik nazoratini amalga oshiradi.²³ Bir tadqiqotda SESC FSA qoshidagi yarim mustaqil organ sifatida belgilangan,²⁴ to‘g‘ridan-to‘g‘ri ijro etish vakolatlari yo‘qligi sababli. Bir vaqtning o‘zida Moliya vazirligi tarkibiga kiradigan mahalliy moliya byurolari; qimmatli qog‘ozlar bozorini tartibga solish ierarxiyasining pastki qismida joylashgan.

Institusional mustaqillik nuqtai nazaridan FSA hukumatga tegishli, chunki u Vazirlar Mahkamasi tarkibidagi agentlik hisoblanadi va FSA komissari Moliyaviy xizmatlar bo‘yicha davlat vaziri tomonidan tayinlanadi.²⁵ Vazirlar Mahkamasi tomonidan tasdiqlanishi asosida. Bosh vazir tomonidan tayinlanadigan Moliyaviy xizmatlar bo‘yicha davlat vaziri, katta vise-vazir va parlament kotibi FSA faoliyatini nazorat qilish bilan shug‘ullanadi.²⁶ Bosh vazir ikkala palataning roziligi bilan SESC raisi va ikki komissarni ham uch yillik muddatga tayinlaydi. Ammo FSA komissari bilan bog‘liq holda, qonun ushbu tayinlash uchun aniq muddatni belgilamaydi.²⁷

Byudjet mustaqilligiga kelsak, FSA ayrim mamlakatlardagi kabi tartibga solinadigan sub’ektlar tomonidan emas, balki markaziy hukumat byudjeti orqali moliyalashtiriladi.²⁸ Har yili FSA komissari Moliya vazirligiga FSAGA beriladigan

²¹ IMF, *Japan: IOSCO Objectives and Principles of Securities Regulation-Detailed Assessment of Implementation*, 30.

²² Ўша жойда.

²³ Ўша жойда, 26–27.

²⁴ Group of Thirty, *The Structure of Financial Supervision Approaches and Challenges in a Global Marketplace*, 148.

²⁵ Япония Бош вазирининг Маҳкамаси тузилмасига кўра, ҳозирги вақтда Молиявий хизматлар бўйича давлат вазири лавозимига бир вақтнинг ўзида Бош вазиr ўринбосари бўлган шахс ваколат берилган; Молия вазиrлиги; ва дефляцияни енгиш ва ен курсининг ошишига қарши курашиш учун масъул вазиrлик. Тафсилотлар учун қаранг: http://japan.kantei.go.jp/96_abe/meibo/daijin/aso_e.html

²⁶ Group of Thirty, *The Structure of Financial Supervision Approaches and Challenges in a Global Marketplace*, 150.

²⁷ IMF, *Japan: IOSCO Objectives and Principles of Securities Regulation-Detailed Assessment of Implementation*, 29.

²⁸ Масалан, Испанияда Қимматли қоғозлар бозори миллий комиссияси (CNMV) институтлар ҳиссаси орқали молиялаштирилади. CNMV, *Perspectives on the Securities Markets: Supervision and Regulation CNMV 20th Anniversary Commemorative Book*, 36,

miqdorni taklif qiladi. Amalda FSA tomonidan kiritilgan dastlabki taklifga tuzatishlar (miqdorni kamaytirish) kiritildi; ammo FSA xodimlarining ta'kidlashicha, FSAGA ajratilgan yakuniy byudjet FSA va Moliya vazirligi o'rtasidagi muzokaralar natijasi bo'lgan.²⁹ SESC operatsiyalari FSAGA ajratilgan byudjet doirasida moliyalashtiriladi.³⁰

XULOSA

Yaponiyaning moliyaviy tartibga solishni tizimlashtirish va tartibga soluvchilarning mustaqilligini ta'minlash tajribasini o'rganish asosida ayrim xulosalarga kelish mumkin. Muxtasar qilib aytganda, Yaponiya qimmatli qog'ozlar bozorini tartibga solishda Moliya vazirligining yuqori rolini kamaytirish va organlar o'rtasidagi siyosiy manfaatlar muvozanatini ta'minlash bo'yicha islohotlar o'tkazdi, bu esa tartibga solish sifatini oshirishga olib keldi. Ushbu tajriba O'zbekistonda ham moliyaviy tartibga solish tuzilmasini takomillashtirishda ko'rib chiqish uchun foydali bo'lishi mumkin.

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