Collective investments in Russia

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It is hard to imagine the modern market without a such sector as collective investments. Almost all high-developed national and international legal systems regulate relations in this sphere of economic activity in one way or another. Relations of collective investment always consider to form a sizable material pool of wide circle of investors' funds. This pool is to be under management of special organization. At that the investors rights on these funds is certified by different kinds of investment documents. Nevertheless these documents have such common features as: standard character, ability of circulation including circulation on exchange. Person who manage a material pool act in the interests of the investors according to investment strategy which is prescribed in a special document (this one has different forms in different constructions).

Russia is not an exception from this rule. Russian market of collective investments is on the stage of dynamic growth now. At that the laws in this sphere are very varied and fit in general to world-accepted organization standards of collective investments programs.

1. Variety of collective investment programs in Russian.

Russian legislation affords different institutes which mediate projects realization in sphere of collective investments.
It is possible to create a corporation which joins the investors' funds in corporative property.
For example, Share Investment funds (SIF) which activity is regulated by the Law on investment funds (accepted in 2001) are created as joint-stock company i.e. a public corporation. So the investor rights are certified by SIF stock.
Non-public pensionary funds (NPF). They are a special kind of corporations which activity is regulated by the Law on non-public pensionary funds (accepted in 1998). The investors' rights are certified by a contract with certain NPF.

Non-corporative formations (a contract model) are based on a contract on asset management of the material pool.
First it is possible a structure where a manager coordinates directly with wide circle of the investors. At that the investors rights are certified with a security which assigns the share of its participation in the managed material pool and the right to demand the appropriate management from the manager. The examples of such constructions are the following:
unit investment trust management (is regulated by Law on investment funds of 2001);
mortgage coverage management (is regulated by Law on mortgage securities of 2003).

Second it is possible a structure where a manager coordinates with a person who forms a material pool for management. That means that the managing company makes a contract of asset management with an organization which collected the investors' funds and gave a certain instrument to certify his rights (as rule it is a security or a contract).

There are examples of such structures:
unit-investment trust asset management;
non-public pensionary funds' asset;
insurance companies (insurance reserves) asset management;
pensionary savings asset management (is regulated by the Law on asset investment for financing storage part of labor pension in Russian Federation of 2002);
military servicemen housing provision accumulations management (is regulated by the Law on Saving-mortgage system of military servicemen housing provision of 2004).

By the upper mentioned institutes they realize programs of collective investment. The sources for those investments are:
investments of natural persons;
investments of different companies;
pensionary schemes accumulated savings;
financing and refinancing assets for mortgage programs;
other spare and purposeful assets.

Anglo-American system.

The USA as a pioneer in collective investments sphere have wide specter of institutes which mediate appropriate relations. Even among mechanisms of collective investments which falls under action of

Investment Company Act (of 1940) they can found formations which are created as:
as a corporation;
as a joint-stock company;
as a trust;
as an association;
As an other organization forms.

Companies which are referred to the collective investments are engaged in managing of the following:
natural investors assets;
corporative investors assets;
pensyonary savings;
mortgage credit pools;
other material pools, made for special purposes.

European system.

Development of collective investments in Europe has a comparatively short history. Nevertheless recently we may see a significant growth in this sector.

Different organizational forms for collective investment programs are available. Only Council Directive of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (85/611/EEC) suppose to use different models in those purposes:
contract model (for instance German - Offene und Geschlossene Fonds);
trust model (for instance English Unit Trust);
Corporative model (for instance French Societe d'Investissement a Capital Variable (SICAV).

Despite on that the Directive UCITS supposes regulations of just few relations (in particular those which mediate investment in quoted securities), the legislation of some European countries have other instructions mediating placing of the resources received from investors into different types of assets including non-financial character assets.

By means of collective investment they mediate different pensional schemes and securitization programs (including mortgage refinancing).

2. Unit-investment trusts as an instrument of collective investments in Russia.

The most numerous realized projects on Russian market belong to unit-investment trusts (UIT). Unit-investment trusts are related to contract model of collective investment (i.e. they are not a corporation/legal entity as for example Share investment funds are, which are created in form of public joint-stock company). Among the key characteristics it is necessary to emphasize following:

1. Unit-investment trust is a property complex (material pool) formed due to investors' investments and assigned to invest in assets, and incomes from these assets come to a trust.
2. The property of unit-investment trust is in public share ownership of investors who are named "shareholders".
3. A special organization (managing company) manages property of a unit-investment trust. A managing company is a confiding manager and acts on the base of Rules of unit-investment trust confiding management (UIT Rules).
4. The participation of an investor in unit-investment trust is certified by a security (investment share), which is a standard financial instrument (certifies rights equal in volume and content) and may be in free movement also in stock exchange.
5. an investment share certifies following rights:
- share in general property of unit-investment trust;
- right to demand appropriate confiding management from managing company;
- right to demand paying off (redemption) of the share in terms and order which are prescribed in unit-investment trust's Rules.
6. the managing company places unit-investment trust's property into different classes of assets according to Investment declaration which is also prescribed in UIT Rules.
Peculiarity in tax treatment has a great importance in UIT activity and has preferential character.

Particular incomes from investing coming into a fund are not a subject for income taxation (delayed taxation).

American system.

Among the organizational structures acting on the share investment market and regulated by Investment Company Act (of 1940) the most similar to Russian UIT are the funds organized on a base of trusting property (trust), open-end or mutual funds and closed-end funds. (American funds organized as corporations/ stock companies are similar to Russian SIFs).
Such trust funds have following peculiarities:
- formation due to investors deposits, by selling them fund share;
- the property of the fund is in trust fund of a special person – trustee;
- an investor participation in the fund is certified by a standard financial instrument, referred to security and which is able to move on exchange;
- Fund Investment Adviser. Trustee observes his activity. An Investment Adviser deposits assets into securities according to a fund prospect.

European system.

The most similar to Russian UIT construction in Europe are UCITS funds which are organized on the basis of a contract or a trust. It is possible to compare SIFs with UCITS which were created as corporations).
Trusts and contract funds are based on traditional standards:
- making of property pool by selling shares in fund to investors, certified by a security of an appropriate form;
- contract model, as a rule, considers making contract between an investor and an investment manager who gives a security to the investor certifying appropriate relations. Trust model considers a trustee who mediates relations with an Investment Advisor.
- The investment company managing the fund deposits in securities which have q exchange quotation.

3. Types and categories of funds.

As comparing systems unit-investment trusts are classified on different bases. So there are different types and categories of the funds considering different variants of investments and management.

A. funds types.
The Law provides ability to create three types of the funds (1) open-end type, (2) interval type and (3) closed-end type. The difference is in an ability of free share paying off on investors' demands.
(1) Open-end type funds suppose on one hand continuous issue of investment shares by Managing Company (i.e. involving of new investors and increase in the fund) and on the other hand right of an investor to claim a paying off demand to the manager in any time.
(2) Interval type funds mean ability to issue of new shares and paying off of earlier issued shares in the preset periods of time and the interval between these periods may not be longer then 1 year.
(3) Closed-end type funds don't permit paying off during a fund existing period. Paying off is made only on the expiry of fund existing period.

B. Funds categories.
A principle of risk sharing lies in the basis of funds categories difference. The principle determines ability and limits of investment in different classes of assets. That means that on definition of composition and structure of Russian funds two criteria are used:
- Specialization (funds categories are settled on depend of asset classes which are basic in the UIT property. The minimum percentage of such asset in UIT is prescribed);
Diversification (as rule the property parts is spread among different assets: different classes, different issuers and so on).
So there are following categories of funds:
- shares funds;
- bond funds;
- money-market funds (floating debts);
- compound investment funds;
- index funds;
- funds investing in funds;

- real estate investing funds;
- funds investing in credits secured by mortgage;
- venture capitals investing funds;
- Strategic (direct) investment funds.

At that if investments consider necessary stability of fund size such UIT obligate should be closed-end (this is refer to real estate funds, direct investment funds, venture funds and mortgage funds).

American system.

The Investment Company Act (of 1940) divided funds for two groups on criteria of payoff limitation on an investor demand and current issue of shares.

First they are open-end or mutual funds in which shares should be paid off at any time and issue of new instruments is possible at any time either. Pay off is made on daily calculated value which is estimated by division of net asset value on the quantity of current instruments.