THE MANDATORY FINANCIAL RESERVE MECHANISM OF PRIVATE EMPLOYMENT AGENCIES: ITS LEGAL NATURE AS A SUI GENERIS SECURITY INSTRUMENT

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ABSTRACT

Mandatory reserve requirements are traditionally examined as monetary policy instruments through which central banks regulate banking liquidity, credit creation, and short-term interest rates. Their private-law status, however, remains comparatively underexplored. This article examines the legal nature of mandatory reserves maintained by banks with the Central Bank of the Republic of Uzbekistan and evaluates whether such reserves may be classified as a security instrument. The research applies doctrinal, functional, and comparative legal methods. Uzbekistan’s regulatory framework is compared with the minimum reserve system of the Eurosystem and the zero-reserve-requirement model currently used in the United States. The analysis demonstrates that the mandatory reserve mechanism in Uzbekistan possesses several security-like characteristics: compulsory segregation, restriction of disposition, immunity from enforcement, continued operation during bank rehabilitation and insolvency procedures, and potential use in liquidation. Nevertheless, it lacks the constituent features of a conventional pledge, trust, guarantee, deposit insurance arrangement, or other civil-law security interest.

KEYWORDS

mandatory reserves, banking law, Central Bank of Uzbekistan, security interest, monetary policy, bank insolvency, deposit protection, sui generis instrument.

INTRODUCTION

Mandatory reserve requirements constitute one of the oldest instruments available to central banks. In their conventional form, they require commercial banks and other regulated deposit-taking institutions to maintain a prescribed proportion of specified liabilities as balances with the central bank. Depending on their legal and operational design, reserve requirements may serve monetary-control, liquidity-management, macroprudential, microprudential, and payment-system functions (Della Valle et al., 2022; Gray, 2011).

The legal nature of these reserves is less straightforward than their economic function. A mandatory reserve resembles a security mechanism because assets are separated from the bank's freely disposable resources and maintained against liabilities owed by the bank. At the same time, it differs from conventional collateral because no particular creditor is normally granted a proprietary right, enforcement power, or priority claim over the reserved assets.

This ambiguity is particularly significant in Uzbekistan. Article 30 of the Law "On the Central Bank of the Republic of Uzbekistan" authorizes the Central Bank to establish reserve requirements in relation to banks' attracted liabilities. It also empowers the Central Bank to determine the reserve base, ratios, calculation procedure, form of maintenance, and averaging coefficient. Mandatory reserve ratios must be equal for all banks, changes generally become effective no earlier than one month after the relevant decision, and compulsory enforcement against funds deposited as mandatory reserves is prohibited (Republic of Uzbekistan, 2019, art. 30).

The prohibition against attachment or foreclosure gives reserve funds an insulated status. However, the legislation does not expressly classify them as pledged property, trust assets, depositors' property, insolvency-remote assets, or part of a dedicated compensation fund. Consequently, the central research question is whether Uzbekistan's mandatory reserve mechanism can legally be treated as a security instrument and, if so, what type of security instrument it represents.

This article argues that mandatory reserves under Uzbekistan law constitute a *sui generis* public-law security mechanism rather than a civil-law security interest. Their security function is indirect and systemic. They protect the integrity of monetary circulation, banking liquidity, settlement capacity, and the orderly liquidation of banks, but they do not secure the individual claims of depositors in the manner of a pledge, guarantee, or deposit insurance arrangement.

METHODS

The research employs a doctrinal legal method to examine the current legislation of Uzbekistan governing mandatory reserves, central banking, civil-law security interests, deposit guarantees, and bank liquidation. The principal sources are the Law "On the Central Bank of the Republic of Uzbekistan," the Central Bank's Regulation on mandatory reserves registered under No. 3002, the Civil Code, and the legislation governing guarantees for the protection of bank deposits.

A functional method is used to distinguish the formal legal classification of mandatory reserves from their economic and regulatory effects. Under this approach, the mechanism is assessed according to five criteria: the source of the reserve obligation; the ownership and accounting treatment of reserve funds; the degree to which banks may use or dispose of those funds; the existence of identifiable beneficiaries and enforcement rights; and the treatment of reserves during rehabilitation, resolution, license revocation, and liquidation.

The comparative component examines two contrasting models. The Eurosystem maintains an active minimum-reserve regime with averaging over a maintenance period. The United States, by contrast, has maintained a zero-percent reserve requirement since March 2020. These systems provide useful reference points for determining whether mandatory reserves are necessarily prudential security instruments or whether their legal character depends on the monetary-policy framework in which they operate.

The analysis is limited to mandatory reserves against bank liabilities. Capital adequacy requirements, loan-loss provisions, liquidity coverage requirements, deposit insurance funds, and voluntary contractual reserves are considered only to the extent necessary to distinguish them from the mechanism under examination.

RESULTS

Legal Architecture of Mandatory Reserves in Uzbekistan

The Central Bank's statutory authority to impose mandatory reserves forms part of its broader monetary-policy mandate. The Central Bank's principal objectives include ensuring price stability, maintaining stability of the banking system, and supporting the proper functioning of payment systems. Reserve requirements must therefore be interpreted within a public-law framework oriented toward monetary and systemic stability rather than solely toward the private interests of individual bank creditors (Republic of Uzbekistan, 2019).

The Regulation on mandatory reserves defines them as funds that banks must deposit in a separately opened account with the Central Bank. The reserve base includes relevant liabilities attracted in national and foreign currencies. The normative amount is calculated by applying the prescribed reserve ratio to the average amount of reservable liabilities during the calculation period (Central Bank of the Republic of Uzbekistan, 2018).

The Central Bank's Board determines the applicable ratios, the categories of liabilities included in the reserve base, standardized deductions, the currency in which reserves are formed, the averaging coefficient, and the maintenance schedule. Maintenance periods generally last 28 or 35 calendar days. The Central Bank may also determine whether reserve balances are remunerated, taking into account monetary conditions, banking-system liquidity, and monetary-policy objectives.

Under the current operational framework, reserves corresponding to liabilities denominated in both national and foreign currencies are formed in national currency. As of July 1, 2026, the mandatory reserve ratio was 4% for relevant national-currency liabilities and 7% for foreign-currency liabilities. The averaging coefficient was set at 1.0, allowing banks to satisfy the requirement through the average level of eligible balances maintained during the applicable period (Central Bank of the Republic of Uzbekistan, 2026).

The use of a higher ratio for foreign-currency liabilities indicates that the instrument performs more than a purely mechanical settlement function. It may also discourage excessive foreign-currency funding, influence the relative cost of liabilities, and support the dedollarization and monetary-transmission objectives of the Central Bank. Such differentiation is consistent with the broader understanding that reserve requirements may be designed as monetary, liquidity, and macroprudential instruments simultaneously (Cantú, 2024; Della Valle et al., 2022).

Accounting and Proprietary Characteristics

The accounting rules applicable to mandatory reserves are important for determining their legal nature. Reserve amounts are reflected through a designated asset account in the bank's books, while the Central Bank records the corresponding amount as a liability. This accounting structure indicates that the bank retains a claim corresponding to the amount maintained with the Central Bank. The reserve is therefore not automatically transferred into the beneficial ownership of depositors, the Deposit Guarantee Agency, or another class of bank creditors.

Nevertheless, the bank's entitlement is heavily restricted. The bank cannot freely withdraw, assign, pledge, or otherwise dispose of the mandatory amount outside the regulatory conditions established by the Central Bank. The funds therefore remain connected to the bank's patrimony but are subject to a public-law restriction on use.

This arrangement may be described as statutory asset restriction rather than a transfer of ownership. The reserve is neither fully available to the bank nor legally vested in a private beneficiary. It occupies an intermediate position: it remains an asset or claim of the bank for accounting purposes, but its availability, amount, maintenance, and release are controlled by mandatory regulatory rules.

Immunity From Enforcement

One of the strongest security-like features of the Uzbek mechanism is the statutory prohibition against compulsory enforcement against mandatory reserves deposited with the Central Bank. Ordinary creditors cannot attach or foreclose upon these balances while they retain their mandatory-reserve status (Republic of Uzbekistan, 2019, art. 30).

This immunity distinguishes mandatory reserves from ordinary balances held by a commercial bank with another financial institution. It preserves the reserve from individual enforcement actions that could undermine the uniform implementation of monetary policy or reduce the liquidity available within the central banking system.

However, enforcement immunity does not itself create a security interest. Property may be immune from attachment for reasons of public policy without being pledged to any beneficiary. In the case of mandatory reserves, the prohibition protects the regulatory purpose of the assets rather than the priority of a designated secured creditor.

Operation During Rehabilitation and Insolvency

The Regulation provides that reserve requirements continue to apply during financial rehabilitation, insolvency proceedings, temporary external administration, and certain supervisory restrictions. The obligation generally terminates only after the bank's license has been revoked. Failures to submit accurate calculations, transfer reserve shortfalls, or comply with averaged maintenance requirements may result in financial sanctions and collection of the deficient reserve amount (Central Bank of the Republic of Uzbekistan, 2018).

Following the revocation of a banking license, the Central Bank must return the deposited mandatory reserves, upon request, to the account of the liquidation commission. The returned amount is then used within the liquidation process to settle the bank's obligations. The Regulation does not provide for direct payment from the reserve account to individual depositors or another predefined class of creditors.

The liquidation rule confirms that mandatory reserves possess a contingent creditor-protection effect. By restricting the bank's access to part of its resources during normal operations, the mechanism may preserve assets that subsequently become available in liquidation. Nevertheless, this protection remains indirect. Once transferred to the liquidation commission, the funds are administered under the applicable liquidation and creditor-priority rules rather than distributed under an independent reserve-specific priority.

Distinction From a Pledge or Other Security Interest

Under the Civil Code of Uzbekistan, a pledge generally entitles the pledgee to obtain preferential satisfaction from the value of the pledged property when the secured obligation is not performed. A pledge may arise by agreement or directly by law, but it ordinarily presupposes an identifiable secured obligation, pledged property, and a creditor entitled to priority satisfaction (Republic of Uzbekistan, 1995, art. 264).

International secured-transactions principles likewise associate a security interest with a proprietary right in movable assets created to secure payment or performance of an obligation. Third-party effectiveness, priority, and enforcement are essential elements of such a regime (United Nations Commission on International Trade Law [UNCITRAL], 2016).

Mandatory reserves do not satisfy these criteria. No individual depositor or creditor is identified as a reserve beneficiary. There is no direct accessory relationship between a specific deposit claim and a corresponding portion of the reserve. Depositors cannot inspect, control, enforce, or realize the reserve. They do not obtain preferential rights merely because their deposits form part of the reserve base. Moreover, the law expressly prohibits foreclosure against the reserve rather than granting a particular creditor a right to foreclose.

Accordingly, mandatory reserves cannot be classified as a statutory pledge unless the legislation is amended to identify secured beneficiaries, define the secured obligations, and establish an enforceable priority over the reserved assets.

Distinction From Deposit Insurance

Deposit insurance and mandatory reserves protect banking stability through different legal techniques. Deposit insurance establishes a statutory compensation mechanism under which eligible depositors acquire rights to payment when a bank becomes unable to repay protected deposits. Funding is generally accumulated through contributions made by participating banks and administered by a separate institutional body.

Uzbekistan substantially reformed its deposit protection system through the 2025 Law "On Guarantees for the Protection of Deposits in Banks." The reforms established a dedicated Deposit Guarantee Agency, extended the scope of protection, and introduced a statutory guaranteed amount of UZS 200 million under the applicable conditions. The deposit guarantee framework therefore creates identifiable protected persons, compensation rules, institutional responsibilities, and funding arrangements that are legally distinct from the Central Bank's mandatory reserve accounts (Republic of Uzbekistan, 2025).

Mandatory reserves do not provide depositors with an equivalent compensation right. Even where reserve funds ultimately increase the assets available in liquidation, the individual depositor's claim arises under banking, deposit guarantee, and insolvency legislation—not from a proprietary entitlement to the mandatory reserve itself.

Distinction From Capital and Liquidity Requirements

Mandatory reserves must also be distinguished from regulatory capital. Capital requirements are intended primarily to absorb losses and protect creditors against deterioration in the value of a bank's assets. Reserve requirements, by contrast, are normally calculated by reference to liabilities and require banks to maintain prescribed central bank balances.

They also differ from liquidity coverage requirements. High-quality liquid assets maintained for liquidity regulation may include multiple categories of marketable assets and central bank balances. Mandatory reserves are more narrowly defined and subject to specific central bank maintenance, calculation, and averaging rules.

Although all three mechanisms contribute to financial stability, their legal structures are different. Capital represents loss-absorbing funding, liquidity requirements regulate the composition of liquid resources, and mandatory reserves create a restricted claim or balance maintained within the central bank's monetary infrastructure.

Comparative Assessment: The Eurosystem

The Eurosystem requires euro-area credit institutions to maintain minimum reserves with their respective national central banks. The legal framework is based on Article 19 of the Statute of the European System of Central Banks, Council Regulation No. 2531/98, Regulation (EU) 2021/378, and the relevant European Central Bank guidelines.

The reserve base is derived from specified balance-sheet liabilities. Compliance is assessed according to the average end-of-day balance maintained during the relevant maintenance period. This averaging mechanism allows banks to respond to short-term liquidity fluctuations while continuing to satisfy their aggregate reserve obligation. The ECB identifies the stabilization of money-market interest rates and the creation or enlargement of a structural liquidity shortage as principal objectives of the system (European Central Bank [ECB], 2021, 2022).

In 2026, the applicable minimum-reserve ratio remained 1% of specified liabilities, principally customer deposits and certain short-term debt instruments. Mandatory reserves were remunerated at 0%. Current ECB statistics also continue to report reserve maintenance periods, aggregate reserve requirements, deficiencies, and penalties for noncompliance.

The Eurosystem model supports the conclusion that minimum reserves are primarily monetary-operational rather than creditor-specific security instruments. Although the balances may contribute to liquidity and banking-system resilience, the legal framework does not treat individual depositors as pledgees or beneficial owners of the reserves.

Comparative Assessment: The United States

The United States provides a contrasting model. In March 2020, the Board of Governors of the Federal Reserve System reduced reserve requirement ratios to zero percent for all depository institutions. The zero-percent ratio remained in effect in 2026. The Federal Reserve continues to possess statutory authority to impose reserve requirements, but its ample-reserves monetary-policy framework no longer relies on positive mandatory ratios (Board of Governors of the Federal Reserve System, 2026).

The United States experience demonstrates that mandatory reserves are not an indispensable legal component of depositor protection. Depositor security and bank resilience can instead be pursued through deposit insurance, capital requirements, liquidity regulation, supervision, resolution powers, access to central bank liquidity, and other prudential instruments.

The comparison also confirms that the legal nature of reserve requirements depends on their institutional purpose. Where reserves are calibrated principally to implement monetary policy, their existence and amount may change when the central bank adopts a different operational framework. A genuine security right belonging to depositors would not ordinarily disappear merely because the central bank shifted from a scarce-reserves to an ample-reserves system.

DISCUSSION

The Multiple Functions of Mandatory Reserves

The findings demonstrate that mandatory reserves cannot be explained through a single legal or economic function. The International Monetary Fund identifies at least three broad roles: prudential protection, monetary control, and liquidity management (Gray, 2011). Reserve averaging may stabilize short-term interest rates and provide banks with operational flexibility, whereas unremunerated reserve requirements may impose a cost similar to a regulatory tax on reservable liabilities (Della Valle et al., 2022).

Uzbekistan's framework reflects this multifunctional character. The differentiated ratios for national- and foreign-currency liabilities influence banks' funding costs and support monetary-policy transmission. Averaging contributes to liquidity management. Segregation and immunity from enforcement preserve resources within the regulated banking system. Continued application during financial rehabilitation and insolvency provides an additional prudential dimension.

These functions may overlap but should not be conflated. A measure that enhances banking stability does not necessarily create a private-law security right. The reserve may make bank creditors safer in an economic sense without legally securing their claims.

Why the Mechanism Is *Sui Generis*

The term *sui generis* is appropriate because the mandatory reserve mechanism combines characteristics that do not correspond completely to any conventional legal category.

First, it is created directly by public law and regulatory decisions rather than by agreement between debtor and creditor. Banks cannot negotiate whether the reserve obligation applies or unilaterally determine the amount.

Second, the reserve is linked to an aggregate category of banking liabilities rather than to an individually identified obligation. Its amount changes according to the size and composition of the reserve base.

Third, the reserve is segregated or restricted but not transferred to the beneficial ownership of the persons whose deposits generated the reserve obligation. The relationship is therefore unlike a trust or escrow arrangement.

Fourth, the reserve is protected from individual enforcement. This preserves its regulatory integrity but prevents it from operating like ordinary collateral available for realization by a secured creditor.

Fifth, the mechanism has a contingent liquidation-support effect. After license revocation, the reserve may be transferred to the liquidation commission and used to meet bank obligations. Yet this effect arises only at the point of liquidation and does not create an independent reserve-specific priority.

Sixth, the reserve's amount and even its practical existence depend on monetary-policy decisions. The United States example shows that a central bank may reduce the applicable ratio to zero without abolishing the broader framework of creditor protection.

For these reasons, the mandatory reserve should be characterized as a **statutory public-law restriction over a banking asset, established for monetary, systemic, and prudential purposes and possessing an incidental security function**. It is a security instrument in a functional sense, but it is not a security interest in the technical civil-law sense.

The Meaning of "Security" in This Context

The word "security" may refer either to a proprietary device securing a particular obligation or to a broader mechanism that reduces legal and financial risk. Mandatory reserves belong principally to the second category.

Their security effect operates at three levels. At the institutional level, they constrain excessive balance-sheet expansion and preserve a minimum relationship between reservable liabilities and central bank balances. At the systemic level, they support settlement liquidity, monetary control, and confidence in the banking system. At the liquidation level, they may preserve assets that become available for the settlement of obligations following license revocation.

None of these effects gives depositors a direct right in rem. Consequently, referring to the mechanism as a *sui generis security instrument* must not imply that depositors hold collateral or that their claims are automatically preferred in liquidation. The terminology describes the protective function and restricted legal status of the reserve rather than the creation of a conventional security interest.

Legislative Implications for Uzbekistan

The present framework would benefit from greater statutory precision. Article 30 of the Central Bank Law establishes the reserve obligation and enforcement immunity but does not comprehensively define the proprietary status of reserve balances. The subordinate Regulation addresses accounting, maintenance, sanctions, and return to the liquidation commission, but fundamental questions concerning ownership and insolvency treatment are more appropriately regulated at the legislative level.

The law should expressly state whether mandatory reserves remain assets of the bank subject to a statutory restriction, constitute a special category of regulatory property, or are excluded from the insolvency estate until released by the Central Bank. Such clarification would reduce uncertainty for courts, liquidators, creditors, supervisors, and auditors.

The relationship between mandatory reserves, bank resolution, and deposit guarantees should also be clarified. The law should specify whether returned reserve funds enter the general liquidation estate, are first applied to resolution expenses, support payments to guaranteed depositors, reimburse the Deposit Guarantee Agency through subrogation, or are distributed according to the ordinary creditor hierarchy.

Any decision to earmark reserves for a particular creditor group would materially change their legal nature. If depositors or the Deposit Guarantee Agency were granted a direct priority over reserve balances, the mechanism would move closer to a statutory security interest. Such reform would require explicit rules concerning beneficiaries, priority, enforcement, competing claims, and the treatment of reserve shortfalls.

Transparency regarding remuneration is also important. Unremunerated reserves impose an opportunity cost on banks and may influence lending rates, deposit pricing, and the currency composition of liabilities. The criteria for remuneration should therefore be publicly articulated and applied consistently with the Central Bank’s monetary-policy objectives.

Finally, sanctions for reserve deficiencies should remain proportionate and procedurally reviewable. Banks should have access to clear calculation methodologies, reconciliation procedures, notice of deficiencies, and effective administrative or judicial review. Because reserve requirements directly affect liquidity and property interests, predictable procedures are essential to maintaining regulatory legitimacy.

CONCLUSION

The mandatory financial reserve mechanism under Uzbekistan law cannot be adequately classified as an ordinary deposit, pledge, trust, guarantee, capital requirement, liquidity buffer, or deposit insurance fund. It is established by public law, calculated against aggregate banking liabilities, maintained under the control of the Central Bank, protected from compulsory enforcement, and released according to special regulatory rules.

Its principal purposes are monetary-policy implementation, liquidity management, and systemic stability. It also performs secondary prudential and liquidation-support functions by restricting the bank's ability to dissipate part of its resources and preserving those resources for possible use after license revocation.

Nevertheless, the mechanism does not grant depositors or other creditors a direct proprietary claim, realization right, or reserve-specific priority. Its security function is therefore systemic and indirect rather than individual and accessory to a particular debt.

The most accurate classification is that of a ***sui generis*** **public-law security instrument**, understood as a statutorily restricted banking asset with monetary, prudential, and contingent liquidation functions. This characterization recognizes the reserve's protective qualities without incorrectly assimilating it to a civil-law security interest.

Uzbekistan should clarify the proprietary status of mandatory reserves, their place in the insolvency estate, the allocation of returned funds, their relationship with the Deposit Guarantee Agency, and the conditions governing remuneration.

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These reforms would strengthen legal certainty while preserving the flexibility required for effective monetary policy.

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