

# Insight

1 – 28 December 2014

## Russian Legislation Update

### Banking

**On 10 December 2014 the Central Bank issued Order No. OD-3463 amending its Order No. OD-286 regarding the securing of loans granted by the Central Bank with rights under loan agreements.**

According to Order No. OD-286, banks may secure loans from the Central Bank with rights under loan agreements that are governed by English law (provided the rights meet other established criteria). According to the amendments, the opportunity is available to banks whose net worth (capital) exceeds RUB 150 billion (before the amendments – RUB 300 billion).

*The Order was published in the Central Bank Herald on 16 December 2014.*

**On 18 December 2014 the Central Bank issued Letter No. 209-T.**

According to the Letter, a bank can decide to consider loans restructured without worsening the assessment of the quality of debt service – with respect to loans restructured from 1 December 2014 (for example, as a result of changes in loan currency, loan maturity or interest rate).

The Letter is effective up to 30 June 2015.

*The Letter was published in the Central Bank Herald on 22 December 2014.*



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This update is a general summary of recent developments in Russian legislation and should not be treated as legal advice. Readers should seek the advice of legal counsel on any specific question. All translations of terminology in this update are unofficial.

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**On 18 December 2014 the Central Bank issued Letter No. 210-T.**

According to the Letter, a bank can decide not to worsen the assessment of a debtor's (counter party's) financial position and/or the quality of debt service if payment arrears and/or deterioration of the debtor's (counter party's) financial position are related to the restrictive measures.

The Letter is effective up to 30 June 2015.

*The Letter was published in the Central Bank Herald on 22 December 2014 and abolished Letter No. 184-T of 21 October 2014 on the same matter.*

**On 18 December 2014 the Central Bank issued Letter No. 211-T.**

According to the Letter, until 1 July 2015 banks can include foreign currency operations recorded in balance sheet and off-balance sheet accounts up to 31 December 2014 in the calculation of mandatory ratios on the basis of the official foreign currency/rouble exchange rate set by the Central Bank as of 1 October 2014.

*The Letter was published in the Central Bank Herald on 22 December 2014.*

**On 25 November 2014 the Central Bank issued Directive No. 3453-U "On Peculiarities of Using Credit Ratings for Application of Central Bank's Regulations."**

*The Directive was registered with the Ministry of Justice on 16 December 2014.*

According to the Directive, for the purposes of applying the Central Bank's regulations referring to a credit rating assigned by an international rating agency, the Central Bank's Board of Directors can fix the date for which the rating was established (the rating date is to be published at [www.cbr.ru](http://www.cbr.ru)).

*The Directive entered into force on 22 December 2014.*

## Payment System

**On 6 November 2014 the Central Bank issued Directive No. 3439-U "On the Procedure for Recognizing by the Central Bank of Credit Organizations as Important in the Market of Payment Services."**

*The Directive was registered with the Ministry of Justice on 3 December 2014.*

According to the Law on the National Payment System, credit organizations that are recognized *important* in the payment services market must participate in the National System of Payment Cards (NSPC) and must arrange for interaction with operational and payment clearing centers of NSPC.

The Directive establishes the criteria for recognition by the Central Bank of which credit organizations are important in the payment services market. The Central Bank will publish the list of such credit organizations in the Central Bank Herald and at [www.cbr.ru](http://www.cbr.ru).

The Directive will enter into force on 27 December 2014.

## Corporate

### Civil Code Reform

**On 1 December 2014 the Central Bank issued Information Letter No. 06-52/9527 clarifying the application of certain new provisions of the Civil Code on public and non-public companies.**

The Central Bank has clarified the following.

*The indicia of a public JSC.* A JSC is not public if: (i) its securities, which were publicly circulated or placed, had been cancelled before 1 September 2014 and (ii) it has the prospectus of the (issue of the) securities but, simultaneously, it has *no* indicia of a public company established in Article 66.3(1) of the Civil Code, i.e. its shares and securities convertible into shares are neither placed nor circulated publicly.

*The disclosure of information.* Public and non-public JSCs must disclose the information pursuant to Article 92 of the JSC Law and Charter VIII of the Regulations for the Disclosure of Information by Issuers of Securities<sup>1</sup> as well as according to Article 30 of the Securities Market Law. The mere fact of the public status does not create for a JSC the disclosure obligations.

*Voluntary and mandatory offer, buy-out of securities.* The provisions of the JSC Law on acquiring more than 30% of shares of an open JSC (Chapter XI.1) apply to securities of **open** JSCs until their charters are amended according to the Civil Code **and** also apply to securities of **public** JSCs. The relevant acquisition procedures initiated before 1 September 2014 do **not** terminate due to the fact that an open JSC became public or non-public.

*The Information Letter is available at [www.cbr.ru](http://www.cbr.ru)*

### **Notarial Certification of the Decisions by the General Meeting of a Company's Participants and the List of the Attended Participants**

**On 17 November 2014 the Federal Notary Chamber (FNC) adopted the Guidelines on the procedure for notarial certification on the adoption of decisions by a company's participants at a general meeting and the list of participants present at the meeting.**

Pursuant to the May 2014 amendments to the Civil Code, introduced by Federal Law No. 99-FZ, from 1 September 2014, companies must confirm the adoption of decisions by a company's participants (shareholders) at a general meeting and the list of the participants present at the meeting. Non-public companies (limited liability companies and joint-stock companies) may confirm the adoption of the decision and the list of the participants by notarial certification.

On 1 September 2014, the FNC issued Letter No. 2405/03-16-3 (refer to our update for 8-28 September 2014) providing for some guidelines on the procedure for the notarial certification of the above legal facts. The new Guidelines are an updated version of the previous document and in particular clarify the following:

- the notary verifies the list of the participants (shareholders) present at the meeting and the quorum for the at least one agenda item, but he/she does not verify either the legitimacy of the decision adopted at the general meeting or the completeness and the legitimacy of the actions of a company's bodies when preparing for the general meeting; and
- the notary issues the certificate for the confirmation of the adoption of the decision to the company's CEO (the form of the certification is provided in the Guidelines).

The FNC has excluded from the Guidelines the obligation of the notary to observe a duplicate of any corporate agreement if one has been concluded.

*The Guidelines are available on the FNC website at [www.notariat.ru](http://www.notariat.ru)*

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<sup>1</sup> Adopted by the FSFM Order No. 11-46/pz-n dated 4 October 2011.