

Insight

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Russian Legislation Update

Judicial Reform

On 4 June 2014 the President signed Federal Constitutional Law No. 8-FKZ “On Amendments to Federal Constitutional Law “On Commercial Courts of the Russian Federation” and Article 2 of the Federal Constitutional Law “On the Supreme Court of the Russian Federation”.

The Law addresses the status of the clarifications given by the Plenum of the Supreme Commercial Court (the “SCC”) after the abolition of the said Court. The clarifications of the SCC Plenum with regard to the issues of court practice on the application of laws and other normative legal acts will remain in force until the relevant resolutions on the subject are adopted by the Plenum of the Supreme Court.

The status of the resolutions of the SCC Presidium is expected to be addressed by the upcoming amendments to the Russian Commercial Court Procedure Code¹.

Matters of organizational support for the operation of commercial courts will be transferred from the abolished SCC to the Judicial Department of the Supreme Court. The functions of the administrators of the commercial courts will be performed by the Chairmen of the relevant commercial courts under the control of the Judicial Department of the Supreme Court.



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¹ Draft Federal Law No. 466670-6 “On amendments to the Commercial Court Procedure Code of the Russian Federation,” adopted by the State Duma in the second reading on 18 June 2014: <http://asozd2.duma.gov.ru/main.nsf/%28SpravkaNew%29?OpenAgent&RN=466670-6&02>

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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 4 June 2014 the President signed Federal Law No. 143-FZ “On Amendments to Certain Legislative Acts with Regard to Changes in the Jurisdiction of Certain Categories of Cases Considered by Courts of General Jurisdiction and Commercial Courts.”

The Law amends a number of legislative acts in accordance with the upcoming amendments to the Russian Commercial Court Procedure Code, in particular, with regard to changes in jurisdiction over cases on challenging normative legal acts. Certain cases of this category are transferred from the jurisdiction of commercial courts to courts of general jurisdiction. Similar inter-jurisdictional transfer is envisaged for cases on challenging the cadastral value of immovable property.

The amendments to the Russian Administrative Offences Code provide, in particular, for the possibility to transfer to the Supreme Court the decisions of the commercial courts on administrative offences for revision, once the case was considered by commercial courts of all levels of appeal.

Both Laws will enter into force on 6 August 2014 (the first working day of the newly merged Supreme Court).

Banking

On 18 February 2014 the Bank of Russia approved Regulations Nos. 415-P и 416-P on the procedures and criteria for evaluation of the financial standing of companies and individuals acquiring a bank’s shares.

The Regulations were registered with the Ministry of Justice on 2 and 3 June 2014, respectively.

Regulations No. 415-P establish the procedure and criteria for evaluation of the financial standing of legal entities that acquire shares (participation interests) of a Russian credit organization (at the time of its establishment, due to an increase of its charter capital, due to share purchase on the secondary market or as a result of reorganization).

It also establishes the procedure and criteria for evaluation of the financial standing of legal entities being current shareholders (participants) of a credit organization with a stake of more than 10% shares (participation interests) or controlling such shareholders (participants). As per the Regulations, these legal entities are required to submit to the Bank of Russia, on an annual basis, a copy of their annual financial statements with an audit report (certain entities listed in the Regulations are exempt from this requirement, in particular – organizations supervised by the Bank of Russia).

By analogy with Regulations No. 415-P in relation to legal entities, Regulations No. 416-P establish the procedure and criteria for evaluation of the financial standing of individuals who acquire shares (participation interests) of a credit organization. At the same time, they do not provide for the evaluation of the financial standing of individuals being current shareholders (participants) of a credit organization.

The Regulations will enter into force on 27 June 2014 and replace previous Regulations Nos. 337-P and 338-P on the same matters.

On 17 May 2014 the Bank of Russia issued Directives No. R-399 and R-400 approving standards and recommendations relating to information security.

The approved documents set out the principal requirements for ensuring information security by credit organizations (in particular, in connection with the use of the Internet and cryptographic means for protecting information, processing of personal data) and the approaches to the processes of detection of, and reaction to, incidents in the sphere of information security.

The standards and recommendations became effective as of 1 June 2014.

On 29 April 2014 the Bank of Russia issued Directive No. 3248-U on amending Regulations No. 383-P “On the Rules for the Transfer of Funds.”

The Directive was registered with the Ministry of Justice on 19 May 2014.

The Directive, among other things, specifies that a payer is entitled to change or revoke its prior acceptance for direct debiting before the payee’s request is submitted to the payer’s bank.

The Directive will enter into force on 8 June 2014 save for certain provisions that will enter into force later.

First Reading

On 17 June 2014 the State Duma adopted in the first reading Draft Law No. 501490-6 establishing a quota for the participation of foreign capital in the banking sector.

The Draft Law establishes a 50% quota (threshold) for the participation of foreign capital in aggregate charter capitals of Russian credit organizations. Certain foreign investments listed in the law will not be taken into account for calculating the quota, in particular – foreign investments made before 1 July 2007 and investments of credit organizations being subsidiaries of foreign banks.

On 17 June 2014 the State Duma adopted in the first reading Draft Law No. 506758-6 regarding the transfer by Russian financial organizations of information to foreign tax authorities.

The Draft Law aims to regulate the procedures for the transfer of information to foreign tax authorities (in connection with FATCA). Credit, insurance and other financial organizations will be entitled to transfer to foreign tax authorities information regarding their clients being subject to foreign laws on taxation of overseas accounts, provided that (i) a respective client has consented to that; and (ii) Rosfinmonitoring (being the Russian anti-money laundering body) has not issued a ban on the transfer of such information.

On 17 June 2014 the State Duma adopted in the first reading Draft Law No. 501767-6 regarding application of a statutory ban on banks to engage in trading activities.

The Draft Law specifies that a ban on credit organizations engaging in trading activities shall not apply, *inter alia*, to sale of property by way of enforcement of pledge or sale of property received by way of compensation (*otstupnoye*).

The provisions of the Draft Laws will apply if adopted by the State Duma in three readings, approved by the Federation Council, signed by the President and officially published.