

Insight

3 – 23 March 2014

Russian Legislation Update

Banking

On 5 December 2013 the Bank of Russia issued Instruction No. 147-I “On the Procedure for Inspecting Credit Organizations (Their Branches) by Authorized Representatives of the Bank of Russia.”

The Instruction was registered with the Ministry of Justice on 21 February 2014.

Instruction No. 147-I represents an updated version of Instruction No. 105-I. It provides, among other things, for the procedures of submission by an inspected bank of documents in electronic format, and also provides for the possibility of requesting information (to check the data obtained from the bank) from other banks that are not clients or correspondents of the bank. The bank’s manager is to provide an inspection act to the board of directors no later than 10 business days after its examination (as opposed to 15 days previously).

The Instruction will enter into force on 24 March 2014.

On 25 February 2014 the Bank of Russia issued Instruction No. 149-I “On Organization of Inspections by the Bank of Russia.”

Instruction No. 149-I represents an updated version of Instruction No. 108-I. It provides, among other things, that specialized inspections (i.e. inspections with respect to a particular area of a bank’s business – compliance with the mandatory reserves’ requirements, asset compliance, cash operations, and operations with cash foreign currencies and checks) are to be conducted within up to 20 business days. It also expands the list of grounds for conducting unscheduled inspections by adding “changes in the business prospects” of the bank, including its exposure to risks and control quality.

The Instruction will enter into force on 24 March 2014.



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Anti-Money Laundering

On 21 January 2014 the Bank of Russia issued Directive No. 3179-U amending Regulation No. 262-P "On Identification by Credit Organizations of Clients and Beneficiaries to Combat Money Laundering [...]."

The Directive was registered with the Ministry of Justice on 11 March 2014.

The Directive expands the list of data to be obtained by banks to identify their clients (legal entities) by adding data on operations planned to be performed through a bank account, on the client's financial standing and business reputation.

The Directive will enter into force on 30 March 2014.

On 31 January 2014 the Bank of Russia issued Directive No. 3186-U amending Regulation No. 375-P "On the Requirements to the Rules of Internal Control of a Credit Organization to Combat Money Laundering [...]."

The Directive was registered with the Ministry of Justice on 6 March 2014.

The Directive expands the scope of issues that need to be addressed by the bank's rules of internal control, in particular, the procedure for identifying clients' beneficial owners and the procedures for freezing (blocking) clients' funds.

It also describes factors to be taken into account by banks when deciding whether to refuse to open a bank account or conduct a client's operation (if they suspect that the account/operation is intended for money laundering purposes).

The Directive also extends the list of indicia of "unusual transactions" in order to detect operations that may be suspected to pursue money laundering purposes (with due regard for the nature of the client's business). For example, the list was supplemented with the following indicia: (i) an operation is made for a large amount by a high-level public official; (ii) the client, its founder or beneficial owner is registered in an offshore zone; (iii) a loan is granted or repaid whereby the interest rate is lower than the CBR refinancing rate; (iv) a resident provides a loan or advance under a foreign trade contract to a non-resident who failed to perform its obligations to the resident before; (v) transfer of funds by a resident to a non-resident based on a transaction related to the rendering of services.

Finally, the Directive provides that banks are obliged to bring their rules of internal control into compliance with the amendments to the Anti-Money Laundering Law and the requirements of anti-money laundering regulations no later than three months after their entry into force (unless the relevant amendments/regulations provide otherwise).

The Directive will enter into force on 31 March 2014.

Electric Power / Renewables

On 17 February 2014 the Government issued Resolution No. 116 on amendments to certain regulations on issues related to the use of renewable energy sources (RES) on the wholesale energy (capacity) market.

The Federal Law "On the Electric Power Industry" provides incentive mechanisms for the use of RES for electric power production. There is an approved list of qualification requirements a generating facility must meet in order to be recognized as operating with the use of RES. The Resolution extends the respective list to also include facilities: (i) operating on the basis of combined use of various types of fuel, including RES and (ii) included in a programme of long-term development of the electric power sector in a particular region. The Resolution also provides for regular inspections by the Market Council of generating facilities with respect to their compliance with the qualification requirements and expands the list of grounds for the exclusion of a generating facility from the register of qualified facilities. Taking into account the established target levels for the degree of localization of production of renewable generating facilities of each type within Russia (as a percentage), the Resolution defines a procedure for the measurement of the degree of localization of such facilities.

The Resolution entered into force on 5 March 2014, save for certain provisions.

On 17 February 2014 the Government issued Resolution No. 117 with respect to certain issues related to certificates confirming volumes of power produced by generating facilities based on RES.

In order to confirm that electric power is produced from generating facilities functioning on the basis of RES, facilities' owners must obtain certificates from the Market Council. The Resolution, in particular, establishes a procedure for the issuance, amendment and cancellation of such certificates as well as maintenance of their register (previously, the procedure for register keeping was defined by the Ministry of Energy). The information in the register is publically available and can be found on the Market Council's website.

The Resolution entered into force on 1 March 2014