

Insight

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The subsequent FAS notification requirement under the Competition Law has been abolished.

On 28 December 2013 the President signed Federal Law No. 423-FZ, amending Federal Law No. 135-FZ "On the Protection of Competition" dated 26 July 2006 (the "Competition Law"). The amendment will enter into force on 30 January 2014.

The amendment abolished Article 30 of the Competition Law, which specified the requirements for the subsequent notification to the Federal Antimonopoly Service ("FAS") of the transactions (actions) of commercial and financial organizations listed in Articles 27-29 of the Competition Law (which list includes actions relating to company establishment and reorganization, transactions with shares (participatory interest) and assets of and controlling rights with respect to such organizations).

According to the current version of the Competition Law, notifications of such transactions (actions) exceeding the relative thresholds (which are below the thresholds for the preliminary FAS consent) must be filed with FAS within 45 calendar days from the completion of the transaction (action). The new version of the Competition Law abolishes this requirement, which is, undoubtedly, a significant reduction of administrative barriers for these companies' activities, since the procedure for the notification preparation and submission is quite similar (in the amount of required documents and time) to the procedure for applying for the preliminary FAS consent.

The new amendment to the Competition Law also means the abolishment of the requirement to subsequently notify FAS about certain intragroup transactions (made between the entities comprising the group according to sub-clause 1 of clause 1 of Article 9 of the Competition Law, as provided under clause 2 of Articles 27-29 of the said Law) which earlier were exempted from the preliminary FAS consent requirement.



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Nevertheless, even after the amendments enter into force, the requirement for the subsequent FAS notification is preserved for a number of other intragroup transactions for which certain conditions are met, as set out in Article 31 of the Competition Law and directly stated in clause 3 of this Article.

On 24 January 2014, FAS published the clarifications regarding application of the amendments¹. According to the clarifications, it is necessary to notify FAS of transactions (actions) both where the time limit for the filing of notice expires before the amendments take effect (i.e., before 30 January 2014) and where such transactions (actions) were made within the said period. At the same time, FAS notes that in the latter instance, no administrative liability for non-notification will be imposed.

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¹ Available on FAS website in Russian language: http://www.fas.gov.ru/clarifications/clarifications_30445.html