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**RECENT UPDATES IN RUSSIAN LAW
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1. CORPORATELAW

1.1 New information disclosure requirements for Russian legal entities on fedresurs.ru register

On 1 October 2016 Federal law dated 3 July 2016 No. 360-FZ “On amending certain legal acts of the Russian Federation” providing forextension of the list of facts to be entered into the Unified Federal Register of Information about Facts of Activities of Legal Entities, Individual Entrepreneurs and other business entities (hereinafter – “**Register**”) came into force. The Register is available at <http://www.fedresurs.ru/>.

In addition to the existing requirements, legal entities are also obliged to disclose the following information via the Register:

- insolvency– information on occurrence of events indicating insufficient assets in accordance with the insolvency (bankruptcy) legislation;
- financial and accounting statements –where required by the federal law;
- guarantee – information on issuance of an independent guarantee;
- factoring – information on conclusion of a factoring agreement (to be published by the financial agent);
- audit results – information on the results of compulsory audit (to be published by the audited company);
- financial lease – information on conclusion of a financial lease agreement;
- enforcement – information on enforcement procedures initiated against a debtor’s property by the bailiff (to be published by the debtor);
- membership in self-regulatory organization – to be published by its member.

Untimely submission of information to the Register may result in a warning for officers of a company or imposition of a fine on them in the amount of 5000 RUB. Non-submission or submission of inaccurate information to the Register may result in imposition of a fine on officers in amounting from 5000 to 10000 RUB.

1.2 Major Transactions and Related Party Transactions

On the 1 January 2017 the Federal Law dated 3 July 2016 No. 343-FZ “On introduction of amendments to the Federal Law “On Joint Stock Companies” (hereafter – “**Law on JSC**”) and the Federal Law “On Limited Liability Companies” (hereafter – “**Law on LLC**”) regarding regulation of major transactions and related party transactions” came into force.

(1) General Regulation

Transactions defined as “ordinary course of business” do not require approval as major or related party transactions.

A transaction meets the ordinary course of business criteria under the following conditions:

- it meets the ordinary course of business of the company or any another business entity which conducts business of a similar type regardless of whether or not the company has entered into such transactions previously;
- it does not result in the cessation of the company’s business, a change in the type of business or a substantial change in the scale of the company’s business.

In order to challenge a major or related party transaction a shareholder (or several shareholders jointly) must hold at least 1% of the voting shares of the company.

(2) Major Transactions

Certain transactions are exempted from major transactions regime, including:

- transfers of property in connection with company reorganization;
- transactions related to the public offering;
- transactions concluded on the terms of preliminary agreement previously approved.
- transactions that are obligatory under federal law or other legal acts.

Decision on approval of a major transaction may contain the following conditions, including:

- minimum and maximum limits of terms of a transaction (e.g. maximum purchase price or minimum sale price of an asset) or a procedure of its determination;
- approval of several similar transactions;
- alternative terms of a transaction;
- approval of a major transaction under a condition of simultaneous conclusion of other transactions.
- term of validity of the approval.

It is also possible to enter into a major transaction subject to condition of its subsequent approval. A major transaction may include suspension and dissolving conditions.

Procedure of approval of major transactions cannot be applied to other transactions of the company. Instead, the company may include in its charter a requirement that the board of

directors nevertheless shall approve any transactions, which are not subject to approval according to the law, or the general shareholders' meeting based on criteria stipulated by the company's charter.

(3) Related Party Transactions

Related party transactions do not require mandatory prior approval. Preliminary approval shall be obtained at the request of:

- sole executive body, member of a collective executive body, member of the board of directors of the company; or
- shareholder or shareholders holding at least 1% of the voting shares of the company.

Non-public company is entitled to include in its charter provisions providing different procedure of approval of related party transactions compared to the one stipulated by law or completely exclude the application of such regime to the company.

Threshold for transactions requiring approval of the general shareholders' meeting was increased from 2% to 10% of the book value of the company's assets. Approval of related party transactions amounting less than 10% of the book value of the company's assets falls within a competence of the board of directors.

Moreover the transactions with a value less than 0,1% of the book value of the company's assets are exempted from the related party transactions regime provided that the value of such transactions does not exceed the limits established by the Bank of Russia.

The category of "affiliated persons" used to establish interest in a transaction has been replaced by the category of "controlling and controlled persons".

For the purposes of determination of related party transactions, a controlling person is a person who has the right to:

- directly or indirectly control more than 50% of the votes in the supreme managing body of the controlled entity; or
- appoint or elect the sole executive body and/or more than 50% of the collective executive body of the controlled entity.

A controlled person or controlled company is a legal entity directly or indirectly controlled by a controlling person. The Russian Federation, its regions or municipal units shall not be considered as controlling persons. None of these entities can be regarded as party related to a transaction.

Sole executive body, member of a collective executive body, member of the board of directors of the company, controlling person or person entitled to make instructions to the company shall provide the board of directors (or general shareholders' meeting) with following information:

- controlled legal entities;
- legal entities where they have positions in governing bodies;
- relatives interested in a transaction;
- executed or contemplated transactions where they may be considered interested.

Company shall notify non-interested shareholders and members of the board of directors on related party transaction at least 15 days prior to the date of the transaction.

The new regulation of major and interested party transactions replaced previous formalistic and excessive procedure: many transactions were exempted from obligatory approval; non-public companies got wide discretion in regulation of approval procedures. Thus the company's main business activity may be carried out without performing complicated corporate procedures. It will allow the board of directors or the general shareholders' meeting to examine the extraordinary transactions falling within their competence more carefully.

1.3 Important clarifications on corporate class actions in Russia

The Bank of Russia issued Information letter dated 3 November 2016 No. IN-06-59/77 clarifying procedure of notification of shareholders regarding the intention to file a lawsuit (hereinafter – “**Letter**”).

According to the Law on JSC a shareholder (a member of the board) shall file with the company a notification on his intention to challenge in court the corporate decision or claim company's damages. The company in its turn shall notify other shareholders.

(1) Notification order

Shareholder files such notification, which shall be delivered to the company not less than 5 days before filing the lawsuit. The company shall send the received notification to other shareholders within 3 days since getting confirmation of the court proceedings initiation. Shareholder's failure to comply with the established term does not release the company from its duty to send the notification to the shareholders.

The Bank of Russia clarifies that shareholder is obliged to send the notification to the company before applying to court. In addition to that, the shareholder shall provide case participants with all necessary procedural documents when filing a lawsuit.

(2) Liability

The Letter states that non-performance of the above duties by the shareholder or the company is a ground for imposing administrative fines on the wrongdoer or even disqualification (for the company's officers).

Therefore, when initiating a corporate dispute in Russia it is important to follow the notification order described above, especially in view of new clarifications of the Bank of Russia.

2. CAPITAL MARKETS

2.1 New edition of Securities' issue standards

The Bank of Russia adopted Directive No. 4171-U dated 28 October 2016 “On Amending the Regulation of Bank of Russia No. 428-P dated 11 August 2014” approving new edition of Securities' issue standards (hereinafter – “**Directive**”). The Directive came into force on 6 December 2016. Securities' issue standards were brought into compliance with the Law on JSC regarding acquisition of public status by joint stock companies.

The most essential provisions and changes of Securities' issue standards are reviewed below.

(1) Issuing stock

The prospectus may now be registered concurrently with the registration of the issue.

Directive includes provisions based on the Law on JSC on the possibility for the company acquiring the public status to register the prospectus simultaneously with the registration of the issue (additional issue):

- inclusion of a detailed list of the documents necessary for prospectus registration when acquiring public status;
- documents necessary for prospectus registration when acquiring public status shall be submitted to registering body before the relevant information is included in the Unified State Registry of Legal Entities (hereinafter – “EGRUL”);
- decision on prospectus registration and decision on the issue (additional issue) shall be adopted before including the information on the public status acquired in the EGRUL;
- fixation of the additional reasons for prospectus registration rejection:
 - incontinency of the size of the authorized capital (charter) and outstanding shares of the JSC, provisions of its charter, and also corporate governance of the joint-stock company with the legal requirements;
 - absence of the contract concluded by the JSC with security market operator on listing of shares of the joint-stock company.

(2) Issuing bonds

Indexation of nominal value of bonds is now possible

It is possible to include an order of indexation of nominal value of each bond in the decision of bond placement (except for bonds of credit agencies). The indexed nominal value of each bond cannot be less than its nominal value defined at the beginning of the placement.

The order of indexation is determined in the Securities' issue standards. The order provides:

- indexation frequency and term (or order of the term indexation determination);
- indexation scheme;
- indexation information disclosure order.

(3) Emerging role of the bond owner's representatives

Placement of secured bonds is subject to inclusion of the information on the owner's representative in the decision on the issue.

Placement of secured bonds (except for bonds secured by state or municipal guarantee), which are placed by open subscription or by closed subscription among more than 500 persons (excluding qualified investors) is prohibited until the information regarding bond owner's representative is included in the decision on the issue (additional issue) of bonds.

The Directive provides for other relevant amendments, such as:

- shareholders' agreement is a new basis for early registration of the report on issue results;
- possibility of placement of mortgage backed securities within the bond program;
- exclusion of provisions on actions in case of a bond default.

3. TAX LAW

3.1 Liability of individuals for debts of the companies

On 30 November 2016 the Federal Law No. 401-FZ dated 30 November 2016 “On the amendments to Parts 1 and 2 of the Tax Code of the Russian Federation and individual legislative acts of the Russian Federation – taxation policy” (hereinafter – “**Law**”) providing for liability of individuals for debts of the companies came into force.

Individuals may be liable for budget debts of the company.

The Law provides for the following amendments:

- following the results of tax audit the organization has the shortage on taxes and fees which is registered more than three months; and
- such organization transferred profit, property and other assets of the parent and (or) affiliated organization; and
- such transfer of assets entailed impossibility of collection of taxes on it;
- tax authorities have the right to make judicially responsible not only the organization, affiliated with the debtor, but also the physical persons recognized by court to be dependent towards the debtor.

The considered regulation helps to deal with unfair companies, which evade paying taxes by transferring assets to the related individuals.