



Legislation on corporate governance and activity of joint stock companies is set to undergo significant changes this autumn.

Among other things, the changes will affect the implementation of the Corporate Governance Code, the maintenance of the shareholders' register and the regulations on the corporate contract.

Implementation of the Corporate Governance Code

The Corporate Governance Code ("the Code"), recommended by the Bank of Russia for use by joint stock companies in its Letter No. 06-52/2463 of 10 April 2014, will be made compulsory for a number of state-owned joint stock companies. Representatives of these companies claim to have received the relevant directives from the Government of the Russian Federation.

Compared to the previous version of the Code (cf. Decree of the RF FCSM No. 421/p of 4 April 2002), the new version introduces a number of changes, in particular:

- New criteria for the **independence** of directors: these directors should not be associated with the company, its significant shareholders, counterparties or competitors, as well as the state

- In addition, independent directors should make up at least **one third** of the board of directors (whereas previously they had to make at least one quarter)
- Tightened requirements have been introduced with regard to the amount of **remuneration paid to a company's management**: the new Code does not recommend envisaging payments to members of the Board of Directors if the early termination of their powers is connected to a change of control over the company. It also recommends limiting the size of the "golden parachute" payments made to executive management to twice the amount of the fixed part of their annual remuneration. It should be noted that a fixed annual payment with no additional financial incentives is the preferred form of remuneration for members of the Board
- Changes have been introduced with regard to the structure and composition of **committees** established by the Board of Directors: according to the new version of the Code, the Audit Committee and Remuneration Committee must consist entirely of independent directors, and independent directors should make up over half of the Nomination Committee.

In addition, the Code pays a great deal of attention to the disclosure of information, the activities of the corporate secretary, and internal controls.

Shareholders' register: transfer to an independent organisation

In accordance with Federal Law No. 142-FZ of 2 July 2013 "On amending Subsection 3, Section I of the RF Civil Code" ("the Law"), companies that **maintain their own shareholders' register** must transfer this function to a specially-licensed registrar by 1 October 2014. Information on the registrar shall be included in the Unified State Register of Legal Entities.

Failure to transfer the maintenance of the shareholders' register to a registrar is considered an administrative offence on the part of the company and its officials, punishable with a fine from 700,000 to 1 million RUB payable by the company, and from 30,000 to 50,000 payable by the officials. In addition, company officials may be subject to disqualification for 1-2 years.

New regulations regarding corporate contracts

Finally, Federal Law No. 99-FZ of 5 May 2014 "On amending Chapter 4, Part I of the RF Civil Code and on recognising certain provisions of Russian legislation as invalid" came into effect on 1 September 2014. The changes to the RF Civil Code ("the Civil Code") include provisions on corporate contracts – the first time such provisions have been introduced to legislation at the level of a codified act.

The Law previously only contained regulations on specific types of corporate contract, including the shareholders' agreement and the agreement on implementation of the members' rights in a limited liability company. The Civil Code extends the list of possible types of corporate contract.

For example, an agreement on the implementation by the shareholders of their corporate rights may be concluded with a company's **creditors** and other

third parties. The provisions on corporate contracts will also apply to these agreements.

In addition, the new version of the Civil Code establishes the **possibility of annulling** decisions taken by the management bodies of a company in violation of the corporate contract. For this purpose, all shareholders of the company must be party to the corporate contract. However, Federal Law No. 208-FZ of 26 December 1995 "On joint stock companies" currently envisages the exact opposite rule. It is assumed that appropriate amendments will be made to the relevant legislation in the near future, but in the meantime, the question of due process of law remains open.

Contacts

We hope you find the information in this issue both interesting and useful. Our specialists are prepared to answer any questions you may have with regard to the contents of this issue. If you have any questions with regard to the information provided in this review, please feel free to contact our Tax & Legal specialists:

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