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## The “liberalisation” of currency laws Continued.

On 20 November 2019, the State Duma completed the third reading of Bill No. 753653-7 *On Amendments to the Federal Law On Currency Regulation and Currency Control and to the Federal Law On Amendments to the Federal Law On Currency Regulation and Currency Control, aimed at reducing restrictions on foreign currency transactions by Russian residents that use accounts (deposits) opened with banks outside Russia, and cash repatriation* (hereinafter – ‘the Bill’).

The key provisions of the Bill (with certain exceptions) will come into force on the day of its official publication.

We have studied the Bill in depth to gain an understanding of these changes and how they could affect the existing rights and obligations of Russian currency residents.

### In brief

The Bill introduces the following amendments:

- changes to the list of countries ('the List'), to bank accounts of Russian currency residents in which a "softer" regime is applied. The List will substitute OECD and/or FATF members with EAEU countries and states participating in the automatic exchange of financial information with Russia;
- extension of the concept of currency resident legal entities;
- expansion of the list of permitted cases for settlements in cash.



The "softer" regime for foreign bank accounts has a more extensive list of permitted cases for crediting funds to an account in a foreign bank than the regular regime.

### NB!

The list of countries that currently exchange financial information with Russia includes more than 80 countries and territories.

However, several OECD and/or FATF member states do not exchange financial information with Russia (for example, the US and UK). As a result, the regime for some foreign accounts will be relaxed significantly, while other foreign accounts will be subject to considerably stricter rules.

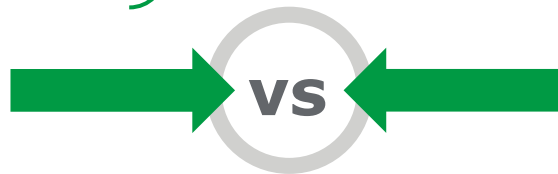
### In detail

#### For legal entities:

- The list of cases for settlements in cash is set to be expanded. This means resident legal entities will be able to:
  - refund VAT to non-resident individuals in Russian currency when exporting goods outside the EAEU customs zone (due to the introduction of the Tax Free system in Russia from 1 January 2018);
  - pay and refund expenses to individuals in foreign currency for business trips outside Russia;
  - receive unspent advances from these individuals in foreign currency.
- The concept of currency resident legal entities will be expanded to include professional foreign traders.

#### For individuals

- The Bill proposes changes to the list of countries where the "softer" regime is applied to the foreign bank accounts of Russian currency residents. So, once the Bill comes into effect, it will be possible to credit funds to accounts in EAEU member states and countries that participate in automatic exchange of financial information with Russia from the following currency operations:
  - loans provided by residents of these states for more than two years;
  - income from foreign securities;
  - funds received from the disposal of securities listed on certain stock exchanges;
  - property sale proceeds (if the property meets certain requirements).
- Resident individuals on business trips outside Russia will be able to:
  - receive foreign currency in cash from resident legal entities as a reimbursement of expenses;
  - return unspent cash advances of foreign currency to this legal entity.



- The “softer” regime for foreign bank accounts will apply to the new list of countries (territories), which contains over 80 countries, including popular jurisdictions for individuals, such as:
  - The Republic of Cyprus
  - British Virgin Islands.
- Under the proposed Bill, the changes to the list of countries will apply to transactions made since 1 January 2018. This retroactive condition in the Bill means that previously illegal transfers to accounts in countries that will be included in the List under the new rules will not be prosecuted, and will be instead listed as permitted.

For example, an individual cannot face administrative penalties for receiving dividends to an account opened in Kazakhstan if all the reporting rules have been observed.
- The lifting of several restrictions on settlements in cash.
- The new List will not include the following popular jurisdictions:
  - the UK (which has refused to exchange financial information with Russia and should therefore be excluded from the List);
  - the US.

As a result, the list of permitted currency operations will be considerably reduced for bank accounts opened in these countries. For example, crediting dividends from a foreign company to an account opened in a US bank will become an illegal transaction and could potentially lead to an administrative fine of 75-100 percent of the currency transaction amount.
- We cannot rule out the risk that tax authorities will try to penalise individuals for transactions conducted after 1 January 2018, which will be made illegal under the amendments. However, given the general principle that a law that worsens a person's position has no retroactive force, we believe this risk is remote.

As we see it, the Bill aims to liberalise currency laws for “loyal” jurisdictions that participate in automatic exchange of information.

However, the amendments essentially forbid the application of the “softer” regime for accounts opened in OECD/FATF member states that do not exchange financial information with Russia.

This means that there will be a **considerable tightening of currency regulations for several popular jurisdictions (US, UK)**, which could require urgent changes to the currency transaction model in use at the moment, should the Bill come into force.

**We will continue to monitor the progress of this Bill and will be happy to help you analyse the existing structure of your currency operations to identify potential risks and any required changes.**

**NB!** The Bank of Russia\* published a draft guidance on currency transactions permitted for accounts in other financial market organisations on its website on 25 November. The provisions of the guidelines will apply to all categories of currency resident. Credit and debit operations via these accounts will not be restricted by the type or amount of the transaction.  
Comments on the draft will be accepted until 4 December.  
<https://www.cbr.ru/Queries/XsltBlock/File/50891/3037>

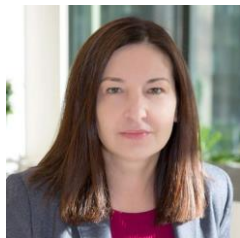
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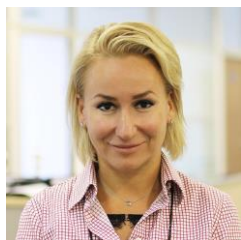
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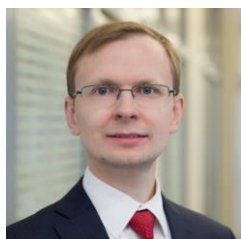
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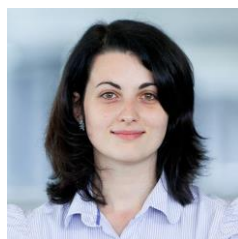
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