



## LT Digest

### Be in the know

#### Court practice

##### **Russian Supreme Court to consider first case on blocking cryptocurrency-related website**

The Russian Supreme Court [admitted](#) an appeal in cassation, seeking the blocking of the digital currency portal Bitcoininfo.ru.

The blocking was ordered by Vyborgskiy District Court of St. Petersburg in July 2016.

The court acknowledged that the information on bitcoin - a virtual payment and savings instrument - breached the provisions of the Federal Law "On the Central Bank of Russia".

Furthermore, the Court pointed out that the website must be restricted as disrupting Russia's constitutional order and authority, hampering its citizens' wellbeing and infringing their rights and legitimate interests through communication of wrongful information.

The court's resolution stated that the rouble was Russia's official currency and no other (surrogate) currencies were permitted.

The defendant's representatives stated the effective laws did not expressly ban the distribution of information on cryptocurrencies, e-money, and new payment technologies and the website was not meant as a transacting venue for such digital currencies.

[Russian Supreme Court to consider first case on blocking cryptocurrency-related website](#)

[Accounting for controlled debt as capital for tax treaty purposes: Russian Supreme Court's position](#)

[PAO Uralkali's transfer pricing case remitted for retrial Commercial Court of Moscow denies inclusion of cryptocurrency assets in individual debtor's bankruptcy estate](#)

[President of Russian Federation signs off expansion of permitted currency transactions between residents](#)

[Russian Ministry of Industry and Trade approves procedures for considering tax free pilot participation requests](#)

[Hotel classification criteria developed](#)

[Russian Federal Tax Service reports on performance in key areas in 2017](#)

[Bill on licensing beer production and distribution submitted to Russian State Duma](#)

[Bill banning liquidation of companies with negative net assets developed](#)

[Eurasian Economic Commission \(EEC\) develops product traceability system](#)

[Central Bank of Russia approves prudential ratios for banks holding basic licenses](#)

[Russian Ministry of Finance issues first clarifications on tax treatment of proceeds from cryptocurrency transactions](#)

[Russian Federal Tax Service \(FTS\) hosts round table with largest taxpayers - tax monitoring participants.](#)

[First pharmaceuticals to be registered under single EAEU rules](#)

[Pharma industry's largest SPIC signed](#)

[Russia to enable remote identification of banks' clients](#)

[Russia launches its own LinkedIn](#)

[Russian Ministry of Industry and Trade to test footwear labelling](#)

[Central Bank of Russia to launch online marketplace for sales of financial products and registration of financial transactions](#)

[Russia to develop blockchain-based register of bank depositors](#)

[EU Council approves draft tax avoidance directive](#)

[OECD releases new mandatory tax disclosure rules](#)

[EU Council amends list of non-cooperative offshore jurisdictions](#)

[OECD releases peer review reports on individual country efforts to improve dispute resolution mechanisms as part of BEPS initiative](#)

The court hearing is scheduled for 21 March 2018.

[RBCdaily](#)

### Accounting for controlled debt as capital for tax treaty purposes: Russian Supreme Court's position

On 2 March 2018, the Russian Supreme Court remitted for retrial the case of OAO SUEK-Kuzbass, which reclassified its controlled debt into capital to enable the use of a lower withholding tax rate on interest, exceeding the statutory cap.

Earlier, the Supreme Court itself sustained such reclassification in Clause 14 of the [Digest](#) of court rulings in cases on the applicability of certain provisions of Section V.1 and Article 269 of Russian Tax Code, approved by the Presidium of the Russian Supreme Court on 16 February 2017.

Nevertheless, despite the Supreme Court's position, the courts tended to rule against taxpayers (see cases No. [A50-17405/2016](#), [A40-176513/2016](#), [A55-13611/2016](#), [A55-12851/2016](#), and [A29-6805/2015](#)).

For more details on the case, please refer to LT of [24 January 2018](#).

[Electronic Justice: commercial courts files](#)

### PAO Uralkali's transfer pricing case remitted for retrial

On 6 March 2018, the Commercial Court for Moscow District reversed the decisions of lower courts (the first instance court's ruling in taxpayer's favour and the court of appeals ruling in favour of the tax authority) and remitted the case for retrial.

In the dispute, the tax authorities sought reconsideration of transfer prices the company used to supply potash fertilisers to a related Swiss trader.

The Company prepared the transfer pricing documentation to substantiate the pricing of controlled transactions using **the transactional net margin method**.

The Russian Federal Tax Service applied the **comparable uncontrolled price method** using quotes from the Argus Media database.

The tax authorities sought assessment of RUB 980 million in additional tax payments.

For more details about the content of the draft, please refer to LT in Focus of [19 July 2017](#) and LT of [24 October 2017](#).

[Electronic Justice: commercial courts files](#)

### Commercial Court of Moscow denies inclusion of cryptocurrency assets in individual debtor's bankruptcy estate

## Legislative initiatives

### President of Russian Federation signs off expansion of permitted currency transactions between residents

Federal Law No. [44-FZ](#) to that effect was signed on 7

The Commercial Court released its Resolution of Moscow of 5 March 2018 in Case No. A40-124668/2017, denying the inclusion of cryptocurrency in an individual's bankruptcy estate and granting access to the bankrupt's cryptocurrency wallet.

As part of personal bankruptcy proceedings, the debtor was requested to disclose his assets, including in cryptocurrencies.

According to the debtor, cryptocurrency assets cannot be included into his bankruptcy estate as the status of cryptocurrencies is not officially formalised in Russia and they cannot be treated as assets.

The court sustained the debtor's position on the basis of the following important conclusions:

- Russian individuals and legal entities are not prohibited from entering into cryptocurrency transactions
- Cryptocurrency is a set of digital symbols that is accessed via special software
- Blockchain is a distributed digital ledger that is used to record transactions across multiple computers around the world
- Since the concept, trading requirements, and the legal status of cryptocurrencies are not regulated by the existing Russian laws, cryptocurrency transactions cannot be governed by analogy with the existing provisions
- As the existing laws do not define the concept of cryptocurrency, the latter cannot be unambiguously classified as a property, asset, information or surrogate
- Cryptocurrencies do not represent property rights, are not covered by the existing legal framework; cryptocurrency transactions are not enforceable or secured by the state
- As cryptocurrencies are out of scope of statutory supervision and imply the anonymity of users, the ownership of cryptocurrencies in cryptocurrency wallets cannot be traced down to particular holders

The court refrained from giving a definition to cryptocurrencies until the respective law has been adopted and refused to apply civil law provisions by analogy.

The court did not clarify its conclusions on cryptocurrency transactions: despite being permitted by law, they are unenforceable by the state (and are not covered by judicial remedies).

To substantiate its position, the court cited arguments set forth in other regulatory documents: [Newsletter](#) of the Central Bank of Russia of 27 January 2014 "On Using Virtual Currencies, e.g. Bitcoin, in Transactions", [Newsletter](#) of the Central Bank of Russia of 4 September 2017, and [Newsletter](#) of Rosfinmonitoring of 6 February 2014.

[Electronic Justice: commercial courts files](#)

March 2018 (for more details, please refer to the LT of [4 October 2017](#)).

*Official Internet Portal for Legal Information*

## **Russian Ministry of Industry and Trade approves procedures for considering tax free pilot participation requests**

To be included in the pilot, a retailer must provide the following documents:

- A participation request
- A certificate of good standing from a tax authority

The request form is attached to the Ministry's respective order.

[Official Internet Portal for Legal Information](#)

## **Hotel classification criteria developed**

According to the draft, hotels will be divided into the following categories: hotels, mini-hotels, apartment hotels, motels, holiday homes, tourist camps, apartments, service apartments, boat hotels, and hostels.

A hotel classification certificate will be a mandatory prerequisite for operating a hotel service.

Depending on the type of accommodation, hotels will be assigned stars or keys:

- Stars will have six categories: five-, four-, three-star superior, three-, two- and one-star
- Keys will have three categories: three-, two- and one-key

The classification requirements are listed in the appendix to the draft regulation.

If adopted, the document will enter into force on 1 January 2019.

[Federal Draft Regulations Portal](#)

## **Russian Federal Tax Service reports on performance in key areas in 2017**

In particular, the regulator reports on the following results:

- The implementation of the risk-oriented approach to the selection of field tax audit targets helped reduce the number of such audits by 22.6 percent, while their efficiency added 14.8 percent
- The courts sustained 80 percent of claims filed by the tax authorities
- Collected tax arrears (including on social contributions) increased by 39 percent
- The efficiency of enforcing the secondary liability has improved and resulted in RUB 2 billion in fiscal revenue, a 12.6-fold increase from last year
- Criminal proceedings were initiated based on 42.8 percent of cases submitted to the law enforcement agencies by the tax authorities, 7 percent up from last year
- Over the period from 2014 to 2017, 34 transfer pricing tax audits were carried out; as at 1 January 2018, 26 additional tax assessments worth RUB 3.4 billion were ordered, thus reducing the tax losses by RUB 2.8 billion; one tax claim for RUB 0.07 billion and seven tax audits are still pending
- As at 1 January 2018, the taxpayers applying transfer prices self-assessed additional RUB 118.6

billion in profit tax for the period from 2012 to 2016

[Official Russian Federal Tax Service website](#)

## **Bill on licensing beer production and distribution submitted to Russian State Duma**

The document also proposes entitling the regional authorities to set additional restrictions as to the time, terms, and locations of retail liquor sales for catering businesses or prohibit them completely.

[Official website of the Russian State Duma](#)

## **Bill banning liquidation of companies with negative net assets developed**

The document also clarifies the provisions of the civil law enabling the use of "take or pay" contracts.

With this kind of contract, a company (customer, consignee, etc.) either purchases the pre-ordered product from the supplier (seller, carrier, etc.) or pays the supplier a penalty.

[Federal Draft Regulations Portal](#)

## **Eurasian Economic Commission (EEC) develops product traceability system**

With a single product traceability system, consumers across the EAEU will get access to the reliable product information, companies will be able to cut their operating costs, national governments will be able to control tax collections, reduce the volume of counterfeit goods, and protect consumers' rights.

The database will contain a full scope of product information, including the price and availability in stores.

The system's functionality will enable at least two types of product traceability:

- Traceability of labelled products (using a special label, such as RFID or a bar code)
- Documentary traceability (via uploaded supporting documents)

Technically, the traceability system will be designed on the basis of the existing solution integrated into the EAEU information systems.

In March - April 2018, the proposed solution will be presented to the high-level working group in charge of the implementation of the EAEU's digital agenda and the EEC Council on the Deputy Prime Ministers level.

If adopted, the project will be introduced to the Prime Ministers of the EAEU member states.

A number of tasks will still need to be addressed until the system is fully launched: assess the traceability system's market and product coverage and the required data volume to be collected supranationally; compile a single EAEU product classifier; determine the documents that will be uploaded to the system (source documents, invoices etc.); establish a platform to integrate the existing national traceability and labelling solutions; analyse the global best practices of using artificial intelligence for product tracing, etc.

[Official Eurasian Economic Committee website](#)

## Central Bank of Russia approves prudential ratios for banks holding basic licenses

In particular, five prudential ratios are introduced:

- Free capital ratio (N 1.0)
- Capital adequacy ratio (N 1.2)
- Liquidity ratio (N 3)
- Maximum risk per borrower or group of related borrowers (N6)
- Maximum risk per affiliated person/group of affiliated persons of a bank holding a basic licence (N 25)

---

## Clarifications from government bodies

### Russian Ministry of Finance issues first clarifications on tax treatment of proceeds from cryptocurrency transactions

The Ministry has underlined that cryptocurrencies are not regulated in Russia. Cryptocurrency is not an official currency and, hence, may not be an official payment instrument.

At the same time, the Ministry sets forth that the tax treatment of cryptocurrency transactions shall be

The maximum values of N 1.0, N 1.2, and N 25 will remain the same for all banks.

The maximum value of N6 was reduced from 25 to 20 percent.

The new regulation introduces a transitional period, when both the balance sheet and off-balance sheet transactions are factored in for N 6 purposes at 80% of their value and with a risk ratio depending on the borrower (counterparty).

[Garant: legislative tracking](#)

governed by the applicable tax legislation that requires taxing all revenues from profit-earning activities except those listed in Article 251 of the Russian Tax Code.

Therefore, the letter implies that the proceeds from cryptocurrency transactions are subject to profit tax.

Yet, the Ministry did not offer any clarifications as to when and how the relevant taxable base is to be calculated.

[Consultant Plus](#)

---

## Media review

### Russian Federal Tax Service (FTS) hosts round table with largest taxpayers - tax monitoring participants

Starting 2016, the tax monitoring regime has been voluntarily applied by 26 organisations, including members of Rosneft, Gazpromneft, Lukoil, Novatek, Norilsk Nickel Groups, as well as Aeroflot, InterRAO, Bank 'National Clearing Centre', Megafon, MTS, etc.

According to the FTS, of 26 tax monitoring participants, 14 chose to grant remote access to their tax and accounting data to the tax authorities and 12 preferred submitting information via the telecommunication channels.

The regulator also provided the statistics on requests for reasoned opinion (19) and the total amount of approved tax liabilities (RUB 663 billion).

The most frequent requests dealt with

- The tax consequences of transactions with unclear economics
- Questions with answers depending on document availability
- The general approach, not related to any particular transaction
- Specific transactions that may potentially be treated as aimed at obtaining of unjustified tax benefit or with the applicability of **of Article 54.1 of the Russian Tax Code**

[Official Russian Federal Tax Service website](#)

### First pharmaceuticals to be registered under single EAEU rules

The first registration requests have been filed.

In accordance with the existing EAEU rules, once an expert report is received in one of the EAEU countries

and is recognised in other member states, a registration certificate can be obtained without additional laboratory tests and the relevant product can be traded freely across the entire Union.

A full-scale registration of pharma products via the single EAEU database will commence after the system's hard launch scheduled for H1 2018. The integrated segment of the system is already complete and the national segments are pending completion in each EAEU state.

Starting January 2021, all pharma producers will be obliged to register their products under the EAEU requirements only.

Until the end of 2025, all pharmaceuticals registered under national laws must be aligned with the EAEU standards.

[Official Eurasian Economic Committee website](#)

### Pharma industry's largest SPIC signed

On 7 March 2017, the Russian pharma producer NovaMedica (an investment project of Rusnano) signed a special investment contract for the construction of a sterile injectable drug plant with the governments of the Russian Federation and Kaluga Region.

With NovaMedica's total investment exceeding RUB 3 billion, the SPIC has become the largest in the industry.

[Official website of the Russian Ministry of Industry and Trade](#)

### Russia to enable remote identification of banks' clients

Starting from 30 June 2018, private clients will be able to open bank accounts using the remote identification system.

It will require collection of facial or voice biometrics.

The remote identification is expected to be further extended to other services, such as insurance, pensions, and notarisation.

[Rossiyskaya gazeta](#)

### Russia launches its own LinkedIn

On 15 March 2018, the Russian Federal Labour Service (Rostrud) launched a professional networking platform [Skillsnet](#) designed as an alternative to LinkedIn.

The new platform will host user profiles featuring work experience, professional and personal skills, and achievements.

[Kommersant](#)

### Russian Ministry of Industry and Trade to test footwear labelling

The pilot will commence in July 2018, Minister of Industry and Trade Denis Manturov said after the meeting of the Government's commission on countering the sales of counterfeit goods.

The Minister reiterated that by 2024 the labelling mechanism is expected to cover a wider range of products.

[RNS News Agency](#)

### Central Bank of Russia to launch online marketplace for sales of financial products and registration of financial transactions

Individuals will be able to buy financial products from Russian banks and finance companies via a special

[marketplace](#) to be soft-launched in mid-April 2018.

The marketplace will integrate financial transaction platforms, financial product data marts, and self-service chat-bots.

Information on deals and open positions will be available in the register of financial transactions.

The platform will support generating custom extracts from the register that will qualify as fully valid legal instruments (e.g. in courts).

The product range will cover deposits, government and corporate bonds, and insurance products and may be further extended to include loans, investment products, etc.

[Official Russian Central Bank website](#)

### Russia to develop blockchain-based register of bank depositors

The register is planned to be launched in 2019 as a joint effort of the Central Bank of Russia (CBR) and the Deposit Insurance Agency.

When a client opens a deposit account, its details (the bank, the depositor's personal data, and the deposit value) will be recorded in the register's block stored on the CBR's server.

Another block will record additional deposits and closing of the account.

As an immutable data structure, the blockchain mechanism will help combatting non-compliant banks that destroy their client databases once their licences have been revoked and prevent clients from receiving the statutory insurance indemnity.

[Izvestiya](#)

---

## International taxation news

### EU Council approves draft tax avoidance directive

On 13 March 2018, the EU Council reached agreement on a [proposal](#) aimed at boosting transparency in order to tackle the aggressive cross-border tax planning.

It will require intermediaries such as tax advisors, accountants and lawyers that design and/or promote tax planning schemes to report schemes that are considered potentially aggressive.

The draft directive establishes 'hallmarks' to identify the types of schemes to be reported to the tax authorities.

The member states will be required to automatically exchange the information they receive through a centralised database.

They will have until 31 December 2019 to transpose it into national laws and regulations.

The new reporting requirements will apply from 1 July 2020. The first automatic exchange of information must be completed by 31 October 2020.

For more details about the draft, please refer to EU Alert of [14 March 2018](#).

[Official Federation Council website](#)

### rules

In accordance with [the new disclosure rules](#), lawyers, accountants, financial advisors, banks and other service providers will have to inform tax authorities of any schemes they put in place for their clients to avoid reporting under the OECD/G20 Common Reporting Standard (CRS) or prevent the identification of the beneficial owners of entities or trusts.

The OECD also released the [Q&A](#) on CRS and disclosure of beneficial owner information.

[Official OECD website](#)

### EU Council amends list of non-cooperative offshore jurisdictions

On 13 March 2018, the EU Council removed Bahrain, the Marshall Islands, and Saint Lucia from the list and added the Bahamas, Saint Kitts and Nevis, and the US Virgin Islands.

The EU's list of non-cooperative jurisdictions for tax purposes was first compiled in December 2017 and included 17 jurisdictions and territories.

[Official website of the Council of the European Union](#)

## OECD releases new mandatory tax disclosure

**OECD releases peer review reports on individual country efforts to improve dispute resolution mechanisms as part of BEPS initiative**

Eight reports reflect the standards implementation in the [Czech Republic](#), [Denmark](#), [Finland](#), [Korea](#), [Norway](#), [Poland](#), [Singapore](#), and [Spain](#).

These reports include over 215 recommendations

relating to the minimum standard of BEPS Action 14 and aimed at strengthening the effectiveness and efficiency of the mutual agreement procedures in tax treaty disputes.

[Official OECD website](#)

# Deloitte publications

## **Streamlining non-tax charges: incorporation in the Tax Code or a separate law?**

In their effort to put together a uniform list of non-tax charges, the Russian Ministry of Economic Development and Russian Ministry of Finance developed a draft law that would regulate the mandatory payments charged on legal entities and individual entrepreneurs and bring consistency to the non-tax charges framework.

The legislative initiative is meant to improve the business environment and improve transparency of non-tax payments administration. Including the non-tax charges into the Tax Code is another option currently on the table. The draft law that is going through the public hearings now will introduce a number of important developments.

For details, please refer to Legislative Tracking in Focus of [19 February 2018](#).

## **The Customs Code of the Eurasian Economic Union (EEU) enters into force**

The EEU Customs Code (the "Code") entered into force on 1 January 2018 and replaced the Customs Code of the Customs Union.

The Code contains quite a few references to the resolutions of the Eurasian Economic Committee (the "EEC"), thus expanding its authority. Some of the EEC resolutions were enacted together with the Code (e.g. those that regulate the automatic release of goods and introduce the form of application for release of goods prior to filing of customs declaration).

The new Code is intended to considerably simplify the customs formalities and improve the efficiency of cooperation between the customs authorities of the EEU member states, in particular, due to the improvement of electronic document flow systems and implementation of unified customs regulations. At the same time, closer cooperation between the customs authorities of the EEU member states will allow them to analyse the information available (e.g. on customs values of identical/similar goods imported into different EEU member states) and to increase control over the intra-EEU transactions (e.g. via track&trace mechanisms).

For details, please refer to Legislative Tracking in Focus of [6 February 2018](#).

## **Federal Law on Tax Free in Russia signed**

On 27 November 2017, the President of the Russian Federation signed a [federal law](#) (the "Law") that sets forth the key principles of the tax-free system in Russia. According to the Law, citizens of foreign non-EAEU states will be entitled to a refund of VAT paid on the purchases made in Russian retail stores, provided the purchased goods are then moved outside the EAEU customs territory.

The new regime is primarily aimed at boosting the retail sales and fostering tourism. Tax-free was discussed for quite a while in Russia, but never made it into the legislation until recently. Now the implementation is expected in 2018.

Read on for an overview of the key provisions of the Law and opinions of Deloitte's specialists, who were actively involved in the development of the Russian tax-free system, on its systemic impact on the Russian retail industry and the economy in general.

For details, please refer to Legislative Tracking in Focus of [8 December 2017](#).

## **Changes in VAT law: electronic services; payers of unified agricultural tax; "5% rule" for input VAT allocation; zero VAT rate for international transportation, freight forwarding services and re-export of goods; and more**

Federal Laws No. 335-FZ and No. 350-FZ, introducing amendments to Parts One and Two of the Russian Tax Code and setting forth, in particular, the new rules for

accounting for and payment of VAT with respect to certain transactions, were officially published on 27 November 2017.

Some amendments will enter into force starting from 1 January 2018, some – from 1 January 2019.

For details, please refer to Legislative Tracking in Focus of [30 November 2017](#).

\*\*\*\*\*

We hope that you will find this edition interesting and informative. Should you have any questions on this subject, please do not hesitate to contact us.

Best regards,  
**Deloitte CIS Partners**

# Contacts

## Tax & Legal



**Svetlana Meyer**  
**Managing Partner**  
Tax&Legal, Deloitte CIS  
[smeyer@deloitte.ru](mailto:smeyer@deloitte.ru)



**Gennady Kamyshnikov**  
**Managing Partner**  
Government Relations  
[gkamyshnikov@deloitte.ru](mailto:gkamyshnikov@deloitte.ru)



**Oleg Berezin**  
**Partner**  
Pharmaceuticals  
[oberezin@deloitte.ru](mailto:oberezin@deloitte.ru)



**Oxana Zhupina**  
**Partner,**  
Consumer Products  
[ozhupina@deloitte.ru](mailto:ozhupina@deloitte.ru)



**Yulia Orlova**  
**Partner**  
Metals and Processing  
[yorlova@deloitte.ru](mailto:yorlova@deloitte.ru)



**Vladimir Elizarov**  
**Partner**  
Technology, Media, Entertainment &  
Telecommunications  
[velizarov@deloitte.ru](mailto:velizarov@deloitte.ru)



**Artem Vasyutin**  
**Partner**  
Retail, Wholesale and Distribution  
Tourism and Hospitality  
[avasyutin@deloitte.ru](mailto:avasyutin@deloitte.ru)



**Alexander Sinitsyn**  
**Director**  
Global FSI  
[asinitsyn@deloitte.ru](mailto:asinitsyn@deloitte.ru)



**Tatiana Kofanova**  
**Director**  
Automotive  
[tkofanova@deloitte.ru](mailto:tkofanova@deloitte.ru)

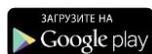


**Alexandra Konova**  
**Director**  
Oil & Gas, Energy & Resources, Mining  
[akonova@deloitte.ru](mailto:akonova@deloitte.ru)



**Yulia Krylova**  
**Director**  
Real Estate  
[ykrylova@deloitte.ru](mailto:ykrylova@deloitte.ru)

## TaxSmart app



## [deloitte.ru](https://deloitte.ru)

### About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see [www.deloitte.com/about](https://www.deloitte.com/about) for a more detailed description of DTTL and its member firms.

Deloitte provides audit, consulting, financial advisory, risk management, tax and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 244,000 professionals make an impact that matters, please connect with us on Facebook, LinkedIn, or Twitter.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.