



## LT in focus

# Upcoming amendments to currency regulation and currency control

*For the attention of companies and individuals*

On 25 September 2015, Draft Law No. 888029-6 (hereinafter the Draft Law) was introduced to the Russian State Duma, envisioning amendments to Federal Law No. 173-FZ of December 10, 2003 “On Currency Regulation and Currency Control” (hereinafter referred to as the Law on Currency Control) and Article 15.25 of the Russian Code of Administrative Offenses (hereinafter referred to as the RCAO).



### What is new

The Draft Law introduces the obligation for Russian residents (both individuals and legal entities) to ensure that funds issued as loans to Russian non-residents are received in their (Russian residents’) bank accounts. To enforce the obligation, it is proposed that the RCAO be extended with a provision stipulating administrative responsibility for failure to perform the obligation.

### Repatriation of monetary funds under loan agreements (Article 19 of the Law on Currency Control)

The current Russian legislation envisions the obligation for residents to repatriate (obtain/return) funds in the course of foreign trade activities.

The Draft Law proposes to extend the current Law on Currency Control with an obligation for residents to repatriate (obtain) funds under loan agreements in which a resident acts as a creditor and a non-resident as a borrower. Additionally, it is proposed that residents be obliged to file information with authorized banks on when the non-residents are expected to return the loans granted under the relevant loan agreements.

### Administrative responsibility (Article 15.25 of the RCAO)

The Draft Law proposes to extend Part 4 of Article 15.25 of the RCAO by codifying the grounds for bringing residents to administrative responsibility for the failure to perform their obligations to receive funds payable by non-residents under loan agreements in their accounts with authorized banks.

Please note that the Draft Law does not introduce any amendments to the size of penalties or the list of subjects subject to administrative liability relative to the current RCAO. Thus, for failing to perform the obligation, legal entities and their officers will be subject to an administrative penalty amounting to:

- 1/150 of the refinancing rate of the Central Bank of Russia on funds credited to accounts with authorized banks in violation of the contractual terms for each day in arrears; and (or)
- from 75 percent to 100 percent of the payment not credited to the accounts with authorized banks.

Thus, the current version of the Draft Law envisages the obligation to obtain loans from non-residents for all residents (both individuals and legal entities) while administrative responsibility is only stipulated for legal entities and their officers.



## What to think about

It is worth noting that the possibility of introducing the obligation to repatriate funds under loan agreements has previously been discussed already. Thus, the Russian Ministry of Finances prepared a Draft Federal Law in the first quarter of this year “On Amending Certain Legal Acts of the Russian Federation” envisioning amendments similar to the amendments stipulated by the Draft Law. However, the Draft Federal Law has not been submitted to the Russian State Duma for further consideration.

In this edition, we would like to mention another significant amendment being prepared in terms of currency legislation. The official website of the Russian Government published on 29 September 2015 a notification that the Legislative Drafting Committee has approved the draft law “On amending Article 4.5 of the Russian Code of Administrative Offenses”. An important novel is that the period of limitation to draw to administrative responsibility for violating currency legislation and acts of currency control authorities will be extended from one to two years.

# Contacts

## Raisa Alexakhina

Partner

+7 (495) 787 06 00, ext. 2950

[ralexakhina@deloitte.ru](mailto:ralexakhina@deloitte.ru)

## Andrei Goncharov

Director

+7 (495) 787 06 00, ext. 5005

[agoncharov@deloitte.ru](mailto:agoncharov@deloitte.ru)

## Alfia Mukhamatyanova

Senior Manager

+7 (495) 787 06 00, ext. 2985

[amukhamatyanova@deloitte.ru](mailto:amukhamatyanova@deloitte.ru)

## Daria Lebedeva

Senior Consultant

+7 (495) 787 06 00, ext. 1228

[dalebedeva@deloitte.ru](mailto:dalebedeva@deloitte.ru)

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