

## LT in Focus

### The Russian Federation Council votes to tighten currency regulations

On 8 November 2017, the Russian Federation Council approved the draft of Federal law On amending Articles 19 and 23 of the Federal Law On Currency Regulations and Control and the Russian Administrative Offences Code ([Draft Law No. 1166026-6](#)) (the "Draft").

We already reviewed the Draft in our previous issues (please refer to LTs of [6 September 2016](#), [23 January 2017](#) and LT Digest of [16 – 22 October 2017](#)).

The final version of the Law envisages a number of important changes, to name but a few:

- Tightening control over the repatriation of foreign currencies and Russian rouble
- Expanding the authorised banks' powers to deny currency operations
- Introducing of administrative sanctions for corporate officers committing offences in sphere of currency control.

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#### Changes in regulation of repatriation of foreign currencies and Russian rouble

The Draft tightens the currency control over the discharge of obligations under foreign trade contracts between residents and non-residents. According to the proposed wording of Part 1.1, Article 19 of Federal Law No. 173-FZ On Currency Regulation and Control as of 10 December 2003 (the Law on Currency Regulation), foreign trade contracts **must** set forth the deadlines for the discharge of contractual obligations by the parties.

Furthermore, residents will have to report to authorised banks the time of (1) receiving foreign/Russian currency transfers from non-residents in consideration of performance under foreign trade contracts; (2) discharge of foreign trade contracts by non-residents by way of transfer of goods, performance of works or services to residents, etc.

Therefore, the proposed version obliges residents to report the specific time (exact date) of foreign trade contracts' discharge to authorised banks.

The existing Law On Currency Regulation does not contain the above-mentioned requirements, obliging residents only to report the **latest expected** time of 1) receiving foreign currency or rouble transfers from non-residents to their accounts with authorised banks; 2) discharge of obligations under foreign trade contracts by non-residents.

In practice, such time is often determined based on the terms of a particular contract, other documents underlying currency transactions (e.g. customs documents), or usage of trade.

Therefore, the new version of Part 1.1, Article 19 of the Law On Currency Regulation will, to a certain extent, restrict the residents' freedom of contracting with foreign trade partners and increase the risks - for instance, by introducing sanctions for technical errors, like failure to timely notify the authorised bank of changes in contract deadlines.

#### Denial of currency transactions conduction by authorised banks

The Draft has significantly expanded the scope of grounds that entitle the authorised banks to deny currency transactions conduction. Thus, according to the existing wording of Article 23 of the Law On Currency Regulation, an authorised bank may deny an operation only for non-provision of required documents or provision of unreliable documents. Alternatively, the new version of Part 5, Article 23 adds more grounds for denying a currency transaction, for instance:

1. If a transaction is in breach of Articles 9,12,14 of the Law On Currency Regulations
2. If the documents submitted do not meet the requirements of the Law On Currency Regulations.

## Administrative sanctions for currency offences

A number of amendments are related to the introduction of administrative liability for offences in the sphere of currency control, the key change being the extension of sanctions envisaged by Article 15.25 of the Administrative Offences Code to **corporate officers**.

According to the existing wording, corporate officers mean individual entrepreneurs (see Note 1 to Article 15.25 of the Russian Administrative Offences Code). The note to the Article actually releases the corporate officers from liability for offences in the sphere of currency control. The approved Draft repeals the above-mentioned note, thus bringing the interpretation of the term "corporate officer" in line with the commonly accepted meaning.

The Draft expressly provides for the liability of individual entrepreneurs and tightens the liability for offences covered by Parts 1, 4, 4.1 and 5, Article 15.25 of the

Administrative Offences Code (unlawful currency transactions, breach of foreign/Russian currency repatriation rules).

Furthermore, the Draft introduces the disqualification of corporate officers for the period from six months to three years for committing repeated offences under Parts 1, 4, 4.1 and 5, Article 15.25 of the Administrative Offences Code. A disqualification can be imposed by a court only.

These changes to the Administrative Offences Code will be especially relevant for corporations employing foreign officials. A foreign official that has been subject to administrative sanctions twice or more within three years may be banned from entry to Russia (see Item 4, Article 26 of Federal Law No. 114-FZ On Entry To and Exit From the Russian Federation of 15 August 1996).

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We hope that you will find this newsletter interesting and informative. Please feel welcome to contact us for more information on the topics covered.

Best regards,

**Deloitte CIS Partners**

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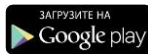
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