

## NEWS DIGEST (JUNE-JULY 2022)

Dear colleagues,

To help keep an overview of what is important for doing business in the vast flow of information, we have summarized the essential news and practical advice for foreign businesses in Russia on payments, deliveries and other aspects to look out for.

More detailed and up-to-date information is updated weekly in the [swilar Telegram channel](#).

### PAYMENTS

#### — New SWIFT removals

In June, as new sanctions packages were adopted, the list of banks cut off from SWIFT was expanded. Three more Russian banks were added to the list: Sberbank, Rosselkhozbank and Moscow Credit Bank.

Thus, the following banks are currently excluded from SWIFT (full list): "Otkritie", Bank Rossiya, VTB, VEB.RF, Moscow Credit Bank, Novikombank, Promsvyazbank, Rosselkhozbank, Sberbank, Sovcombank.

### PAYMENTS: RESTRICTIONS BY THE RUSSIAN FEDERATION

Over the course of June-July 2022, regulatory authorities have gradually lifted some of the previous restrictions and provided further clarification on the remaining regulations in force.

Below you will find a brief overview of the most significant changes.

#### — Abolition of 30% limit on prepayment under service contracts

The [limit](#) introduced in March 2022 by the Board of Directors of the Bank of Russia on the amount of advance payment under service contracts has been officially abolished as of July. The relevant announcement is [published](#) on the Bank of Russia's website with [reference](#) to the Board of Directors' Decision of 19.07.2022.

#### — Abolition of compulsory currency conversion

The regulation on compulsory sale of foreign currency earnings introduced in February (initially 80% of incoming funds were to be sold within 3 days of crediting; later the regulation was gradually relaxed to 50% within 120 days) was [officially abolished](#) from 10.06.2022.

The decision was made by a sub-committee of the Government Commission for the Control of Foreign Investment in Russia, which was authorized to do so by a [Presidential Decree](#) of 09.06.2022.

The new regulation is effective from 10.06.2022 and applies both to the revenues received on the resident's transit account in the authorized bank after the specified date and to the revenues received earlier in respect of which the mandatory conversion has not yet been carried out.

#### — Abolition of the requirement to repatriate foreign currency earnings

On 21.06., [a government commission allowed](#) exporters to credit foreign currency proceeds to foreign accounts without the obligation to transfer them to Russian accounts within 120 days. Excluded are exporters of certain commodities such as oil, oil products, timber, precious stones, etc. For them, the 120-day rule remains in force.

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— **Permission to repay foreign currency loans from foreign banks**

The Government Commission for the Control of Foreign Investment [has given permission](#) to Russian companies to repay foreign currency loans of foreign banks ahead of schedule until 1 September. The permission is issued on condition that the borrower repays at least 20% of the debt, also if the resident borrower's obligations are fulfilled by a third party, the press service of the Russian Finance Ministry has [clarified](#). Exceptions are those obligations in which the borrower and the foreign lender are related parties.

— **Possible resolution of set-offs of counterclaims under international contracts**

A [draft decree of the Russian Government](#) "On Approving the List of Cases for Offsetting Counterclaims for Obligations from Foreign Trade Contracts Concluded between Residents and Non-Residents and Determining the List of Offsetting Obligations" was published on the official internet portal of draft regulatory legal acts. The draft decree lists the cases in which it will be possible to set off claims between foreign and Russian companies. The listed situations include: transfer of goods by non-residents to residents, performance of work for a resident, provision of services, transfer of information and results of intellectual activities to a resident, claims for payment by a resident to a non-resident under loan agreements and other cases. The resolution is expected to come into force on 1 January 2023.

— **Authorisation for payment of shares in non-resident property**

From 1 June 2022, residents will be entitled to pay, without the permission of the Central Bank, shares in the property of non-residents if the payment is made in rubles or the currency of a friendly state or in the currency of a hostile state for an amount not exceeding 15 million rubles.

The respective regulations were approved by the [Decision](#) of the Working Group of the Bank of Russia dated 23.06.2022, No. PRG-12-4/138.

— **Regulations for the use of the special account type C clarified**

[By decision](#) of the Board of Directors of the Bank of Russia on 24 June 2022, the regulations for special ruble accounts type C were updated. The regulatory authority has clarified the cases in which money can be credited to and debited from C-type special accounts. Special accounts are still to be used for mutual settlements between resident debtors and foreign creditors from unfriendly countries. C-type accounts can be debited for taxes, duties, fees and other mandatory payments, for bank account maintenance fees, and for refunds of erroneously credited funds.

— **Clarifications by the Ministry of Economic Development on overseas royalty payments**

Presidential Decree [No. 322](#) of 27 May restricted payments to certain rights holders from "unfriendly" countries.

According to the Decree, a special regulation using the **special account type "O"** was introduced, in particular, for right holders from unfriendly countries who publicly support the imposed sanctions and restrictions, who prohibited after 23.02.2022 to use their intellectual property results or means of individualization, who terminated, suspended or significantly limited their activities due to sanctions;

The restrictions do not apply to recipients of payments duly fulfilling their contractual obligations, payments up to 100,000 rubles from individuals, as well as payments in cases involving medication, medical devices, communication services and some other cases.

[Clarifications](#) of the Ministry of Economic Development of 19.07.2022 have answered some urgent business questions on practice of application of the Decree provisions and payment of royalties.

It was clarified that restrictions apply, among other things, to domestic payments and sub-licences. Also, difficulties may arise if the price for the result of intellectual activity is not indicated separately and/or is not fixed by a separate agreement - in this case, an agreement should be reached with the right holder and such price should be highlighted in a complex agreement or an independent appraiser should be engaged.

#### — Procedure for paying VAT on electronic services

According to the new version of Article 174.2 of the Russian Tax Code, when providing electronic services to organisations and individual entrepreneurs (B2B), **VAT must be paid by the buyers as tax agents.**

We remind you that previously foreign companies providing electronic services had to register for tax purposes in the Russian Federation, file quarterly tax returns and pay VAT themselves (for more details, please refer to the [overview](#) posted on our website). The biggest problem in the last half of the year for foreign suppliers who had already been registered was the payment of the tax: tax payments were often withheld by foreign banks.

At the same time, it should be noted that the obligation to register for tax purposes in the Russian Federation and to file tax returns **remains unchanged** for foreign entities providing electronic services.

#### — New aspects of banking services

Due to the continuing difficulties in dealing with intermediary banks and the turbulence of exchanges in terms of currency transactions, the current situation is as follows:

- Most banks have 0% interest rates on foreign currency deposits. At the same time, on 14.07. the Russian president [signed](#) a law introducing negative interest rates on foreign currency deposits of legal entities. Under the new rules, a commission can be charged in excess of the amount of interest paid on the deposit;
- A number of banks have restricted the ability to transfer funds in foreign currency to other banks within the Russian Federation. Funds can only be transferred in rubles and need to be converted;
- Many banks are introducing or have already introduced additional commissions for maintaining foreign currency accounts, including holding foreign currency over a certain limit on current accounts.

#### — New Presidential authority to introduce special measures in the financial market

On 28.06.2022, a [law](#) was signed providing for the President's authority to introduce special measures on the financial market. The law authorises the President to impose bans and restrictions on certain transactions and operations (including currency transactions), as well as to establish specific features for the settlement of certain liabilities, including changes in the currency of the liability and the offsetting of claims against them. Special permits may be required for certain transactions. Separate powers in financial market regulation could be delegated to the Central Bank and the Cabinet of Ministers.

#### — Expected extension of restrictions beyond September 2022

The current restrictions on foreign exchange transactions previously introduced until September 2022 may be extended. This particularly concerns the regulation of cash foreign currency withdrawals by individuals. A [statement](#) to that effect was made by Elvira Nabiullina at a press conference on 22.07.2022.

As of 01.08.2022, the Central Bank has issued [information](#) on the extension of the restrictions **until 09.03.2023**. The extension concerns withdrawals of foreign currency (dollars, EUR) by both individuals and legal entities.

## DELIVERIES

#### — Parallel import

On 28.06.2022, the Russian President signed a [law](#) legalising parallel imports, subject to appropriate authorisation for the use of intellectual property rights/individualisation tools.

As a reminder, under the general regulation, parallel import is allowed in relation to brands and trademarks that have ceased operations in Russia. Under the newly

adopted regulation, the importation of goods into Russia without the consent of the rights holders will not lead to criminal and administrative liability for the importer. At the same time it should be remembered that the legalization of parallel importation does not imply the legalization of counterfeit. This has been specifically [pointed out](#) by the Ministry of Economy. The TROIS system will also continue to restrict the import of counterfeit goods into the country.

## SUPPORT MEASURES

### — Moratorium on inspections

From 01.06.2022, a [moratorium](#) on currency law checks has been introduced. The moratorium will be in effect until 31.12.2022 with respect to all currency law checks, except for checks for which violations have been previously detected and the statute of limitations on such violations has expired by the end of 2022. Also, the moratorium will not apply to violations/actions related to the implementation of restrictions and regulations imposed by the Russian Federation.

### — Minimisation of business fines

On 14.07.2022, the President signed a [federal law](#) providing for milder regulations on fines for business offences.

The new regulations provide for:

- Reduction of the fine by 50% if paid within 20 days;
- Issuance of a warning rather than a fine for the first offence (previously, a similar regulation only applied to SMEs and non-profit organisations);
- A minimum fine if the harmful consequences of the offence have been prevented or the damage caused has been remedied;
- Increase in the postponement of execution of a resolution on imposing an administrative fine, arrest, deprivation of a special right, compulsory deportation from Russia for foreigners from 1 to 6 months.

### — Reduced fines for participants in foreign trade activities

On 13.07.2022, a [law](#) signed by the president was published to reduce fines for currency law violations.

Main [changes](#):

- It is established that administrative liability for a number of violations of currency legislation **will not be incurred** if the failure to comply with the currency legislation is due to the application of restrictive measures by foreign states or foreign state institutions carrying out unfriendly acts in relation to the Russian Federation;
- The new rule will apply **retrospectively**, including to legal relationships arising between 23 February and 31 December 2022;
- From the moment the law enters into force, pending proceedings for certain violations of currency legislation shall be **terminated** and the unenforced decisions to impose administrative penalties for such administrative violations that have already been issued **shall not be enforced** - with regard to violations occurring after 23 February 2022 in connection with restrictive measures of foreign states;
- Administrative liability for a number of violations of Russian currency legislation is mitigated, in particular, fines for illegal currency transactions, non-repatriation of earnings by exporters, and fines for officials for violating currency legislation are significantly reduced.

## OTHER IMPORTANT CHANGES

### – Changes in health insurance for foreign workers

Federal Law No. [240-FZ](#) of 14 July 2022 has been published. Foreigners temporarily staying in Russia will be recognised as insured under the Mandatory Health Insurance (OMC). Naturally, the changes will affect the calculation of social contributions for this category of workers. Thus, in the future there will also be no requirement to obtain a private health insurance, previously mandatory for foreign workers with a work permit. The changes **will not affect** the category of highly qualified specialists. The law enters into force on 1 January 2023.

### – Foreign HQS no longer have to undergo a medical check-up once a year

According to Law No. [357-FZ](#) from 14 July 2022, foreign HQS will have to undergo medical testing once every three years (when renewing the work permit), instead of once a year as was previously established.

### – Expansion of the list of unfriendly countries

By [Order No. 2018-p](#) of 23.07.2022, the Russian government included Greece, Denmark, Slovenia, Croatia, Slovakia, the Bahamas and the islands of Guernsey and Man in its list of unfriendly countries. Read the original list [at the link](#).

### – Update of the list of countries with which information is automatically exchanged

The Federal Tax Service has approved new lists of territories with which automatic exchange of financial information and country reports is carried out. As a reminder, the exchange of country reports on international groups of companies is carried out within the framework of the Multilateral Agreement on Automatic Exchange of Financial Information.

Albania, Brunei, Ecuador and Peru have been added to the [list of countries](#) with which the automatic exchange of financial information takes place.

Azerbaijan, Bahrain, Gibraltar, Kazakhstan, Macao, Oman, Turkey and Gibraltar have been added to the [list of countries](#) approved for automatic exchange of country reports.

We make every effort on our part to keep processes stable for our clients and always stay in touch.

More up-to-date information [in our Telegram channel](#).



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