

NEW IN THE RULES FOR ISSUING PERMITS BY THE GOVERNMENT COMMISSION

14.03.2024

Dear colleagues,

we bring to your attention a review of the latest changes in the procedure for transactions with shares of OOs with participants from unfriendly countries.

We would like to remind you that any transactions or groups of transactions with securities of Russian legal entities and/or shares constituting the share capital of Russian legal entities require obtaining permits from the Government Commission and performing a number of procedures (obtaining an independent assessment, establishing KPIs, etc.).

On 23.01.2024, [Decree of the Government of the Russian Federation dated 22.01.2024 No. 40](#) "On amendments to the Decree of the Government of the Russian Federation dated 06.03.2022 No. 295" (hereinafter – the "Decree No. 40") was published, which contains some clarifications of the procedure.

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Decree No. 40 established the need to comply with certain previously formulated conditions for obtaining permits (see Extract from the decision of the subcommission [dated 07.07.2023 No. 171/5](#)) and made some additions.

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In particular, it is now established at the regulatory level ([clause 5 \(1\)](#) of the Rules approved by the Decree of the Government of the Russian Federation dated 06.03.2022 No. 295, hereinafter - the "Rules") that the following information must be additionally included in the application for a permit:

- **report on an independent assessment of the market value** of the relevant securities of Russian legal entities and/or shares constituting the share capital of Russian legal entities.

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This assessment must be carried out by an appraiser engaged in private practice and included in the list of appraisers (appraisal organizations) recommended by the subcommission to carry out such an assessment, *or* by an appraiser who has entered into an employment contract with a legal entity included in such a list ([paragraph 3 of clause 1](#) of Decree No. 40). The right to determine the specified list is granted to the subcommission ([clause 8](#) of Decree No. 40).

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- **key performance indicators and their target values** for buyers, proposed as conditions for the implementation of transactions or a group of transactions.

Decree No. 40 also details the procedure for monitoring the achievement of key performance indicators.

In particular, Decree No. 40 clarifies who will monitor the implementation of the set KPIs (performance indicators). Monitoring of achievement of indicators and their target values will be carried out by:

- federal executive authorities (in each case, the authority will be determined depending on the scope of activity of the legal entity or party to the transaction), *and (or)*
- the Central Bank of the Russian Federation,

on the basis of documents confirming the achievement of these indicators and their target values, submitted within the time limits established in the decisions of the subcommission ([clause 8](#) of Decree No. 40).

Please note that, in accordance with the [clause 5 \(2\) of the Rules](#), the requirement to include additional information in the application in the form of an independent assessment report, as well as KPIs, **does not apply to** transactions and operations:

- between persons included in the same group of persons in accordance with competition law,
- between persons associated with unfriendly countries.

Additionally, you can read our previously published reviews on the topic: [on the procedure for issuing permits](#) for transactions with shares in the share capital of OOs, [on the conditions for obtaining permits](#) for transactions with shares in OOs, as well as [on changes to these conditions](#).

We will be happy to answer your questions!

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