

CRIMINAL LIABILITY OF LEGAL ENTITIES



A draft bill “On Amendments to Certain Legislative Acts of the Russian Federation in connection with the introduction of Criminal Liability of Legal Entities” has been introduced to the State Duma.

The draft bill defines approximately thirty criminal offences of legal entities (for example, legalization (laundering) of money, bribery, violation of international capital flight rules, acts of terrorism, employment of slaves, sale of people, etc.), as well as six types of applicable sanctions. These sanctions include warnings, fines, cancellation of licence, deprivation of the right to carry out certain activities, prohibition from carrying out activities on the territory of the Russian Federation and forced liquidation.

The guilt of legal entity is to be established on the basis of the guilt of its general director.

Criminal liability would in future be imposed not only on Russian, but also

on foreign companies, as well as on international organizations and separate subdivisions carrying out activities on the territory of the Russian Federation. The imposition of liability on individuals does not exclude criminal liability of companies and vice versa.

[Draft Bill No. 750443-6](#)

Antitrust Law

Failure to comply with the law on investments in strategic companies

The FAS of Russia has prepared a draft bill introducing amendments to the Federal Law “On the Procedure for Foreign Investments in Business Entities of Strategic Importance for Russian National Defence and State Security.

Liability for failure to notify the FAS about the acquisition of five or more per cent of shares (stakes) in the charter capital of business entities of stra-

Dear Readers,

We are pleased to bring you the new issue of Legal Express, covering legislative changes in Russia for April, May and June 2015.

The State Duma is considering the draft bill on the introduction of criminal liability for legal entities. If adopted, it will allow not only the legal entity itself to be held liable, but also its senior officers.

Syndicated loans will be regulated in detail by the Civil Code; the rules for claiming penalties for the breach of monetary obligations will also be changed. The relevant proposals are currently being reviewed by the State Duma.

The resolution of corporate disputes by arbitral tribunals will in future be permitted. If arbitrators and the arbitration institution cause damage to the parties to arbitral proceedings, the latter will have the right to claim compensation. This is envisaged by a new draft bill which has been introduced into the State Duma.

Foreign employees will have to comply with a list of requirements established by the Government.

This Newsletter deals with these topics and other legislative news.

We wish you pleasant reading.

Yours sincerely,
Noerr OOO

ategic importance, in particular, the deprivation of the right to vote at the general meeting of shareholders under the claim of FAS has been introduced. The right to vote can be restored through court proceedings upon provision of the required information by the acquirer. By comparison: under current legislation the company can bear only administrative liability in the form of fine up to RUB 500,000.00.

The obligation of investors located on the territory of the Republic of Crimea and the city of Sebastopol to notify the FAS about ownership of five or more per cent of shares (stakes) in the charter capital of business entities of strategic importance within 90 days from the date on which the registration of the company is entered in the Unified State Register of Legal Entities has been introduced.

[Draft Bill No. 788849-6](#)

Banking law

Syndicated loans

A draft bill “On Amendments to Chapter 42 Part Two of the Civil Code of the Russian Federation and to Several Legislative Acts of the Russian Federation (the “**Draft Bill**”) has been introduced for public discussion by the Ministry of Finance.

The Draft Bill proposes the introduction of provisions on syndicated loans to the Civil Code of the Russian Federation.

Pursuant to the Draft Bill, an agreement on the basis of which several creditors or credit organizations (syndicate of creditors) undertake to provide on a repayable basis monetary funds to the borrower is a syndicated loan agreement.

In addition to the standard provisions of loan agreements (amount of loan, interest rate and repayment procedure, charging of interest), a syndicated loan agreement also has to include the following provisions: proportions of obligations of parties to the transaction, specification of a party that bears

the default risk of the borrower, procedure for making joint decisions by creditors.

The creditors can transfer claims under the agreement without the consent of the borrower. and regulations on private partnerships can be applied to a syndicated loan, if this is specified in the agreement.

[Draft Bill](#)

Calculation of bank deposit value

The Bank of Russia has issued an instruction (the “**Instruction**”) which amends the procedure for disclosure by banking organizations of information on interest rates for bank deposit agreements concluded with individuals.

Under current Russian laws, maximum interest rates for deposits are to be calculated as the entire value of the deposit. For these purposes the average annual profitability will be used instead of the effective interest rate.

Furthermore, the new form of XML file for submission of information on maximum interest rates has been approved.

The Instruction came into force on 26 April 2015.

[Instruction of the Bank of Russia No. 3606-U dated 23 March 2015](#)

Information on clients' operations

Rosfinmonitoring has determined the procedure for sending inquiries on clients' operations, flows of funds between their accounts, and their beneficial owners.

For these purposes, Rosfinmonitoring has been established as the competent authority for the development and placement on its website of the structure of such electronic inquiries. The inquiries by Rosfinmonitoring are to be further reviewed by the Bank of Russia.

The Order is in force as of 22 May 2015.

[Order of Rosfinmonitoring No. 349 dated 23 December 2014](#)

Civil Law

Penalty for non-monetary obligations only

A draft bill “On Amendments to the Civil Code Provisions on Penalties” has been introduced into the State Duma. The establishment of different kinds of liability for violations of monetary and of non-monetary obligations by allowing a penalty only for the violation of the latter has been proposed. For the violation of monetary obligations only the accrual of interest under Art. 395 of the Civil Code will be provided for. In order to distinguish between the two types of obligation, the proposal is to define a monetary obligation as an obligation of the debtor to pay to the creditor a certain amount of money which based on a civil-law transaction or other lawful ground. The proposed amendments are aimed at the exclusion of double liability.

[Draft Bill](#)

Corporate

Reduction of the term of state registration

A bill that proposes a reduction of the time it takes for the state registration of legal entities and individual entrepreneurs has been introduced to the State Duma (hereinafter - the “**Draft Bill**”). According to the Draft Bill, a single period of three working days will be set for the registration of a legal entity (or person as an individual entrepreneur).

By comparison, now the state registration takes five working days.

[Draft Bill No. 776910-6](#)

Employment Law

Additional guarantees for pregnant women

The draft law on additional guarantee for pregnant women working on the basis of a fixed-term employment agreement was approved in its first reading.

Fixed-term agreements will have to be extended until the end of maternity leave. In order to extend the term of the agreement, a woman needs to provide her sick-leave certificate for the maternity leave.

Fixed-term employment agreements are currently extended only until the end of pregnancy.

[Draft Bill No. 200036-5](#)

Qualification of foreign employees

The Government has approved the requirements which need to be met by foreign employees sent by a commercial organization registered in a Member State of the World Trade Organization (WTO) to work in branches or subsidiaries in Russia.

Foreign employees must comply with at least two of the requirements listed below:

- working experience in the relevant field of at least four years;
- an academic degree and (or) academic title recognized in the Russian Federation;
- a recommendation letter from the relevant foreign organization certifying the skills and knowledge of the employee; a recommendation letter from a professional association or organization, or their union, of which the foreign employee is a member;
- achievements in a particular field of activity, confirmed by patents, copyright certificates and other documents.

Government Resolution No. 424 dated 30 April 2015

Litigation

Reform of arbitral proceedings

In the context of the arbitration reform, a draft bill "On Arbitration in the

Russian Federation" has been introduced into the State Duma.

According to the draft bill, permanent arbitration institutions may be created only as non-profit organizations.

Arbitration institutions will be subject to special requirements, such as the annual rotation of the committees, etc. The non-profit organization in which such arbitration institution is intended to be established must first obtain the government's approval.

Furthermore, it is envisaged that the damage caused to the parties to arbitral proceedings due to the failure by the arbitration institution and the arbitrators to properly perform their functions is to be reimbursed by the latter.

Another important innovation concerns the competence of the arbitral tribunal: the bill proposes that corporate disputes can be referred to arbitral tribunals for their scrutiny.

For arbitration initiated for the settlement of a specific dispute a number of restrictions are envisaged. They concern both the competence of arbitral tribunal (it may not consider corporate disputes) and the procedure (state courts will not be able to assist them in obtaining evidence).

[Draft Bill](#)

Real Estate and Construction

Requisitioning of land plots

On 1 April 2015, the Land Code provisions regulating the procedure for requisitioning land plots for public needs entered into force.

From now on, the grounds for requisitioning may only be determined at federal level.

The newly introduced provisions extensively regulate the procedure for the requisitioning of land plots. In particular, they determine in detail the

authorities which have the power to decide on requisitioning, the conditions of requisitioning, the procedure for the preparation of the requisitioning agreement, and the amount of compensation. The procedure for requisitioning has one more stage for completion, namely, the identification of the rights holder.

Corresponding amendments have also been introduced to the Federal Law "On the State Registration of Rights to Real Estate and Related Transactions". The transfer of rights to the requisitioned land plot may only be carried out after prior compensation of the value of the requisitioned land plot, unless stated otherwise in the agreement.

Federal Law No. 499-FZ dated 31 December 2014 Resolution of the Government No. 424 dated 30 April 2015

Securities Market

Exemption from disclosure requirements

Russian legislation allows joint stock companies to file an application for their exemption from the obligation to disclose information. A Regulation issued by the Bank of Russia has changed the review procedure for such applications.

This review is now carried out by the Bank of Russia (the Department responsible for admission to financial markets).

In order to be released from the duty of disclosure, the issuer must submit an application and a number of related documents, the list of which is defined by the Bank of Russia. The authorized body must make a decision no later than 30. This Regulation came into force on May 3, 2015.

Regulation of the Bank of Russia No. 461-P dated 2 March 2015

State Regulation

Reform of the notary system

A draft bill “On the Notary System and Notarial Service” has been introduced to the State Duma. The draft bill is aimed at the replacement of framework legislation on the notary system which is currently in force and proposes substantial amendments to the existing legislation:

- a new system of liability for damage caused by actions of notaries and other persons involved in notarial activities is to be introduced;
- a new system of the compulsory insurance of professional liability risks for notaries has been developed, which provides for guarantees for persons who have suffered damage in the form of increased insurance coverage amounts: 30 million roubles for individual insurance and 50 million for collective insurance (currently the required insurance coverage is 1.5 million roubles for individual insurance and 500,000.00 roubles per notary for collective insurance);
- the possibility to challenge documents certified by a notary in court on the grounds of violation by the notary of a procedure provided for by law is regulated in detail (by comparison: the current legislation only indicates the possibility of dispute without specifying the grounds);
- notaries are allowed to collect the necessary documents and information themselves.

[Draft Bill](#)

For further information please contact:



Peter Schulze

Local Partner

peter.schulze@noerr.com



Anna Fufurina

Senior Associate

anna.fufurina@noerr.com

Legal Express is provided by Noerr to clients as a free newsletter service. The scope and information herein are for informational purposes only and do not constitute any legal or tax advice or opinion, which should be provided on a case-by-case basis.

Should you have any questions on issues reported here or on other areas of law, please contact the authors.

© Noerr OOO
06/2015
www.noerr.com