

7. CURRENCY REGULATIONS

7.1 Introduction

The *Civil Code* states that the ruble is the national currency of the Russian Federation. Although agreements may refer to the ruble value equivalent of foreign currency, all transactions conducted inside the Russian Federation must, as a general rule, be settled in rubles. The *Civil Code*, however, permits the use of foreign currency in cases provided for by law. Federal Law No. 173-FZ *On Currency Regulations and Currency Control*, dated 10 December 2003, as amended, (the *Currency Law*) establishes the basic rules of currency regulation and control.

7.2 Currency Operations

The *Currency Law* regulates a broad range of currency operations including:

- Payments made in a foreign currency;
- Transfer of foreign securities;
- Ruble transfers between a Russian resident and a non-resident or between two non-residents;
- Transfer of domestic securities between a resident and a non-resident or between two non-residents;
- The import and export of rubles and securities;
- Transfer of funds and securities from the overseas account of a resident into a domestic account, and *vice versa*; and
- Transfer of rubles and securities between the domestic accounts of a non-resident.

7.3 Resident vs. Non-Resident Status

The *Currency Law* divides individuals and legal entities into two classes: residents and non-residents. Residents include: Russian citizens and other individuals whose permanent place of residence is the Russian Federation; legal entities established in accordance with Russian legislation; representative offices (branches) of Russian legal entities outside of Russia; and the governments of the Russian Federation, constituent entities of the Russian Federation, and municipal units. Non-residents are defined as individuals whose permanent place of residence is located outside

of Russia; legal entities incorporated outside Russia; enterprises/organizations that are not legal entities, organized and located outside the Russian Federation; and representative offices (branches) of foreign legal entities in Russia.

7.4 Special Currency Control Rules

As of January 1, 2007 most currency control limitations have been eliminated. However certain requirements still apply to Russian residents:

- Russian companies must hold all foreign currency export proceeds in their Russian bank account(s) (“repatriation of currency proceeds”);
- “transaction passports” are required for certain transactions (external trade, loans) at Russian banks;
- most Russian residents are prohibited from performing foreign currency transactions (the Currency Law provides some exceptions);
- the purchase and sale of foreign currency may only be performed at authorized Russian banks;
- cash exports are subject to restrictions;
- when a Russian company or individual opens an overseas bank account in OECD/FATF member countries they must notify the tax authorities and present regular reports on the cash flow in such accounts ; and
- the operation of an overseas bank account by a Russian resident is subject to certain restrictions.

7.5 Liability for Violation

The *Currency Law* has reproduced the system of state agencies which are responsible for the execution of currency control. This includes: the CBR, the Government, and the federal agencies authorized by the Government. Currency control is executed through agents of the currency control regime, including: authorized banks, professional participants of the securities market, and governmental agencies.

Violation of Russian currency control requirements may entail civil, administrative, or criminal liability. Administrative penalties for violation of Russia’s currency control requirements include various fines, which may be imposed on individuals, legal entities, and company executives. The amount of a fine may be as high as the entire value of a transaction performed in violation of the currency control requirements. Other sanctions include the revocation of licenses (primarily applicable to banks), and imprisonment.