

# Russian Currency Control: More Freedom Under State Control

In early August 2014 amendments to the legislation on currency regulation and currency control entered into force, increasing the range of cases where money can be credited to accounts of Russian residents opened in banks outside Russia. The addition of such statutory provisions mitigates the risk of infringement of the currency control legislation by residents when using accounts outside Russia by reducing the possibility of varying interpretations of the legality of simple transactions performed by residents in accounts in foreign banks. Having thus eased restrictions on foreign accounts, the government is at the same time requiring more stringent reporting by residents.

When the amendments to the Russian legislation on administrative offences, which took effect in February 2013, increased the range of penalties for failure to adhere to the prescribed regime for using foreign bank accounts, a situation was created where even standard payments to the credit of an account kept abroad (e.g., payments of interest on the account balance or receipt of funds from a foreign exchange transaction) could be deemed illegal, resulting in the imposition of fines in Russia on the account holders. The currency legislation, in turn, contained an extremely limited list of transactions permitted to be performed in foreign bank accounts. The Federal Service

for Fiscal and Budgetary Supervision (Rosfinnadzor), the authority responsible for currency control, tried to resolve the problem by giving appropriate guidance. However, until now the problem had remained unresolved at the legislative level.

Federal Law No. 218-FZ dated 21 July 2014 (the "**Law**") clarifies the situation for residents when performing transactions with foreign currency in their accounts opened in banks outside the Russian Federation. The Law increases the range of cases where residents may receive funds directly into their bank accounts abroad, without using an account with a Russian bank.

## Key issues

- Mitigation of the risk of infringement of the currency control legislation by residents when using accounts outside Russia
- Standard payments to the credit of an account kept abroad are now allowed
- Increase of the range of cases where residents may receive funds directly to their bank accounts abroad
- Residents who are individuals can receive dividends, yield on bonds, promissory notes or bills of exchange; payments upon reduction of the charter capital of an issuer of foreign securities to their account opened outside Russian
- From 1 January 2015, individuals who are Russian residents for currency control purposes will have to submit reports on transfers of funds to/from their foreign bank accounts

According to the Law, money may be credited to the account of a resident (whether an individual or a legal entity) opened outside the Russian Federation under the following transactions:

- payment of interest on the balance in the account (deposit);

- payment of the minimum balance required to open the account (deposit);
- depositing of cash into the account;
- crediting of the proceeds from foreign exchange transactions performed using funds in the account (deposit).

Residents who are individuals can also receive funds in their foreign bank accounts from non-residents under foreign court decisions, or in remuneration for work done by such individuals abroad, or in payment of refunds for goods or services purchased, and also in the event of erroneous transfers. Insurance, pension, stipend and alimony payments are also permitted, as well as other payments of a social character.

The list of permitted transactions for individuals is even longer if the money is credited to accounts opened with banks located in member states of the OECD or FATF. In such cases payments of rent for property leased to non-residents, grants, accumulated

interest income on foreign securities, and other payments on such securities (e.g., dividends; yield on bonds, promissory notes or bills of exchange; payments upon reduction of the charter capital of an issuer of foreign securities) are also permitted.

The easing of restrictions on foreign accounts held by individuals also has its flip side. From 1 January 2015, individuals who are Russian residents for currency control purposes will have to submit reports on transfers of funds to/from their foreign bank accounts, together with the applicable underlying documents, to their local tax authority. Similar rules currently in force apply only to legal entities and individual entrepreneurs, with reporting to be done quarterly. It remains unclear whether the scope of those rules will be broadened to apply to individuals as well, or whether the government intends to draw up a separate, special procedure.

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