

# Law Creating a Two-tier Banking System to Take Effect on 1 June 2017

The President has put his signature to a law that separates banks into credit institutions with universal and basic licences depending on the amount of their capital.

It is contemplated that such differentiation will help ease the regulatory burden on banks that hold a basic licence. At the same time, the law limits the transactions such banks can perform with foreign entities and individuals.

The law, which amends the Federal Law "On Banks and Banking Activity", the Federal Law "On the Central Bank of the Russian Federation (Bank of Russia)", the Federal Law "On Insurance of Retail Deposits in Banks of the Russian Federation" and the Federal Law "On Microfinance Activity and Microfinance Institutions" (the "**Law**"), was signed by the President on 1 May 2017.

## Main Changes

The Law introduces two new types of banking licence: universal and basic. Banks' legal capacity and the regulatory restrictions and requirements applicable to them will differ depending on the type of licence.

The Law does away with the concept of a "general licence", and all credit institutions that are banks on the date the Law enters into force will be deemed banks with a universal licence from that date.

Below is an overview of the key differences between the current regime under a general licence and the new regimes under universal and basic licences.

## Differences in Legal Capacity

Banks with a universal licence will be able to perform all banking operations and transactions that banks which today hold a general licence can perform. As for banks with a basic licence, they will be prohibited from carrying out the following banking operations and transactions:

- transactions with foreign entities and individuals involving the placement in its own name and at its own cost of monies raised, the issuance of bank guarantees and suretyships, the acquisition of rights of claim against such foreign entities and individuals, or the performance of leasing operations;
- opening of bank (correspondent) accounts with foreign banks (save for accounts opened for the purpose of participating in a foreign payment system); and
- transactions with securities, save for operations with (a) securities listed on the first (highest) level of a trade organiser in which the Central Bank of Russia is an equity participant, or (b) securities meeting certain special requirements which may be set by the Central Bank of Russia.

## Differences in Regulatory Duties

	Current Regime	New Regime	
	Bank with a General Licence	Bank with a Universal Licence	Bank with a Basic Licence
<b>Minimum capital<sup>1</sup></b>	RUB 300 million	RUB 1 billion	RUB 300 million
<b>Maximum capital</b>	None specified	None specified	RUB 3 billion (RUB 2.7 billion) <sup>2</sup>
<b>Consequences of failure to reach minimum capital</b>	Revocation of licence	Revocation of licence or	
		change of status to a bank with a basic licence / non-bank credit institution / microfinance institution	change of status to a non-bank credit institution / microfinance institution <sup>3</sup>
<b>Disclosure of information on risks, risk assessment procedures, risk and capital management</b>	Disclosure of such information is obligatory	The Law does not establish any additional benefits compared to the current regime	Disclosure of such information is not obligatory
<b>Opening of foreign branches, representative offices and subsidiaries</b>	Permitted	Permitted	Prohibited
<b>Maximum share of total risk attributable to a single borrower</b>	25%	25%	20%

## Transitional Period

From 1 June 2017 all banks holding a general licence will be deemed banks with a universal licence. However, if as on 1 January 2018 a bank's capital is less than RUB 1 billion, it will have to change its status to a bank with a basic licence or to a non-bank credit institution or microfinance institution. If as on 1 January 2019 and as on the first day of each of the four previous months a bank's capital is at least RUB 1 billion and the bank also meets all statutory requirements applicable to banks with a universal licence, that bank will be entitled to apply to the Central Bank of Russia before 1 February 2019 to continue operating as a bank with a universal licence.

The Law also specifies the performance of certain banking operations and transactions by banks with a basic licence (non-bank credit institutions) after they acquire the new ("lower") status. The time frame applicable to such banking operations and transactions depends on the type of agreement.

According to the general rule, such banks (non-bank credit institutions) may continue to perform banking operations and transactions in fulfilment of any agreements concluded prior to the change of status until those agreements expire, but not more than 5 years after the date the bank's status changed. If banking operations and transactions must be

<sup>1</sup> The minimum amount of capital must be reached by 1 January 2018.

<sup>2</sup> Upon reaching the RUB 3 billion threshold (and provided the bank's capital was at least RUB 2.7 billion during the 12 months after the reporting date on which that amount of capital was first reflected in the financial statements), all of the requirements applicable to banks that hold a universal licence will apply to the bank in question.

<sup>3</sup> To obtain the status of a microfinance institution a credit institution must fulfil all obligations to depositors and undergo deregistration in the system of compulsory retail deposit insurance for Russian banks.

carried out in order to perform loan agreements that were concluded prior to the change of status, then the 5-year restriction does not apply and the time frame ends on the date of expiry of the original term of the loan agreement.

Where a credit institution changes its status to a non-bank credit institution this does not terminate the insurance of deposits under the system of compulsory insurance of retail deposits in Russian banks.

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