

Baker & McKenzie – CIS, Limited
Sadovaya Plaza 11th Floor
7 Dolgorukovskaya Street
Moscow 127006 Russia

Tel: +7 495 787 27 00
Fax: +7 495 787 27 01

57 Bolshaya Morskaya
St. Petersburg 190000 Russia

Tel: +7 812 303 9000
fax: +7 812 325 6113
www.bakernet.com

Liberalization of Russian currency control

Summary

As the Russian Federation moves to make the Russian ruble a fully convertible currency, the Central Bank of Russia and the Russian Government have abolished several currency control restrictions. What follows is an analysis of the abolished restrictions, as well as an examination of the currency restrictions that remain in force.

1. General

Russian currency law is well known for its hard-line approach to currency control. This was particularly true until, in June 2004, the new Federal Law No. 173-FZ, dated 10 December 2003, *On Currency Regulation and Currency Control* (“**Currency Law**”), entered into force and introduced a more liberal currency regime. Individual authorizations for currency transactions were replaced by the compulsory use of special-type accounts and mandatory “reserving”. Furthermore, according to the Currency Law, even these restrictions were to be removed by 1 January 2007.

Prompted by the President’s declaration to abolish the remaining restrictions ahead of schedule and thus speed up the process of making the ruble a convertible currency, the Central Bank of Russia (“**CBR**”) and the Russian Government have issued a series of acts abolishing the requirements to use special-type accounts and mandatory “reserving” from 1 July 2006.

2. Abolished restrictions

Special-type Accounts

Pursuant to Directive No.1688-U, “*On the abolition of the requirement for the compulsory use of special bank accounts in the exercise of currency transactions and the invalidation of certain acts of the Bank of Russia*”, dated 29 May 2006, the CBR abolished the requirement to use special-type bank accounts and special-type securities accounts. Such requirement previously applied to certain classes of transactions, including cross-border loans and certain transactions with securities.

©2006 Baker & McKenzie. All Rights Reserved.

Baker & McKenzie – CIS, Limited is a member of Baker & McKenzie International, a Swiss Verein with member law firms around the world. In accordance with the common terminology used in professional service organizations, reference to a “partner” means a person who is a partner, or equivalent, in such a law firm. Similarly, reference to an “office” means an office of any such law firm.

Therefore, the use of special-type bank accounts and special-type securities accounts, in connection with currency transactions, is now not compulsory.

Mandatory “Reserving”

The requirement, for several classes of transactions, to place mandatory “reserving” amounts in a non-interest bearing deposit with the CBR has been abolished due to the invalidation of certain acts of the CBR and the Russian Government pursuant to the CBR Directive No.1689-U, dated 29 May 2006 and Resolutions of the Russian Government Nos. 399 and 400, both dated 29 June 2006.

Residents or non-residents who have placed the relevant “reserving” amounts before the above acts came into force (1 July 2006) can now claim immediate release of such amounts.

3. Effect of the changes

Below is a list of certain types of transactions that are affected.

3.1 Loans

Disbursement of cross-border loans (regardless of their maturity profile) no longer requires the use of special-type bank accounts and mandatory “reserving”.

3.2 Transactions with securities

Transactions with domestic and foreign securities (including shares, bonds and promissory notes) no longer require the use of special-type bank accounts and mandatory “reserving”. This is especially important for domestic sovereign bonds, since until now the “reserving” period for transactions involving such bonds was as long as 365 days and the “reserving” amount was as high as 7.5%.

It must also be noted that the requirement to make payment in rubles for the acquisition of domestic securities, if the parties to the transaction are a resident and a non-resident, remains in force until 1 January 2007.

3.3 Import transactions

Advance payments to foreign suppliers for a period exceeding 180 days no longer require any mandatory “reserving”.

3.4 Fund transfers

Residents wishing to transfer funds from a Russian bank account to their account outside Russia will no longer be required to comply with the “reserving” requirements.

3.5 Participatory shares

Transactions in connection with the acquisition by residents from non-residents of stakes in charter capital, contributions and participatory shares will no longer require any mandatory “reserving”.

4. Remaining restrictions

While the new rules have abolished most of the currency control restrictions, certain other restrictions still remain valid. Set forth below is a list of some currency control requirements that are still applicable and which should be taken into account when performing currency transactions in Russia:

- a requirement for Russian companies to collect all foreign currency export proceeds on their bank accounts in Russia (“repatriation of currency proceeds”);
- a requirement to open “transaction passports” with Russian banks in connection with certain transactions;
- a prohibition on performing foreign currency transactions between Russian residents (with some exceptions provided by the Currency Law);
- a requirement that the purchase and sale of foreign currency is to be performed through Russian authorized banks;
- a requirement to notify the tax authorities on the opening of an overseas bank account in OECD / FATF member countries by a Russian company or individual and to present to the tax authorities regular reports on cash flows on such accounts (for legal entities) or account balances (for individuals); and
- certain restrictions on the operation of an overseas bank account of a Russian resident.

Additional notes

Questions regarding this issue may be addressed to Vladimir Dragunov, Partner, and Mikhail Turetsky, Associate, at Baker & McKenzie, Moscow (Vladimir.Dragunov@bakernet.com or Mikhail.Turetsky@bakernet.com) or to Maxim Kalinin, Partner, at Baker & McKenzie, St. Petersburg (Maxim.Kalinin@bakernet.com).

This LEGAL ALERT is issued to inform Baker & McKenzie clients and other interested parties of time-sensitive legal developments, which may affect or otherwise be of special interest to them. The comments above do not constitute legal advice or opinion, and should not be regarded as a substitute for legal advice in individual cases.