



## Legal alert

# The Russian Government has approved the rules for permissions to transactions with foreign persons, which are to be granted by the Government Commission for Foreign Investments

- 1.1. Pursuant to Decree of the Russian President No. 81 dated 1 March 2022 "On Additional Temporary Economic Measures for Securing Financial Stability of the Russian Federation" the Russian Government in its Executive Order No. 295 dated 6 March 2022 has adopted certain rules (the "**Rules**") introducing a special procedure that the Government Commission for Foreign Investments in Russia (the "**Commission**") should follow when issuing permissions to perform the following transactions and operations (the "**Transactions**"):
- i. the following transactions and operations performed by residents with foreign persons connected with foreign states that are taking hostile actions against Russian persons (the "**Unfriendly Countries**")<sup>1</sup> and with those under such persons' control, irrespective of the place of their registration or place where their business is primarily done (the "**Persons of Unfriendly Countries**"):
    - transactions (operations) where credits and loans in roubles are provided to Persons of Unfriendly Countries;
    - transactions (operations) giving rise to the legal title to securities and real property;
  - ii. transactions (operations) as specified above performed by residents with foreign persons that are not Persons of Unfriendly Countries, if the subject matter of such transactions (operations) are securities and real property purchased after 22 February 2022 by the above foreign persons from Persons of Unfriendly Countries;
  - iii. foreign currency transactions connected with residents providing foreign currency to non-residents under loan agreements;
  - iv. transactions involving residents crediting foreign currency to their own bank accounts (deposits) with banks and other financial market institutions outside of Russia, as well as transferring money without opening a bank account with the use of electronic means of payment provided by foreign suppliers of payment services.
- 1.2. A person will be regarded as a person 'under control' if there is one of the indicators set out in article 5 of Federal Law No. 57-FZ dated 29 April 2009 "*On the Procedure for Making Foreign Investments in Business Entities of Strategic Importance for Ensuring National Defence and State Security*" (the "**Law No. 57**").
- 1.3. By virtue of the Government's Executive Order No. 430 dated 5 March 2022 the list of Unfriendly Countries includes: Australia, Albania, Andorra, the UK (including Jersey, Anguilla, the British Virgin Islands, Gibraltar), the EU member states, Iceland, Canada, Liechtenstein, Micronesia, Monaco, New Zealand, Norway, Republic of Korea, San Marino, North Macedonia, Singapore, the United States, Taiwan (China), Ukraine, Montenegro, Switzerland and Japan.
- 1.4. We note that, according to article 12 of the President's Decree No. 95 dated 5 March 2022 "*On Temporary Procedure for Performing Obligations to Certain Foreign Creditors*" legal entities are

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<sup>1</sup> Including if such foreign persons are citizens of these states, registered in these states, or if these states are the place where such persons' business is primarily conducted or where such persons primarily generate profit from their activities.



not recognised as Persons of Unfriendly Countries if they meet the following requirements simultaneously:

- they are under control of Russian legal entities and individuals (ultimate beneficiaries being the Russian Federation, Russian legal entities or individuals), *including* if this control is performed through foreign legal entities connected with such foreign states;
  - information regarding control over such persons has been disclosed by Russian legal entities or individuals specified in sub-paragraph (a) of this paragraph to Russian tax authorities pursuant to the requirements of Russian legislation.
- 1.5. The application for a permission to perform Transactions will have to be filed with the Russian Finance Ministry together with the documents listed in the Rules (e.g., constituent documents and registration certificates, accounting balance sheets, information about beneficiaries, beneficial owners and persons controlling the Person of Unfriendly Country, which is a party to the relevant transaction (operation). Transactions with respect to business entities falling under the requirements of the Law No. 57 will be carried out, as they used to, by way of a preliminary approval procedure according to the Law No. 57.
- 1.6. The Commission's permission to perform a Transaction or a refusal to grant such permission will be formalised as a decision of the sub-commission (the "**Sub-Commission**"). The Sub-commission will include one representative from each of the following state authorities: the Presidential Executive Office, the Ministry of Economic Development and the Central Bank, and the head of the authorised body will be the head of the Sub-Commission.
- 1.7. The Sub-commission shall decide on the Transactions during its meetings or by an absentee vote. The Sub-commission's decisions shall be adopted unanimously. The Sub-Commission may determine a validity term for the Commission's permission to perform a Transaction and decide on the Commission's permissions for Transactions to be issued to the public.

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