Russia

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Financial services regulation

1 Which activities trigger a licensing requirement in your jurisdiction?

Lending can be a licensable activity depending on the type of loan facility (see question 2). 'Credits' may only be provided by credit institutions; ordinary loans can be provided by any entity. However, there is a risk that the activity of issuing ordinary loans on a regular basis may be characterised as a professional activity requiring a licence of a credit institution or registration as a microfinance organisation.

Deposit-taking is a licensable activity, which requires a licence of a credit institution.

Foreign exchange trading and foreign exchange dealing are licensable activities that require a licence of a credit institution and a licence of a professional securities market participant respectively.

Certain payment services are licensable in the jurisdiction, for example, money transfer and settlement centre operations.

Dealing in investments may require a licence when the relevant operations can only be performed by a broker, dealer or another professional securities market participant.

2 Is consumer lending regulated in your jurisdiction? Describe the general regulatory regime.

Yes. Russian law distinguishes between two types of loan facilities: 'credits', which can be provided exclusively by credit institutions and loans, which can be provided by all entities generally.

Consumer credits and loans in Russia are credits and loans granted by credit institutions and non-credit financial organisations to individuals on a regular basis for purposes not connected with entrepreneurial activities. Consumer credits and loans are deemed to be provided on a regular basis if issued no less than four times during a calendar year (paragraph 5, section 3.1, Federal Law on Consumer Credit (Loan)). However, most provisions of the above-mentioned Law do not apply to consumer credits or loans secured by mortgage of immoveable property; the latter are regulated by mortgage-specific legislation. The law sets out particular requirements relating to the terms of a consumer credit or loan agreement (eg, the requirement to state the full cost of a consumer credit or loan to the borrower) and its form (eg, the requirement to present certain terms of the agreement in a consumer-friendly table format).

3 Are there restrictions on trading loans in the secondary market in your jurisdiction?

There are no such restrictions.

4 Describe the general regulatory regime for collective investment schemes and whether fintech companies would generally fall within the scope of any such regime.

Collective investment schemes under Russian law

Russian law recognises a number of collective investment schemes regulated by dedicated laws. The key vehicles used for the purposes of collective investment are: unit investment funds, joint-stock investment funds (both are regulated by the Federal Law on Investment Funds), non-state pension funds (regulated by the Federal Law on Non-State Pension Funds) and investment partnerships (regulated by the Federal Law on Investment Partnership).

Joint-stock investment funds and non-state pension funds are legal entities organised in the form of a joint-stock company. Both of these types of funds require a special licence issued by the regulator (Bank of Russia). The law specifies, among other things, the minimum amount of capital such funds must possess.

Unlike joint-stock investment funds and non-state pension funds, a unit investment fund is not a legal entity and consists of an isolated group of assets contributed by the founding parties.

An investment partnership is not a legal entity, but rather a joint undertaking by several organisations (not exceeding 50 in number) to combine their contributions and conduct agreed investment activities. Individuals cannot be parties to an investment partnership. Recent changes to the Federal Law on Investment Partnerships added extra flexibility to this form of collective investment (inter alia, by extending the range of permissible investment activities) to increase its attractiveness among prospective investors.

Unit investment funds and joint-stock investment funds must at all times utilise a separate entity (manager) to manage the assets of the fund. Non-state pension funds must utilise a separate entity to act as the manager when investing in certain types of assets. The investment of funds contributed by the partners of an investment partnership is carried out by the managing partner.

Unit investment funds, joint-stock investment funds and non-state pension funds are subject to mandatory information disclosure and annual audit obligations.

Whether a fintech company falls under any of the above categories would depend on the particular company, for example, a legal entity would not qualify as a unit investment fund; similarly, a legal entity that is not organised as a joint-stock company under Russian law will not qualify as a joint-stock investment fund or a non-state pension fund.

Foreign collective investment schemes in Russia

While there is no specific regulation applicable to foreign collective investment schemes, non-Russian fintech companies should note the following general restrictions that might become relevant in accessing the local market:

Foreign financial instruments may not be offered to the public (ie, to an unlimited number of persons), as well as to persons not falling into the category of qualified investors (as defined in Russian law), unless they meet the criteria for public placement or public distribution in the jurisdiction (section 51.1, Federal Law on Securities Market).

There is a general prohibition on non-Russian organisations (as well as their representative offices and branches in Russia) marketing the services of foreign financial organisations or distributing information about such organisations and their activities to the public in Russia (paragraph 6.1, section 51, Federal Law on Securities Market). In the absence of statutory clarification, the term 'to the public' should cover all instances when information is made available in a manner that permits any person to access such information.

5 Are managers of alternative investment funds regulated?

Managers of Russian collective investment schemes are regulated – they must obtain a special licence issued by the Bank of Russia and comply with additional requirements (eg, maintain a minimum capital), which should be no less than 80 million roubles. Managing

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partners of an investment partnership do not require a special licence to run the joint business of the partnership.

There is no specific regulation of managers of foreign collective investment schemes. Nonetheless, managers should note the general prohibition on the offering of financial services and distribution of corresponding information to the public by foreign organisations (see question 4). In addition, foreign organisations may not engage in activities of non-credit financial institutions (eg, discretionary investment management or management of Russian investment funds) on the territory of Russia (paragraph 6.1, section 51, Federal Law on Securities Market).

6 May regulated activities be passported into your jurisdiction?

No; regulated activities cannot be passported into Russia.

7 May fintech companies obtain a licence to provide financial services in your jurisdiction without establishing a local presence?

No. Fintech companies cannot obtain a licence to provide financial services in Russia without establishing a local presence.

8 Describe any specific regulation of peer-to-peer or marketplace lending in your jurisdiction.

There is no specific regulation of peer-to-peer or marketplace lending in Russia. Standard provisions regulating lending activities should apply.

9 Describe any specific regulation of crowdfunding in your jurisdiction.

There is no specific regulation of crowdfunding. However, the following provisions may have an impact on crowdfunding activities.

Equity-based crowdfunding may be problematic because of the limited maximum number of participants in a limited liability company (50) and limited partners in a limited partnership (20), as well as other limitations and statutory obligations relating to various types of legal entities (eg, public disclosure rules).

While there are no instruments specific to reward-based crowdfunding, parties may rely on the principle of freedom of contract (section 421, Civil Code of the Russian Federation (Civil Code)), the newly introduced concept of conditional performance of obligations (section 327.1, Civil Code), as well as existing legal constructs, such as loan agreement, purchase and sale agreement and services agreement.

Donation-based crowdfunding can utilise the concept of donation contract (sections 572–582, Civil Code). Among other things, the law prohibits donations exceeding 3,000 roubles when such donations are made by persons under 14 years old or persons lacking legal capacity, or are between commercial legal entities.

10 Describe any specific regulation of invoice trading in your jurisdiction.

There is no specific regulation of invoice trading in Russia. Parties may rely on the general provisions of the Civil Code governing factoring transactions, which may be conducted either on a recourse or non-recourse basis (paragraph 3, section 827, Civil Code), and the principle of freedom of contract (section 421, Civil Code).

11 Are payment services a regulated activity in your jurisdiction?

Yes. The primary source of regulation is the Federal Law on the National Payment System.

12 Are there any restrictions on cold-calling investors or clients in your jurisdiction?

Investors must give prior consent to the provision of marketing information (other than generic information) (section 18, Federal Law on Marketing). This restriction does not apply to postal communications. In the case of a telephone call, consent can be obtained at the start of the call by asking whether it is acceptable to provide the information. The marketing entity must be able to prove that consent has been obtained.

13 Does the regulator in your jurisdiction make any specific provision for fintech services and companies?

We are not aware of any fintech-specific provisions made by the Bank of Russia.

14 Are there any local marketing rules applicable with respect to marketing materials for financial services in your jurisdiction?

There is an advertising prohibition in Russia applicable to all financial products and services that cannot be produced or distributed without a licence. If no licence is obtained for production or distribution of such products or services, then no advertising of such products or services is allowed (paragraph 14, section 28, Federal Law on Marketing).

In addition, there is a general prohibition on non-Russian organisations marketing the services of foreign financial organisations or distributing information about such organisations and their activities to the public in Russia (paragraph 6.1, section 51, Federal Law on Securities Market). In the absence of statutory clarification, the term 'to the public' should cover all instances when information is made available in a manner that permits any person to access such information.

15 Are there any regulator-imposed temporary restrictions on financial products in place that are relevant to fintech companies in your jurisdiction?

None, to our knowledge.

16 Are there any foreign exchange or currency control restrictions in your jurisdiction?

There are no restrictions on the Russian national currency (rouble); it is freely convertible and exportable. There are no restrictions on Russian residents having offshore bank accounts, other than that state officials cannot have accounts with foreign banks and certain disclosure obligations exist for holders of offshore bank accounts.

Foreign entities can freely make payments in local and foreign currencies from their accounts opened in local or foreign banks to the counterparties to their accounts opened in local or foreign banks.

Counterparties may use their accounts opened in licensed Russian banks or accounts opened in foreign banks for payments in local or any other currency from or to a foreign entity. Payments exceeding the equivalent of US$50,000 would trigger certain formalities if the payment is made via Russian banks (passport of a transaction).

Forward exchange (FX) contracts can only be entered into with the Russian licensed banks and non-banking licensed credit organisations.

Russian currency control legislation is effective in the territory of Russia and may be applicable to transactions of Russian residents (as defined in the Federal Law on Currency Regulation and Currency Control) regardless of the place of the relevant transaction.

17 If a potential investor or client makes an unsolicited approach either from inside the provider's jurisdiction or from another jurisdiction, is the provider carrying out a regulated activity requiring a licence in your jurisdiction?

Russian legislation does not currently recognise the concept of 'unsolicited approach'. Therefore, if the relevant activity is licensable, then the provider of such activity will require a licence regardless of whether the potential investor or client approaches such provider first.

18 Are there licensing requirements that would be triggered where the investor or client is a temporary resident in your jurisdiction?

The licensing requirements do not change if the investor or client is a temporary resident in Russia.

19 If the investor or client is outside the provider's jurisdiction and the activities take place outside the jurisdiction, is the provider carrying out an activity that requires licensing in its jurisdiction?

The provider would not be deemed to be carrying out licensable activities in Russia if the investor, the client and the provider are all located outside Russia. If the provider is located in Russia and the client or investor are outside Russia, the provider may still be deemed to be carrying out licensable activities.

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20 Are there continuing obligations that fintech companies must comply with when carrying out cross-border activities?

Fintech companies must comply with the marketing requirements outlined in question 14.

21 Does a third-party referral qualify as an unsolicited approach in your jurisdiction?

No; see question 17.

22 What licensing exemptions apply where the services are provided through an offshore account in your jurisdiction?

No licensing exemptions apply.

23 What licensing exemptions apply where the services are provided through a nominee account in your jurisdiction?

No licensing exemptions apply.

24 What licensing exemptions apply where the services are only ancillary or incidental to other core activities or services in your jurisdiction?

No licensing exemptions apply.

25 What licensing exemptions apply when dealing with clients that are duly licensed in in your jurisdiction?

FX contracts can only be entered into with Russian licensed banks and non-banking licensed credit organisations. Therefore, if the counterparty to an FX contract holds an appropriate licence, the other party does not have to be licensed as well.

26 What licensing exemptions apply to specific types of client in your jurisdiction?

No licensing exemptions apply.

Securitisation

27 What are the requirements for executing loan agreements or security agreements? Is there a risk that loan agreements or security agreements entered into on a peer-to-peer or marketplace lending platform will not be enforceable?

Russian law distinguishes between two types of loan facilities: credits, which can be provided exclusively by credit institutions and loans, which can be provided by all entities generally.

The key requirements for executing credit agreements are: written form (section 820, Civil Code); credit amount (paragraph 1, section 819, Civil Code); and term and manner of repayment (paragraph 1, section 810, and section 819, Civil Code). The key requirements for executing loan agreements are: written form, when such agreements are made between individuals and the loan amount exceeds 1,000 roubles or when loans are provided by legal entities; and term and manner of repayment (paragraph 1, section 810, Civil Code). If a credit or a loan is provided to a consumer, it must comply with additional detailed requirements, such as the layout of certain provisions and the stipulation of full price of the credit or loan (sections 5–6, Federal Law on Consumer Credit (Loan)).

Russian law recognises several types of security instruments, including, but not limited to: pledge (sections 334–358.18, Civil Code); suretyship (sections 361–367, Civil Code); independent guarantee (sections 368–379, Civil Code); down payment (sections 380–381, Civil Code); and agreed and liquidated damages (sections 330–333, Civil Code). All of these types of security instruments must be concluded in writing.

Failure to meet the above key requirements may result in such agreements and instruments (whether entered on a peer-to-peer or marketplace lending platform) being unenforceable. To comply with the written form requirement, parties may exchange electronic documents; however, such exchange must be made through lines of communication that allow reliable identification of the party from which such documents originate (section 434, Civil Code). The law does not currently provide clear guidance as to which means of communication meet such criteria.

28 What steps are required to perfect an assignment of loans originated on a peer-to-peer lending platform? What are the implications for the purchaser if the assignment is not perfected?

Assignment of loans (and credits) provided under a written contract must be made in writing (paragraph 1, section 389, Civil Code). In order to perform assignment, the assignor must ensure that:

- the assigned claim has come into existence at the moment of its assignment, unless it is an assignment of a future claim;
- the assignor has the right to perform the assignment;
- the assigned claim has not been previously assigned to another person; and
- the assignor has not done and shall not do anything that can serve as a basis of the debtor's objection against the assigned claim (paragraph 2, section 390, Civil Code).

Parties are free to agree to additional requirements for assignment of the relevant claims (paragraph 2, section 390, Civil Code).

Failure to comply with the written form of assignment does not invalidate the assignment as such, but does not allow parties, in case of dispute, to rely on witness evidence. In case of failure to meet the additional requirements listed above, the assignee has the right to claim from the assignor everything that has been transferred under the assignment agreement, as well as the right to claim the corresponding damages (paragraph 3, section 390, Civil Code).

29 Is it possible to transfer loans originated on a peer-to-peer lending platform to the purchaser without informing the borrower? Does the assignor require consent of the borrower or are the loans assignable in the absence of a prohibition?

The borrower does not have to be informed about the assignment (section 385, Civil Code). The assignor does not require the debtor's consent to perform the assignment, unless the obligation to obtain such consent is provided for by the relevant agreement (paragraph 2, section 382, Civil Code). However, the debtor's consent is mandatory when it is substantially significant to the debtor that a particular person acts as the creditor (paragraph 2, section 388, Civil Code).

30 Would a special purpose company for purchasing and securitising peer-to-peer loans be subject to a duty of confidentiality or data protection laws regarding information relating to the borrowers?

Yes. Companies handling personal data (including not only Russian companies, but also foreign companies engaging in activities directed into the Russian territory) are required, in the process of gathering personal data of Russian nationals and Russia-based foreign nationals, to ensure that the recording, systematisation, accumulation, storage, adjustment (updating, amending) and extraction of such data is carried out through databases located in Russia, with certain exemptions (paragraph 5, section 18, Federal Law on Personal Data). In addition, all operators of personal data must comply with the confidentiality obligations in respect of personal data (section 7, Federal Law on Personal Data). See questions 41 to 43.

Intellectual property rights

31 Which intellectual property rights are available to protect software and how do you obtain those rights?

Software, including source and object code, as well as user interface generated by the software, is generally protected on the same terms as literary works; however, a number of differences do exist.

For instance, while both software and other literary works are protected from their creation without the need to comply with any formalities, software developers enjoy the option of discretionary state registration of their creation, unless the product in question contains a state secret. Any transfer of IP rights in registered software are subject to registration with Russia's IP office, Rospatent (section 1262, Civil Code).

Software can be licensed under a simplified licence, essentially a standard form contract (contract of adhesion), which are by default treated as free-of-charge licences (paragraph 5, section 1286, Civil Code).

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Among the limitations that apply to software as compared with other literary works are the absence of the right of withdrawal (paragraph 2, section 1269, Civil Code) and, in case of an open licence, a different default licence term: the entire term of copyright protection as opposed to five years for other literary works (paragraph 3, section 1286.1, Civil Code).

One other difference that is particularly worth mentioning is that software licensees enjoy the statutory rights of decompilation and back-engineering of the software, though these are limited in scope (paragraphs 2–3, section 1280, Civil Code).

32 Is patent protection available for software-implemented inventions or business methods?

Both software and business methods are specifically excluded from the definition of 'invention'. However, if the software is not in itself the main object of a patent, it can be patented as part of an invention or utility model (paragraph 5, section 1350 and paragraph 5, section 1351, Civil Code). Rospatent has complex guidance in place for determining whether a piece of software is patentable, and each case should be considered on its own merits.

33 Who owns new intellectual property developed by an employee during the course of employment?

The default rule is that the employer owns new intellectual property developed by an employee during the course of employment, provided that the creation of intellectual property falls within the ambit of the employee's duties and there is no agreement to the contrary. If within three years the employer makes no use of the intellectual property, does not transfer the right in the intellectual property or does not notify the author that the intellectual property is to be kept secret, the right reverts to the employee (section 1295, Civil Code).

In case of patentable inventions, the term during which the employer is expected to apply for a patent, transfer the right to apply for a patent or notify the inventor that the invention will be kept in secret, is four months. After four months the right to apply for a patent reverts to the employee (paragraoh 4, section 1370, Civil Code).

34 Do the same rules apply to new intellectual property developed by contractors or consultants? If not, who owns such intellectual property rights?

The current default rule, subject to the parties' agreement to the contrary, is that whenever a third party is commissioned specifically to create a piece of intellectual property, the right in that property vests in the client. This is only the case when the contractor or consultant is not him or herself the author of the work (section 1296, Civil Code). Conversely, the default rule applicable to contracts where the software is not the primary object but merely a by-product of the commission, is that the right in such intellectual property vests in the contractor (section 1297, Civil Code).

If an order for the creation of intellectual property is placed with an individual author, there is no default rule, and the agreement has to specify who owns the intellectual property (section 1288, Civil Code).

For software created under contracts made before 1 October 2014, the default rule was the same as above, regardless of whether the contractor was the author him or herself.

35 How are trade secrets protected? Are trade secrets kept confidential during court proceedings?

Two main concepts are applied in the protection of sensitive information: trade secrets and know-how. These are closely intertwined and are often indistinguishable.

Trade secrets encompass a confidentiality regime that encompasses technical measures that a business can implement to protect qualifying information. To make use of the regime, the owner of a trade secret must keep a register of information under the trade secrets regime, regulate the access and handling of such information by its employees and agents, and add an inscription in prescribed form onto information carriers containing trade secrets (paragraph 1, section 10, Federal Law on Trade Secret).

While certain information is barred by law from being treated as a trade secret, the general rule is that in order to qualify, the information must have an actual or potential commercial value by virtue of not being known to third parties (qualifying information) (paragraph 1, section 1, Federal Law on Trade Secret). Therefore, information under the trade secrets regime is qualifying information in respect of which the regime of trade secrets has been implemented. This is almost a verbatim definition of know-how.

Know-how is a term utilised by Russian intellectual property legislation and is granted protection as intellectual property, with rules applicable to employee-created intellectual property extending to it with minor exceptions (section 1465, Civil Code).

The protection lasts for as long as the information remains confidential, during which time know-how is capable of being licensed and alienated. Unlawful access to and use of information under the trade secrets regime and know-how may result in liability for civil damages, as well as administrative and criminal liability.

During court proceedings, a party may petition the court to have a closed hearing instead of a public one on the grounds of confidentiality of subject matter of the case (paragraph 2, section 11, Commercial Procedure Code; paragraph 2, section 10, Civil Procedure Code).

36 What intellectual property rights are available to protect branding and how do you obtain those rights?

Branding can be protected via various routes, the most obvious one being trademark (service mark) registration. Logos and other forms of corporate identity – provided they satisfy the creativity requirement – can also be protected as images (ie, by copyright).

Russian law extends legal protection to company names. While trademarks are subject to compulsory registration, a right in a company names arises once the company is registered with authorities at creation (section 1475, Civil Code). There have been cases where a company was able to bring – and win – cybersquatting cases based on its entitlement to the company name alone.

Russia also recognises trade names as a separate intellectual property object. Trade names serve to identify enterprises (such as hotels, retail chains and business centres), as opposed to goods or services (section 1538, Civil Code). To qualify for legal protection, a trade name must be known to the public in the respective geographic area. Unlike trademarks, trade names are not registrable and cease to be protected after a year of disuse (paragraph 2, section 1540, Civil Code).

37 How can new businesses ensure they do not infringe existing brands?

There are various authoritative databases that can be searched prior to settling on a brand – most importantly, the trademark and registered software databases maintained by Rospatent and the company register maintained by Russia's Tax Service.

A number of private agencies offer voluntary copyright registration and their databases may prove useful.

38 What remedies are available to individuals or companies whose intellectual property rights have been infringed?

Russian legislation offers a range of civil remedies, such as an injunction preventing further use of the piece of intellectual property in question (for infringements on the internet, disabling of access to the website), damages, compensation and the right to challenge the legal protection of a trademark, company or trade name.

Depending on the extent of damages and on whether the act of infringement is, at the same time, that of unfair competition, administrative and criminal penalties are also available (in Russia, there is no corporate criminal liability).

39 Are there any legal or regulatory rules or guidelines surrounding the use of open-source software in the financial services industry?

No. The use of open-source software in general is regulated by the rules on open licences that have only been in force for less than two years (section 1286.1, Civil Code).

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40 Are there any high-profile examples in your jurisdiction of fintech companies enforcing their intellectual property rights or defending their intellectual property rights against a third party?

In 2011, Alpari Trademark Holding House Limited secured an injunction preventing Broco Investments Inc from mentioning PAMM-accounts in connection with the respondent's services, as the words 'PAMM-account' had been registered by the claimant as trademark. However, the court rejected the claim for compensation in the amount of 30 million roubles.

In 2015, a former employee of Yandex, an affiliate of Yandex.Money, was convicted for two years (suspended) for the theft of the search engine's source code, which was being protected as a trade secret.

Data protection

41 What are the general legal or regulatory requirements relating to the use or processing of personal data?

The umbrella term for the collection, storage, editing, transferring, etc, of personal data is 'processing'. The processing of personal data generally requires data subjects' consent. This requirement is waived in a limited number of circumstances, including when the personal data is indispensable for the due performance of an agreement with the data subject. In all cases the scope of data being used must be proportionate to the objective of such use (section 6, Federal Law on Personal Data).

Entities that collect and make use of personal data must have a personal data protection policy in place, and they may have to notify Russia's personal data watchdog, Roskomnadzor, of their intention to collect and use personal data (section 22, Federal Law on Personal Data).

Personal data of Russian nationals or Russia-based foreign nationals must be recorded, systematised, accumulated, stored and altered using databases located in Russia (paragraph 5, section 18, Federal Law on Personal Data).

42 Are there legal requirements or regulatory guidance relating to personal data specifically aimed at fintech companies?

While there is no regulatory guidance issued specifically for fintech companies, there are regulations directly applicable to the field. Namely, Government Regulation N1119 dated 1 November 2012 'On the Approval of the Requirements Applicable to the Protection of Personal Data Processed in Information Systems' lists data security requirements applicable to the digitalised processing of personal data depending on the level of threat to the safety of the data.

Further to this Regulation, in December 2015, the Bank of Russia issued a decree detailing relevant types of threats.

43 What legal requirements or regulatory guidance exists in respect of anonymisation and aggregation of personal data for commercial gain?

Russian law permits the processing (including aggregation) of personal data for statistic and research purposes, provided that the data is anonymised.

Roskomnadzor has issued guidance on the subject of personal data anonymisation. The guidance requires that the anonymised data be complete, structured, semantically coherent and matching the requisite level of anonymity (such as k-anonymity). There are also requirements applicable to the method of anonymisation: it must be reversible, capable of securing the requisite level of anonymity and show increased resistance to interference as the amount of data increases.

When personal data is collected for direct marketing purposes (ie, when data subjects are to be contacted about goods and services), the data subject's consent is essential for aggregation and further use of the data (section 15, Federal Law on Personal Data).

Cloud computing and the internet of things

44 How common is the use of cloud computing among financial services companies in your jurisdiction?

Many of Russia's fintech start-ups are cloud-based. These include: Moe Delo, a popular online accounting and bookkeeping service; ProfitOnTime, a service offering cash-flow evaluation based on reliable market data; and Cassby, a service that replaces cash registers with a cloud-based point-of-sale system.

45 Are there specific legal requirements or regulatory guidance with respect to the use of cloud computing in the financial services industry?

There are no specific legal requirements or regulatory guidance in this respect.

46 Are there specific legal requirements or regulatory guidance with respect to the internet of things?

There are no specific legal requirements or regulatory guidance in this respect.

Tax

47 Are there any tax incentives available for fintech companies and investors to encourage innovation and investment in the fintech sector in your jurisdiction?

The are no specific tax incentives for fintech companies in Russia; however, Russian law provides for a range of preferential tax regimes for investors and residents of special economic zones (SEZs).

Regional tax incentives are typically provided in the form of reduction in regional component of profits tax (the maximum reduction is 4.5 per cent; profit tax rate may be reduced to zero in some regions) and property tax reduction or exemption. To qualify for the incentives, the investment project should incorporate the regional business priorities and minimum investment amount determined by regional law.

In some regions, the approval process requires the conclusion of the 'investment agreement' with the regional authorities, while in other regions, tax incentives are provided on a declarative basis with no pre-approval.

All currently established SEZs fall into one of four categories: manufacturing, technology and innovation, tourism and recreation, and port and logistics. If the activities of fintech companies qualify as technology and innovation, such companies may potentially benefit from SEZ tax incentives. Only Russian legal entities incorporated within an SEZ with no external branches or representative offices may apply for SEZ resident status.

The following tax benefits apply for a technology and innovation SEZ:

- maximum profits tax rate may be reduced from 20 per cent to zero until 2018;
- property tax exemption for 10 years;
- 'free customs zone';
- reduced regressive social contributions rates until 1 January 2018 (14 per cent on annual remuneration up to 718,000 roubles, 12 per cent on annual remuneration between 718,000 roubles and 796,000 roubles and 4 per cent on annual remuneration exceeding 796,000 roubles); and
- accelerated depreciation and VAT exemptions are not available for this type of SEZ.

Research and development (R&D) tax incentives are available for companies from various industries conducting eligible R&D activities included in a government-approved list. Such activities must relate to the development of new products, the improvement of production processes and the development of new services. Companies conducting eligible R&D activities can apply for a 150 per cent super deduction of qualifying costs (eg, labour costs, depreciation of equipment and other costs, subject to certain limitations).

Certain tax benefits are available to Russian companies that are residents of the Skolkovo Innovation Centre. Generally, a Russian company can become a Skolkovo resident if it conducts qualifying research and development and innovation activities, and complies with certain other requirements.

The main tax benefits are: profits tax exemption for 10 years; social insurance contributions at a reduced rate of 14 per cent on annual remuneration up to 796,000 roubles and exemption for remuneration exceeding that cap; and a VAT exemption.

Skolkovo targeted industries are energy efficient technologies, nuclear technologies, space technologies and telecommunications, biomedical technologies and information technologies.

Russian law also provides a special tax regime for companies located in the Far East and Siberia (territories of advanced social and economic

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growth (TASEG)). So far, only nine TASEGs have been established and five more are expected by 2017. TASEG residents are eligible for:

- reduced profits tax rate 0–5 per cent for the first five years and 12–20 per cent for the next five years (depending on region);
- reduced mineral extraction tax for 10 years (not applicable to fintech companies but mentioned for the purpose of completeness);
- reduced regressive social insurance contributions rate for 10 years (7.6 per cent on annual remuneration up to 718,000 roubles, 6.5 per cent on annual remuneration between 718,000 roubles and 796,000 roubles, 0.1 per cent on annual remuneration exceeding 796,000 roubles); and
- regions may additionally provide property tax exemptions.

However, all of the already established TASEGs have production, mineral extraction, tourism, logistics or agricultural specialisation and cannot be used by fintech companies. As of 1 January 2018, TASEGs can be established in all regions across Russia.

Competition

48 Are there any specific competition issues that exist with respect to fintech companies in your jurisdiction or that may become an issue in future?

There is no specific fintech-related competition legislation in Russia; however, certain provisions of the Federal Law on the Protection of Competition listed below might be relevant for fintech businesses.

Agreements with competitors to fix or maintain a certain price on goods or services are generally prohibited. Other agreements, including joint venture agreements with competitors, are also prohibited if they limit or may limit the competition. Whether there is (or may occur) a limitation of competition will be determined by the regulator (the Federal Antimonopoly Service) on the basis of a comprehensive analysis of the current market situation for the relevant goods or services. However, as of 4 July 2016, agreements between companies established by individuals and agreements between certain individual entrepreneurs (as well as agreements between such companies and such individual entrepreneurs) are generally permitted (with certain exceptions) if the total income received from the sale of goods or services by parties to such agreements over the preceding calendar year (ie, the year immediately preceding the year in which the relevant agreement is concluded) does not exceed 400 million roubles.

Certain joint venture agreements operating in Russia can only be entered into after prior approval by the Federal Antimonopoly Service. Such approval is necessary if the combined asset value of parties to such agreements (or their respective groups) exceeds 7 billion roubles or the total income received from the sale of goods or services by parties to such agreements (or their respective groups) over the preceding calendar year (ie, the year immediately preceding the year in which the relevant agreement is concluded) exceeds 10 billion roubles.

Prospective parties may submit to the Federal Antimonopoly Service a draft of the future agreement for the purposes of verifying compliance with the competition legislation. Following the review of each submitted draft agreement the regulator prepares an opinion stating whether the relevant draft complies with the competition rules. A positive opinion is valid for one calendar year.

In addition, certain transactions involving shares, units and rights in Russian commercial organisations exceeding statutory thresholds can only be entered into with prior approval of the Federal Antimonopoly Service.

Update and trends

While there is currently no fintech-specific regulation in Russia, the local banking and securities regulator, the Bank of Russia, has been actively analysing the development of the financial technology sector.

In February 2016, the Bank of Russia set up a special fintech working group in cooperation with the market participants, and in April 2016 it created a separate internal division (the Department of Financial Technologies, Projects and Organisation of Processes) focusing on financial technology.

In July 2016, the Bank of Russia announced the establishment of a new blockchain consortium in cooperation with major banks and technology companies. This consortium aims to test the regulator's prototype service based on distributed ledger technology. These recent actions of the Bank of Russia demonstrate the regulator's increasing interest in the fintech field and may lead to further regulatory action in the near future.

Other recent initiatives include the presentation in June 2016 of the Concept of the Legal Aspects of the Internet of Things at the IoT Summit Russia – an unofficial proposition regarding the core principles of the regulation of the internet of things.

Financial crime

49 Are fintech companies required by law or regulation to have procedures to combat bribery or money laundering?

While there is no specific anti-bribery law for fintech companies, they are required to have procedures to combat bribery and money laundering on general terms pursuant to the Federal Law on Countering Corruption. For instance, all companies have to implement internal counter-bribery measures of their choice.

Companies processing financial transactions are generally required by the Federal Law on Countering the Legalisation of Illegal Earnings to, among other things:

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- implement internal anti-money laundering measures and keep records of suspicious transactions;
- identify the client and the client's beneficial owner and keep this information up to date;
- notify the regulator of any transactions triggering compulsory control requirement;
- freeze the assets of a client on an official extremist or terrorist watch list; and
- share records with the authorities on demand.

50 Is there regulatory or industry anti-financial crime guidance for fintech companies?

There is no specific anti-financial crime guidance for fintech companies; however, the Bank of Russia has issued various pieces of industry-specific guidance for financial companies.

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