

The Bank of Russia's position on foreign financial services restriction

The Bank of Russia sets out position on foreign financial services restriction and prohibition on non-Russian entities carrying out activities of non-credit financial organisations

On 5 July 2018 the Bank of Russia has issued an information letter 'On the unacceptability of offering financial services provided by foreign organisations in the Russian Federation,' in which it sets out its position on the prohibitions laid down by Article 51(6.1) of Federal Law No. 39-FZ dated 22 April 1996 'On the Securities Market' (**Securities Market Law**).

According to Article 51(6.1), non-Russian organisations, their representative offices and / or branches are not entitled to carry out activities of non-credit financial organisations (including activities of securities market professionals), or to offer the services of foreign financial organisations and / or distribute information about such organisations and their activities to the general public in the Russian Federation.

In the letter, the Bank of Russia refers to a number of cases where Russian financial organisations have offered the financial services of foreign organisations, which the Bank of Russia views as unacceptable.

The Bank of Russia is also extending its

approach to foreign banks.

'The provision of services to foreign banks by Russian credit institutions, which in effect enables consumers to receive the services of a foreign bank through an intermediary in the Russian Federation without direct contact with the foreign bank, could be an indication that the foreign bank is carrying out financial activities in the Russian Federation through third parties,' the Bank of Russia writes.

To substantiate its position, the Bank of Russia cites the financial risks for customers of Russian financial organisations, as well as the risks of a potential loss of trust in certain Russian financial organisations, and in Russia's financial market as a whole.

In case of a breach the Bank of Russia could take appropriate supervisory measures in respect of the Russian financial organisations concerned.

Is this guidance from the Bank of Russia clear in relation to the cross-border activities of foreign financial organisations?

The Bank of Russia's position outlined in the letter confirms the concerns that we have previously raised, namely that foreign organisations need to take a cautious

approach when offering their services in Russia. At the same time, it is our view that the findings in the Bank of Russia's letter are quite contradictory and give rise to a number of issues, including:

- whether the indirect presence of foreign organisations in the Russian financial market is prohibited per se, or, in the cases indicated by the Bank of Russia, Russian financial organisations can offer the financial services of foreign organisations provided that this offer is only extended to a limited number of persons;

- whether the actions specified in Article 51(6.1) of the Securities Market Law can be carried out by foreign organisations (representatives thereof) themselves, and what is meant by 'direct contact with the foreign bank'.

CIS London has advised extensively on a wide range of questions relating to the regulation of the cross-border activities of financial organisations. Please get in touch if you believe this guidance could affect you.



Contacts

Svetlana London
Managing Partner

svetlana.london@cislondon.com
+44 (0) 20 7242 0570

Anastasia Didenko
Senior Associate

anastasia.didenko@cislondon.com
+44 (0) 20 7242 0484

cislondon.com

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