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## TOWARDS THE QUESTION ABOUT LEGAL ASPECTS OF CURRENCY REGULATION

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Considering the amendments to the Federal Law No. 173-FL from December 10, 2003 "On Currency Regulation and Currency Control", the authors note a significant reduction in foreign exchange restrictions (including the abolition of restrictions on conducting of capital transactions) and changing of a complex of currency regulation measures in favor of economic methods.

As development prospect of currency regulation and currency control is proposed: to raise the status of certain currency control agents up to the status of currency control body, as well as, in order to detect and prevent offenses related to the conducting of foreign trade operations, to create "common information space" and a legal framework for inter-departmental interaction of the FTS of Russia, Rosfinnadzor, Ministry of Economic Development of Russia, the MIA of Russia, the Bank of Russia and other structures.

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The goal of currency legislation, which is enshrined in the preamble to the Federal Law No. 173-FL from December 10, 2003 "On Currency Regulation and Currency Control" [1] (hereinafter - Law No. 173), is to ensure the implementation of a unified state currency policy, the stability of the currency of the Russian Federation and the stability of the domestic currency market of the Russian Federation as factors of the progressive development of the national economy and international economic cooperation.

The mentioned goal, set by the Russian legislator, is achieved through the implementation of currency regulation.

Currency regulation is a totality of norms that govern public relations in currency sphere. The main normative act governing the sphere of currency legal relations is Law No. 173. However, currency legislation consists not only of the mentioned law but also includes normative acts adopted on the issues of currency regulation by the bodies of currency regulation and control.

Currency control bodies are the Central Bank of the Russian Federation and the Government of the Russian Federation. These bodies within their competence issue acts of currency control bodies that are compulsory for residents and non-residents. At that, the Law clarifies the activity of the Central Bank of the Russian Federation as a body of currency regulation: Bank of Russia sets unified forms of accounting and reporting on currency transactions, the order and terms of their submission, and also prepares and publishes statistical information on currency transactions (part 4 article 5 of the Law No. 173).

If the procedure for implementation of currency transactions, the procedure for accounts use are not set by currency control bodies in accordance with this federal law, currency transactions are carried out, accounts are opened and transactions on accounts are carried out without restrictions.

Establishment by currency control bodies of requirement of receiving individual permissions by residents and non-residents is not allowed. It is not allowed for currency control bodies to establish requirement of pre-registration.

Currency regulation is ensured by currency legislation and is exercised at the normative and individual levels. Normative regulation is the establishment of legal norms, whose object is public relations associated with currency. Individual-legal regulation is expressed in the application of law norms to specific life circumstances, entailing the emergence, change and termination of certain currency legal relations.

Currency regulation in the Russian Federation has recently undergone significant changes due to, first of all, the entry of the Russian Federation to the World

Trade Organization (hereinafter – WTO), as well as the formation of a unified customs territory of Russia, Belarus and Kazakhstan in connection with the entry of these countries into the Customs Union within the framework of the Eurasian Economic Community (EAEC), that is reflected in the legislation governing the sphere of currency relations.

The result of amendments to currency legislation is a significant reduction of foreign currency restrictions, removal of restrictions on capital transactions and change of a number of measures of currency regulation in favor of economic methods, which has contributed to the improvement of the financial situation in the country, strengthening of the national currency, as well as Russia's entry as a full member into the world economic space.

We note the significant amendments introduced by the Federal Law No. 406-FL from December 06, 2011 "On Amending the Federal Law "On Currency Regulation and Currency Control" in the Part of Facilitation the Procedure of Currency Control" [2], as well as the Federal Law No. 155-FL from July 02, 2013 "On Amending the Federal Law "On Currency Regulation and Currency Control" [3], the Federal Law No. 251-FL from July 23, 2013 "On Amendments to Certain Legislative Acts of the Russian Federation due to Transferring to the Central Bank of the Russian Federation of Powers to Regulate, Control and Supervise in the Field of Financial Markets" [4], which are aimed to simplify the procedures of currency control, to clarify certain provisions of the existing currency legislation:

1) The range of citizens classified as non-residents has been expanded: now they also include citizens of the Russian Federation, who reside abroad for at least one year on the basis of either a residence permit in a foreign state, or job or study visa with validity at least one year, or totality of such visas with common validity period not less than a year.

This change is aimed at removing barriers associated with payment of wages in foreign currency by a Russian company to its employees, who work outside of the Russian Federation and reside there for at least one year.

2) Residents have been obligated to provide information on the time terms of execution of foreign trade contract. Previously, this norm did not exist in the Law No. 173.

The essence of this change is that residents, who are engaged in foreign trade, should provide to authorized banks the information about expected, in accordance with the contractual terms, maximum terms of: 1) the receipt of foreign currency and (or) the currency of the Russian Federation from non-residents on their accounts for the execution of obligations in the form of transfer of goods, performing

work or services for them; 2) performance by non-residents of the obligations under the contracts in the form of transfer of goods, performing works or services by them (part 1.1, 1.2, article 19 of the Law No. 173).

The new edition of this article "will allow blocking of one of the most applied in our country schemes of withdrawal capital abroad. The essence of the scheme is quite simple: parties sign a foreign trade contract (the contract provides for advance payment form), which does not specify the terms of delivery of goods and return of the advance payment by the non-resident in the case of non-delivery of goods, failure to perform works, non-rendering of services, non-transfer of intellectual property. The contract comes into force from the moment of its signing and is valid till complete fulfillment of obligations by the parties (i.e., a precise date of fulfillment of obligations under the foreign trade contract is not defined)" [5]. In this case, the funds can be transferred abroad irreversibly, since currency control agents had no reason (until new edition) to register the violations.

3) The new edition of the Law No. 173 directly establishes data that should be contained in transaction certificate. Previously this data was enshrined only in a by-law (current at that time Operating Instructions of the Bank of Russia No. 117-I from June 15, 2004).

4) Possibility to implement electronic document interchange between bodies and agents of currency control is legally established (part 6.1, 17 article 23 of the Law No. 173). In the previous edition of this norm was absent.

5) Amendments have also touched upon currency transactions. The list of currency transactions has been expanded (paragraph 9 part 1 article 1), that has become one more step forward ensuring control over schemes of withdrawal capital out of our country. One of the common unlawful schemes of withdrawal of capital in the new edition of the Law is recognized as a currency transaction, this allows the bodies and agents of currency controls to verify and monitor such transactions and, if necessary, prohibit their carrying out.

We are talking about subparagraph "g" paragraph 9 part 1 article 1 of the Law No. 173 "transferring of the currency of the Russian Federation from a resident's account opened outside the territory of the Russian Federation to an another resident's account opened on the territory of the Russian Federation, and from a resident's account opened on the territory of the Russian Federation to an another resident's account opened outside the territory of the Russian Federation".

Introduction of this paragraph places additional responsibility on authorized banks that will be obliged to track such transactions and apply appropriate measures in case of currency legislation violations.

Thus, currency legislation is constantly changing in the light of the requirements arising from international agreements, and taking into account the current economic situation in our country. These amendments are aimed at filling the gaps of currency legislation, which are enjoyed by the participants of foreign-economic activity with a view to withdrawal capital abroad, concealment or distortion of the actual data on currency transactions from the bodies and agents of currency control.

As the development prospects for currency regulation and currency control, given the complexity and importance of control over conducting of currency transactions and outflow of capital from the country, we believe it is appropriate to:

1) to raise the status of certain agents of currency control up to the status of currency control body. The return of the status of currency control body to the Federal Customs Service, which in the case of revealing of currency control violation could independently within the framework of its competence bring to responsibility for breaches in the currency field, would be well-founded.

2) taking into account the specificity and complexity of the organization of control over conducting currency transactions, to create “common information space” and a legal framework for inter-departmental interaction of the FTS of Russia, Rosfinnadzor, Ministry of Economic Development of Russia, the MIA of Russia, the Bank of Russia and other structures in order to detect and prevent offenses related to the conducting of foreign trade operations.

#### References:

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