CHANGES IN THE RUSSIAN CURRENCY LEGISLATION IN 2018
On 1 January 2018, the Instruction of the Bank of Russia No. 181-I, dated 16 August 2017, establishing the new procedure for the submission by resident and non-residents of supporting documents and information in conducting currency transactions, as well as unified forms of accounting and reporting on currency transactions to authorised banks, and the procedure and terms for submission thereof comes into force (“Instruction No. 181-I”).

Instruction No. 181-I applies to Russian residents:

- legal entities (except for credit institutions and Vnesheconombank);
- individuals being businessmen or persons engaged in private practice (including lawyers and notaries),

as well as non-residents (except for non-Russian resident individuals).

The main novelties provided by the Instruction No. 181-I are as follows:

1) cancellation of the requirement for residents to register a transaction passport with an authorised bank, introduction of the procedure for contracts registration with banks with assignment of a unique number to each contract;
2) cancellation of the requirement for residents to submit certificates of currency transactions to authorised banks (at the same time, the requirement to submit documents serving the basis for conducting currency transactions is retained);
3) establishment of a simplified procedure for resident exporters for contracts registration within one business day.

Submission of Documents and Information by Residents When Conducting Currency Transactions

When foreign currency is credited to a transit currency account of a resident the latter shall submit to the respective authorised bank (where the resident’s bank account is opened) the documents related to the transactions in questions no later than 15 business days after the date of crediting, which date is specified in the relevant bank's notice. This requirement does not apply in some transactions, in particular:

- transactions between a resident and an authorised bank, where a settlement account in a foreign currency is opened for the resident;
- debiting foreign currency from the settlement account of the resident in foreign currency by direct debiting with the consent of the resident as provided for between the resident and the authorised bank in accordance with the legislation of the Russian Federation on the national payment system;
- debiting foreign currency by the resident from his/her settlement account in foreign currency and the crediting thereof to his/her settlement account in foreign currency or to his/her deposit account in foreign currency opened in the same authorised bank when; in case of debiting foreign currency from his/her deposit account or crediting foreign currency to his/her deposit account in foreign currency; in case of crediting (withdrawing) cash currency to(from) his/her settlement account in foreign currency;
- transactions by the resident related to the debiting foreign currency from the resident's settlement account in foreign currency through a bank card (except for currency transactions made under the contract registered with the authorised bank);
transactions by the resident related to settlements under the letter of credit, except for certain cases specified in the Instruction No. 181-I.

When foreign currency is credited to the resident's transit currency account or debited from the resident's settlement account in foreign currency under a contract concluded with a non-resident, under which the amount of obligations is equal to or does not exceed 200,000 roubles (hereinafter - "contract which does not exceed the equivalent of 200,000 roubles"), the resident shall submit to the bank the information on the code of the transaction type corresponding to the name of the transaction type, in the procedure established by the bank.

When the currency of the Russian Federation (roubles) is debited from the settlement account of a resident in roubles under a contract, the amount of which does not exceed the equivalent of 200,000 roubles, the resident shall submit a settlement document for the transaction to the bank.

The resident shall submit to the bank the information on the unique number of the contract assigned thereto in accordance with the procedure established by the Instruction No. 181-I, in the following cases:

- crediting foreign currency to the resident's transit currency account - simultaneously with the provision of information on the code of the transaction type or documents related to the transactions;
- debiting foreign currency from the resident's settlement currency account - simultaneously with an instruction to debit foreign currency;
- crediting the currency of Russia to the resident's settlement account in roubles - no later than 15 business days after the date of crediting the currency of Russia to the resident's settlement account as indicated in the statement of transactions on the account or another document issued by the authorised bank to the resident;
- debiting the currency of Russia from the resident's settlement account in roubles under a contract registered with the authorised bank - simultaneously with the settlement document for the transaction.

Procedure for Contracts Registration by Banks and Submission by the Resident of Supporting Documents under Such Contracts

For the purposes of currency control, the authorised banks shall register the contracts (facility agreements) listed in the Instruction No. 181-I entered into by and between residents and non-residents, the amount of which is equal to or exceeds the equivalent: for import contracts or loan agreements - 3 million roubles; for export contracts - 6 million roubles.

A Russian resident being a party to the export contract (resident exporter) or to the import contract (resident importer), or to the facility agreement shall register the respective contract with an authorised bank and, as a general rule, make payments under the contract (facility agreement) only through its own accounts opened with the bank (in the head office or a branch of the bank), where the contract was registered, or with an authorised bank that accepted the contract (hereinafter - the "CR Bank") for servicing, and(or) through the resident's account opened in the nonresident bank.

At the same time, the resident exporter must provide the bank with information on the export contract required to register the contract in the procedure and as per the form established by
the CR Bank, or the export contract (an extract therefrom) containing the information required for the CR Bank to register the contract.

To register the import contract/ facility agreement, the resident importer or resident party to the facility agreement shall submit to the CR Bank the contract/ facility agreement (an extract therefrom) containing information required by the CR Bank to register such a contract (facility agreement).

The CR Bank shall register the relevant contract not later than the next business day after submission by the resident of the contract and information (if applicable), assign the unique number to the contract, and send the resident information on such a number not later than one business day after the contract registration.

The resident shall submit to the CR Bank an application for de-registration of the contract (facility agreement) in the event:

– the parties have performed all obligations thereunder, including performance of obligations by a third party; or
– the resident assigns the contract (facility agreement) or debt under the contract (facility agreement) to another person; or
– the grounds for registration of the contract (facility agreement) cease to exist, including due to the introduction of relevant amendments, and in some other cases.

Besides, a resident shall be obliged to submit to the CR Bank the documents confirming the performance, termination of obligations, change of a party to the contract, change of the contract (facility agreement) amount by the way other than settlements, and a copy of the certificate on supporting documents. The lists of documents that should be provided for certain types of transactions are stipulated in the Instruction No. 181-I.

Since the entry into force of the Instruction No. 181-I the similar Instruction of the Bank of Russia No. 138-I, dated 4 June 2012 ("Instruction No. 138-I") shall no longer be valid.

Passports of transactions under the contract (facility agreement), which as of the date of entry into force of the Instruction No. 181-I are not closed and are kept in the currency control file maintained by banks as provided by the Instruction No. 138-I, shall be deemed closed. The number of such a transaction passport shall be considered to be a unique number of the contract (facility agreement) registered by the bank, and its further servicing by the bank shall be in accordance with the requirements of the Instruction No. 181-I.

**Changes in the Federal Law 'On Currency Regulation and Currency Control' and the Code of Administrative Offenses**


The requirement is established in the Federal Law 'On Currency Regulation and Currency Control' to specify in the agreements (contracts) entered into by and between Russian residents and non-residents for conducting foreign trade activities the terms for the parties to perform their
obligations under the relevant agreements (contracts) in order to meet the requirement for repatriation of foreign currency and currency of Russia.

Residents thereby will be required to provide information to the authorised banks on specific terms of:

1) receipt of foreign currency and(or) currency of Russia on their accounts in authorised banks from non-residents for performance of obligations under foreign trade agreements (contracts) by means of transferring goods to non-residents, performing work for them, rendering services to them, transferring information and results of intellectual activity to them (hereinafter – ‘performance of obligations under foreign trade agreements’), in accordance with the terms and conditions of foreign trade agreements (contracts);
2) performance by non-residents of their obligations under foreign trade agreements, against the residents’ advance payments; as well as on the dates of the return of the said advance payments in accordance with the terms and conditions of foreign trade agreements (contracts).

In addition, the Federal Law 'On Currency Regulation and Currency Control' provides for the extended list of grounds under which authorised banks refuse to make a currency transaction, including prohibited currency transactions between residents, as well as violation of any currency control laws of the Russian Federation. A bank shall notify the relevant person in writing on the decision on such refusal to not later than one business day after it is taken.

The following changes were introduced to the Code of the Russian Federation on Administrative Offenses (hereinafter - the 'Administrative Code'):

- amounts of the administrative fines are clarified, including fines for illegal currency operations, failure by the residents to perform obligation related to the receipt of foreign currency on its account in Russia;
- the administrative penalty can be expressed in the amount of money multiples of the key interest rate (rather than the refinancing rate of the Bank of Russia) of the amount of money credited to accounts in authorised banks in violation of the established term;
- managers and other employees performing organisational, management and administrative functions with legal entities who committed administrative offenses specified by Article 15.25 of the Administrative Code ('Violation of the Currency Law of the Russian Federation and Acts of Currency Regulatory Authorities') shall be administratively liable as officials;
- disqualification from 6 months to 3 years is established for officials who were previously subject to administrative liability for similar violations of currency legislation provided for in Article 15.25 of the Administrative Code;
- the authority of judges and the federal executive authority on currency control to review cases of offenses provided for in Article 15.25 of the Administrative Code is clarified.

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Best Regards,

GRATA International Law Firm (Moscow)

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- issuing legal opinions on currency regulation and control, banking law and securities market legislation, compliance of transactions with legislation and legal capacity of parties to transactions;
- due diligence of Russian legal entities;
- structuring and support of business financing, including contributions to property and charter capital, lending and issue of securities;
- structuring and support of transactions on assignment of rights of claim, debt restructuring.

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