

# Russian State Duma Adopts, in First Reading, Bills Exempting from Liability for Violation of Anti-Corruption Duties Due to Force Majeure

20 April 2021

On 10 March 2021, the State Duma adopted, in the first reading, the bills proposing amendments to Federal Law No. 273-FZ on Anti-Corruption Practices dated 25 December 2008 (the “Anti-Corruption Law”) and related legislation (the “Bills”).<sup>1</sup>

The Bills propose exempting government officials<sup>2</sup> from liability for failure to perform certain duties envisaged by the Anti-Corruption Law (e.g., income and expense reporting and taking measures to settle conflicts of interest) for reasons beyond their control. Those reasons are defined as extraordinary circumstances beyond the control of the affected official that could not have been anticipated, prevented or overcome by the official and that make it impossible for the official to perform the anti-corruption duties (the “Extraordinary Circumstances”). Extraordinary Circumstances can include natural calamities, fire, epidemics, strikes, military action, terrorist attacks and prohibitive or restrictive measures implemented by government authorities (including foreign authorities). A circumstance that occurs regularly, can be foreseen or is within the control of the official does not constitute an Extraordinary Circumstance.

The main aim of the Bills is to exempt officials from the so-called “innocent” disciplinary violations. Possible examples include failure to report on income and expenses within the established deadlines due to a pandemic or failure to close a foreign bank account due to foreign sanctions blocking an official’s assets. Though they were

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<sup>1</sup> Draft Federal Law No. 1078992-7 on Amendments to Certain Legislative Acts of the Russian Federation in Respect of Improvement of Liability Measures for Corruption Offences (<https://sozd.duma.gov.ru/bill/1078992-7>); Draft Federal Law No. 1078988-7 on Amendments to Articles 349.1 and 349.2 of the Labor Code of the Russian Federation (<https://sozd.duma.gov.ru/bill/1078988-7>).

<sup>2</sup> Governmental officials of the Russian Federation, governmental officials of the constituent entities of the Russian Federation or municipal officials (e.g., judges, members of the Federation Council, deputies of the State Duma and legislative bodies of constituent entities of the Russian Federation, ambassadors); state and municipal servants; prosecutors, military officers, customs officers, officers of the Ministry of Internal Affairs, Federal Penitentiary Service, Investigative Committee and Emercom; employees of the Central Bank of Russia; employees of state corporations, public law companies and state companies; and employees of the Pension Fund, Social Security Fund, Mandatory Medical Insurance Fund and other entities established by the Russian Federation pursuant to federal laws and entities created by federal authorities to pursue their objectives (“officials”).

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described in mass media as eliminating liability for corruption, the Bills are relatively technical in nature and do not release officials from liability for bribery.

In order to become law, the Bills need to be adopted by the State Duma in three readings, approved by the Federation Council and signed by the President. The State Duma is in the process of scheduling the second reading.

**Exemption from Liability.** If Extraordinary Circumstances exist, the Bills exempt officials from liability for failure to comply with certain anti-corruption prohibitions, restrictions and obligations, including:

- the requirement to provide complete information on the official's income, expenses, property, or material obligations;
- the prohibition from opening or maintaining bank accounts/deposits or keeping cash or valuables in banks outside of Russia or holding or using foreign financial instruments; and
- the requirement to take measures to prevent or settle conflicts of interest.

Officials will continue to be liable for other offenses that are considered more serious, such as provision of deliberately false information on income, expenses, property or material obligations or bribery itself.

**Procedure of Exemption from Liability.** Within three business days after becoming aware of any Extraordinary Circumstances that prevent the fulfilment of applicable anti-corruption duties or restrictions, the official must file a written notice accompanied by any documents supporting the claim that Extraordinary Circumstances excuse non-compliance with the governmental anti-corruption commission (the "Commission").

The Commission will determine whether there is a causal link between the Extraordinary Circumstances and the failure to comply and decide whether the official should be exempt from liability for non-compliance.

**Remediation of Failure to Perform Anti-Corruption Requirements.** The official exempted from liability must ensure the performance of anti-corruption duties that the official has failed to perform no later than one month after the cessation of the Extraordinary Circumstances that prevented compliance.

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Please do not hesitate to contact us with any questions.

**NEW YORK/LONDON**



Jane Shvets  
jshvets@debevoise.com

**MOSCOW**



Anna V. Maximenko  
avmaximenko@debevoise.com



Elena Klutchareva  
emklutchareva@debevoise.com