

Client Update

New Types of Banking Licenses in Russia

MOSCOW

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On 1 June 2017, Federal Law No. 92-FZ dated 1 May 2017 (the “Federal Law”) came into force, which amends certain provisions of Federal Law No. 395-1 dated 2 December 1990 on Banks and Banking Activity and several other federal laws.

The amendments provide for distinguishing between banks holding a universal license and banks holding a basic license based on the list of permitted operations.

BANKS WITH A UNIVERSAL LICENSE

From the effective date of the Federal Law, all lending institutions that are banks will be deemed to hold a universal license. Such banks:

- may carry out all banking operations set forth by the law;¹
- must have a charter capital of RUB 1 billion (for newly registered banks with a universal license);²
- effective 1 January 2018, must have at least RUB 1 billion of their own funds (capital) (if the capital adequacy requirement is not met, the bank will be required to change its status and become, depending on the circumstances, a bank with a basic license, a non-banking lending institution or a microfinance institution, and its banking license may be withdrawn).

It is expected that the term “general license” will be removed from the federal laws and other rules and regulations containing this term. The general licenses

¹ The list of operations is contained in Article 5(1) of Federal Law No. 395-1 on Banks and Banking Activity dated 2 December 1990.

² The minimum size of the charter capital previously required for banks was RUB 300 million. Pursuant to the Federal Law, the minimum size of the charter capital for non-banking lending institutions and for central counterparties remains the same (RUB 90 million and RUB 300 million respectively).

issued prior to the effective date of the Federal Law will remain in force until new licenses are obtained by the banks.

In addition, the Central Bank of Russia may introduce tiered standards for banks holding a universal license and banks holding a basic license.

BANKS WITH A BASIC LICENSE

The banks with a basic license will have a reduced list of banking operations.³ In particular, such banks:

- may carry out a limited number of banking operations and transactions and may deal in specific types of securities only;
- may not perform the following operations or transactions in respect of foreign legal entities, foreign organizations not constituting legal entities and foreign individuals:
 - placement of monetary funds on their own behalf raised as deposits;
 - raising of precious metals as deposits and placement thereof;
 - issuance of bank guarantees;
 - appropriation of claims against the above persons;
 - leasing operations; and
 - issuance of suretyship;
- may not establish branch offices or create subsidiaries in a foreign jurisdiction;
- may not open accounts with foreign banks other than accounts required for participation in a foreign payment system;
- must have a charter capital of RUB 300 million (for newly registered banks with a basic license); and
- must have at least RUB 300 billion of their own funds (capital) effective 1 January 2018 (if this capital adequacy requirement is not met the bank will be required to change its status and become a non-banking lending institution or a microfinance institution and its banking license may be withdrawn).

³ As stated in the explanatory note to the draft Federal Law, gradual introduction of simplified regulation by the Central Bank of Russia in respect of the banks holding a basic license will allow them to reduce their costs of compliance with international standards and will promote a wider access to banking services in Russia.

In addition, simplified disclosure rules will apply: unlike banks with a universal license, banks holding a basic license are not required to disclose information on accepted risks, their assessment or risk and capital management procedures, or any information on financial instruments included in the calculation of their own funds (capital).⁴

The maximum size of the capital (own funds) of a bank holding a basic license may not exceed RUB 3 billion. If the own funds of a bank amount to RUB 3 billion or more and remain at least RUB 2.7 billion for twelve consecutive months, a bank with a basic license will be obliged to comply with the requirements for the bank with a universal license in full.

The maximum risk per one borrower for banks holding a basic license is reduced to 20% of their own funds unlike the banks with a universal license where the maximum risk remains within 25%.

CHANGE OF STATUS OF LENDING INSTITUTION

The Federal Law provides for a change of status of a lending institution.

Status “Upgrade”

A bank with a basic license may voluntarily apply for a license with a universal list of banking operations subject to reaching the capital adequacy (own funds) threshold of RUB 1 billion for four consecutive months and compliance with the mandatory standards established by the Central Bank of Russia for banks with a universal license during such period.

The Federal Law also allows for a microfinance institution to obtain a basic license or become a non-banking lending institution.

Status “Downgrade”

In certain cases as provided for by the Federal Law, a bank holding a universal license is required to change its status and become a bank with a basic license, a non-banking lending institution or a microfinance institution, and a bank holding a basic license is required to become a non-banking lending institution or a microfinance institution.

⁴ The Central Bank of Russia may establish special requirements for disclosure depending on the type of lending institutions, including based on the types of licenses issued to the banks.

The change of status of a lending institution will be effected by amending its charter and replacing the license previously issued by the Central Bank of Russia, and the change of status to a microfinance institution will be effected by amending the charter and making an entry to the State Register of Microfinance Institutions.

Upon the “downgrade” of a bank with a universal license to a bank with a basic license or a non-banking lending institution, or upon the “downgrade” of a bank with a basic license to a non-banking lending institution:

- such bank may continue to carry out banking operations or transactions not permitted for banks with a basic license or non-banking institutions respectively until the expiration of agreements (other than credit facilities) executed by the bank prior to the effective date of the Federal Law pursuant to which such operations or transactions are performed, but not longer than five years from the date of change of its status;
- such bank may continue to perform its obligations under credit facility agreements previously executed by it until such credit facility agreements terminate;

the initially determined price (monetary liability) and the term of the above agreements will not be subject to change;

- the banking/correspondent account agreement with a foreign bank must be terminated within one year after the date of change of the bank’s status (other than an account with a foreign bank opened for participation in a foreign payment system); and
- deposits of individuals in banks that have changed their status to non-banking lending institutions are subject to a mandatory deposit insurance scheme.

These changes introduce a multitiered banking grading that may result in consolidation of major banks and cause operating problems for small and regional banks.

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Please do not hesitate to contact us with any questions.