

Russia Adopts Law on Regulatory Sandboxes

September 18, 2020

On July 31, 2020, the Russian President signed a law on experimental legal regimes in the field of digital innovations in the Russian Federation (the “Law”).¹

The Law governs the establishment, modification and termination of an experimental legal regime (an “Experimental Regime”) in the field of digital innovations (also known as a “regulatory sandbox”).² The goal of an Experimental Regime is to ease regulatory limitations on developers of digital innovations during the defined experimental period for innovative solution applications.

The Law is the third bill on digital technology and innovations adopted in July 2020 and is focused on the development of digitalization in the Russian economy.³

The Law will become effective on January 28, 2021. Below we present a brief overview of the key provisions of the Law.

DIGITAL INNOVATIONS

Digital innovations include new or substantially improved products (goods, works, services, protected intellectual property) or processes, new sales methods or management methods in business practice or labor organization, and new developments

¹ Federal Law No. 258-FZ on Experimental Legal Regimes in the Field of Digital Innovations in the Russian Federation dated July 31, 2020.

² The Central Bank of Russia launched its own “regulatory sandbox” in 2018; nevertheless, the relevant relations were not regulated by law. Please see, for example, press release of the Central Bank of Russia dated August 17, 2018, available at: <https://www.cbr.ru/press/event/?id=2028> (in Russian). The Central Bank of Russia reported receiving more than 20 applications from financial organizations, fintech and other companies for project approval in the “regulatory sandbox.” The first service approved provides for remote management of proxies in respect of operations of company accounts in bank offices.

³ Please see our Debevoise Update of July 27, 2020 for a discussion of the law on financial platforms, available at: <https://www.debevoise.com/-/media/files/insights/publications/2020/07/20200727-law-on-financial-transactions-on-eng.pdf>, and our Debevoise Update of August 6, 2020 for a discussion of the law on digital financial assets, available at: <https://www.debevoise.com/-/media/files/insights/publications/2020/08/20200806-russia-adopts-law-on-digital-eng.pdf>.

in external relations that, in each case, are implemented, created or used in the areas set out by the Law using technologies approved by the Russian Government or by the Central Bank of Russia (in the field of financial markets).

The Law specifies the following areas of focus for development, approval and implementation of digital innovations:

- medical activities;
- design, production and exploitation of means of transport, rendering of transport and logistics services and organization of transport maintenance;
- agriculture;
- financial markets;
- online sale of goods, works and services;
- architectural and building design and construction;
- rendering of governmental and municipal services and exercise of state control (supervision) and municipal control; and
- industrial production.

Additional areas for development, approval and implementation of digital innovations can be established by the Russian Government.

An Experimental Regime cannot be established in respect of digital innovations in the areas of state secret protection, security of critical IT infrastructure or sale of prohibited or restricted goods, works and services.

EXPERIMENTAL REGIME

An Experimental Regime assumes specific experimental regulation for its participants (and supersedes or supplements other regulations that would apply) during the specified period of time in the areas of development, approval and implementation of the types of digital innovations mentioned above.

An Experimental Regime may provide for exclusion or change of the provisions of a federal law if it is explicitly provided by the relevant federal law.

The simplified regulation is applied under the condition that it is to be monitored by state and local authorities, *i.e.*, supervision of compliance with the program requirements of the relevant Experimental Regime (the “Program”) through the collection, compilation, systematization and assessment of information on a continuing basis. Based on such monitoring, the competent authority is required to prepare a consolidated analytical report with its evaluation of the efficiency and effectiveness of the Experimental Regime, with input from the relevant regulatory authority and the business community.

The analytical report must contain a conclusion as to whether or not the experimental regulation should become the generally applicable regulation (among other things, by way of amendment of the experimental regulation).

An Experimental Regime may be established for different purposes, in particular:

- formation of new kinds and forms of business activity;
- development of competition;
- improving general regulations; and
- attracting investments in development of digital innovations.

ESTABLISHMENT OF AN EXPERIMENTAL REGIME

An Experimental Regime can be established upon the initiative of a governmental body, a municipal authority (if the regime is established in the field of municipal services or municipal supervision), a legal entity, or an individual entrepreneur (the “Initiator”).

If the Initiator is a legal entity or an individual entrepreneur, it must satisfy the following criteria:

- it shall have no obligatory budget payment deficiencies for the previous calendar year, the amount of which exceeds 25% of the Initiator’s balance sheet value of assets;

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- its chief executive officer, the members of its collective executive body or the members of its board of directors must have no criminal record;
 - it must not be in the process of reorganization, liquidation, bankruptcy or termination of business;
 - it must not be a foreign legal entity or a Russian legal entity with more than 50% of its charter capital held by a foreign legal entity registered in an offshore jurisdiction; and
 - it must comply with the requirements for the subject of the particular Experimental Regime, which are proposed by the Initiator itself.

The Russian Government (or the Central Bank of Russia in the field of financial markets) decides on the establishment of an Experimental Regime after the approval of the relevant Program by the governmental authorities, the relevant business community organization, the supreme executive body of the relevant constituent entity of Russia (if the regime is planned to be implemented in the territory of only one constituent entity), as well as the authorities and organizations concerned. The time period for an Experimental Regime can be up to three years with the possibility of extension for one additional year.

PARTICIPATION IN AN EXPERIMENTAL REGIME

The Initiator becomes the subject of the relevant Experimental Regime (the “Subject”) upon the decision of the Russian Government (or the Central Bank of Russia) on the establishment of the Experimental Regime. Other persons or entities can join such Experimental Regime by filing an application compliant with the requirements of the Program (in particular, the requirements applicable to the Subjects themselves), and compliant with the requirements of the Initiator mentioned above. The conditions of establishment and implementation of Experimental Regimes, as well as the list of Subjects and filed applications, will be recorded in a special public register.

The Subject’s participation in an Experimental Regime may be suspended for uncured violations on the grounds specifically provided for in the Program. If the Subject commits more than two violations or more than one major violation of the Program within one year, the competent authority may decide to terminate the Subject’s participation in such Experimental Regime.

MODIFICATION AND TERMINATION OF AN EXPERIMENTAL REGIME

An Experimental Regime may be suspended by the Russian Government (or the Central Bank of Russia) for a period of up to three months:

- if the application of a new federal law entered into force leads to alteration of the Experimental Regime's conditions;
- if there is no information on any Subjects and filed applications for such Experimental Regime in the register of experimental legal regimes for a period of three consecutive months; or
- to the extent otherwise set forth by the Program.

An Experimental Regime may be subject to early termination if a federal law leading to the termination of such Experimental Regime enters into force, as well as upon the decision of the Russian Government (or the Central Bank of Russia):

- if there is no information on any Subjects and filed applications for such Experimental Regime in the register of experimental legal regimes for a period of six consecutive months;
- if unexpected risks for human rights, human life and health, state interests and infrastructure are discovered as part of the implementation of such Experimental Regime;
- if violations of human rights and freedoms or events causing harm to state interests are discovered;
- upon the decision of the Subject if the extension of the general regulation to legal relations where the Subject is a party may cause harm to other participants in the Experimental Regime; or
- to the extent otherwise set forth by the relevant Program.

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Please do not hesitate to contact us with any questions.

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