



New rules on foreign securities in Russia

New regulations allow foreign securities to be offered in Russia in the course of primary distribution and/or secondary trading.

On 28 April 2009, Federal Law No 74-FZ On Amendments to the Federal Law No 39-FZ dated 22 April 1996 'On Securities Market' (the Securities Market Act) and Federal Law No. 46-FZ dated 5 March 1999 'On Protection of Rights and Interests of Investors on Securities Market' (the Amendments) was signed by the President of the Russian Federation. The Amendments are aimed at allowing foreign securities to be offered in Russia in the course of primary distribution and/or secondary trading.

New rules on foreign securities' public offering and public trading

To publicly offer foreign securities in Russia – to both qualified and non-qualified investors on and/or off a Russian stock exchange – foreign securities must be admitted to public offering by the Federal Service for Financial Markets (FSFM), the Russian securities market regulator.

Foreign securities may, in the course of public secondary trading in Russia, be sold to both qualified and non-qualified investors on and/or off a Russian stock exchange, subject to a decision of:

- a Russian stock exchange to admit such foreign securities to trading, if they are listed on a recognised foreign stock exchange included in the list which is to be established by the FSFM (the List) (except for the securities of international financial organisations); or
- the FSFM, if foreign securities are not listed on such a recognised foreign stock exchange or cannot be admitted to trading by a Russian stock exchange as set out above for other reasons.

To be publicly offered and/or publicly traded in Russia, foreign securities must:

- be assigned both an international securities identification number (ISIN) and an international code of classification of financial instruments (CFI);
- qualify as securities pursuant to the procedure established by the FSFM; and
- be issued by:
 - an entity incorporated in (a) a member state of the Organization for Economic Co-operation and Development (OECD); (b) a member state or an observer state of the Financial Action Task Force (FATF); and/or (c) a member state of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL);
 - an entity incorporated in a state where the relevant securities regulator has entered into a treaty on co-operation with the FSFM;
 - a member state referred to above or its central bank; and
 - an international financial organisation recognised by the Russian government.

Securities of international financial organisations

Securities of international financial organisations may be offered and/or traded publicly in Russia if their terms do not restrict them from being offered for distribution to, and/or sold in the secondary market to, an unlimited number of persons.

Foreign securities not eligible for public offering and/or public trading

Foreign securities that are not eligible for public offering and/or public trading in Russia under the procedure described above may be sold to qualified investors only, subject to certain statutory requirements.

Foreign securities that are not eligible for public offering and/or public trading may also be admitted to trading on a Russian stock exchange (on a separate exchange trading marketplace that will be available to qualified investors only) and such admittance will not be considered either an offering to public and/or public trading for the purposes of the Securities Market Act. However, the rules for such limited admittance to trading are yet to be established by the FSFM and the Russian stock exchanges.

Foreign financial instruments that are not qualified as securities in Russia pursuant to the procedure established by the FSFM may be offered to qualified investors only.

The Amendments prohibit advertising and offering to an unlimited number of persons of:

- securities which are not admitted to public offering and/or public trading in Russia; and
- foreign financial instruments which are not qualified as securities in Russia.

Qualified investors

Under Russian law, qualified investors include:

- Russian licensed brokers, dealers and asset managers;
- Russian licensed credit institutions (including banks);
- joint stock investment funds;
- management companies of investment and mutual funds as well as non-governmental pension funds;
- Russian licensed insurance companies;
- non-governmental pension funds;
- the Russian Central Bank;
- Vnesheconombank (VEB);
- the Russian Deposit Insurance Agency;
- international financial organisations, including the World Bank, the International Monetary Fund, the European Central Bank, the European Investment Bank, and the European Bank for Reconstruction and Development;
- other persons recognised as qualified investors by Russian federal laws; and

- certain other types of investors which meet the criteria set out in the Securities Market Act and which are recognised as qualified investors by a Russian licensed broker or asset manager.

Prospectus

To offer and/or publicly trade foreign securities in Russia, a prospectus must be prepared. The prospectus must be in Russian, signed by a broker and in certain cases by the issuer, and meet the disclosure requirements established by the FSFM.

Persons signing a prospectus are liable if any information contained in the prospectus is false, incomplete and/or misleading.

Periodic disclosure requirements

A Russian stock exchange that has admitted foreign securities to public trading must disclose requisite information on such securities and their issuer. Such information must be disclosed in the relevant foreign language, followed by a Russian translation. The scope of the information to be disclosed should be the same as that disclosed on the foreign stock exchange where such securities are listed.

Information on foreign securities that are not listed on a foreign stock exchange must be disclosed to the extent and in the fashion required by the Securities Market Act and the FSFM regulations.

Next steps

The Amendments became effective on 16 May 2009. However, practical implementation of some provisions of the amended Securities Market Act requires the adoption of FSFM regulations and rules of Russian stock exchanges, which are yet to be adopted. We expect the FSFM to promulgate necessary implementing regulations within the next few months and will keep you informed of any further developments.

For further information please contact

Mikhail Loktionov
Partner
T +7 495 785 3000
E mikhail.loktionov@freshfields.com

Freshfields Bruckhaus Deringer LLP is a limited liability partnership registered in England and Wales with registered number OC334789. It is regulated by the Solicitors Regulation Authority. For regulatory information please refer to www.freshfields.com/support/legalnotice. Any reference to a partner means a member, or a consultant or employee with equivalent standing and qualifications, of Freshfields Bruckhaus Deringer LLP or any of its affiliated firms or entities.