

Please find attached:

- Description of the national statutes, laws, and regulations governing the MOEX and NCC activities and its respective participants

**Basic principles of regulation of the Russian Financial Market**

Key laws that govern the financial and commodities markets of the Russian Federation are formalized in the codes of the Russian Federation. The fundamental source of legal regulation of the securities market is the Civil Code of the Russian Federation. The Civil Code of the Russian Federation defines the notion and types of securities, specifies the general provisions applied to the commission, engagement, trust management and agency agreements concluded in the course of rendering services on the financial and commodities markets, and formalizes several other provisions applied to relations connected with performance of activities on the financial and commodities markets.

Civil law is not the only branch of law defining rules of conduct of the securities market. Laws regarding the responsibility of financial and commodity market participants are set forth in the Administrative Offences Code of the Russian Federation. The Administrative Offences Code of the Russian Federation establishes the jurisdiction and procedure for adoption of decision by the governmental authorities, methods of government regulation of the securities market, and administrative offences in the sphere of performance of professional activities on the securities market. Sanctions for offences connected with activities in the financial and commodities markets are set forth in the Criminal Code of the Russian Federation.

The Tax Code of the Russian Federation determines patterns of calculation of all taxes, including taxes connected with transactions on the financial and commodities markets.

**I. Federal Laws and Regulations****(A) Basic principles**

Regulation of the financial and commodities markets in the Russian Federation is based on two basic groups of regulatory documents: (1) the Federal Laws and (2) the regulatory acts.

The Federal Laws set forth basic principles of regulation, including general concepts regarding the securities market, requirements to participants of the securities market, principles of protection of rights and legitimate interests of investors, procedure for establishment and performance of activities by joint stock companies. The Federal Laws are passed by the State Duma (the Lower Chamber of the Federal Assembly and the legislative authority of the Russian Federation), and then are approved by the Council of the Federation (the Upper Chamber) and signed by the President of the Russian Federation.

Regulatory acts set forth more detailed rules regarding particular types of activities, principles of conduct, and other elements. A substantial portion of regulatory documents for the financial market was enacted by the Federal Financial Markets Service (the "FFMS"). Following the reorganization of Russia's Government agencies, the FFMS has been abolished with its powers transferred to the Bank of Russia as from 1 September 2013. For the transitional period, the Bank of Russia Financial Market Service (FMS) was formed. Since March 3, 2014, the FMS was abolished and its powers were transferred to established structural departments of the Bank of Russia, thereby marking the end of separate regulation of different financial markets sectors. Thus, currently regulatory documents are issued by the Bank of Russia.

**(B) Specific Federal Laws****(1) Federal Law "On Organized Trading"**

The Federal Law "On Organized Trading" (hereinafter – the Federal Law 325-FZ) regulates relations arising in organized trading on the commodities and financial markets, specifies requirements to the institutor and participants of such trading, and determines the basis of the state regulation of the specified activities and control over its performance.

The Federal Law 325-FZ was entered into on January 01, 2012, except for separate provisions that became effective from January 1, 2014.

The Federal Law 325-FZ consists of the following sections: (a) general provisions, (b) organizers of trading and participants of trading, (c) organized trading, (d) regulation and oversight over performance of organized trading activities, and (e) concluding provisions.

(a) General provisions of the Federal Law “On Organized Trading”

Basic concepts used in the Federal Law 325-FZ are set forth in article 2, according to which organized trading is the trading held on a regular basis according to the established rules prescribing the procedure for admittance of persons to participation in the trading for conclusion by them of:

- agreements of purchase and sale of commodities, securities, foreign currency;
- repurchase agreements;
- derivatives financial instruments.

Regular services regarding organized trading on the commodities and financial markets are rendered by the organizer of trading. For this purpose, the organizer of trading shall have the exchange license or trading system license. The organizer of trading is an entity providing services on organized trading on any commodity and (or) financial markets on the basis of the exchange license or the trading system license.

Services are rendered to the participant of the trading under the agreement and in accordance with the trading rules.

The registration of the rules of organized trading in the Bank of Russia is a mandatory condition for holding of such trading by the organizer of trading.

An organized trading venue’s rules shall contain:

- requirements applicable to participants;
- requirements regarding the methods and periodicity of identification of participants of trading;
- trading hours;
- procedure for admission of persons to participation in the organized trading;
- procedure for admission (cessation of admission) of commodities and/or foreign currency to trading;
- reasons and procedure for commencement, suspension or termination of conclusion of agreements being derivative financial instruments;
- procedure and conditions for filing applications;
- procedure for conclusion on the organized trading of agreements, including agreements with participation of the central counterparty;
- indication of cases and procedure for suspension, termination and resumption of the organized trading;
- requirements to the market makers and procedure for performance by them of their functions and obligations;
- other information.

Organizers of trading may unilaterally introduce changes to these rules. In this regard the changes should also be registered with the Bank of Russia.

(b) Organizers of trading and participants of trading

An organizer of trading may only be a business entity established in accordance with the legislation of the Russian Federation (i.e., Russian organization).

An organizer of trading may not engage in the following activities:

- production, sales and insurance activities;
- activities of credit institutions;
- activities regarding maintenance of the securities holders register;
- activities regarding management of incorporated investment funds, unit investment funds and non-state pension funds;
- activities of specialized depositories of investment funds, unit investment funds and non-state pension funds, as well as incorporated investment funds, non-state pension funds on pension coverage and pension insurance.

An organizer of trading may not be the central counterparty.

An organizer of trading performing trading activities and any other types of activities must establish one or more separated structural subdivisions for performing of activities on holding of organized trading.

Organizers of trading are responsible for exercising control over: (i) participants' observance of the rules of an organized trading platform; (ii) conformance between commodities and securities trading on an organized trading platform and the rules of such platform; (iii) issuers' and other persons' observance of the terms of agreements to which securities are admitted for trading; and (iv) transactions conducted on the organized trading, including for the purposes of prevention, detection and preclusion of unlawful use of the insider information and/or market manipulation.

An organizer of trading must prepare annual consolidated financial statements that contain annual accounting (financial) reporting, as well as consolidated financial statements. Specified types of reporting are subject to mandatory audit.

An organizer of trading is obliged to maintain a register of participants of trading and their clients, a register of requests, and a register of agreements executed on the organized trading platform.

The Federal Law 325-FZ also requires that an organizer of trading's management and employees meet certain minimum requirements. Specifically, employees (director, chief accountant, head of the risk management system division, inspector and other employees) must have a higher education degree. Adding to this, Regulations of the FFMS of Russia "On qualification and professional experience requirements" (No. 12-84/pz-n) set requirements for professional experience and a qualification certificate in the sphere of the organized trading for the aforementioned employees.

Proprietary funds of the organizer of trading should correspond to the particular value. Minimum size of the proprietary funds of the person rendering services for holding of organized trading on the commodities and/or financial markets on the basis of the license of the exchange should amount to at least RUR 100 mln. ( $\approx$  USD 1.6 mln.<sup>1</sup>).

Organizer of trading should observe liquidity criteria, criteria of sufficiency of the proprietary funds, size and method of determination of which are established by the Bank of Russia.

Types of organizers of trading are the following:

- Exchange is an organizer of trading having a license of an exchange. The exchange may only be a joint stock company. In addition to the restrictions on combining of activities set with respect to the organizer of trading, the exchange may not combine its activity with brokerage, dealer and depository activities, as well as with activity on asset management of securities. The exchange is obliged to establish an exchange committee and/or section committee for each trade (exchange) section.
- Trading system is an organizer of trading having a license of a trading system. In addition to the restrictions on combining of activities set with respect to the organizer of trading, the trading system when combining its activities with clearing activities may not combine such activities with brokerage, dealer and depository activities on the securities market and activity on asset management of securities.

In cases specified by the regulatory acts of the Bank of Russia, an organizer of trading should calculate prices, indices and other indicators on the basis of information on agreements concluded on the organized trading.

An organizer of trading should organize and exercise certain internal controls. For this purpose, the organizer of trading should appoint an inspector and form the internal control service. The inspector (head of the

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<sup>1</sup> As of USD/RUB rate settled by the Bank of Russia on September 30, 2016.

internal control service) is appointed to and dismissed from the position by the resolution of the Board of Directors (the Supervisory Board). The inspector is accountable to the Board of Directors (the Supervisory Board).

The procedure for exercising the internal control is established by the documents of the organizer of trading in accordance with the requirements of the regulatory legal acts of the Bank of Russia.

Participants of trading:

The Federal Law 325-FZ specifies the requirements to the participants of trading, including organized trading in securities, commodities, foreign currency, as well as trading, where derivative financial instrument agreements are executed.

Only the following persons may be admitted to participate in the organized trading in securities: brokers, entities conducting activity on asset management of securities and dealers, entities having licenses to act as professional participants of the securities market, asset management companies of investment funds and non-state pension funds, central counterparty and the Bank of Russia.

The following persons/entities may be admitted to participate in the organized trading in derivative contracts:

- the Bank of Russia;
- a central counterparty;
- management companies of investment funds, unit investment funds and non-state pension funds;
- dealers;
- administrators (professional participants of the securities market performing activities on administration of securities);
- brokers having licenses to act as professional participants of the securities market, including brokers having licenses for performance of activities only on conclusion of the forward contracts, the basis assets of which are commodities.

Legal entities (Russian organizations) may also be admitted to participate in the organized trading, where derivative contracts, the basis asset of which is commodities, are executed, if such contracts are executed at their expense. Credit organizations acting in their own name and at their own expense may also be admitted to participate in the organized trading, where derivative contracts, the basis assets of which is currency and interest rates, are executed.

Foreign legal entities performing functions similar to the functions of the central counterparty and included in the list approved by the Bank of Russia may be admitted to participate in the organized trading. In case of inclusion of such a foreign legal entity in the list of the Bank of Russia, certain restrictions may be set for its admission to the organized trading.

The rule of the organized trading platform may define various groups (categories) of participants of trading and specify different requirements for such participants of trading, as well as different rights and obligations of such participants of trading.

#### (d) Organized Trading

The Federal Law 325-FZ determines requirements to the requests submitted on the organized trading and agreements executed thereon. Content of the requests submitted on the organized trading and procedure for their submission and withdrawal are determined by the rules of the organized trading platform.

The Federal Law 325-FZ also prescribes peculiarities of executing agreements with a central counterparty and clearing broker on the organized trading platform.

Additionally, the Law 325-FZ regulates:

- suspension or termination of the organized trading;
- disclosure (provision) of information and documents to the organizers of trading;
- protection of information;

- dispute resolution mechanism.

Thus, an organizer of trading pursuant to Article 22 of the Federal Law 325-FZ is obliged to ensure disclosure of:

- its constituent documents;
- rules of the organized trading;
- regulations for the exchange committee (section committee) and their resolutions;
- its annual reports accompanied by the audit reports;
- cost rate for the services rendered by it;
- the time of the organized trading holding;
- other information.

Organizers of trading must provide all interested persons with access to this information for free.

An organized trading platform's rules may determine the conditions and procedure for resolution of disputes between the participants of the trading, as well as disputes between the parties to agreements concluded on the organized trading in the form of arbitration proceedings by the permanent court of arbitration.

(e) State Regulation and Government Control over Performance of Activities on Holding of Organized Trading

Article 25 of the Federal Law 325-FZ prescribes the authorities of the Bank of Russia. These authorities include:

- regulation of activities of the organized trading holding, including adoption of the regulatory legal acts;
- ensuring the realization of the unified national policy in the sphere of organized trading;
- establishment of requirements to the procedure for the organized trading holding;
- establishment of the procedure for maintenance of registers of trading participants and their clients, registers of requests and registers of agreements;
- registration of the rules of the organized trading and other documents of the organizers of trading, including specifications of agreements and modifications and amendments introduced therein;
- licensing of exchanges and trading systems, as well as cancellation of their licenses;
- imposing the restrictions on the number of commodities which can be subjects of the contracts concluded on the organized trade market and the requirements the compliance to which is a condition for admission of the commodities to the organized trade
- establishment of requirements to contents of the specifications of agreements being derivative financial instruments;
- definition of cases, procedure and time periods for calculation by the organizers of trading of prices, indices and other indicators;
- definition of requirements to the procedure and time periods for calculation of the proprietary funds of the organizers of trading, as well as establishment of other requirements aimed at minimization of risks while carrying out activities of the organized trading holding;
- establishment of requirements to exercise internal control by the organizers of trading ;
- determination of rules, composition, procedure and time periods for disclosure (provision) of information by the organizers of trading;
- determination of the volume, procedure, time periods and forms of submission of reports, notifications and messages to the Bank of Russia by the organizers of trading;
- establishment of requirements to the procedure of storage and protection of information and documents connected with the organized trading holding, as well as to the period of their storage;
- establishment of qualifying requirements and requirements to the professional experience of the employees of the organizer of trading, as well as cancellation of issued certificates on the ground of recurring violations;
- giving a preliminary consent to the election (appointment) of the entities specified in the Federal Law 325-FZ;

- performance of inspection of the organizers of trading activities;
- confidential information exchange with the relevant body (institution) of the foreign state under an agreement with such body (institution) which stipulates mutual exchange of information given that the laws of the state of such body (institution) provide that the confidential information protection level is at least the same as the confidential information protection level required by the laws of the Russian Federation and if the relations in the sphere of exchange of information are governed by the international agreements of the Russian Federation – then required by the terms of such agreements;
- personal data exchange with the relevant body (institution) of the foreign state under an agreement with such body (institution) which stipulates mutual exchange of information given that the laws of such foreign state provide for adequate protection of the rights of owners of such personal data;
- other functions provided for by the Federal Law 325-FZ.

If the Bank of Russia detects a violation of the federal laws or regulatory legal acts, the Bank of Russia may send mandatory instructions subject to compulsory implementation by the addressees (for example, organizers of trading, professional participants of the securities market).

Procedure for licensing of activities on the organized trading holding is set forth in Article 26 of the Federal Law 325-FZ. It contains the list of documents that should be submitted for obtaining of a license, requirements to them, grounds for refusal to grant a license, procedure for appeal of such refusal and procedure for re-execution of a document confirming existence of the license.

Organizers of trading must register the following documents (and changes therein) with the Bank of Russia:

- rules of the organized trading;
- methods of calculation of prices, indices and other indicators disclosed by the organizer of trading;
- document determining the procedure for organization and exercise of the internal control;
- document determining the procedure for organization of monitoring of the organized trading, as well as control over the participants of the trading and other persons;
- document determining measures aimed at minimization of risks of activities on organization of trading;
- document determining measures taken by the organizer of trading in emergency situations and aimed at ensuring continuity of carrying out of activities on organization of trading;
- specifications of agreements, which are derivative financial instruments.

The procedure for cancellation of the license is prescribed by Article 28 of the Federal Law 325-FZ.

## (2) Federal Law “On Securities Market”

The Federal Law “On Securities Market” (hereinafter – the Federal Law 39-FZ) is the basic document governing relations arising in the course of issuance and circulation of issue-grade securities, as well as rules regarding the establishment and activities of professional participants of the securities market.

Last amendments of the Federal Law 39-FZ of April 22, 1996 were enacted on January 1, 2015.

The Federal Law 39-FZ consists of the following sections: (a) general provisions of the Federal Law 39-FZ, (b) professional participants of Securities Market, (c) section on the issue-grade securities, (d) information support of Securities Market, (e) regulation of Securities Market, and (f) concluding provisions. Within these sections, the Federal Law 39-FZ sets forth basic rules governing the securities market, the most important of which relate to: issue-grade securities, shares, bonds, issues of the issue-grade securities, circulation and placement of securities, issue of securities, professional participants of the securities market, public offerings and circulation of securities, listing and delisting, Russian Depository Receipt, financial instruments, and derivative financial instruments. The rules governing certain of these topics are explained below.

### (a) General provisions of the Federal Law “On Securities Market”

A financial instrument is a security or derivative financial instrument. A derivative financial instrument is an agreement, except for a repurchase agreement, providing for one or more of the following responsibilities:

- an obligation of parties or a party to an agreement to regularly or non-recurrently pay monetary amounts, including in case of raising of demands by the other party, based on the change in prices of commodities, securities, exchange rate of the respective currency, interest rates, inflation rate, values calculated on the basis of prices of derivative financial instruments, indicator values comprising official statistical information, values of physical, biological and/or chemical parameters of the environmental condition, the occurrence of a circumstance indicative of non-fulfillment or improper fulfillment by one or more legal entities, state and municipal formations of their obligations (except for guarantee agreement and insurance agreement), or another circumstance stipulated by the Federal Law or regulatory legal acts of the federal executive body on the securities market and with respect to which it is not known, if it will occur or not, as well as on changes of values calculated on the basis of one or more indicators specified in this clause. In this respect such an agreement may also provide for the responsibility of the parties or a party to the agreement to transfer to the other party securities, commodities or currency or obligation to conclude an agreement;
- an obligation of parties or a party under the conditions determined when concluding an agreement in case of raising of demands by the other party to purchase or sell securities, currency or commodities or to conclude an agreement;
- an obligation of one party to transfer securities, currency or commodities into ownership to the other party not sooner than the third day after the day of conclusion of an agreement, obligation of the other party to accept and pay for the specified property and indication that such an agreement.

(b) Professional Participants of the Securities Market

The types of professional activities on the securities market are: brokerage, dealer activity, asset management of securities, depositary activity, maintenance of securities holders register.

(c) Issue-Grade Securities

The Federal Law 39-FZ sets forth general provisions regarding the issue-grade securities. This includes information regarding the procedure to issue securities, general requirements regarding the contents of a securities prospectus, details of issue of particular types of issue-grade securities, information on limitations on circulation of securities, the forms of certification of the right of ownership to the issue-grade securities, the transfer of rights to securities, and the realization of rights attached to securities.

(d) Information Support of the Securities Market

The Federal Law 39-FZ sets forth general provisions on disclosure of the information on the securities market, and the information on securities and derivative financial instruments intended for qualified investors

(e) Regulation of the Securities Market

The Federal Law 39-FZ contains information on the fundamentals of regulation of the securities market and licensing of activities of professional participants of the securities market.

According to Article 38 of the Law 39-FZ, the government regulation of Securities Market in the Russian Federation is effected by way of:

- establishment of mandatory requirements to the activities of professional participants of the securities market and its standards;
- state registration of issues (additional issues) of the issue-graded securities and securities prospectus and control over adherence by the issuers to the conditions and obligations prescribed therein;
- licensing of the activities of professional participants of the securities market;
- implementation of the holders' rights protection system and control over adherence to their rights by the issuers and professional participants of the securities market;
- prohibiting and preclusion of activities of persons carrying out entrepreneurial activities on the securities market without the respective license.



All types of professional activities on the securities market are carried out on the basis of the special authorization — license granted by Bank of Russia.

Professional participants of the securities market may be legal entities established in accordance with the legislation of the Russian Federation (i.e., Russian organizations). Regulatory legal acts of the Bank of Russia contain requirements to the procedure for licensing of professional participants of the securities market.

Credit institutions and state corporations perform professional activities on the securities market in accordance with the procedure prescribed by the Federal Law 39-FZ and other Federal Laws, as well as by regulatory legal acts for professional participants of the securities market.

Additional reason for refusal to grant a license to a credit institution for performance of professional activities on the securities market, its suspension or cancellation is the cancellation or revocation of the license for performance of banking transactions issued by the Bank of Russia.

The Section 12 of the Federal Law 39-FZ formalizes principal functions, rights and obligations of the Bank of Russia.

The Section 13 of the Federal Law 39-FZ contains the notion of a self-regulated organization (hereinafter – the SRO) of professional participants of the securities market, the rights of SRO and requirements specified for SRO. The SRO is a voluntary union of professional securities market participants that act on the basis of the Federal Law 39-FZ and principles applied to non-commercial organizations. The SRO is established by professional securities market participants in order to ensure proper conditions for professional activities of the securities market participants, observance of professional ethical standards on the securities market, protection of interests of securities holders and other clients of professional securities market participants that are members of the organizations and establishment rules and standards for securities transactions providing effective activity on the securities market.

The SRO sets rules for conducting professional activity on the securities market, standards for securities transactions binding upon its members and controls observance of such rules and standards.

The SRO is entitled to:

- receive information on members' audit results;
- adopt rules and standards for conducting professional activities by its members including securities transactions and transactions in derivatives;
- control observance of its rules and standards for conducting professional activities by its members;
- educate individuals in the area of the professional securities market activities and hold qualification examinations and issue qualification certificates. The SRO has been accredited by the Bank of Russia to do so.

In addition to the above mentioned questions, the Federal Law 39-FZ also covers the following spheres of regulation. The Federal Law 39-FZ prescribes liability for violation of the legislation of the Russian Federation on securities. For violation of the Federal Law 39-FZ and other legislative acts of the Russian Federation on securities, persons bear responsibility in cases and in accordance with the procedure prescribed by the civil, administrative and criminal legislation of the Russian Federation.

If the market participants have the intention to conclude on the off-exchange market more than one repurchase agreement or derivative agreement (contract) or any other type of agreement, the subject matter of which are securities/foreign currency, such agreements may be concluded under the terms of the Master Agreement (integrated agreement). The Federal Law 39-FZ specifies the general provisions of such agreements. Russian legislation prescribes maintenance of the register of repurchase agreements, derivative contracts and other contracts concluded on the off-exchange market. Maintenance of the said register is performed by the repository. Possibility of application of the “close-out netting” is provided for by the Federal Law “On Bankruptcy” for the specified off-exchange transactions counted off to the repository.

(3) Federal Law “On Clearing and Clearing Activity”

The Federal Law “On Clearing and Clearing Activity” (hereinafter – the Federal Law 7-FZ) establishes the legal framework of execution of clearing, requirements for legal entities performing clearing activities and functions of a central counterparty, as well as the legal basis of the state regulation of clearing activities and state control over its implementation.

The Federal Law 7-FZ was entered into force on February 07, 2011 (as last amended on March 12, 2014).

The Federal Law 7-FZ consists of the following chapters: (a) general provisions, (b) clearing organization and participants of clearing, (c) clearing, (d) risk management in the course of performance of clearing; (e) state regulation of clearing activities and state control over performance of clearing activities and (d) concluding provisions.

(a) General Provisions of the Federal Law 7-FZ

The Federal Law 7-FZ provides definitions of the general concepts pertaining to the sphere of regulating of clearing activities: individual clearing coverage, clearing, clearing pool, clearing broker, clearing organization, collective clearing coverage, netting, clearing member, central counterparty and others.

The Federal Law 7-FZ introduces a definition of “central counterparty”: it is a legal entity complying with the requirements of the Federal Law 7-FZ being one of the parties to all agreements, obligations under which are subject to inclusion into the clearing pool.

Clearing rules and amendments thereto are approved by the Clearing Organization and are subject to registration with the Bank of Russia.

Clearing rules should contain:

- requirements for the clearing members;
- procedure and conditions of admittance of obligations to clearing;
- procedure for performance of clearing, including procedure and conditions of inclusion of obligations to the clearing pool (exclusion of obligations from the clearing pool);
- rights and obligations of the clearing organization, clearing members and a person performing functions of the central counterparty;
- procedure for fulfillment of obligations according to the results of the clearing;
- methods of ensuring performance of obligations admitted to clearing;
- conditions of insurance of liability of a person performing functions of the central counterparty on obligations admitted to clearing, if the said property is insured;
- procedure for presentation by the clearing organization of reports summarizing the results of clearing to the clearing members;
- description of measures aimed at management of risks in the performance of clearing, as well as at allocation of responsibilities for risk management between the clearing organization and a person performing functions of the central counterparty;
- other provisions specified by the Federal Law 7-FZ.

(b) Clearing organization and Clearing members.

A clearing organization is a legal entity that has a right to perform clearing activities on the basis of the license. A Clearing organization or a person performing functions of the central counterparty may be only a business entity founded in accordance with the legislation of the Russian Federation (i.e., a Russian company).

Functions of the central counterparty may be performed by the clearing organization, as well as the credit institution that obtained accreditation for performance of the said functions.

A clearing organization may not engage in production, sales and insurance activities, activities on maintenance of the register of holders of securities, activities on asset management of investment funds and

non-state pension funds, activities of specialized depositories of investment funds and non-state pension funds, as well as activities of investment fund and non-state pension fund.

A clearing organization may combine its clearing activities with any activities related to brokerage, dealer and depository activities on the securities market or activities on asset management of securities.

Special requirements to the management and employees of the clearing organization include mandatory existence of the board of directors (supervisory board) and mandatory existence of the Executive Board are:

- higher education degree,
- mandatory existence of qualification certificates,
- existence of the required professional experience for a person performing functions of the sole executive body of the clearing organization, head of its branch, chief accountant, another official entrusted with accounting records maintenance, official or head of a separate structural subdivision responsible for organization of the risk management system, inspector (head of the internal control service), head of the structural subdivision established for performance of clearing.

Minimum size of proprietary funds of the clearing organization should amount to at least RUR 100 mln. (≈ USD 1.6 mln.<sup>2</sup>).

Procedures for exercise of internal control are established by the regulatory legal acts of the Bank of Russia. Requirements for those documents are established in the Bank of Russia's regulatory acts.

Requirements to the clearing members are set by the clearing rules. Clearing rules may define different groups (categories) of clearing members and specify the requirements to clearing members, as well as the rights and obligations of the clearing members relating to different groups (categories) of the clearing members.

Clearing rules should establish the requirements for the financial stability of clearing participants. Clearing members are obliged to provide the clearing organization with reports characterizing their financial position, to the extent, in the manner and within the time-limits determined by the clearing rules, and should immediately notify the clearing organization of their non-conformity with the specified requirements.

#### (c) Clearing

Clearing pool is a series of complex obligations admitted to clearing and subject to complete termination by set-off and/or in any other manner in accordance with the clearing rules and/or by fulfillment.

If a clearing member does not fulfill its obligations, or does so improperly, the clearing organization may execute agreements with respect to itself on behalf of the clearing member without special authority (power of attorney), and without consent of the clearing member.

If permitted by the clearing organization's rules, losses of the central counterparty incurred in connection with performance by the latter of its functions may be distributed among the clearing members.

Clearing rules may limit the scope of liability of the central counterparty for non-fulfillment or improper fulfillment of obligations included into the clearing pool, including the amount of losses subject to compensation upon termination of the supply agreement. A central counterparty has no right to limit its liability if all clearing members who have fulfilled their obligations to the central counterparty, however, or if its requirements to the clearing members may be satisfied to the fullest extent by means of individual and collective clearing coverage.

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<sup>2</sup> As of USD/RUB rate settled by the Bank of Russia on September 30, 2016.

The Federal Law 7-FZ defines a “trading account” and a “clearing account” as accounts used for accounting of monetary funds, securities and other property that may be used for fulfillment and ensuring of fulfillment of obligations admitted to clearing, as well as obligations on payment of consideration to the clearing organization and other organizations (for example, settlement depository).

The following types of trading and clearing accounts are possible:

- separate bank account — for monetary funds;
- separate depository account — for securities;
- commodity account — for commodities.

Clearing accounts are opened by the clearing organization.

Monetary funds of the clearing member and its clients should be accounted separately in the internal accounting of the clearing organization. At the request of the clearing member, the clearing organization should maintain separate internal accounting of monetary funds of the client accounted on the clearing bank account.

If a clearing organization declares bankruptcy, the property placed in a clearing account is not included into the bankruptcy assets. Monetary funds are subject to reimbursement to the clearing member, and other property — to persons that transferred it in the amount remaining after fulfillment of all obligations under the agreement for rendering of clearing services and obligations admitted to clearing.

With respect to the debts of the clearing organization, the property placed on the clearing account may not be seized, and transactions on the said account may not be suspended. Suspension of transactions on the clearing account on the grounds provided for by the taxation and revenue legislation of the Russian Federation is not allowed.

(d) Risk Management in performance of clearing

Clearing organizations are obliged to organize a system of management of risks connected with performance of clearing activities and transactions with their own property, which should correspond to the scope and character of transactions conducted by the clearing organization. For the purposes of organization of the risk management system, the clearing organization should appoint an official or form a separate structural subdivision. The clearing organization is obliged to carry out stress testing of the risk management system, and provide information on the results of the said stress testing to the clearing members and to the Bank of Russia.

The Federal Law 7-FZ introduces the definition of “individual clearing coverage”. Property intended for individual clearing coverage may consist of the monetary funds in rubles and foreign currency, securities, and any other property specified by the regulatory legal acts of the Bank of Russia. Additional requirements to the property that may comprise individual clearing coverage, particularly to its contents, may be established by the agreement for individual clearing coverage.

A guarantee fund (collective clearing coverage) must be formed by the clearing organization by means of contributions of the clearing members and other persons. The person that failed to fulfill or improperly fulfilled the obligation on contributing such contribution is obliged to compensate for losses incurred by the clearing organization, central counterparty and other clearing members due to non-fulfillment or improper fulfillment of the said obligation.

(e) State Regulation of Clearing Activities and State Control over Performance of Clearing Activities

In accordance with the Federal Law 7-FZ, the Bank of Russia possesses the following authorities with respect to the clearing agencies:

- performs the regulation of clearing activities, particularly adopts regulatory legal acts regulating clearing activities;
- establishes standard requirements to the clearing organization and central counterparty;

- exercises control over performance by the central counterparty of its functions;
- performs the registration of clearing rules and other documents;
- performs licensing of clearing activities;
- performs the accreditation of the central counterparty;
- establishes the requirements to the procedure and time-periods for calculation of the proprietary funds of clearing agencies not acting as credit institutions;
- carries out stress testing of the risk management system of the central counterparty;
- determines the rules for disclosure of information by clearing agencies and rules for provision of information to clearing members;
- establishes the scope, procedure, time-periods and forms of presentation of reports to the Bank of Russia;
- establishes the requirements to the procedure, term of storage and protection of information;
- performs the inspection of activities of clearing agencies and central counterparties;
- other functions.

The Federal Law 7-FZ establishes the procedure and requirements for licensing of the clearing activities.

(4) Federal Law “On combating unlawful use of Insider Information and Market Manipulation”

The Federal Law “On combating unlawful use of Insider Information and Market Manipulation (hereinafter – the Federal Law 224-FZ), the purpose of which is ensuring fair formation of prices for financial instruments, foreign currency and commodities, equality of investors and consolidation of confidence of investors by way of creation of legal prevention mechanics, detection and preclusion of improper use on the organized trading in the form of unlawful use of insider information and market manipulation, is of particular importance for the development of the Russian financial market.

The main part of provisions of the Federal Law 224-FZ became effective from January 27, 2011. Regulations for administrative responsibility became effective in July 2012. Provisions stipulating criminal responsibility became effective in July 2013.

Concept of the Insider Information

According to Article 2 of the Federal Law 224-FZ, insider information is accurate and explicit information that has not been disclosed or provided, the disclosure or provision of which may exert material influence on the prices of financial instruments, foreign currency and commodities and which pertains to information included in the respective list of insider information specified in Article 3 of the Federal Law 224-FZ. Insider information includes, particularly, information comprising commercial secret, official secret, bank secret, communication secret (in the part of information on mail transfers of monetary funds), other secret protected by the Federal Law 224-FZ, as well as information concerning:

- one or more issuers of the issue-grade securities;
- one or more management companies of investment funds, unit investment funds and non-state pension funds;
- one or more business entities included in the register prescribed by article 23 of the Federal Law On Protection of Competition and occupying a dominant position on the market of particular commodities within geographical boundaries of the Russian Federation;
- one or more financial instruments, foreign currency and commodities.

Article 4 of the Federal Law 224-FZ sets a list of persons possessing insider information or access thereto (insiders). In this regard the Federal Law 224-FZ on inside establishes two groups of insiders:

- primary (persons, information on the internal activities and decisions of which is insider information);
- secondary (persons possessing the access to insider information pursuant to a particular agreement, interest in the authorized capital, membership in the Board of Directors, executive body or audit commission).

#### Duties of insiders

The Federal Law 224-FZ requires entities to establish a system of control over the activities of insiders that provides for the following principal duties of insiders:

1. Approve their own lists of insider information.
2. Maintain the list of their insiders.
3. Develop and approve the document(s) regulating the following issues:
  - insider information access procedure;
  - insider information confidentiality protection rules;
  - rules of control over observance of the requirements of the Federal Law 224-FZ and regulatory acts adopted in accordance therewith.
4. Create structural subdivision/appoint an official subordinated to the Board of Directors (Supervisory Board), which will exercise control over observance of the Federal Law 224-FZ on Inside and subordinate acts adopted in accordance therewith. The Federal Law 224-FZ on Inside requires provision of conditions for independent and effective performance by this subdivision/official of their functions.
5. Notify issuers, the insiders of which they appear, as well as the federal executive body in the sphere of financial markets on transactions with securities of these issuers conducted by such insiders.

#### Liability for unlawful use of Insider Information

An insider who unlawfully uses insider information may face criminal charges (if such use inflicted damage to the citizens, organizations or the state in the amount exceeding RUR 2.5 bln. ( $\approx$  USD 40 mln.<sup>3</sup>) or is connected with deriving of income or evasion of losses in the same amount) or administrative charges (in the absence of consequences specified here-above).

Sanctions for unlawful use of insider information are relatively lenient and the amount of fines does not correlate to the amount of benefit resulting from the breach of the Federal Law 224-FZ. The only exception from this rule is the responsibility of legal entities, the amount of fines for which is equal to the amount of the benefit received through the infringement the Federal Law 224-FZ.

Since the Federal Law 224-FZ has come into effect, no derivatives price manipulation and unlawful use of insider information on the derivatives market were discovered by the Bank of Russia. During this time the agency revealed only some cases of the securities price manipulation and unlawful use of insider information on the securities market.

### III. Other Federal Laws

The Federal Laws regulating the securities and derivatives market are described above. Below there is a description of other laws related to the legal framework of the Russian financial market.

#### (1) Federal Law “On Joint Stock Companies”

The Federal Law “On Joint Stock Companies” (hereinafter – the Federal Law 208-FZ) defines the procedure for establishment, reorganization and liquidation of joint stock companies, rights and obligations of their shareholders, and ensures protection of rights and interests of shareholders.

This Federal Law 208-FZ contains general provisions of the Russian legislation on the key issues for financial markets, such as:

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<sup>3</sup> As of USD/RUB rate settled by the Bank of Russia on September 30, 2016.

- competence of the general meeting of shareholders and Board of Directors (Supervisory Board) of the company;
- requirements to placing of shares, bonds and other issue-grade securities by the company;
- procedure for payment of dividends by the joint stock company;
- procedure for acquisition and repurchase of the outstanding shares by the company;
- procedure for control over the financial and economic activities of the company;
- general principals of interaction of the joint stock company with shareholders.

(2) Federal Law “On protection of rights and legitimate interests of Investors on the Securities Market”

The most important law for effective protection of interests of the market participants adopted in the Russian Federation in 1999 is the Federal Law “On protection of rights and lawful interests of Investors on the Securities Market” (hereinafter – the Federal Law 46-FZ). The Federal Law 46-FZ aims to provide state and public protection to the rights and legitimate interests of individuals and legal entities the investment targets of which are securities (hereinafter referred to as investors) and also defining the procedure for recovery of damages or granting other forms of compensation of damages to investors, which are individuals, resulting from unlawful activities of issuers and other participants of securities market (hereinafter referred to as professional securities market participants) on securities market.

The investor protection law regulates relationships connected with the terms of provision of services by professional securities market participants to investors that are not professional securities market participants, additional requirements to professional securities market participants providing services to investors on securities market, additional terms of offering of securities to an unlimited number of investors on securities market, additional measures of protection of the rights and legitimate interests of investors on securities market and liability of issuers and other persons for violation of that rights and interests.

As provided by the Investor Protection Law, the Bank of Russia action orders may be issued with regard to matters provided for in the Investor Protection Law, other federal laws and regulatory acts of the Russian Federation in order to cease and prevent offences on securities market and also to other matters that fall within the competence of the Bank of Russia (including matters of international information sharing). Section 9 Article 19.5 of the Administrative Offences Code of the Russian Federation provides for administrative liability for failure to execute the Bank of Russia action orders in established time or for non-execution of the Bank of Russia action order entailing imposition of fines amounting up to 700 thousand rubles for legal entities. Besides that, Article 19.7.3 of the Russian Federation Administrative Code provides for the administrative liability entailing imposition of fines amounting up to 700 thousand rubles for legal entities, up to 30 thousand rubles for office-holders and up to 4 thousand rubles for natural persons in case of both failure to present to the Bank of Russia information needed to carry out its legitimate activities and incomplete presentation of such information to the Bank of Russia. For multiple violations of the CBR orders, the corresponding entity’s license may be suspended or revoked. Apart from that, in case of natural person’s or legal entity’s failure to implement the Bank of Russia action orders, including those on presenting information, the CBR is entitled to file a petition in court to seek compulsory compliance with such orders of action. In accordance with Section 4 of Article 11 of the Investor Protection Law, the Bank of Russia is entitled to apply to the court in order to enact its own action orders.

(3) Federal Law “On Non-State Pension Funds”

The Federal Law “On Non-State Pension Funds” (hereinafter – the Federal Law 75-FZ) regulates legal, economic and social relations arising out of the establishment of the non-state pension funds, performance of activities on the non-state pension coverage, mandatory pension insurance and professional pension insurance, and liquidation of the said funds. It also establishes basic principles of government control over their activities.

Relations arising in the establishment of the non-state pension funds, performance of activities and liquidation of the said funds pertain to the sphere of regulation of the Federal Law 75-FZ as well.

(4) Federal Law “On Investment Funds”

The Federal Law “On Investment Funds” (hereinafter – the Federal Law 156-FZ) regulates the relations connected with raising assets by way of placing of shares and conclusion of asset management agreements for the purposes of their consolidation and subsequent investment in the objects specified by the Federal Law 156-FZ, as well as with activity on asset management of investment funds, accounting, storage of property of investment funds and control over disposition of the said property.

(5) Federal Law “On Central Depository”

The Federal Law “On Central Depository” (hereinafter – the Federal Law 414-FZ) establishes the peculiarities of the legal status and operation of the central depository, procedure for assigning of the status of the central depository, as well as peculiarities of the state control and supervision over activities of the central depository. The Federal Law 414-FZ confers the following exclusive functions of the central depository:

- performance of functions of the nominal holder in the registers of securities, under which the prospectus of securities is registered, and in the registers of owners of investment units and mortgage certificates;
- opening of depository accounts of the nominal holder for foreign depositories;
- storage of certificates of issue-grade securities with mandatory centralized storage, except for bond certificates of external bond loans of the Russian Federation and constituent entities of the Russian Federation.

(7) Federal Law “On Currency Regulation and Currency Control”

The Federal Law “On Currency Regulation and Currency Control” (hereinafter – the Federal Law 173-FZ) establishes a legal framework and principles of currency regulation and currency control in the Russian Federation, powers of the currency regulation authorities, and defines rights and obligations of residents and non-residents with respect to possession, use and disposition of currency valuables, rights and obligations of non-residents with respect to possession, use and disposition of currency of the Russian Federation and domestic securities, rights and obligations of currency regulation authorities and currency control agents.

(8) Federal Law “On Insolvency (Bankruptcy)”

In accordance with the Civil Code of the Russian Federation, the Federal Law “On Insolvency (Bankruptcy)” (hereinafter – the Federal Law 127-FZ) establishes grounds for recognition of the debtor to be insolvent (bankrupt), regulates procedure and conditions for performance of measures for prevention of insolvency (bankruptcy), regulates the order and conditions of carrying out procedures applied in the bankruptcy case, and regulates other relations arising in case of failure of the debtor to satisfy claims of creditors to the fullest extent.

#### **IV. Subordinate Acts**

(1) Regulations of the Bank of Russia “On Activity of Organizers of Trading”

The main document governing activities of the stock exchanges is the Regulations of the Bank of Russia “On the organized trading activity” (No.437-P). These Regulations set a number of requirements on the following directions:

- requirements to the documents of the organizer of trading, requirements to registration of the respective documents with the Bank of Russia or submission of the documents to the Bank of Russia as a notification;
- admission to participation in trading, requirements to participants of trading, control on the part of the stock exchange over the participants of trading, including over observance of requirements of legislation and rules of the Moscow Exchange by the participants of trading;
- admission of securities to trading, minimum requirements for inclusion of securities into quotation lists, requirements with respect to exclusion of securities from quotation lists or from the list of securities admitted to trading, control on the part of the stock exchange over observance by issuers of securities of requirements of the current legislation and rules of the Moscow Exchange;



- procedure for holding of trading, requirements to the procedure for suspension and resumption of trading in securities, procedure for calculation of indices and prices during and subsequent to the results of trading, performance of monitoring on the part of the stock exchange over transactions and requests;
- requirements to storage, protection, disclosure and presentation of information by the organizer of trading.

#### (2) Regulations of the FFMS of Russia “On requirements to Derivatives Contracts Specifications”

By the Requirements of the FFMS “On Derivatives Contracts Specifications” that entered into force on September 15, 2013 (No.13-58/pz-n), any derivatives contracts specifications must contain the following mandatory parameters:

- a contract type;
- rules of contract code formation;
- underlying asset(s);
- a procedure for determining the first and the last trading days on which the contract may be executed;
- a procedure for determining an amount of money (variation margin) to be paid if an asset price (value) changes;
- a procedure for obligations under a contract to be fulfilled and discharged.

Option specifications must specify also the procedure for determining the date on or a period during which either party may claim fulfillment of obligations under the option.

The organizer of trading may include additional requirements in the specifications.

#### (3) Regulations of the FFMS of Russia “On types of Derivative Financial Instruments”

Regulations of the FFMS of Russia “On types of Derivative Financial Instruments” (No.10-13/pz-n) define the types of derivative contracts, the list of basic assets of derivative contracts; contain the definitions of options and futures (deliverable and cash-settled), forward (exchange and off-exchange), swap.

#### (4) Regulations of the FFMS of Russia “On Disclosure of Information by the Issuers of Issue-Grade Securities”

The procedure for the proper and timely disclosure of information by the issuers of issue-graded securities is established by Regulations of the FFMS of Russia “On Approval of Regulations for Disclosure of Information by the Issuers of Issue-Grade Securities” (No.11-46/pz-n). These Regulations establish the requirements in the following spheres:

- disclosure of information at different stages of the emission process;
- requirements to the emission prospectus;
- quarterly reporting;
- disclosure of information on material facts;
- monitoring of disclosure of information by the authorized financial adviser;
- mandatory disclosure of information by joint stock companies;
- disclosure of information by foreign issuers;
- additional requirements to disclosure of information in case of emission of particular types of securities.

#### (5) Regulations of the FFMS of Russia “On Internal Control of a Professional Participant of the Securities Market”

Substantially improved Regulations of the FFMS of Russia “On Internal Control” became effective from January 4, 2013 with latest amendments enacted on September 10, 2013 (No.12-32/pz-n). The Regulations define the procedure for organization and performance by the professional participant of the securities market

of control over compliance of its activities with requirements of the Russian legislation on the securities market, on protection of rights and legitimate interests of investors on the securities market, on advertisement, as well as compliance with internal documents of the professional participant.

Additionally, professional participants must exercise control in accordance with the Federal Laws "On the prevention of Money Laundering and Terrorism Financing" and "On combating unlawful use of Insider Information and Market Manipulation".

The Regulations cover the following issues:

- organization of internal control of the professional participant;
- requirements imposed on the inspector of the professional participant;
- functions of the inspector;
- rights and obligations of the inspector;
- reporting of the inspector;
- procedure for consideration of appeals;
- peculiarities of exercising of internal control for the purposes of counteracting the legitimization (money laundering) of the proceeds of crime and the financing of terrorism;
- peculiarities of exercising of internal control for the purposes of prevention of unlawful use of insider information and market manipulation;
- responsibilities of the director and employees of the professional participant.

(6) Regulations of the FFMS of Russia "On Requirements to Clearing Activities"

The Regulations of the FFMS of Russia "On Requirements to Clearing Activities" (No.12-87/pz-n) complements the Federal Law "On Clearing and Clearing Activity" and establish mandatory requirements imposed on performance of clearing activities. Regulations govern the following issues:

- general principles of performance of clearing activities;
- requirements to the procedure for performance of clearing;
- procedure for registration by the clearing organization of clearing members and other persons;
- methods of ensuring of fulfillment of obligations admitted to clearing (individual and collective clearing coverage);
- internal report in the clearing organization;
- reports of the clearing organization;
- requirements to storage and protection of information.

(7) Regulations of the Government of the Russia Federation "On Depository Activities"

The rules of performance of depository activities are set forth in the Regulations "On Depository Activities" (No.36). This document defines the general principles of performance of depository activities; requirements to rendering of depository services; transfer of the rights of ownership to securities on deposit; accounting system; depository agreement; depository accounting; depository transactions; control over the depository activities.

(8) Regulations of the Bank of Russia "On Procedures for Reporting of the OTC Transactions to the Repository"

This document (No.3253-u) regulates the procedures, terms and forms of provision to the self-regulated organization (SRO), clearing organization or exchanges (hereinafter referred to as the repository) of information on repurchase agreements, derivative agreements, agreements of other types determined by the Bank of Russia and concluded on the OTC market under the terms of the master agreement (integrated agreement), procedure for maintenance of registers of the said agreements (hereinafter referred to as the register of agreements), and the procedure and periodicity of provision of register to the Bank of Russia.

(9) Directions of The Bank of Russia No 2919-U Of December 3, 2012, "On the Assessment of the Management Quality of a Credit Institution Acting as a Central Counterparty".

These directions establish a procedure for assessing the management quality of a credit institution acting as a central counterparty based on its application to recognize its management quality as satisfactory, for use by credit institutions acting as clearing participants with regard to their requirements to the central counterparty, the management quality of which has been recognized as satisfactory, the approaches provided for by the regulation on banks' required ratios, when calculating such required ratios.

In addition to the above mentioned regulatory legal acts, there is legislation that regulates the activities of brokers and dealers on the securities market, of companies administrating unit investment funds, pension funds and activities of other market participants, regulated by the Bank of Russia.

1. 12.04.2014 – Order of the Bank of Russia No.R-301 "On distribution of duties on control and supervision of legislation observance in the sphere of professional activity on Securities Market (including Central Depository's activity), activity for carrying out the Organized Trading, Clearing Activity (including central counterparty's activity) at the Bank of Russia"

The document distributes duties of control and supervision under the organizations that are carrying out professional activity on securities market, activities for carrying out the organized trading and clearing activity between Department of Securities and Commodity Market of the Bank of Russia and territorial offices of Bank of Russia.

2. 07.07.2014 – Indication of the Bank of Russia No.3311-U "On notification procedure of the Bank of Russia the organizations of the Financial Market about registration facts at the Foreign Tax Authority"

On the basis of the Federal Law No.173-FZ "On features of implementation of financial operations with foreign citizens and legal entities," the document establishes procedures for notification of the Bank of Russia about the fact of registration of financial organization at the Foreign Tax Authority, if such registration is carried out before the day of the Federal Law's entering into effect (i.e. before June 30, 2014).

3. 07.07.2014 – Indication of the Bank of Russia No.3312-U "On features of interaction of the financial organizations on issues of termination of financial services agreements and closing of banking accounts on the bases following from features of the Foreign State legislation on taxation of foreign accounts"

The document establishes an order of termination of the financial services agreement by the financial organizations with a client that refuses to interact with the Foreign Tax Authority or is recognized by the Foreign Tax Authority as an uncooperative.

4. 25.07.2014 – Indication of the Bank of Russia No.3341-U "On recognition of the infrastructure organizations of the Financial Market systemically significant"

The document defines the criteria applied for recognition of the Financial Market Infrastructure Organizations (FMIO) as systemically significant.

FMIO recognized as systemically significant if it meets at least one of the following criteria:

- "uniqueness" criteria: FMIO carries out individually the functions determined by the Russian Federation legislation as a FMIO;
- "significance to the unified state monetary policy" criteria: FMIO provides the Bank of Russia operations;
- "significance at the financial market" criteria: FMIO satisfies to certain quantitative absolute and comparative significance criteria of FMIO at the financial market simultaneously.

5. 30.11.2014 - Indication of the Bank of Russia No.3459-U "On forms, time periods and procedure for submitting reports of clearing organizations and entities acting as CCPs to the Bank of Russia. (to be enacted on April 1<sup>st</sup>, 2015).

This document sets out the reporting forms of the clearing organizations and entities acting as CCPs, as well as for timelines and procedure for submitting such reports to the Bank of Russia.

