



CHANGES IN THE LEGISLATION ON FOREIGN INVESTMENTS IN RUSSIAN COMPANIES OF STRATEGIC IMPORTANCE



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Amendments in the Federal Law 'On Foreign Investments in the Russian Federation' and the Federal Law 'On the Procedure for Making Foreign Investments into Economic Companies being of Strategic Importance for Russian National Defense and State Security' introduced by the Federal Law No. 165-FZ dated 18 July 2017 came into force on 30 July 2017.

The amendments are aimed to establish additional guarantees for securing the interests of the Russian Federation when foreign investments are being made into companies incorporated in the territory of Russia and performing at least one type of the activities of strategic importance for Russian national defense and state security ('strategic companies').

It is clarified that for the purpose of preliminary approval by the Government Commission for Supervision over Foreign Investments in the Russian Federation ('Government Commission') over transactions involving strategic companies, foreign investors are deemed as well:

- citizens of the Russian Federation who have the citizenship of another state; and
- companies that are under control of foreign investors, including those established in the territory of Russia (the control of a foreign investor means the cases where a foreign investor directly or indirectly disposes of more than 50% of voting shares in the charter capital of the respective company).

Upon decision of the Government Commission, transactions entered into by foreign investors with respect to Russian companies are subject to preliminary approval according to the procedure for approval of foreign investments into strategic companies. Transactions entered into by foreign investors without the pre-approval of the Government Commission shall be null and void.

Furthermore, the list of activities of strategic importance for the national defense and state security ('strategic activities'). These activities include, inter alia:

- placement, construction, operation and de-commissioning of radioactive waste storage sites, closing up radioactive waste burial sites;
- safety expertise (safety justification expertise) in respect of nuclear facilities and (or) activities in the area of nuclear energy;
- activities on the use of nuclear and radioactive substances in works on the use of nuclear energy for defense needs, including development, production, testing, transportation, use, storage, liquidation and disposal of nuclear weapon and military nuclear power plants;
- production and sale of metals, alloys with special characteristics, raw materials used in production of weapons and military equipment (by any economic entities not only dominating entities);
- activities by an operator of e-platform according to the legislation on contract system in the area of procurement of goods, works and services for state and municipal needs.

By 29 October 2017, a foreign investor or group of persons should submit to the competent authority the information on holding 5 or more percent of shares in the charter capital of companies registered in the territory of Crimea or the federal city of Sevastopol and perform at least one of the strategic activities.

In case of a failure to submit the above information, as well as the information on acquisition of 5 or more percent of shares in any other strategic company, upon a claim of the competent authority the foreign investor/group of persons can be deprived by a court's decision of voting rights at the general meeting of shareholders (participants) of the company in question until the required information is submitted and the investor/group of persons receive the respective confirmation of the competent authority.

Best Regards,

GRATA International Law Firm (Moscow)

Corporate and Commercial Law Department

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What we do:

- legal support in obtaining prior consent of the Federal Antimonopoly Service of the Russian Federation (FAS) to conduct transactions and other actions against the assets of the Russian financial institutions located in the territory of the Russian Federation, basic production assets and (or) intangibles, voting shares (shares), rights in respect of Russian commercial and non-profit organizations, as well as foreign persons and/or organizations;
- legal support in obtaining prior consent or further notice of the Government Commission in connection with the acquisition by a foreign investor of shares in a company being of strategic importance for national defense and state security in accordance with the Federal Law dated 29 April 2008 No.57-FZ 'On the Procedure for Making Foreign Investments into Economic Companies being of Strategic Importance for Russian National Defense and State Security';
- development/auditing for compliance with the Antimonopoly Law as well as coordination with FAS of terms and conditions of distribution or other contracts and agreements, which restrict or may restrict competition on the territory of Russia.

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