

Legal Alert

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Development of anti-insider trading and market manipulation legislation in Russia

Federal Law of the Russian Federation No. 241-FZ of 30 October 2009, "On Making Amendments to the Criminal Code of the Russian Federation and Article 151 of the Criminal Procedural Code of the Russian Federation" ("**Law No. 241**") was published on November 3, 2009. It introduces liability for violation of the legislation on securities by changing existing legislation, namely article 185 "Abuse upon Issuance of Securities" and article 185.1 "Malicious Failure to Provide an Investor or Controlling Authority with Information Designated by the Legislation of the Russian Federation on Securities" of the Criminal Code, and introduces new bases for criminal prosecution, namely:

- breach of the rules for recording rights to securities (article 185.2),
- price manipulation on securities markets (article 185.3), which refers to the understanding of manipulation introduced into legislation on the securities market in April 2009; and
- obstructing for exercising, or illegal restriction, of the rights of holders of securities (article 185.4).

In the version of the Criminal Code valid under Law No. 241, the maximum penalties for these crimes in the form of imprisonment for seven years and a fine of one million rubles.

Law No. 241 enters into force ten days after its official publication. Thus, it is possible to bring guilty parties to justice for the relevant legal violations committed after 13 November 2009.

In October the Federal Service for Financial Markets, the FSFR, submitted to the State Duma committee for the financial market a modified version of the draft law "On Combating Unlawful Use of Insider Information and Manipulation of the Market," passed by the State Duma in its first reading on 17 April 2009, and currently being prepared for its second reading (the "**Draft Law**").

The Draft Law proposes a prohibition on the use of insider information and the performance of actions designed to manipulate the market on all organized markets, both financial and goods markets. Until now there has been a prohibition on the use of insider information and price manipulation only on the securities market.

It is presumed that market participants will be obligated to keep lists of insiders and take measures to uncover and prevent unlawful use of insider information and market manipulation. The FSFR is endowed with additional powers to monitor such matters.

The misuse of insider information and market manipulation are defined in a broad sense. Specific sanctions will probably be introduced by new amendments to the RF Criminal Code and the Code on Administrative Legal Violations.

Additional notes

Questions regarding this issue may be addressed to Max Gutbrod, Partner, and Anton Selivanovsky, Associate, at Baker & McKenzie, Moscow (+7 495 787 2700).

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