

Newsletter

January 2010

New Rules for Issuing Domestic Secured Bonds

Starting January 2010, amendments to Federal Law No. 39-FZ "On the Securities Market" dated 22 April 1996 entered into force, affecting the issue of domestic bonds by Russian issuers. The new rules will apply to all domestic bond issues to be placed in the market after 31 December 2009.

Restrictions on Issuance Volume

As a general rule, the volume of the bonds issued by a Russian company may not exceed the amount of its charter capital and/or the amount of security provided by third parties. If no security is provided by third parties, the company is entitled to issue bonds no earlier than the third year of its existence (the "**Restrictions**").

The new law allows several exceptions to the Restrictions. In order for the exceptions to apply, it is necessary to meet at least one of the following conditions:

- The issuer and/or the bonds have been assigned a credit rating by one of the accredited rating agencies not lower than the level designated by the Federal Service for Financial Markets (FSFM) of Russia. At present, the list of authorised rating agencies is undergoing internal approval at the Russian Ministry of Finance, and the rating level should be set by the FSFM of Russia; or
- The bonds are intended for qualified investors; or
- The bonds are issued by a company whose issued securities are included in the quotation list (or have undergone the listing procedure) on a Russian stock exchange.

As previously, the Restrictions do not apply to mortgage-backed securities and exchange bonds ("birzhevie obligazii").

Requirements for Guarantees Tightened

Simultaneously with introducing additional exceptions, the law raised the requirements for guarantors (sureties) on Russian bonds. As before, guarantors incur joint liability with the issuer for the performance of the obligations of the issuer under the bonds.

According to the new rules a guarantee for the bonds may be provided in an amount not exceeding the amount of the guarantor's net assets. Before the introduction of the new law no special requirements were set in respect of the financial status of the guarantor, which led to the appearance on the market of a whole range of bond issues with so-called "technical" guarantees, where the guarantors had little or no assets to support payments under the guarantee.

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