

# Private Banking & Wealth Management

*Contributing editors*

Shelby R du Pasquier, Stefan Breitenstein and Fedor Poskriakov



2018

GETTING THE  
DEAL THROUGH

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# Russia

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## Private banking and wealth management

### 1 What are the main sources of law and regulation relevant for private banking?

The main sources of law and regulation relevant for private banking in Russia are:

- the Russian Tax Code, Federal Law No. 173-FZ on Currency Regulation and Control;
- Federal Law No. 46-FZ on Protection of Rights and Legal Interest of Investors on the Securities Market;
- Federal Law No. 39-FZ on the Securities Market;
- Federal Law No. 86-FZ on the Central Bank of the Russian Federation (Bank of Russia);
- Federal Law No. 395-1 on Banks and Banking Activities;
- Federal Law No. 156-FZ on Investment Funds; and
- Federal Law No. 152-FZ on Mortgage-Related Securities.

Fiduciary services are not expressly regulated by the Russian legislation.

### 2 What are the main government, regulatory or self-regulatory bodies relevant for private banking and wealth management?

The Central Bank of the Russian Federation (the Bank of Russia), the Ministry of Finance, the Federal Treasury, the Federal Tax Service and the Federal Financial Monitoring Service. In addition, there are several self-regulatory bodies (eg, the National Association of Securities Market Participants and the Professional Association of Registrars, Transfer Agents and Depositories, Russian Banks Association etc).

### 3 How are private wealth services commonly provided in your jurisdiction?

Generally, private banking divisions of banks have the biggest share of the market. Family offices have a certain market share, but typically high net worth individuals (HNWIs) or affluent private clients have a sole dedicated person performing this role. Financial advisers, law firms and multi-family offices are also present on the market.

### 4 What is the definition of private banking or similar business in your jurisdiction?

There is no statutory definition of private banking in the Russian legislation. Some facets of what is typically understood as private banking falls into financial services or banking industries, which are regulated separately.

### 5 What are the main licensing requirements?

Private banking itself is not subject to licensing requirements. However, it typically involves banking activities which are licensed by the Bank of Russia. The key requirements include having a share capital no less than 300 million roubles (US\$5,084,745), and there are restrictions on the source of funds and other requirements. Acquisition of 10 per cent or more in bank share capital requires consent of the Bank of Russia. Private banking may also involve financial services activities, such as brokerage or fiduciary management, which are also licensed by the Bank of Russia. The key requirements include capital level as well as qualifications and work experience of a director and officers, technical facilities necessary for conducting professional activity and

employees' conformity with the qualification requirements (Central Bank Instruction No. 481-P dated 27 July 2015).

### 6 What are the main ongoing conditions of a licence?

The conditions for maintaining a bank licence include general compliance and maintenance of specific financial ratios imposed by the Bank of Russia, for example, the minimum amount of capital base (about US\$5,084,745 (article 11 of Federal Law No. 395-1 on Banks and Banking Activities)). The requirements for maintaining a financial services licence include general and specific compliance with the licensing requirements (see question 5).

### 7 What are the most common forms of organisation of a private bank?

The Russian bank (local or a foreign bank subsidiary) is the most typical form of providing private banking services. Some of these services are also provided by multi-family offices or law firms, but their scope is limited due to lack of a banking licence. Under Russian law a bank cannot perform any other activity save for banking and a branch of a foreign bank cannot perform banking activities in Russia. There are also some restrictions on foreign companies acting on the securities market (see question 20).

### 8 How long does it take to obtain a licence for a private bank?

The statutory time frame is six months from the filing date (article 15 of Federal Law No. 395-1 on Banks and Banking Activities), but in reality it may take longer.

Obtaining a licence for conducting professional activities on the financial market (including fiduciary management) has a statutory time frame of 60 days from the filing date (section 2.9 of Central Bank Instruction No. 168-I dated 13 September 2015), but as mentioned above it may take more time.

### 9 What are the processes and conditions for closure or withdrawal of licences?

Breaches that may lead to banking licence revocation at the Bank of Russia's discretion include violation of disclosure and filing obligations, delaying start of bank activities, etc. Mandatory grounds for revocation include violation of financial ratios imposed by the Bank of Russia (eg, capital adequacy, minimum capital base, etc). The revocation procedure includes an external audit by the Bank of Russia, optional financial rehabilitation, licence revocation and appointment of temporary administration and eventually dissolution.

Grounds for revocation of a licence for conducting financial services activities on the securities market include bankruptcy, revocation of the banking licence and non-performance of professional activity for the period of 18 months. The procedure includes an investigation by the regulator to decide whether there are grounds for the revocation. The Regulator may or may not provide the term for remedying violations prior to revoking a licence.

### 10 Is wealth management subject to supervision or licensing?

Wealth management per se is not regulated and not subject to licensing under Russian law, but some of its facets (banking operations, professional services on the financial market, etc) are subject to

licensing (see question 5). The State Duma of the Russian Federation has passed a bill on financial advisers. This bill provides regulation of financial advisers, who will be obliged to be members of a self-regulated organisation. As of now the bill is tabled after veto by the Federation Council, the upper chamber of Russian Parliament.

**11 What are the main licensing requirements for wealth management?**

See questions 5 and 10.

**12 What are the main ongoing conditions of a wealth management licence?**

See questions 5 and 10.

**Anti-money laundering and financial crime prevention**

**13 What are the main anti-money laundering and financial crime prevention requirements for private banking in your jurisdiction?**

Anti-money laundering and financial crime requirements are the same for private banking and 'regular' banking. The general requirements apply to banks and financial service providers and include in-house audit, mandatory control measures and a prohibition on tipping off clients on anti-money laundering measures (section 5 of Federal Law No. 115-FZ on the Counteraction of the Laundering of Proceeds of Crime and the Financing of Terrorism). Specific requirements include identification of the client, his or her representative and beneficiary; obtaining information on the business purpose of the client; identification of the beneficiary of the client; reviewing the information on the client once a year and in case of any doubt as to the credibility of information within seven days after the occurrence of such a doubt, filing information on transactions subject to mandatory control to the Federal Financial Monitoring Service (section 7 of Federal Law No. 115-FZ on the Counteraction of the Laundering of Proceeds of Crime and the Financing of Terrorism).

**14 What is the definition of a politically exposed person (PEP) in local law? Are there increased due diligence requirements for establishing a private banking relationship for a PEP?**

Although there is no express definition of a PEP in Russian legislation, there are certain limitations imposed on public officers restricting them from setting up bank accounts, opening deposits of cash and assets in a foreign bank (ie, a non Russian bank), and holding foreign financial instruments (section 7.1 of Federal Law No. 273-FZ on Corruption Counteraction). These public officers are defined in the statute and include federal judges, auditors of the Audit Chamber, members of the Central Election Commission, vice prosecutors, members of the board of directors of the Bank of Russia, and officers in state corporations and state-owned companies. There is an additional requirement of taking all available measures to identify such persons in AML procedures.

**15 What is the minimum identification documentation required for account opening? Describe the customary level of due diligence and information required to establish a private banking relationship in your jurisdiction.**

In order for a natural person to open a bank account it is necessary to present an identification document (typically a national passport), signature specimen card and a tax registration certificate.

In order for a legal entity to open a corporate bank account it is necessary to provide the bank with the certificate of incorporation, charter, all the licences (if applicable), signature specimen card, resolution on the appointment of directors and tax registration certificate (section 4.1. of the Central Bank Instruction No. 153-I dated 30 May 2014).

**16 Are tax offences predicate offences for money laundering? What is the definition and scope of the main predicate offences?**

Tax offences do constitute predicate offences for money laundering provided they constitute a criminal offence under Russian law. A tax offence may be a criminal or an administrative offence depending on the amount of unpaid taxes. The threshold for a criminal offence

for natural persons is around US\$15 254 of unpaid tax within three consecutive years provided arrears exceed 10 per cent of the total tax due; or alternatively if unpaid tax exceeds around US\$45,762 (section 198 of the Criminal Code of the Russian Federation). For corporate tax evasion the thresholds are around US\$84,745 if the part of unpaid taxes exceeds 25 per cent of the total tax due or exceeds US\$254,237 (section 199 of the Criminal Code of the Russian Federation). Further, money laundering may be predicated on any other criminal offence.

**17 What is the minimum compliance verification required from financial intermediaries in connection to tax compliance of their clients?**

Financial intermediaries, including banks, may only open a client account if the client provides a tax registration certificate (section 86 of the Tax Code) (see question 15 for additional documents). Banks are also required to apply a due prudence and diligence standard, which means that they shall take reasonable measures to establish that their counterparties (eg, clients) are acting in good faith and with due business purpose (in contrast to shell companies and sham operations aimed solely at tax evasion).

**18 What is the liability for failing to comply with money laundering or financial crime rules?**

The client may face criminal charges for money laundering if he or she launders proceeds of a crime committed by him or herself (punishable by up to seven years in prison) (section 174.1 of the Criminal Code of the Russian Federation).

The client and the employees of a private banking and wealth management organisation may face criminal charges for money laundering if they launder the proceeds of another's crime. The punishment is the same as mentioned above (section 174.1 of the Criminal Code of the Russian Federation).

Legal entities are not subject to criminal liability under the Russian law but their officers and employees may be held liable.

Furthermore, administrative liability for breach of anti-money laundering legislation is a fine up to US\$16,949 (section 15.27 of the Code on Administrative Offences of the Russian Federation).

The offences mentioned above may also lead to revocation of the licence (section 13 of Federal Law No. 115-FZ on the Counteraction of the Laundering of Proceeds of Crime and the Financing of Terrorism).

**Client segmentation and protection**

**19 Does your jurisdiction's legal and regulatory framework distinguish between types of client for private banking purposes?**

Section 51.2 of Federal Law No. 46-FZ on the Securities Market defines the term 'qualified investor' (QI). QIs enjoy extra opportunities in relation to the purchase of securities of foreign issuers (see question 20).

QIs include, inter alia, (i) professional participants of the securities market (brokers, dealers and managers); (ii) credit institutions; and (iii) certain types of investment fund. In addition, a legal entity or a natural person may be recognised as a QI under certain criteria.

An individual can be recognised as a QI if he or she meets any of the following criteria:

- owns eligible securities with a total value of no less than 6 million roubles;
- has work experience in an organisation that performed transactions with securities or other financial instruments, for two (if this organisation is a QI by law) or three years;
- during the last four quarters, has performed no less than 10 transactions of eligible securities per quarter and no less than one transaction per month, with the total value of transactions for these four quarters no less than 6 million roubles;
- owns financial assets (money on bank accounts, deposits, particular securities, etc) with a total value of no less than 6 million roubles; and
- meets specific education criteria.

**20 What are the consequences of client segmentation?**

Sections 51.1(13) and 51.1(14) of the Federal Law on the Securities Market contain a general restriction on placement of securities of foreign issuers in Russia. Foreign financial instruments, which are not

qualifying securities (ie, they do not have ISIN or CFI codes, or have not passed a qualification procedure in Russia), as well as qualifying securities not admitted to public circulation or public placement in Russia, may not be offered in any form and by any means, including by means of advertising to the public or to non-qualified investors.

However, such foreign financial instruments and qualifying securities may be offered in Russia to QIs (as defined in question 19).

Notably, QIs may not benefit from investors' protection provided by the Federal Foundation for the Protection of Investors and Shareholders Rights, which pays compensation to non-qualified investors if their rights have been violated in the financial market in a certain order.

#### **21 Is there consumer protection or similar legislation in your jurisdiction relevant to private banking?**

The general statute on consumer protection in Russia (the Federal Law on Consumer Protection No. 2300-1, 1992) applies to banking and financial service activities. The most relevant is section 16 of the Federal Law, which prohibits terms and conditions onerous to a consumer being included into contracts between a business and a consumer. The courts apply this rule widely, and, for example, a unilateral termination clause may be considered as onerous.

Further there is a specific statute (Federal Law No. 46-FZ on Protection of Rights and Legal Interest of Investors on the Securities Market), which governs, inter alia, the rights of the investor on:

- proper information from issuers of securities and professional participants of the securities market (section 4(1), (6), the Bank of Russia (section 8) and other sources (section 9); and
- compensation in the case of violation of their rights (see question 20).

Section 4(2) also prohibits onerous conditions that limit the statutory rights of investors. Federal Law No. 395-1 on Banks and Banking Activities sets up a number of special provisions relevant for financial services.

Another issue of general importance for various categories of consumers is protective measures against the false advertisement in the field of financial services and setting out specific requirements to advertising financial services (section 28 of the Advertisement Federal Law No. 38-ФЗ, 2006)

### **Exchange controls and withdrawals**

#### **22 Describe any exchange controls or restrictions on the movement of funds.**

Russian legislation in the area of currency and exchange controls imposes certain limitations on Russian residents, who for currency control purposes are defined as Russian citizens (and foreign citizens having a Russian residence permit) who have spent at least one day in Russia within the last 12 months.

The key obligations and limitations imposed on them are:

- an obligation to notify tax authorities on opening, closing or changing details of accounts within one month;
- an obligation to annually report fund movements on foreign bank accounts;
- the permitted operations for crediting funds to foreign accounts are limited;
- foreign accounts cannot be used to pay for goods or services in Russia;
- a breach may entail a fine in the amount of up to 100 per cent of illegal operation; and
- the limitation period is two years.

#### **23 Are there restrictions on cash withdrawals imposed by law or regulation? Do banks customarily impose restrictions on account withdrawals?**

Formally speaking there are no statutory restrictions on cash withdrawals.

However, in accordance with the Russian anti-money laundering legislation, bank operations (with money and other property including securities, etc) amounting to more than 600,000 roubles are to be under control of the bank. The same concerns real estate transactions amounting to 3 million roubles or more and some other transactions

involving companies deemed as having strategic importance by Russian legislation.

In the event the bank finds suspicious activity it shall report on the same to the authorities and may not perform such suspicious transaction.

In practice banks typically limit amounts of cash withdrawals for security reasons by imposing commissions, specifying the maximum cash amount to be withdrawn in one day and implementing other internal regulations (eg, individuals have to make a preliminary request to the bank before withdrawing a large amount of cash).

#### **24 Are there any restrictions on other withdrawals from an account in your jurisdiction?**

Banks may block suspicious transactions with other property withdrawals (not only cash) – cheques, bullions, securities, etc.

For securities one should bear in mind that registered (personalised) securities are dematerialised. This means that such securities may not be physically withdrawn but only transferred to another account.

Withdrawal of bullion from 'metal accounts' is allowed by legislation.

### **Cross-border services**

#### **25 What is the general framework dealing with cross-border private banking services into your jurisdiction?**

As mentioned above, Russian legislation does not provide specific provisions governing private banking services. The most relevant piece of Russian legislation in relation to cross-border private banking services is Federal Law No. 173-FZ on Currency Regulation and Control.

The Law contains key provisions regarding currency operations performed by Russian residents, inter alia, via their foreign and Russian bank accounts. Moreover, the Law obliges the residents to disclose particular information to the Russian tax authorities (see question 14).

Of some relevance may be Federal Law No. 79-FZ, 2013, which sets forth restrictions for specified categories of Russian citizens in relation to purchase of foreign financial services (see question 14).

#### **26 Are there any licensing requirements for cross-border private banking services into your jurisdiction?**

Only Russian companies are eligible to obtain a licence to perform banking services in Russia (Chapter II of Federal Law No. 395-1 on Banks and Banking Activities). If the foreign bank performs cross-border services through the correspondent agreement with a Russian credit organisation, the latter must possess a valid licence.

In addition, only Russian companies are eligible to obtain a financial services licence to act as brokers, dealers, forex-dealers or securities administrators in the Russian securities market (article 2 of Federal Law No. 39-FZ on the Securities Market).

#### **27 What forms of cross-border services are regulated and how?**

Russian law regulates cross-border banking services. Article 12 of Federal Law No. 173-FZ on Currency Regulation and Control contains an exclusive list of monetary transactions that may be performed with a foreign bank account of a Russian currency resident (see definition in question 22). While it is allowed to make payments from an account in a foreign bank without limitations, any incoming funds may only be credited to an account with Russian bank, unless one of the statutory exemptions applies. Failure to comply is punishable by a fine of 100 per cent of the transaction amount (section 15.25 of the Russian Administrative Offences Code) with a limitation period of two years.

There is a bill to regulate financial advisory services but it has been vetoed (see question 10).

#### **28 May employees of foreign private banking institutions travel to meet clients and prospective clients in your jurisdiction? Are there any licensing or registration requirements?**

A foreign bank may open a representative office in Russia in order to consult actual and potential clients. However, a number of restrictions exist, including a general prohibition on advertising financial services (see question 29). It is also prohibited to offer by any means foreign financial instruments or securities, available only for qualifying investors (see question 20), to the general public.

Therefore, it is advisable when offering foreign financial instruments (securities) in Russia that:

- press announcements and wide distribution of the offering memorandum or other marketing materials shall be avoided; and
- all communications shall be clearly addressed to a specified recipient, with a suitable disclaimer.

Representative offices must receive an obligatory accreditation from the Bank of Russia (see Central Bank Regulation No. 467-P dated 22 April 2015). Only those foreign banks that are properly licensed in accordance with the law of their domicile and operate successfully for not less than five years may apply for it. Moreover, the Bank of Russia is authorised to perform supervisory control over activities of such offices in a variety of forms.

Foreign employees of any representative office of a foreign bank in Russia are also subject to personal accreditation. They must possess a certain level of education or working experience and have a clean administrative and criminal record, among other things. Finally, it is generally allowed to invite only two foreign employees to each representative office.

### **29 May foreign private banking institutions send documents to clients and prospective clients in your jurisdiction? Are there any licensing or registration requirements?**

Sending of such documents may be deemed as an advertisement of banking products and financial services. The Federal Law on Advertising (sections 14 to 28) states that financial services may be advertised only by those credit organisations (banks) that hold corresponding licences. Due to the fact that foreign banks may not be licensed (and may not be allowed to perform financial services directly) in Russia, this provision may be interpreted as a prohibition on them advertising their activities.

Because 'advertising' is defined as any information distributed to an unlimited circle of persons (section 3 of Federal Law No. 38-FZ on Advertising), as a matter of precaution all communications must be clearly addressed to a specifically identified recipient, with a suitable disclaimer.

### **Tax disclosure and reporting**

#### **30 What are the main requirements on individual taxpayers in your jurisdiction to disclose or establish tax-compliant status of private banking accounts to the authorities in your jurisdiction? Does the requirement differ for domestic and foreign private banking accounts?**

As mentioned in question 22, Russian currency control residents are obliged to report on their bank accounts held in foreign banks with regard to opening, closing and change of details. They should also annually report on movement of funds at such accounts.

Individual taxpayers should calculate their personal income tax amount based on the income received to their bank accounts (coupon payments, interests, transactions with securities) and file a tax report on the same with tax authorities (unless all tax due on their income have been withheld by tax agents at source, ie, Russian companies). In the event an individual obtains a loan denominated in non-Russian currency at a rate lower than 9 per cent per annum, he or she has to pay personal income tax on the deemed income which is defined as the balance between 9 per cent and the actual interest rate.

#### **31 Are there any reporting requirements imposed on the private banks or financial intermediaries in your jurisdiction in respect to their domestic and international clients?**

Banks incorporated in Russia are obliged to report to tax authorities on bank accounts opened and closed in such banks by their clients and also on changes to reference data of such accounts. Banks incorporated in Russia shall report to tax authorities on accounts opened for certain persons, on the balance of such accounts, and provide account statements and information on bank operations of individuals and legal entities upon request of tax authorities.

In accordance with article 6 of Federal Law No. 173-FZ of 28 June 2014 (known as the 'Russian FATCA'), foreign private banks are obliged to report to the Russian tax authorities annually on bank

accounts opened for Russian citizens and legal entities controlled by Russian citizens.

#### **32 Is client consent required to permit reporting by the private bank or financial intermediary? Can such consent be revoked? What is the consequence of consent not being given or being revoked?**

There is no requirement for private banks to receive clients' permission for reporting to tax authorities since such reporting is obligatory for banks.

### **Structures**

#### **33 What is the most common legal structure for holding private assets in your jurisdiction? Describe the benefits, risks and costs of the most common structures.**

The most common approach for holding private assets in Russia is holding assets directly in one's personal name (this means no structuring at all).

Affluent persons and HNWIs commonly use structuring through offshore companies, when shares are either held directly or via nominal shareholders.

Since the Russian Tax Code was supplemented by rules on controlled foreign companies (CFCs) in 2014, HNWIs have started to use private foundations (less often trusts), but private holding companies are still the most popular option for assets holding.

#### **34 What is the customary level of know-your-customer (KYC) and other information required to establish a private banking relationship with a structure?**

Banks are required to identify their clients, as was mentioned in question 15. Typically banks do not request any additional data from individual clients.

#### **35 What is the definition of controlling person in your jurisdiction?**

A controlling person of a CFC is defined as a Russian tax resident (individual or legal entity) with:

- an equity share in foreign company exceeding 25 per cent;
- an equity share in a CFC exceeding 10 per cent if cumulatively with other Russian tax residents the aggregate equity shares in the CFC exceeds 50 per cent); or
- the power to determine decisions of a CFC in its own favour or in favour of a spouse or underage children.

A controlling person of a structure is defined as a Russian tax resident (individual or legal entity) who is:

- settlor of the structure (while it complies with the following requirements);
- entitled to receive income of such structure;
- entitled to dispose of the structure's assets; or
- entitled to receive the structure's assets in case of its liquidation or cancellation.

Anti-money laundering legislation and tax legislation also use term 'beneficial owner', which means a person directly or indirectly owning a legal entity or structure or a person able to determine its decisions.

#### **36 Are there any regulatory or tax obstacles to the use of structures to hold private assets?**

CFC rules oblige Russian tax residents to report on such structures and to pay income tax from income not only received by such structures, but also on any undistributed profits retained in the CFC level.

### **Contract provisions**

#### **37 Describe the various types of private banking contract and their main features.**

The types of private banking contract are bank deposit agreement, bank account agreement and fiduciary management agreement. These are governed by the Civil Code, but the freedom of contract principle also allows other contracts.

The parties to a contract are free to choose the governing law (section 1210 of the Civil Code of the Russian Federation), but if the contract is only related to one jurisdiction, the choice of law cannot affect its imperative provisions. If a party to a private banking contract acts as a consumer, the choice of governing law shall not deprive the consumer of the rights provided by the law of his or her residence. If the parties have failed to choose the governing law, the law of the bank's jurisdiction shall be applied (section 1211 of the Civil Code of the Russian Federation), but if it is a consumer contract the law of the latter's residence shall be applied.

**38 What is the liability standard provided for by law? Can it be varied by contract and what is the customary negotiated liability standard in your jurisdiction?**

Russian law provides general rules that are applicable to all contracts. The Civil Code provides a negligence standard, which means due care and diligence expected from a reasonable person in similar circumstances is expected.

The injured party is entitled to claim for full compensation of damages if the smaller amount is not provided by the law or contract (section 15 of the Civil Code of the Russian Federation).

Full compensation of damages means that as a result of the compensation the injured party shall be put in the position they would be in if the contract had been performed.

There are two components of damages under Russian law: direct losses and lost profits.

The aggrieved party bears the burden of proof of the existence of damages, of the amount of damages and the chain of causation between non-performance or improper performance of the obligation and damages. The debtor is entitled to produce evidence to counter the creditor's argument and show another cause of the damages.

Liability may be limited by statute or agreement. However, exclusion clauses with respect to intentional breaches are void, and further any exclusion clauses in consumer contracts are also void.

**39 Are any mandatory provisions imposed by law or regulation in private banking contracts? Are there any mandatory requirements for any disclosure, notice, form or content of any of the private banking contract documentation?**

Mandatory provisions apply to consumer contracts (see question 21).

**40 What is the applicable limitation period for claims under a private banking contract? Can the limitation period be varied contractually? How can the limitation period be tolled or waived?**

The general limitation period is three years. The limitation period cannot be varied contractually.

The limitation period is interrupted and starts anew when the debtor acknowledges his or her debt (eg, by a letter or partial performance).

The limitation period does not run during litigation proceedings.

**Confidentiality**

**41 Describe the private banking confidentiality obligations.**

Russian law requires bank secrecy, that is, banks and other credit organisations are obliged to ensure the secrecy of operations, accounts and deposits of their clients (section 26 of Federal Law No. 395-1 on Banks and Banking Activities). Information classified as within the bank secrecy requirement may be provided only to the clients themselves and their representatives, credit bureaus and to state authorities if it is provided by the law (section 857 of the Civil Code) (see question 43).

**42 What information and documents are within the scope of confidentiality?**

The following information and documents evidencing this information are subject to bank secrecy: bank accounts (identification information), deposits (identification information), information on bank transactions and the client's personal data (section 857 of the Civil Code).

**43 What are the exceptions and limitations to the duty of confidentiality?**

Exceptions and limitations to the duty of confidentiality are as follows: information on banking transactions and bank accounts may be given to the courts, the Audit Chamber of the Russian Federation, the tax service, the Fund of Social Insurance, bailiffs, and to investigators subject to approval of the head of investigative body if it is necessary for the performance of their powers. The information might also be provided under the anti-corruption legislation (section 26 of Federal Law No. 395-1 on Banks and Banking Activities).

**44 What is the liability for breach of confidentiality?**

Breach of confidentiality may lead to criminal and administrative liability. Illegal disclosure or use of bank information without the consent of the owner is a criminal offence punishable by up to three years of imprisonment (section 183(2) of the Criminal Code). If this offence was committed with mercenary motives the punishment will be up to five years of imprisonment (section 183(3) of the Criminal Code).

The illegal disclosure of bank information is also an administrative offence punishable by a fine of up to US\$75,400 (section 13.14 of the Code on Administrative Offences).

**Disputes**

**45 What are the local competent authorities for dispute resolution in the private banking industry?**

The competent authorities for dispute resolution in the private banking industry depend on the parties to the dispute and its nature. If the dispute is of a business nature the state arbitrazh courts shall hear the case (section 27 of the Arbitrazh Procedure Code).

If the dispute is not of a business nature it shall be heard by the court of general jurisdiction (section 22 of the Civil Procedure Code).

The procedure depends on the type of court system. In the courts of general jurisdiction there is no mandatory requirement of presentation



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of a claim to a debtor before instituting an action in the court. On the contrary, the Arbitrazh Procedure Code requires fulfilment of this obligation before bringing a suit before the court.

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**46 Are private banking disputes subject to disclosure to the local regulator? Can a client lodge a complaint with the local regulator? How are complaints investigated?**

The Bank of Russia performs the controlling functions in relation to banks, and there are reporting and disclosure obligations on the banks to the Bank of Russia. A client can file a complaint to the Bank of Russia via its official website and depending on the type of question it will be analysed by the corresponding department of the Bank of Russia, which is obliged to give an answer within one month of the date of filing of such a complaint.

## Getting the Deal Through

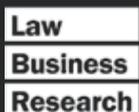
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