

Banking Legislation

Banking legislation is a branch of law representing a system of statutory acts regulating banking activities. The legal regulation of banking activities is exercised by the Constitution of the Russian Federation, Civil Code of the Russian Federation, Federal Law No. 86-FZ, dated July 10, 2002, “On the Central Bank of the Russian Federation (Bank of Russia)” (hereinafter referred to as the Bank of Russia Law), Federal Law No. 395-1, dated December 2, 1990, “On Banks and Banking Activities”, and other federal laws and Bank of Russia regulations.

Point g of Article 71 of the Constitution of the Russian Federation stipulates that the Russian Federation has the jurisdiction over the financial, currency, credit and customs regulation, the issue of money and the fundamentals of the price policy. This provision signifies that the legal regulation of banking activities may only be conducted at the federal level.

Part 2 of Article 75 of the Constitution of the Russian Federation lays down the principle of the Bank of Russia being independent from other state bodies when performing its basic function to protect the rouble and ensure its stability.

The Bank of Russia Law spells out the principle of the Bank of Russia independence, stipulating that the Bank of Russia performs the functions and exercises the powers established by the Constitution of the Russian Federation and the Bank of Russia Law independently from other federal bodies of state power, regional authorities and local governments.

The Bank of Russia Law establishes the legal status of the Bank of Russia, the size of its authorised capital, the procedure for creating the National Banking Board and management bodies and their principal functions; settles the relations between the Bank of Russia and the bodies of state power and local governments and the relations between the Bank of Russia and credit institutions; spells out the principles of organising non-cash settlements and cash circulation; sets out the principles of implementing the monetary policy and designated its instruments; lists Bank of Russia operations and transactions; establishes the powers in regard of banking regulation and supervision, and formulates the principles of organising the Bank of Russia and its accountability and audit.

Article 4 of the Bank of Russia Law lists the functions performed by the Bank of Russia.

Article 7 of the Bank of Russia Law stipulates that in regard of the matters related to its competence by this Federal Law and other federal laws the Bank of Russia issues in the form of ordinances, regulations and instructions statutory acts binding upon the federal bodies of state power, regional authorities, local governments and all legal entities and natural persons. With few exceptions, Bank of Russia statutory acts should be registered according to the procedure established for the state registration of statutory legal acts of the federal bodies of executive power. In addition to issuing its own regulations, the Bank of Russia takes an active part in other forms of the legislative process, because under the law the drafts of federal laws and statutory legal acts of the federal bodies of executive power concerning the performance by the Bank of Russia of its functions should be submitted to the Bank of Russia for consideration and approval.

Another basic federal law regulating banking activities is the Federal Law “On Banks and Banking Activities”, which defines major terms used in the legal regulation of banking, such as “credit institution”, “bank”, “non-bank credit institution”, “banking group”, etc.

This Federal Law determines the components of the Russian banking system, lists banking operations and other transactions, describes the specifics of credit institution operations on the securities market and sets the procedure for registering credit institutions and licensing banking activities and the procedure for opening credit institution branches and representative offices. It formulates the principles of the relationships between credit institutions and their customers and between credit institutions and the state, lists the grounds for the revocation of a banking licence, lays down the principles of ensuring the soundness of credit institutions, establishes the banking secrecy regime and anti-monopoly restrictions for credit institutions and sets out the principles of organising the savings business in the Russian Federation.

The passage of Federal Law No. 40-FZ, dated February 25, 1999, “On Insolvency (Bankruptcy) of Credit Institutions” (hereinafter referred to as the Insolvency Law) was a major step forward in building in Russia a civilised credit institution insolvency (bankruptcy) system meeting the generally accepted international standards.

The Insolvency Law sets the procedure for carrying out credit institution insolvency (bankruptcy) prevention measures, declaring credit institutions insolvent (bankrupt) and subsequently liquidating them. The relations connected with credit institution insolvency (bankruptcy) prevention that are not regulated by the Insolvency Law are regulated by other federal laws and Bank of Russia statutory acts issued in pursuance of these laws. The relations connected with credit institution insolvency (bankruptcy) that are not regulated by the Insolvency Law are regulated by Federal Law No. 127-FZ, dated October 26, 2002, “On Insolvency (Bankruptcy)”, and Bank of Russia regulations in cases stipulated by the Insolvency Law.

Under the Insolvency Law, a credit institution is considered incapable of meeting creditors’ pecuniary claims and (or) making compulsory payments if it has failed to exercise these duties for 14 days after they are due and (or) the value of the credit institution’s property (assets) is not enough to allow it to meet its obligations to creditors and (or) make compulsory payments.

The Insolvency Law pays special attention to the bankruptcy prevention measures conducted before the revocation of a banking licence. These measures are as follows:

- the financial rehabilitation of the credit institution;
- the appointment of the provisional administration to the credit institution;
- the reorganisation of the credit institution.

The legal regulation of the system of measures aimed at anti-money laundering and counter-terrorism financing is implemented pursuant to Federal Law No. 115-FZ, dated August 7, 2001, “On Countering the Legalisation (Laundering) of Criminally Obtained Incomes and Terrorist Financing” (hereinafter referred to as the Anti-money Laundering Law).

The Anti-money Laundering Law contains criteria for the volume of operations subject to mandatory control, lists these operations and determines the organisations conducting operations with money or other property that should inform an authorised agency about these operations, which include credit institutions, among other.

Taking into consideration that capital may be laundered in many different ways, these organisations are required to conduct internal control for detecting operations subject to mandatory control and other operations with money or other property, in regard of which these organisations have the suspicion that these operations are conducted with the objective of money laundering or financing terrorism.

The Anti-money Laundering Law also stipulates that the provision to the authorised agency of information and documents by organisations conducting operations with money or other property according to the procedure established by this Federal Law does not constitute a breach of official, banking, tax or commercial secrets.

The Anti-money Laundering Law was passed in compliance with the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, signed in Strasbourg, France, and ratified by Federal Law No. 62-FZ, dated May 28, 2001.

To boost public trust in the banking system, stimulate growth in organised savings and reduce the risks taken by banks when building a long-term resource base, Russia passed Federal Law No. 177-FZ, dated December 23, 2003, "On Insurance of Household Deposits with Russian Banks".

This Federal Law lays down the legal, financial and organisational principles of operating the compulsory household bank deposit insurance system (hereinafter referred to as the deposit insurance system), establishes the competence of and the procedure for creating an organisation performing compulsory deposit insurance functions (hereinafter referred to as the Deposit Insurance Agency), sets the procedure for paying deposit compensation and regulates relations among banks, the Deposit Insurance Agency, the Bank of Russia and the federal executive power bodies within the deposit insurance system.

This Federal Law specifies the following basic principles of building and operating the deposit insurance system:

- the participation in the deposit insurance system is compulsory for banks;
- the deposit insurance system serves to mitigate the risk of adverse consequences for depositors in the event of the banks' failure to meet their obligations;
- the deposit insurance system is transparent;
 - the deposit insurance fund accumulates regular insurance contributions made by the banks
- participating in the deposit insurance system.

There are two insured events when an individual is entitled to deposit compensation from the Deposit Insurance Agency:

- the revocation (cancellation) of the Bank of Russia banking licence from a bank in compliance with the Federal Law on Banks and Banking Activities;
- the imposition by the Bank of Russia, pursuant to applicable federal legislation, of a ban on the satisfaction of bank creditors' claims.

Federal Law No. 96-FZ, dated July 29, 2004, "On Bank of Russia Payments on Household Deposits with Bankrupt Banks Uncovered by the Compulsory Deposit Insurance System", was a logical addition to the deposit insurance system built in Russia.

As the establishment of the deposit insurance system created the risk of financial instability for the banks that have not joined this system as a result of the loss of customer and investor confidence and the eventual outflow of deposits to the participating banks, this Federal Law extended to the depositors of the non-member banks guarantees similar to those enjoyed by the depositors of the member banks. Under the law, compensation to depositors of the non-member banks is paid from Bank of Russia funds.

Thus, the passing of this Federal Law became a major step forward in boosting confidence in the banking system as a whole.

To ensure the implementation of the single state foreign exchange policy and stability of the Russian currency and domestic foreign exchange market, which are the factors of the country's economic progress and successful international economic cooperation, Russia passed Federal Law No. 173-FZ, dated December 10, 2003, "On Foreign Exchange Regulation and Control" (hereinafter referred to as the Foreign Exchange Regulation Law).

The Foreign Exchange Regulation Law defines foreign exchange operations. In addition, it separates the powers of the federal government and the Bank of Russia relating to the regulation of foreign exchange operations.

On January 1, 2007, the restrictions on foreign exchange operations between residents and non-residents (the requirements that such operations are routed through special accounts and that a certain amount of money is deposited when foreign exchange operations are conducted, the prohibition to buy domestic securities for foreign currency, the preliminary registration of a resident account (deposit) opened with a bank outside Russia and the compulsory sale of a part of foreign currency earnings) were lifted.

Residents and non-residents may now make settlements on operations with domestic and foreign securities in rubles or foreign currency.

At the same time, the Foreign Exchange Regulation Law (Article 11) retains the requirement that foreign exchange and cheques, including traveller's cheques, denominated in foreign currency are bought through authorised banks only.

To boost the domestic foreign exchange market and prevent capital flight from Russia, the Foreign Exchange Regulation Law retains the requirement for residents to repatriate foreign and domestic currency (Article 19).

Federal Law No. 218-FZ, dated December 30, 2004, "On Credit Histories", has an important role to play in arranging credit relations and building a modern economy.

The purpose of this Federal Law is to create and legalise conditions for the compiling, processing, storage and disclosure by credit bureaus of information about how borrowers meet their obligations under loan (credit) agreements, give creditors and borrowers more protection by reducing overall credit risk and enhance the efficiency of credit institutions.

The Federal Law on Credit Histories is designed to allow banks to cut costs when assessing their borrowers' creditworthiness and, consequently, reduce the price of loans they extend.

A major role in implementing this Federal Law is played by the Bank of Russia, whose division, the Central Catalogue of Credit Histories, performs the function of a single information centre informing users free of charge in what credit bureau they can find information about an individual credit history maker.

In addition to the borrowers, creditors and the Central Catalogue of Credit Histories, the credit bureaus participate in the exchange of information about how borrowers meet their obligations to creditors.

The principal objective of the credit bureaus is to accumulate information characterising the borrower's payment discipline in regard of the fulfilment of the loan (credit) agreements and eventually this information forms the credit histories of legal entities and natural persons, which may be subsequently passed to the persons who have received permission to get a credit report for the conclusion of a loan (credit) agreement.

Federal Law On the Central Bank of the Russian Federation (Bank of Russia)

Department responsible for publication: [Department of Banking Regulation and Analytics](#), [Department for Market Access and Activity Termination of Financial Institutions](#), [Banking Regulation Department](#), [Systemically Important Banks Supervision Department](#), [Financial Resolution Department](#)

Last updated on: 30.12.2021