

Bank of Russia Improves Access to Capital Markets for Russian Issuers

Amended regulations cancel certain restrictions applicable to international equity offerings of Russian issuers.

Historically, foreign securities offerings by Russian issuers were subject to certain rules and restrictions under Russian securities laws, including:

- The number of shares or depositary receipts representing the shares of a Russian issuer that may be admitted for placement and/or circulation outside Russia was limited to 25% of all issued shares of a Russian issuer
- The number of shares or depositary receipts that could be offered internationally was limited by 50% of all securities offered in the respective offering
- The placement and/or circulation of securities of the Russian issuers outside Russia required a permit from Bank of Russia and a subsequent filing of notice setting out the results of the placement and/or circulation of securities

According to Bank of Russia, these rules and restrictions were first introduced back in 2001 to support the development of domestic financial markets. However, their introduction resulted in wider use of foreign issuer vehicles for international securities offerings of Russian companies, as some foreign jurisdictions offered more issuer-friendly regulatory frameworks and did not impose similar restrictions.

Cancellation of existing restrictions

Recently, Bank of Russia announced the cancellation of the rules and restrictions on international equity offerings by Russian issuers due to improved liquidity in Russia's securities market.

On 8 November 2021, the Russian Ministry of Justice registered amendments to the Regulation of Bank of Russia No. 708-P dated 24 December 2019,¹ which:

- Increases the maximum amount of shares or depositary receipts eligible for placement and/or circulation abroad from 25% to 100% of all issued shares of a Russian issuer
- Lifts the limitation on the sale outside of Russia of up to 50% of the securities being offered

The amendments to Regulation 708-P entered into force on 28 November 2021. Notably, however, cancellation of the rules and restrictions does not automatically apply to existing permits for placement and/or circulation of securities outside Russia issued by Bank of Russia prior to 28 November 2021.

Moreover, the requirement to obtain permit from Bank of Russia and to file a subsequent notice to Bank of Russia remains unchanged. Amended Regulation 709-P outlines the following key steps to obtain a permit:

- **Application:** applicant files with Bank of Russia: (i) application for permit prepared on the basis of the form set out in Regulation 708-P; (ii) agreement pursuant to which securities of a Russian issuer will be placed and/or circulated outside Russia; and (iii) other technical documents related to securities and payment of government (state) fees for review of the application
- **Review by Bank of Russia:** Bank of Russia reviews submitted documents within 30 calendar days of submission of the application together with complete set of supplementary documents
- **Grant of permit:** upon completion of review of the submitted documents and subject to its satisfactory results, Bank of Russia issues a permit to the applicant within three business days
- **Post-offering notification:** Bank of Russia shall be provided with a notice setting out the results of placement and/or circulation of securities of the Russian issuers outside Russia within 30 days of completion of the offering; notice shall be prepared on the basis of the form that is set out in Regulation 708-P

These amendments are consistent with the regulator's continuing efforts to promote Russia's securities market and to facilitate Russian issuers' access to capital markets. Russian issuers with existing depositary receipts programs have long awaited these amendments, as they will allow such issuers to access additional liquidity in foreign markets.

Issues requiring regulatory clarity

Though the relaxation of the rules and restrictions is a positive development for Russia's securities market, a number of matters were not explicitly addressed in the amended Regulation 708-P and may require further clarification from the regulator, specifically whether:

- An application for a permit from Bank of Russia can be made outside the offering context, provided that Regulation 708-P imposes post-offering notification obligations
- Shareholders of Russian issuers can file applications for permit from Bank of Russia independently and without support from issuers

Conclusion

The amendments to the rules around foreign securities offerings allow potential new Russian issuers greater flexibility in their choice of listing venue, size of offering, and the jurisdiction of incorporation of the issuer vehicle. For example, prior to the amendments, if a potential Russian issuer considered an international offering with listing on a foreign stock exchange, with a subsequent free float exceeding 25% of its share capital, such issuer would most likely have to re-register the issuer vehicle in a jurisdiction that does not impose similar limits on the offering of domestic securities outside Russia (such as Cyprus). Moreover, international investors perceived the 25% limitation on depositary receipts program as a potential limit on liquidity. Under the amended Regulation 708-P, Russian issuers can offer and list any

number of depositary receipts or shares outside of Russia, subject to the limitations set by the relevant foreign securities market regulators and stock exchanges.

This development will further facilitate primary and secondary international securities offerings by Russian issuers and is particularly timely and important for Russia's securities market, which demonstrated continuing growth throughout 2021.

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¹ "On the Procedure for Admission by Bank of Russia of Securities Issued by the Issuers Registered in the Russian Federation for Placement and Circulation Outside of the Russian Federation" (Regulation 708-P).