Russia

Takeover Guide

Contact

Vassily Rudomino

Alrud, Moscow

vrudomino@alrud.com

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INTRODUCTION

This guide provides information regarding existing legislation of the Russian Federation applicable to takeovers of public joint-stock companies. It contains a general overview of key points of effective regulations regarding the acquisition of shares of public joint-stock companies, as well as the mandatory requirements that should be met by parties to the takeover, measures of state control over economic concentration and existing restrictions as of 31 January 2022.

THE REGULATION OF TAKEOVERS

Effective legislation of the Russian Federation provides for a special regime of takeovers only with regard to public joint-stock companies, which are regulated under chapter XI.1 'Acquisition of more than 30 per cent of shares of public joint-stock company' of Federal Law No 208-FZ 'On Joint-Stock Companies' dated 26 December 1995 (the 'Law on Joint-Stock Companies'). Chapter XI.1 contains mandatory guidelines to be followed by the parties to the takeover, as well as key principles of takeover regulations (eg, disclosure of the identity of the acquirer and its affiliates to the company, disclosure of the plans of the acquirer regarding the company, including its plans regarding employees, informing shareholders of the company about the takeover, strict rules for the determination of the price for acquiring securities and measures of liability).

Other rules, restrictions and measures of state control applicable to the takeover of companies can be found in other federal laws, such as Federal Law No 39-FZ 'On Securities Market' dated 22 April 1996 (the 'Securities Market Law') and Federal Law No 135-FZ 'On Protection of Competition' dated 26 July 2006 (the 'Competition Law'), as well as in decrees and orders of competent state authorities.

ORDINARY AND PRIVILEGED SHARES, CONVERTIBLE SECURITIES

A takeover is the most effective method for gaining control over a company. The highest level of control can be achieved by means of the acquisition of majority votes in the supreme management body of the company: the shareholders' general meeting. Therefore, takeovers result in the acquisition of voting shares of the company (the acquisition of the ability to exercise voting rights by means of trust management, an agency contract and other agreements is beyond the scope of this review).

According to the effective regulations, a public joint-stock company is entitled to issue several types of equity securities:

- ordinary shares;
- privileged shares, including privileged shares with priority in the order of receipt of dividends before ordinary shares and other types of privileged shares;
- bonds; and
- options.

As a general rule, only ordinary shares provide their owners with voting rights (with certain exceptions mentioned below) on all items on the agenda of a shareholders' general meeting. However, in certain cases, privileged shares can also grant their owners voting powers. Thus, according to the Law on Joint-Stock Companies, the owners of privileged shares are entitled to exercise voting rights at shareholders' general meetings in the case

in which the company fails to duly fulfil its obligation to pay dividends in full; however, such voting powers are effective only until full repayment of the dividends that have accrued by such privileged shares. Some types of privileged shares also grant their owners voting rights in respect of the items on the shareholders' general meeting agenda regarding reorganisation, liquidation of the company, modifying the charter of a public joint-stock company regarding the removal of publicness (publicity) references, claiming the Bank of Russia for exemption from the disclosure obligation and notifying about the delisting of shares and issuable securities convertible into shares irrespective of a company's failure to comply with effective regulations.

Thus, the acquisition of privileged shares can provide only temporary or limited voting powers, which does not fully comply with the aim of the takeover. Furthermore, the total nominal value of placed privileged shares shall not exceed 25 per cent of the charter capital of the public joint-stock company.

In addition to the direct acquisition of ordinary or privileged shares of the company, an acquirer may proceed with a takeover by means of the acquisition of securities that initially cannot be considered as voting but can be converted into ordinary shares subsequently. Effective legislation provides that, under certain circumstances, privileged shares, bonds and options can be converted into ordinary shares. However, due to the provisions of the existing regulation (limitation of the overall nominal value of privileged shares compared with the charter capital of the company, terms of conversion of the convertible securities, limitation of the amount of shares that the owners of the options shall be entitled to acquire etc), the acquisition of convertible securities can be considered as a supplementary or temporary method of increasing voting shares in the company.

Therefore, the acquisition of ordinary shares of the company is the most effective way to increase the voting share of the acquirer at the shareholders' general meeting and consequently to gain control over the company.

The chart below shows certain important percentages in the company.

Shareholding	Rights of a shareholder (except for general rights applicable to all shareholders)
1%	• Right to request the list of participants at the shareholders' general meeting • Right to bring an action against actions of the members of the managerial bodies of the company that result in damage to the company • Right to call for a shareholders' general meeting or the board of directors (as applicable) in order to approve related-party transactions under chapter XI of the Law on Joint-Stock Companies • Right to challenge major transactions and related-party transactions concluded by the company • Right to inspect: (1) information regarding major transactions and related-party transactions of the company, including appraisers' reports on property valuation; and (2) minutes of the board of directors of the company; once a person owns less than 25% of the companies' shares, the person has to indicate the business purpose for which such information is requested
2%	• Right to make a proposal to the agenda on the annual shareholders' general meeting • Right to propose candidates to the board of directors, the collegial executive body (management board), Audit Commission (auditors) and the counting board of the company at the annual shareholders' general meeting • Right to propose candidates to the board of directors and candidate to the position of the chief executive officer (CEO) at the extraordinary shareholders' general meeting

	• Right to propose candidates to the board of directors (supervisory board), the collegial executive body, Audit Commission (or a candidate to the position of an internal auditor) and candidate to the position of the CEO in a new company to be established as a result of a reorganisation process (merger, spin-off or split-up)
10%	• Right to call for an extraordinary shareholders' general meeting • Right to make a proposal to the agenda on the extraordinary shareholders' general meeting • Right to request a financial audit of the company
25%	• Right to inspect a company's bookkeeping and minutes of the meeting of the collegial executive body
30%	• A quorum at the repeated shareholders' general meeting shall be met; however, such a quorum may be defined as less than 30% in the company's charter if the total number of the company's shareholders is more than 500,000
50% + 1 vote	• A quorum at the shareholders' general meeting is met • The shareholder is entitled to unilaterally adopt decisions on the items of the agenda that require a simple majority of votes
75%	• Unilateral adoption of the decisions (including but not limited to): – adoption of the new charter of the company; – reorganisation of the company; – liquidation of the company; and – redemption of shares by the company
95%	• Right to make a request for redemption of securities of the company • Right to make a decision on modifying the charter of the public joint-stock company regarding removal of publicness (publicity) references • Right to make a decision on claiming the Bank of Russia for exemption from disclosure obligation • Right to make a decision on notifying about the delisting of shares and issuable securities convertible into shares
100%	• Full control over the company

ACQUISITION OF MORE THAN 30 PER CENT OF SHARES

As mentioned above, the special regulatory regime for takeovers shall be applicable in the case of the acquisition of more than 30 per cent of the overall amount of ordinary shares in the company and privileged shares granting to their owners voting rights. Chapter XI.1 of the Law on Joint-Stock Companies establishes strict guidelines for proceeding with the takeover after the threshold of more than 30 per cent is reached.

Voluntary offer

A person that intends to acquire more than 30 per cent of the overall amount of ordinary shares in the company, as well as privileged shares granting voting rights pursuant to Article 32(5) of the Law on Joint-Stock Companies (including shares that are already owned by the acquirer and its affiliates), is entitled to submit to the company a public offer (the

'Voluntary Offer') addressed to the owners of the respective shares. Such Voluntary Offers may also include an offer to acquire securities convertible into the aforementioned shares.

A Voluntary Offer shall contain information including but not limited to:

- name of the acquirer and place of its incorporation/residence;
- names of the shareholders of the company affiliated with the acquirer;
- amount of shares of the company already in possession of the acquirer and its affiliated parties;
- type, category and amount of securities with regard to which the offer is made;
- purchase price or the method of its determination;
- terms, conditions and the form of payment for the securities;
- term of acceptance of the public offer (shall not be less than 70 days and not exceed 90 days from the date of receipt of the Voluntary Offer by the company);
- other details about the person that has sent such a Voluntary Offer to specify in transfer orders; and
- information about the guarantor: the issuer of the bank guarantee.

If the offer is made in regard to securities that are traded on an organised market, the offer before being submitted to the target company should be sent to the Bank of Russia. In order to be valid, such a Voluntary Offer shall contain an entry by the Bank of Russia confirming the date of its preliminary notification of the Voluntary Offer.

Should the acquirer be a legal entity, it shall also be required to make a disclosure in the Voluntary Offer information regarding the persons who:

- independently or jointly with their affiliates own 20 per cent or more of the votes in the supreme managerial body of the acquirer; and
- own ten per cent or more of the votes in the supreme managerial body of the acquirer and that are registered in off-shore territories (together with information in respect of beneficial owners of such companies registered in off-shore territories).

To secure its obligation to pay the purchase price for the securities pursuant to the terms of a Voluntary Offer, the acquirer should provide a bank guarantee, provided that the term of such a bank guarantee shall expire within six months after the expiration of the term of the payment for acquired securities specified in the Voluntary Offer.

A Voluntary Offer may contain additional information, including the minimum portion of shares to be offered for sale, management and/or the business plans of the offeror concerning the public joint-stock company and/or its employees.

Upon submission of a Voluntary Offer to the company, the acquirer shall not be entitled to acquire shares of the type bid for under conditions different from those stipulated in a Voluntary Offer prior to the expiration of the term for acceptance of the Voluntary Offer.

Mandatory offer

Upon the acquisition of ordinary shares, as well as privileged shares granting their owners voting rights pursuant to clause 32(5) of the Law on Joint-Stock Companies exceeding 30 per cent of their overall amount (inclusive of shares already in possession of the acquirer and its affiliates), the acquirer – within a 35-day period of the transfer of title to such shares or within a 35-day period from when such a person became aware or should have reasonably become aware that the acquirer independently or together with its affiliates possesses such shares – is obliged to send to the holders of the remaining shares of the respective types, as well as to the holders of securities convertible into such shares, a public offer to acquire such shares and convertible securities (the 'Mandatory Offer').

The Mandatory Offer should contain information including but not limited to:

- the name of the acquirer and place of its incorporation/residence;
- the names of the shareholders of the company affiliated with the acquirer;
- the amount of shares of the company already in possession of the acquirer and its affiliated parties;
- the type, category and amount of securities with regard to which the offer is made;
- the purchase price or the manner of its determination, as well as its explanation;
- the term of acceptance of the Mandatory Offer (which shall not be less than 70 days and not exceed 80 days from the date of receipt of the Mandatory Offer by the company);
- the term of payment for the securities, which shall not exceed 17 days from the transfer of title to the acquirer;
- the order and form of payment;
- other details about the person that sent such a Mandatory Offer to specify in transfer orders; and
- information about the guarantor: issuer of the bank guarantee.

The Mandatory Offer may contain the management and/or business plans of the offeror concerning the public joint-stock company and/or its employees.

If the offer is made with regard to securities, which are traded on an organised securities market, the offer should contain the preliminary notice of the Bank of Russia about the Mandatory Offer.

In order to secure the obligation to pay the purchase price for the securities pursuant to the terms of the Mandatory Offer, the acquirer must provide a bank guarantee, the terms and conditions of which are identical to those required in respect of the Voluntary Offer, as described above.

Chapter XI.1 provides a strict mechanism for the determination of the purchase price under a Mandatory Offer. According to that mechanism, the purchase price shall not be less than:

- the average price, based on the results of trading on an organised market, for the six-month period preceding the date of submitting the Mandatory Offer to the Bank of Russia (see 'Disclosure of information'); in the case of securities that are traded on an organised market of more than two trade institutors, the average price shall

be based on the results of an organised market of all trade institutors where the securities have been traded for six or more months;

- the market price determined by an independent appraiser if the securities of the company are not traded on an organised market or have been traded less than six months; and

- the highest price for the securities of the company which the acquirer or its affiliates acquired or undertook to acquire within the six-month period preceding the date of submission of the Mandatory Offer to the company.

Until the expiration of the term of acceptance of a Mandatory Offer, the acquirer shall not be entitled to acquire respective securities under conditions that differ from those stipulated in the Mandatory Offer.

It is important to point out that from the date of the acquisition of more than 30 per cent of shares mentioned above and until the date of submission to the company of the Mandatory Offer, the acquirer and its affiliates shall be entitled to exercise voting rights only in respect of 30 per cent of such shares, provided that the remaining shares are not taken into account while determining the quorum at shareholders' general meetings.

The regulation in respect of a Mandatory Offer is also applicable to the acquisition of the aforementioned shares of the company exceeding 50 per cent and 75 per cent of the overall amount of such shares, provided that limitations stipulated in the paragraph above shall apply only to the newly acquired shares exceeding 50 per cent or 75 per cent respectively of their overall amount.

It should be mentioned that a person that makes a Voluntary Offer or Mandatory Offer has the right to amend the offer by increasing the price of shares to be acquired or reducing the payment terms.

Competitive offer

Upon receipt by the company of either a Voluntary Offer or Mandatory Offer, any person shall be entitled to make another Voluntary Offer (the 'Competitive Offer') regarding respective securities. Chapter XI.1 of the Law on Joint-Stock Companies provides for certain obligatory requirements for a Competitive Offer to be met:

- the Competitive Offer should be submitted to the company not later than 25 days prior to expiration of the term of the acceptance of the latest offer received by the company;

- the purchase price stipulated in the Competitive Offer should not be lower than the purchase price in the Voluntary Offer or Mandatory Offer submitted earlier to the company; and

- the overall amount of securities to be acquired under the Competitive Offer should not be less than the overall amount of respective securities stipulated in the Voluntary Offer or Mandatory Offer submitted earlier to the company, or the Competitive Offer should be made in respect of all respective securities.

Activities of the company upon receipt of the Voluntary Offer or Mandatory Offer

Upon receipt by the company of the Voluntary Offer or Mandatory Offer, the company's board of directors shall adopt recommendations in respect of the offer received, which include:

- evaluation of the proposed purchase price for the securities and potential alteration of their market value after the takeover; and

- evaluation of the plans of the acquirer in regards to the company (including its plans in respect of employees).

Such recommendations, together with the Voluntary Offer or Mandatory Offer, specifying the date of its receipt, should be forwarded by the company to the holders of the securities that are subject to the offer within 15 days from receipt of the offer for the notification of the holding of the shareholders' general meeting and, in the case of the purchase of bonds convertible into shares, for the notification of the holding of a meeting of holders of such bonds. Simultaneously with the forwarding of a Voluntary Offer or Mandatory Offer to the holders of the respective securities, the company must send the recommendations of the board of directors to the acquirer.

Upon receipt by the company either of a Voluntary Offer or Mandatory Offer, certain decisions shall be adopted only at shareholders' general meetings, these include:

- increase of charter capital of the company by means of an issue of additional shares within the limits of declared shares;

- placement by the company of convertible securities including options;

- pre- or subsequent approval of transactions with interested parties;

- buy-out of shares by the company in cases provided for by the Law on Joint-Stock Companies;

- increase of salary of the company's managers, establishment of terms of termination of their powers; and

- pre- or subsequent approval of a transaction or interrelated transactions connected with the acquisition, disposal or potential disposal by the company, directly or indirectly, of property with a value equal to or exceeding ten per cent of the company's asset value determined in accordance with the company's balance sheet as of the latest balance sheet date (subject to certain exceptions).

Generally, the aforementioned restrictions are mandatory for the company until the expiry of a 20-day period after the date of expiry of the term for acceptance of either a Voluntary Offer or Mandatory Offer, subject to certain exceptions.

All acceptances of a Voluntary Offer or Mandatory Offer that were presented to the company within the settled term are considered to be received by the offeror.

If the total amount of securities in respect of which acceptances to a Voluntary Offer or Mandatory Offer were received exceeds:

- the amount of securities with regard to which the offer is made; or

- the amount of securities that may be acquired by the offeror pursuant the provisions of Federal Law No 57-FZ 'On the procedure for making foreign investments in companies which are of strategic importance for ensuring the country's defence and state security' dated 29 April 2008,

then securities shall be acquired proportionally to the amount, defined in the acceptances of a Voluntary Offer or Mandatory Offer, unless otherwise stipulated in the Voluntary Offer.

A person who has made a Voluntary Offer or Mandatory Offer should submit a report on the results of the acceptance of the Voluntary Offer or Mandatory Offer to the company and to the Bank of Russia according to the requirements set out by the Bank of Russia within 30 days after the expiry of the term for such an acceptance.

Consequence of a breach

The violation of the effective regulations by the parties to the takeover or the company may lead to adverse consequences that include but are not limited to:

- invalidation of the transactions conducted during the takeover;
- reimbursement of damages incurred by the holders of the securities of the company;
- unilateral termination of the agreements on the acquisition of the securities by the acquirer if respective shares were not transferred to the personal account or deposit account of the offeror in the due term;
- submission of a payment claim to the guarantor or unilateral termination of the contract on the acquisition of securities and demand for the return of securities by the holders of the securities in the case in which the acquirer fails to comply with the obligation to pay in due time for the purchased securities; and
- administrative liability of the acquirer.

BUY-OUT AND SQUEEZE-OUT PROCEDURES

A person who acquires more than 95 per cent of the overall amount of ordinary shares in the company, as well as privileged shares granting voting rights pursuant to clause 32(5) of the Law on Joint-Stock Companies (inclusive of the shares already in possession of the acquirer and its affiliates) either by means of a Voluntary Offer to acquire all the aforementioned shares as well as securities convertible into such shares or by means of a Mandatory Offer is obliged to redeem the remaining shares of the company, as well as securities convertible into such shares upon the request of holders thereof or request for the redemption of such shares and securities convertible into such shares.

Buy-out of securities

Once a person acquires more than 95 per cent of the overall amount of ordinary shares of the company, as well as privileged shares granting voting rights pursuant to Article 32(5) of the Law on Joint-Stock Companies (inclusive of shares already in possession of the acquirer and its affiliates) as envisaged in the paragraph above, it must notify holders of the securities entitled to request for redemption about their right within 35 days of the acquisition of the respective amount of the securities.

To secure its obligation to pay the purchase price for the securities, the acquirer must attach to the notification an irrevocable bank guarantee under terms and conditions identical to a bank guarantee made under a Voluntary Offer.

A request for the redemption of securities can be made no later than six months from the date on which the company forwarded the aforementioned notification to the holders of the respective securities.

The effective regulations provide a mechanism for the determination of a redemption price identical to the one applicable under a Mandatory Offer. This redemption price must not be lower than a specified threshold.

Redemption of securities at the request of the acquirer (squeeze-out)

The acquirer can squeeze out minority shareholders in the following cases:

1. Once a person acquires more than 95 per cent of the overall amount of ordinary shares of the company, as well as privileged shares granting voting rights pursuant to Article 32(5) of the Law on Joint-Stock Companies (inclusive of shares already in possession of the acquirer and its affiliates) it is entitled to send to the company a request for the redemption of the respective shares, as well as securities convertible into such shares within a six-month period commencing from the moment of expiration of the term of acceptance of the Voluntary Offer, or a Mandatory Offer, which resulted in the acquisition of not less than ten per cent of such shares.

2. The sole shareholder of the public joint-stock company reorganised by a merger with or accession to another company has acquired more than 95 per cent shares of such a reorganised company and made a Voluntary Offer for the remaining shares in the public company within five years from the reorganisation. As a result of such a Voluntary Offer, the person acquired at least 50 per cent of the remaining shares in the public joint-stock company. Such a person is entitled to send the company a request for the redemption of the respective shares, as well as securities convertible into such shares, within a six-month period commencing from the moment of expiration of the term of acceptance of the Voluntary Offer.

The acquirer must attach to its request a copy of the report of the appraiser regarding the valuation of the market price of the respective securities.

The redemption price is not less than the market price, determined by an independent appraiser. The redemption price shall not be lower than a threshold established by chapter XI.1.

Consequences of a breach

The violation of the effective regulations regarding share redemption procedures may lead to adverse consequences, which include:

- reimbursement of damages incurred by the holders of the securities, including cases when the price for securities has been incorrectly determined;
- submission of a payment claim to the guarantor in the case that the acquirer fails to comply with the obligation to pay in due time for the redeemed securities;
- submission of a request to redeem securities to the acquirer by the holders of the securities in the case in which the acquirer fails to notify the company's shareholders of their redemption rights for securities (such a request may be submitted within a year from the date a holder of securities has become aware of such a right); and
- removal of the limit of the owners' ability to order the securities to be referred to a personal account and cancellation of an order for the transfer of the redeemed securities in the case in which the acquirer has not provided documents confirming the payment of the redeemed securities to the holder of the security holders registry.

STATE CONTROL OF ECONOMIC CONCENTRATION

According to effective legislation, the takeover of a company under certain circumstances can be subject to anti-monopoly regulations, and therefore ought to be conducted in compliance with regulations under the Competition Law. The Competition Law establishes measures of state control over economic concentration, including through the acquisition of the shares of legal entities, or the ability to exercise voting rights pertaining to the shares

by means of trust management, joint venture agreements, agency contracts and other means.

The Competition Law applies not only to the parties to the takeover but also to a 'group of persons'. The legal definition of a group of persons includes a list of grounds for inclusion of legal entities and individuals in a group of persons. More generally legal entities, and (or) individuals, belong to the same group of persons when interrelation of control exists between them.

Percentage thresholds

The Competition Law is applicable to the acquisition by a person (group of persons) of voting shares of the joint-stock company, provided that the filing thresholds are met, and if it acquires the right to dispose of:

- more than 25 per cent of voting shares, provided that prior to the acquisition, such a person (or group of persons) had at its disposal none or less than 25 per cent of the voting shares of the company;

- more than 50 per cent of voting shares, provided that prior to the acquisition, such a person (or group of persons) had at its disposal no less than 25 per cent and no more than 50 per cent of voting shares; and

- more than 75 per cent of voting shares, provided that, prior to the acquisition, such a person (or group of persons) had at its disposal no less than 50 per cent and no more than 75 per cent of voting shares.

Anti-monopoly regulations also apply to the acquisition by the person (or group of persons) of the right to determine the terms of business activity of a legal entity (again, if the filing thresholds are met).

Forms of state control

Pursuant to the Competition Law, state control includes but is not limited to the *pre-transaction notification* of the Federal Antimonopoly Service (FAS) on the acquisition of shares.

Previously, before 30 January 2014, there was another form of state control as *post-completion notification*, when the FAS had to be informed about the implemented transaction within a certain period of time. The requirement to notify the FAS within 45 days after the performance of certain transactions was generally abolished pursuant to amendments to Russian anti-monopoly legislation (effective from 30 January 2014).

Currently, post-transaction notification still applies to intra-group transactions only in the following two cases:

- the transaction is implemented between companies, one of which holds, directly or indirectly, more than 50 per cent of the shares of the other; or

- a list of companies comprising a group was presented to the FAS in the month before the implementation of the transaction, at the latest, and the structure of the group specified in the list does not change.

Filing thresholds

The filing thresholds are as follows:

- the worldwide value of assets of the acquirer (with its group) and the target company (with its group) according to the latest accounts exceeds RUB 7bn (US$89.95m; €80.8m); and

- the worldwide value of assets of the target company (with its group) according to the latest accounts exceeds RUB 400m (US$5.1m; €4.6m); please note that, on 26 January 2021, the Russian State Duma approved a bill that raises the filing threshold from RUB 400m to RUB 800m (US$10.28m; €9.23m) – in the near future, this bill will be considered in the Federation Council of the Russian Federation and is likely to be finally adopted;

or

- the worldwide aggregate turnover of the acquirer (with its group) and the target company (with its group) in the last business year exceeds RUB 10bn (US$128.5m; €115.4m); and

- the worldwide value of assets of the target company (with its group) according to the latest accounts exceeds RUB 400m (US$5,1m; €4.6m); please note that, on 26 January 2021, the Russian State Duma approved a bill that raises the filing threshold from RUB 400m to RUB 800m (US$10.28m; €9.23m) – in the near future, this bill will be considered in the Federation Council of the Russian Federation and is likely to be finally adopted.

The combined value of assets and combined turnover are calculated by totalling the assets and turnovers of all companies worldwide comprising the group of the acquirer and the target company based on figures set forth on the balance sheet of each company of the group. When estimating the combined value of assets of the acquirer (with its group) and the target company (with its group) the total assets of the person selling (alienating) the shares or rights in respect of the target company (with its group) shall not be taken into account if as a result of a transaction, the seller (and its group) ceases to have the right to determine the terms of exercising business activities by the target company.

Timeframe

The statutory consideration period for pre-transaction notification is 30 days from the date of receipt of the application and the full set of documents attached thereto by the FAS. The above term may be prolonged up to two months upon the FAS decision for the submission of additionally requested documents. The parties are not entitled to proceed with the takeover prior to receipt of consent of the FAS if it is required in accordance with the Competition Law.

Application field

Provisions of the Competition Law are applicable to agreements between Russian and/or foreign persons/legal entities both within and outside the territory of the Russian Federation, as well as to their actions, provided that such agreements or actions have an impact on competition in the territory of the Russian Federation.

Consequences of breach

The violation of the filing obligations (failure to provide notification within the required time limits, eg, by submitting misleading information to the FAS, failure to provide required information and failure to comply with the FAS ruling), as well as closing the transaction without FAS clearance, may result in the imposition of an administrative fine on the acquirer of an amount from RUB 300 000 (US$3,855; €3,462) to RUB 500,000 (US$6,425; €5,770). Administrative liability in the form of a fine depending on the character and gravity of the

violation may be also imposed on the CEO of the acquirer. The fine imposed on the CEO could range from RUB 15,000 (US$193; €173) to RUB 20,000 (US$257; €231).

The limitation period is one year from the date of the commission of the violation (completion of the transaction between the parties thereto). If it is not appealed within ten days, the decision is brought to the Court Bailiffs Service for enforcement. If a foreign company has any property or representative office/branch in Russia, enforcement is carried out at its location in Russia. The cash assets of the Russian office are seized in the first instance and, if the sum is not sufficient to pay the fine, other assets can be seized.

If the FAS becomes aware of a transaction implemented without its approval and finds out that such a transaction resulted, or may result, in the restriction of competition in Russia, the FAS is authorised to file a lawsuit to the state court. The court may declare the transaction void and, as a result, 'reverse' the transaction. However, the practice of the invalidation of transactions by Russian courts is rare. The FAS can initiate a court proceeding against a foreign company, provided that certain conditions described in the Arbitration Procedure Code are met. Finally, a Russian court decision can be enforced in the territory of another country only if there is a legal assistance treaty between the countries. The limitation period is one year from the time the FAS finds out, or should have found out, about the transaction.

DISCLOSURE OF INFORMATION

Upon proceeding with the takeover, the acquirer, as well as the company, must comply with certain federal and state regulations on the disclosure of information and notification of state authorities. Disclosure by the acquirer of information about the takeover serves the purpose of state control over the takeover, as well as the purpose of the provision of necessary information to the shareholders of the company.

Prior to the submission of a Voluntary Offer or Mandatory Offer and notification of the right to request redemption, as well as the request for redemption to the company, the acquirer must submit the aforementioned documents to the Bank of Russia. The acquirer is entitled to forward these documents to the company only after 15 days from their submission to the Bank of Russia.

Furthermore, within a 30-day period after the date of expiration of the term of acceptance of either a Voluntary Offer or Mandatory Offer, the offeror shall submit a report on the results of the acceptance of the respective offer to the company and the Bank of Russia.

According to the Law on Joint-Stock Companies, if the acquirer has more than 20 per cent of the voting shares of a joint-stock company, it shall be obliged to publish information regarding such an acquisition in the procedure specified by the Bank of Russia and the FAS.

The Securities Market Law provides for additional requirements regarding the disclosure of information by the acquirer.

The acquirer is obliged to disclose:

1. information about the submission of a Voluntary Offer, including a Competing Offer, or Mandatory Offer to the Bank of Russia; this information is disclosed not later than the day following the date of the relevant proposals to the Bank of Russia; and

2. the content of the Voluntary Offer, including a Competing Offer, or Mandatory Offer. A proposal is to be disclosed no later than the day following the date of expiry of the period provided for in the consideration of the Bank of Russia, if, during this period, an order of enforcement of the Voluntary Offer, including the Competing Offer, or Mandatory Offer in

accordance with the requirements of the Law on Joint-Stock Companies has not been made by the Bank of Russia.

Thus, the owner of the voting shares of the company or a person who has lost the rights of disposal of these voting shares shall disclose information regarding the acquisition/termination of its rights of disposal of five per cent or more of the overall amount of placed voting shares in the company, as well as on any alteration that results in an increase or decrease of the respective shareholding to five per cent, ten per cent, 15 per cent, 20 per cent, 25 per cent, 30 per cent, 50 per cent, 75 per cent or 95 per cent of the total amount of placed voting shares.

In addition, the company shall disclose information about the receipt of a Voluntary Offer, including a Competing Offer, or Mandatory Offer, as well as on receipt of the notification of the right to request the redemption of securities or receipt of the request for the redemption of securities and other information under Bank of Russia Regulation No 714-P, dated 27 March 2020, 'On Disclosing Information by Securities Issuers'.

RESTRICTIONS ON THE ACQUISITION OF SHARES

The effective regulations provide for a number of restrictions that should be taken into account by the parties while preparing or proceeding with the takeover.

The Law on Joint-Stock Companies (Article 10) provides for a general principle according to which a joint-stock company must not have, as a sole shareholder, a limited liability company or another joint-stock company consisting of only one participant/shareholder.

Certain Federal Laws, such as the Federal Law 'On Foreign Investments in the Russian Federation' (the 'Foreign Investment Law'), Federal Law 'On Mass Media', Federal Law 'On Gas Supply in the Russian Federation' and Federal Law 'On Organization of the Insurance Business', contain restrictions regarding acquisitions by foreign companies of shares in domestic companies.

The main restrictions, which are faced by foreign companies intending to acquire shares in domestic companies, are the following:

- According to the Foreign Investment Law, the direct or indirect acquisition of more than 25 per cent of the voting power of any Russian company by a foreign state, foreign governmental organisation, international organisation or entity controlled by a foreign government, or international organisation is subject to prior approval by the respective state authorities (with some exceptions).

- The Federal Law 'On Mass Media' provides that foreign states, international organisations, entities controlled by a foreign state or international organisation, foreign entities and Russian legal entities with foreign ownership (including foreign individuals, a stateless person or a citizen of the Russian Federation holding the citizenship of another state) cannot be founders (participants) of a Russian mass media company (unless otherwise provided by an international treaty).

- The Federal Law 'On Mass Media' provides that foreign states, international organisations, entities controlled by a foreign state or international organisation, foreign entities and Russian legal entities with foreign ownership of more than 20 per cent, foreign individuals, a stateless person or a citizen of the Russian Federation holding the citizenship of another state cannot acquire more than 20 per cent of the shares of a Russian mass media company (unless otherwise provided by an international treaty).

- The Federal Law 'On Gas Supply in the Russian Federation' stipulates that, in respect of the sale and purchase of shares of the owners of regional gas supply systems and of the owners of gas-distributing systems, as well as other transactions or operations related to the change of ownership of these shares, the share of foreign citizens or foreign entities should not exceed 20 per cent of the total number of ordinary shares of the owners of these systems.

- The Federal Law 'On Organisation of the Insurance Business' provides that insurance companies that are subsidiaries of foreign investors or have a share of foreign investors in their authorised capital of more than 49 per cent, cannot insure the life, health and property of citizens at the expense of funds allocated for this purpose from the respective budget by the federal bodies of executive power (the insured), insurance related to the procurement of goods, works and services for state and municipal needs, as well as insurance of property interests of the state and municipal organisations in the Russian Federation.

The acquisition by a foreign investor of shares or other forms of control (both direct and indirect) in respect of a Russian legal entity having strategic importance might be subject to clearance with the Russian state authorities under the Federal Law 'On Procedures for Foreign Investments in Companies having Strategic Importance for the National Security and Defence' (the 'Strategic Investments Law'). The Strategic Investments Law provides a list of 47 strategic activities, inter alia, activities in nuclear and radioactive materials, devices and waste; aviation and space; natural resources sector; coding and cryptographic equipment; mass media and telecoms; activities carried out by entities being inserted into the register of natural monopolies and so on.

In accordance with the Strategic Investments Law, regulatory approval should be obtained, inter alia, if:

- as a result of the transaction, a foreign investor acquires (directly or indirectly) more than 50 per cent (or 25 per cent or more for companies that exploit subsoil resources of federal significance or aquatic biological resources) of the voting shares in the strategic company (including temporary rights for the disposal of these voting shares under collateral agreements, trust agreements etc);

- as a result of the transaction, a foreign investor or group of investors acquires the right to appoint a CEO and (or) more than 50 per cent of the collegial executive body (25 per cent or more for companies that exploit subsoil resources of federal significance or aquatic biological resources) and (or) the right to appoint more than 50 per cent of the board of directors (supervisory board) or members of another managerial body of the strategic company (25 per cent or more for companies that exploit subsoil resources of federal significance or aquatic biological resources);

- the transaction is aimed at transferring the right to determine the decisions of the management bodies of the strategic company, including the right to determine the conditions of its business activity, to a foreign investor or group of investors; and

- as a result of the transaction, the foreign investor exercises control functions in respect of a business entity of strategic importance.

A foreign investor, prior to the implementation of the transaction leading to the establishment of direct or indirect control over the strategic company, should obtain the approval of the Governmental Commission chaired by the Prime Minister of Russia.