

COVID-19: Russian Capital Markets Update

Skadden

April 9, 2020



If you have any questions regarding the matters discussed in this memorandum, please contact the attorneys listed on the last page or call your regular Skadden contact.

This memorandum is provided by Skadden, Arps, Slate, Meagher & Flom LLP and its affiliates for educational and informational purposes only and is not intended and should not be construed as legal advice. This memorandum is considered advertising under applicable state laws.

One Manhattan West
New York, NY 10001
212.735.3000

Ducat Place III
Gasheka Street 6
Moscow 125047
Russian Federation
7.495.797.4600

Continued Operation of the Russian Securities Market

Securities markets on the Moscow Exchange and other Russian exchanges continue to operate during normal business hours.

The Central Bank of Russia announced that the “non-working period” ending April 30, 2020, will not apply to the Russian securities market, including stock exchanges, clearing and settlement organizations, depositaries and professional market participants, such as brokers.

No amendments to the regulatory framework or relevant listing rules have been announced to address any issues affecting listed companies as a result of the COVID-19 crisis.

Extension of Reporting and Disclosure Deadlines

Taking effect from April 7, 2020,¹ certain reporting and disclosure deadlines have been extended:

- The deadlines for delivery of consolidated financial statements prepared under International Financial Reporting Standards (IFRS) with respect to the year ending December 31, 2019, as well as any interim period in 2020, to shareholders, participants and the Central Bank of Russia have been extended as follows:
 - 180 days from year end for annual consolidated financial statements; and
 - 150 days from the end of the relevant interim period for interim consolidated financial statements.

The deadline for disclosure of such statements has been extended to 30 days after the expiration of these 180- and 150-day periods.

- The deadlines for public disclosure of audited consolidated financial statements prepared under IFRS, as well as audited financial statements under Russian Accounting Standards, with respect to the year ended December 31, 2019, and the interim period ending June 30, 2020, for companies that have publicly issued securities have been extended as follows:
 - 210 days from year end for annual consolidated financial statements; and
 - 180 days from the end of the interim period for interim consolidated financial statements.

However, in each case, disclosure must be not later than three days after the date of the relevant auditor’s report.

¹ Pursuant to Federal Law No. 115-FZ, dated April 7, 2020.

COVID-19: Russian Capital Markets Update

During 2020, the Central Bank of Russia has the authority to prolong the statutory deadlines for the disclosure of reports, financial statements and names of affiliates of public companies, and to adjust the procedures and deadlines for the preparation and reporting of financial results and other relevant information of financial institutions.

Possible Dividend Payment Delays

As part of a proposed set of measures in response to the COVID-19 crisis, the Russian government was considering delaying dividend payments expected to be made during 2020 by Russian state-owned companies, including publicly traded companies, for up to six months for the purposes of managing their liquidity. However, the government has not made any decision on this matter thus far.

It is expected that other Russian publicly traded companies may consider reducing or delaying dividend pay-outs to shareholders in 2020.

Simplified Buyback Rules

As of April 7, 2020, a more simplified buyback process applies if a Russian public company wishes to repurchase its own shares for purposes other than decreasing its issued share capital (for example, in connection with share distributions under stock option plans or M&A transactions). The new rules apply for 2020 only and are intended to offer support to public companies that suffer a significant decrease in their share price as a result of COVID-19.

The key areas of simplification comprise:

- shares can now be acquired at their market price at the time of effecting any repurchase (as opposed to the previous regime, where the price had to be determined in advance (often based on the valuation of an independent valuer) and had to be used throughout the buyback program); and
- no public disclosure obligations apply.

The main procedural requirements are as follows:

- the buyback must be completed on or before December 31, 2020;
- the shares to be repurchased must be admitted to trading on a recognized Russian stock exchange;
- the weighted average price of the company's shares for any three-month period starting March 1, 2020, must have declined by at least 20% compared to Q4 2019;

- the main stock exchange index calculated by a stock exchange for any three-month period starting from March 1, 2020, must have declined by at least 20% compared to Q4 2019;
- the shares must be purchased on a stock exchange pursuant to public bids made to an unlimited number of market participants;
- the buyback must be effected by a broker upon the instruction of the company;
- the company's board of directors must have approved the buyback on the terms outlined above, specifying the type and number of shares, as well as the buyback period, which cannot extend beyond December 31, 2020;
- the buyback is not required to be publicly disclosed, unless the board of directors resolves to make such disclosure;
- the company must notify the Central Bank of Russia and provide evidence to confirm that the above conditions have been satisfied; and
- similar to the existing buyback rules:
 - the total volume of the buyback can be no greater than 10% of the company's total issued share capital; and
 - repurchased shares become treasury shares with no voting or dividend rights and must be disposed of at market price or cancelled, in either case, within one year.

While the buyback rules have been simplified for 2020, it is not likely that, in practice, the new rules will be used widely. A buyback already can be structured by way of the purchase of a public company's shares by one of its subsidiaries, to which the buyback rules do not apply, rather than a company itself repurchasing its own shares. Subject to applicable insider trading rules, this allows far greater flexibility in terms of price and process because:

- shares can be acquired at their market price at the time of purchase;
- there is no restriction on the size of the acquisition, as the limitation of 10% of total issued share capital does not apply; and
- there is no obligation to sell or cancel the purchased shares within any time period.

To the extent that financial support for struggling publicly traded companies is made available by the Russian government, it is possible that restrictions may be placed on the use of those funds, including a prohibition on using them for buyback purposes.

COVID-19: Russian Capital Markets Update

Contacts

Alexey V. Kiyashko

Partner / Moscow
7.499.270.2102
alexey.kiyashko@skadden.com

Inara V. Blagopoluchnaya

European Counsel / Moscow
7.499.270.2106
inara.blagopoluchnaya@skadden.com

Dmitri V. Kovalenko

Partner / Moscow
7.499.270.2100
dmitri.kovalenko@skadden.com

Robin F. Marchant

European Counsel / Moscow
7.499.270.2116
robin.merchant@skadden.com