BANKRUPTCY IN RUSSIA

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CONTENTS

This brochure describes the main provisions of Russian bankruptcy legislation and contains general information on the bankruptcy process in Russia. In particular: the criteria for commencing bankruptcy; the stages of a bankruptcy; the main restrictions imposed on a debtor within the framework of a bankruptcy case. This information will be of interest for foreign investors seeking to recover debts from Russian counterparties through the use of the bankruptcy mechanism. In addition, this information is important in situations where subsidiaries in Russia experience financial difficulties.

1. Legislative framework

After the collapse of the USSR, Russian legislation in the area of bankruptcy was completely revamped. The most important regulatory and legal act governing bankruptcy issues in the Russian Federation is the Bankruptcy Law (Federal Law No. 127-FZ dated 26 October 2002 "On Insolvency (Bankruptcy)" (hereinafter the "Bankruptcy Law"), which has been amended repeatedly. The bankruptcy process is also governed by the following regulatory and legal acts:

- The Civil Code of the Russian Federation (hereinafter the "RF Civil Code");
- The Commercial Procedure Code;
- The Civil Procedure Code.

Resolution No. 257 of the RF Government dated 29 May 2004 "On Protecting the Interests of the Russian Federation as a Creditor in Bankruptcy Cases and in Bankruptcy Proceedings" is also extremely relevant in respect of the participation of the state executive authorities in the bankruptcy procedure.

2. Prerequisites required for the commencement of a bankruptcy case

A bankruptcy may be initiated in respect of a legal entity when the following three conditions occur simultaneously:

- the debtor is unable to satisfy the monetary claims of its creditors. Such claims may be either claims for the payment of monetary amounts (for example, in respect of transactions), or claims for the payment of severance pay and/or wages of persons who work or worked under an employment contract, and for the execution of statutory payments (taxes, fines, etc.);

- the debtor has failed to make payment for the indicated monetary claims within three months of the date when they fell due;

- the total monetary claims come to at least RUB 300,000.

3. Commencement of bankruptcy

The bankruptcy cases of legal entities and sole proprietors in the Russian Federation are considered in the state commercial courts. The bankruptcy is instigated through the filing of a petition with the court on recognising the debtor as bankrupt at the location of the debtor. A bankruptcy may be instigated by the following persons:

- the creditor;

- an employee or former employee of the debtor, if they have claims for the payment of severance pay and/or wages;

- the competent state authority; or

- the actual debtor (filling a debtor´s petition)

3.1 FILING OF A PETITION BY A CREDITOR OR EMPLOYEE (FORMER EMPLOYEE) OF THE DEBTOR

In accordance with legislation, a mandatory criterion for a creditor or employee (former employee) of the debtor to file a petition with a court on recognising a debtor as bankrupt is an effective decision on the existence of a corresponding debt issued by a court (not necessarily by the court that will consider the bankruptcy case). Consequently, before filing a petition with a court on recognising the debtor as bankrupt, the creditor should file a claim with the debtor for the recovery of the debt and obtain a favourable court decision on such a claim. This norm aims to prevent instances where creditors abuse their right to file petitions on recognising debtors as bankrupt[1].

Effective from 1 July 2015 a creditor that is a credit organisation only has the right to file a petition with a commercial court on recognising a debtor as bankrupt on the condition of preliminary publication of a notice on its intention to do so in the Unified Register of Information on the Activities of Legal Entities at least 15 days prior to the filing of the claim with a commercial court.

[1] This rule does not apply to credit institutions, which are entitled to file a petition with a court from the date of the emergence of indicia of bankruptcy at the debtor.

If a foreign state court or arbitration tribunal had previously considered the dispute between the creditor and debtor, the decision issued by such a court or tribunal should be recognised and enforced in the Russian Federation before the filing of the petition on recognising the debtor as bankrupt.

3.2 FILING OF A PETITION BY THE COMPETENT AUTHORITY

Petitions on recognising a debtor as bankrupt are filed on behalf of the state by the competent state authority – the Federal Tax Service of the Russian Federation (hereinafter the "Competent Authority"). Other state authorities notify the Competent Authority for these purposes regarding the debts owed to them.

The petition for recognising the debtor as bankrupt may be filed in connection with the debt owed by a person arising from:

- Monetary obligations (for example, transactions). In this case the bankruptcy proceeds according to the standard procedure, in other words, a court decision should have been issued for the purposes of the petition on recognising the debtor as bankrupt.

- Statutory payments (taxes, fines, etc.). Confirmation of such a debt should be obtained on the basis of the decision of a court or tax (customs) authority on the recovery of debt relating to statutory payments. The right to file a petition arises if the payment was not received on the expiry of thirty days.

3.3 FILING OF THE PETITION BY THE DEBTOR

A debtor files a petition with a court on the commencement of its own bankruptcy (filing of a debtor's petition) pursuant to a voluntary, and in certain cases, mandatory procedure.

The debtor is entitled to file a bankruptcy petition with the commercial court in anticipation of its bankruptcy, in other words, when indicia of bankruptcy have still not appeared, but circumstances already exist, attesting to the emergence of the indicia of bankruptcy in the near future. One example of such clear circumstances could be the adoption by a court of a decision compelling the debtor to make a monetary payment that is crippling, and where the entry into legal force of such a decision will result in the debtor's insolvency.

The debtor is required to file a bankruptcy petition in the following instances if:

- as a result of the satisfaction by the debtor of the claims of one creditor or several creditors the debtor is unable to meet its monetary obligations towards other creditors;

- a corresponding body has adopted a decision to file a bankruptcy petition with a court (in the case of unitary enterprises – the body authorised by the owner of the enterprise's assets, and in the case of other companies – the body authorised to adopt decisions on the liquidation of the company);

- the levy of execution on the debtor's assets complicates materially or renders impossible its business activities;

- the debtor meets the indicia of insolvency (the debtor defaults on some of the monetary obligations or obligations relating to statutory payments caused by the inadequacy of the funds) and/or indicia of the inadequacy of the assets (the total monetary obligations and obligations relating to the execution of the statutory payments of the debtor exceed the value of the property (assets) of the debtor);

- if the debtor ows the payment of severance pay, wages and other payments due and payable to an employee (former employee) in accordance with labour legislation, and cannot repay it for more than three months due to the inadequacy of funds;

- it is established during the liquidation of the company that the debtor is insolvent or has insufficient assets to pay creditors (in this case the obligation to file the bankruptcy petition is assumed by the liquidation commission).

The debtor should file the petition no later than one month after the date of the emergence of corresponding circumstances. The filing of a petition by the debtor should be treated with particular caution, as legislation stipulates liability for both the late filing and also the unsubstantiated filing of a bankruptcy petition with a court (see section 12).

4. What does a bankruptcy process consist of?

In practice in a bankruptcy the debtor undergoes several stages of bankruptcy proceedings, and each stage is subject to its own set of rules and restrictions (these are primarily restrictions on the business activities of the debtor or the powers of its management bodies). The bankruptcy process starts when a petition has been filed to recognize the debtor as bankrupt and the recognition by a court of such a petition as substantiated.

Bankruptcy legislation stipulates the following bankruptcy stages:

- supervision [2];

- financial recovery;

- external administration;

[2] Supervision is analogous to preliminary insolvency proceedings under German law.

- receivership proceedings;

- amicable settlement agreements[3].

As a rule, only the first stage is mandatory: as a part of the supervision the financial position of the debtor and opportunities to restore its solvency are determined. The issue of proceeding to other stages is resolved on the basis of this decision. If no opportunities for financial recovery or external administration are found, the debtor enters receivership proceedings – during this process the debtor's assets are sold, while the sale proceeds are distributed between the creditors, and the debtor is declared bankrupt and liquidated.

Bankruptcy legislation stipulates the application of a simplified procedure for the following persons:

- debtors in respect of which the decision on liquidation had been adopted;

- debtors who have effectively ceased operations, are missing or their location cannot be established;.

- specialised companies[4] and mortgage agents.

In the case of the simplified procedure, the supervision, financial recovery and external administration stages are not applied. If it is established during the liquidation of the company that the creditor claims cannot be satisfied in full, only receivership proceedings are initiated.

Information on the commencement of the bankruptcy proceedings of a company is included in the Unified Federal Register of Bankruptcy Information. Such information is available on the Internet, and is also published in an official print publication[5].

[3] At any stage of the bankruptcy the debtor and creditors can conclude an amicable settlement agreement, in other words agree on the termination of the proceedings on the bankruptcy case. The process for concluding such an amicable settlement agreement is subject to its own regulatory provisions.

[4] The legal status of specialist companies is determined by Chapter 3.1 of Section II of Federal Law No. 39-FZ dated 22 April 1996 "On the Securities Market". The specialist companies are a specialist financial company and specialist project finance company. The status of the mortgage agent is regulated by Federal Law No. 152-FZ dated 11 November 2003 "On Mortgage Securities".

[5] On the date of the preparation of this brochure, the Kommersant newspaper is such a print publication http://www.kommersant.ru/bankruptcy.

5. Who is the bankruptcy administrator?

The bankruptcy administrator participates in all the stages of the consideration of the bankruptcy case and determines to a large extent the successful outcome of the case. The bankruptcy administrator is the official, who has undergone special training and passed a state exam. All the bankruptcy administrators are members of private professional communities of bankruptcy administrators (so-called self-regulating organizations – "SRO").

The bankruptcy administrator should comply with the mandatory requirements established by bankruptcy legislation, and also the additional requirements on competency and independence established by the SRO. In addition, the creditor or competent authority, which is the applicant in the bankruptcy case, or the creditors' meeting, is entitled to place additional requirements on the candidacy of the bankruptcy administrator:

- higher education in law or education in an area of expertise that complies with the area of activities of the debtor;
- work experience as the head of an organization in a corresponding sector of the economy;
- work experience as a bankruptcy administrator (performance of a specific number of bankruptcy cases).

The following are the main responsibilities of the bankruptcy administrator:

- identify creditors and maintain the creditor claims register;
- adopt measures to protect the debtor's assets;
- convene and hold creditors' meetings;
- analyse the financial position of the debtor, its financial performance;
- identify characteristics of a premeditated and fictitious bankruptcy and duly notify the parties in the bankruptcy case thereof;
- notify creditors regarding the transactions and actions of the management bodies of the debtor.

At the same time, depending on the specific bankruptcy procedure, the name, role and scope of the powers of bankruptcy administrators differ during:

- supervision – the provisional administrator;

- financial recovery – the administrator;
- external management – the external administrator;
- the receivership proceedings – the receiver.

During supervision and financial recovery the bankruptcy administrator exercises mostly control and supervisory functions without replacing the management of the debtor. By contrast, in external administration and receivership proceedings, the traditional powers held by management of the debtor cease, and the bankruptcy administrator is vested with the task of managing the business.

The bankruptcy administrator is appointed by the commercial court overseeing the bankruptcy case. At the same time, the same person may assume the functions of administrator at different stages of the debtor's bankruptcy.

The bankruptcy administrator receives a fee and is also remunerated for current costs in connection with administration of the bankruptcy case. The fee and expenses are paid (first and fore-most) from the debtor's assets.

The bankruptcy administrator may incur the following penalties for the non-performance or undue performance of obligations:

- dismissal on the basis of a petition of the parties in the bankruptcy case or the petition of an SRO;
- administrative liability in the form of a warning, monetary fine or disqualification;
- civil-law liability in the form of reimbursement of losses to the debtor, creditors, third parties, and in certain cases the SRO.

The Federal Service for State Registration, Cadastre and Cartography (Rosreestr)[6] is the over-sight body responsible for the activities of SRO and bankruptcy administrators. It may also hold the bankruptcy administrator liable.

The liability of the bankruptcy administrator for causing losses to the parties in the bankruptcy case and third parties is subject to mandatory insurance.

[6] https://rosreestr.ru/site/.

6. Supervision

Supervision represents the first stage in a bankruptcy case and has the following goals: to analyse the financial position of the debtor, safeguard its property, accumulate creditor claims (all the claims are entered in a special register) and hold the first creditors' meeting, at which a decision is adopted on the next stage of the bankruptcy.

This procedure is introduced on the basis of the decision of the commercial court if the petition on recognising the debtor as bankrupt is substantiated. Supervision can take a maximum of seven months.

6.1 CONSEQUENCES OF THE INTRODUCTION OF SUPERVISION

Once supervision has been imposed, all creditors may only file their claims (in respect of monetary obligations and the execution of statutory payments (taxes, fines, etc.)) within the framework of the bankruptcy case. Furthermore, objections may be filed against such claims, inter alia from other creditors, the provisional administrator and a representative of the debtor's shareholders. If a claim is recognised as substantiated, it is included by the court in the creditor claims register. A creditor should file a petition with the commercial court for including its claims at this stage of the bankruptcy within thirty calendar days after the ruling on the introduction of supervision has been published. In this case non-working days are included, while the possibility to restore the deadlines is not provided by law[7].

Untimely filing results in a ban on participation in the first meeting of creditors. The court considers claims filed after the expiry of the thirty days period only in the next bankruptcy stage which follows the supervision.

To safeguard the debtor's assets, enforcement proceedings are suspended, the offset of claims, dividend payments, distribution of profits, the purchase by the debtor of its shares and equally the payment of the actual value of participation interests to a shareholder in the event of the latter's withdrawal as a shareholder from the debtor company, are not permitted.

The debtor may conclude the following transactions with the consent of the provisional administrator:

- transactions constituting more than 5% of the book value of the debtor's assets on the date of the introduction of supervision;

[7] See Clause 2 of Information Letter No. 93 of the Presidium of the RF Supreme Commercial Court dated 26 July 2005 "On Certain Issues Related to the Calculation of Specific Timeframes in Bankruptcy Cases".

- transactions related to the receipt and issue of loans, sureties and guarantees, the assignment of rights of claim, the transfer of debt and also trust management over the debtor's assets.

The management bodies of the debtor may no longer take decisions on:

- the reorganization (merger, consolidation, split off, spin off, restructuring) and liquidation of the debtor;
- the establishment of legal entities or on the participation of the debtor in other legal entities;
- the establishment of branches and representative offices;
- the payment of dividends or distribution of the debtor's profits between shareholders;
- the placement of bonds and other equity securities, with the exception of shares;
- withdrawing shareholders of the debtor, the acquisition of its own shares;
- participation in associations, unions, holding companies, financial industrial groups and other associations of legal entities;
- the conclusion of partnership agreements.

6.2 MANAGEMENT OF THE DEBTOR

The managing director of the debtor and other management bodies are not dismissed from management of the debtor. At the same time, the debtor may only conclude certain transactions with the consent of the provisional administrator.

The functions of the provisional administrator are extremely significant and are multilateral. For example, his powers include the following:

- adopt measures aimed at ensuring the safekeeping of the debtor's property;
- analyse the financial position of the debtor (review in order to ascertain whether the debtor's solvency can be restored, and also whether the debtor owns sufficient assets to cover the expenses in the bankruptcy case);
- identify creditors, notify them of the commencement of the proceedings;
- file objections regarding creditor claims;
- maintain the creditors' register;

- review the transactions of the debtor and prepare an opinion as to whether there any grounds for contesting them;

- convene and hold the first meeting of creditors.

In addition, the provisional administrator monitors the work of the managing director of the debtor. If the latter violates the requirements of bankruptcy legislation, he may be dismissed by the commercial court further to a petition filed by the provisional administrator. To exercise such control and other functions vested with the provisional administrator, the law has established that the debtor's management bodies are required to submit any information concerning the debtor's activities to the provisional administrator further to the latter's request. In addition, the managing director of the debtor is required to submit to the provisional administrator a list of the debtor's assets, the accounting documents and other documents which reflect the economic activities of the debtor for the past three years prior to the commencement of the bankruptcy. The managing director should notify the provisional administrator of all changes to the composition of the debtor's assets on a monthly basis.

Based on the results of the financial position of the debtor (inter alia, stocktake of its property), the provisional administrator prepares an opinion as to whether the debtor's solvency can be restored and proposes the next stage of the bankruptcy. The decision on the choice of the next bankruptcy stage is adopted at the first meeting of creditors on the date determined by the provisional administrator.

6.3 TERMINATION OF SUPERVISION

On the basis of the information received from the provisional administrator on the financial position of the debtor, the first meeting of creditors determines the subsequent fate of the debtor. Depending on whether there are grounds for restoring the debtor's solvency, the first meeting may adopt a decision (and file a corresponding petition with the court) on:

- the introduction of financial recovery;

- the introduction of external administration;

- the recognition of the debtor as bankrupt and on the commencement of receivership proceedings.

On the basis of the decision of the first meeting of creditors, the court issues a ruling, respectively on the introduction of financial recovery or external management, or adopts a decision on the recognition of the debtor as bankrupt and on the commencement of receivership proceedings. The termination of the bankruptcy case by the court is also possible (if the solvency of the debtor is restored or an amicable settlement agreement is concluded).

If during supervision only claims for the payment of severance pay and/or wages of persons who work or previously worked under an employment contract were included in the creditor claims register, and these claims remained unsatisfied as a result of this bankruptcy procedure, the first meeting of creditors will not be held, and the commercial court will independently take a decision on the subsequent fate of the debtor.

7. Financial recovery

Financial recovery is a stage in bankruptcy applied to the debtor for the restoration of its solvency and repayment of debt in accordance with the debt repayment schedule.

The gist of financial recovery is that the actual debtor or its shareholders (or third party) apply to the creditor's meeting with a financial recovery plan and debt repayment schedule, which determines the procedure and deadlines for the payment of all the creditors' claims. Financial recovery is introduced for no more than two years.

If a third party applies to the creditors' meeting, it should provide – in addition to the financial recovery plan – a security for the debtor's payment in accordance with the proposed schedule. If the debtor violates the debt repayment procedure, the creditor's claims will be satisfied from the provided security.

After the creditors' meeting approves the financial recovery plan, the commercial court introduces a corresponding procedure and approves the candidacy of the administrator.

7.1 CONSEQUENCES OF THE INTRODUCTION OF FINANCIAL RECOVERY

From the date when the court introduces financial recovery, the performance of enforcement proceedings is suspended, previously adopted measures to protect creditor claims are revoked, while the payment of dividends and reorganization of the debtor without the consent of the creditors and the persons providing security are not permitted. Creditor claims against the debtor may only be filed after their review by the commercial court.

Without the consent of the creditors' meeting, the debtor is further not entitled to:

- conclude interested party transactions (or several related transactions);
- conclude transactions on the acquisition/alienation of property the value of which amounts to more than 5% of the book value of the debtor's assets;
- grant loans and credits;

- issue sureties and guarantees;
- transfer its assets for trust management.

In addition, the debtor has no right, without the consent of creditors and third parties which provided security, to adopt a decision on its reorganization (merger, consolidation, split off, spin off, restructuring).

Without the consent of the administrator, the debtor may not:

- conclude transactions relating to the acquisition or alienation of its assets (other than the sale of the products manufactured by the debtor);
- conclude transactions relating to the assignment of rights of claim or the transfer of debt;
- conclude transactions which result in an increase in accounts payable by more than 5% of the amount of the creditor claims;
- take out loans and credits.

7.2 ADMINISTRATION OF THE DEBTOR

The managing director and other management bodies of the debtor are not dismissed from management of the debtor. At the same time, however, transactions which reduce or could reduce the debtor's assets are only concluded with the consent of the creditors' meeting or the administrator.

As a rule, the commercial court appoints as administrator the person that exercised the functions of provisional administrator. Pursuant to the procedure for financial recovery, the administrator exercises in general controlling functions.

He is required to:

- maintain the creditor claims register;
- monitor performance of the debt repayment schedule;
- convene a meeting of creditors, when required to do so by law.

The administrator has the right to:

- approve the debtor's transactions in instances where such approval is required;

- demand information from the managing director of the debtor regarding the current activities of the debtor;

- file a petition in court on adopting measures to safeguard the debtor's assets;

- file in court claims on recognising as invalid transactions concluded by the debtor in violation of the law.

7.3 TERMINATION OF THE PROCEDURE

The debtor is required to prepare a report on the results of the performance of the debt repayment schedule by the end of the timeframe for financial recovery. The administrator considers the report and prepares an opinion on meeting the schedule.

Based on the report and the opinion, the court adopts one of the following court orders:

- ruling on termination of the proceedings on the bankruptcy case (if there are no outstanding debts);

- ruling on the introduction of external administration (if the debtor's solvency can be restored);

- decision on the recognition of the debtor as bankrupt and on the commencement of receivership proceedings (if the debtor's solvency cannot be restored).

8. External administration

External administration is ordered if there is reason to assume that solvency can be restored. Unlike financial recovery, management of the debtor is entrusted to a third party (external administrator). External administration is ordered for a term of up to 18 months. In certain instances, it can be extended, but for no more than six months.

8.1 CONSEQUENCES OF THE INTRODUCTION OF EXTERNAL ADMINISTRATION

The introduction of external administration results in the termination of the powers of the managing director of the debtor and the vesting of these powers with the external administrator.

Property consequences:

- A moratorium is introduced on satisfying creditor claims on monetary obligations and on the execution of statutory payments (with the exception of current payments[8]). Such claims may only be filed in bankruptcy proceedings;

[8] Payments relating to claims, which arose after the court accepted the bankruptcy petition, comply with the claims on the bankruptcy estate under German law.

- Previously adopted measures aimed at securing creditor claims are revoked. New measures aimed at securing creditor claims may only be imposed within the framework of the bankruptcy proceedings;

- Major transactions[9], and also interested-party transactions[10], are only concluded with the consent of the creditors;

- Transactions which result in the receipt or issue of loans, issue of sureties and guarantees, the assignment of rights of claim, the transfer of debt, the alienation or acquisition of shares, the interests of business partnerships and companies, trust management, are concluded by the external administrator after receiving approval from creditors. Approval is not required in cases where the possibility and conditions for their conclusion are stipulated by the external administration plan;

- In cases where the total monetary obligations of the debtor which arose after an external administration was ordered exceed total claims of the bankruptcy creditors included in the creditor claims register by 20%; transactions resulting in new obligations for the debtor may only be concluded by the external administrator with the consent of the creditors. These transactions may only be concluded without their consent if stipulated by the external administration plan.

8.2 EXTERNAL ADMINISTRATION OF THE DEBTOR

The external administrator performs comprehensive management of the debtor's activities in place of the company's management director. In particular, the external administrator:

- drafts the external administration plan[11] and submits it to the creditors' meeting for approval;

- submits a report on the implementation of the plan to the creditors' meeting;

[9] Transactions or several interrelated transactions in respect of assets with a book value exceeding 10% of the book value of the debtor's assets on the most recent reporting date.

[10] Transactions in which a party is an interested party in relation to the external administrator or bankruptcy creditor, or the debtor.

[11] The external administration plan is drafted by the external administrator and submitted to the creditors' meeting for approval no later than one month after the approval of the external administrator. The plan should stipulate measures aimed at restoring the debtor's solvency, the terms and conditions and procedure for implementing the indicated measures, expenses on their implementation and the other expenses of the debtor. The following may, inter alia, be stipulated as such measures: repurposing the debtor's production facilities, closing loss-making production facilities, recovering accounts receivable, selling some of the assets or part of the enterprise, assigning the rights of claim of the debtor, enforcement of the obligations of the debtor (unitary enterprise)) by its owner or third party, increasing the share capital, and replacing the assets. A mandatory requirement is the inclusion in the external administration plan of the timeframe for restoring the debtor's solvency and substantiation as to whether such restoration is possible within the established timeframe.

- manages and disposes of the debtor's assets in accordance with the external administration plan (with due account of the aforementioned restrictions);

- performs a stocktake of the assets;

- maintains the accounting, financial and statistical accounting and reporting of the debtor;

- submits claims to the court on behalf of the debtor on recognising as invalid the transactions and decisions of the debtor, and also repudiates[12] contracts and other transactions of the debtor which prevent the restoration of its solvency;

- concludes an amicable settlement agreement on the debtor's behalf;

- adopts measures relating to the recovery of debt owed to the debtor;

- maintains the creditor claims register, and also files objections regarding creditor claims imposed on the debtor.

The management bodies of the debtor retain the right to adopt a number of corporate decisions: on an increase in the share capital of the joint-stock company through the placement of new shares, on filing a petition with the creditors' meeting on including in the external administration plan the possibility of an additional share issue, on filing a petition for the sale of the debtor's assets, on the replacement of the debtor's assets.

8.3 TERMINATION OF EXTERNAL ADMINISTRATION

The external administrator submits the report to the creditors' meeting for consideration. Based on the results of the consideration of the report, the creditors' meeting may adopt one of the following decisions on the:

- termination of external administration in connection with the restoration of the debtor's solvency and the transition to settlements with creditors;

- termination of the proceedings on the bankruptcy case in connection with the satisfaction of all creditor claims in accordance with the creditor claims register;

[12] Contracts and other transactions of the debtor may be repudiated within three months of the date of the introduction of external administration. It may only be filed in respect of transactions not executed by the parties in full or in part if such transactions prevent the restoration of solvency or if the execution of such transactions results in losses for the debtor. The party under the contract in respect of which such repudiation was filed, is entitled to demand that the debtor reimburse any losses caused by the repudiation of the contract.

- recognition of the debtor as bankrupt and on the commencement of receivership proceedings;

- conclusion of the amicable settlement agreement.

The report of the external administrator and the decision of the creditors' meeting should be approved by the court. If it refuses to do so, the court should adopt a decision regarding the further fate of the debtor.

9. Receivership proceedings

Receivership proceedings pursue the goal of the fullest possible satisfaction of creditor claims from the sale of the debtor's assets. Receivership proceedings may be commenced after any other stage of the bankruptcy when the debtor's solvency cannot be restored. The overall timeframe for this procedure is six months which may be extended according to the general rules by up to six months. At the same time, it is not uncommon for receivership proceedings to last several years, in particular in the case of bankruptcies of major companies.

9.1 CONSEQUENCES OF THE INTRODUCTION OF RECEIVERSHIP PROCEEDINGS

Once the court has determined bankruptcy of the debtor and has opened receivership proceedings, previous monetary obligations and statutory payments are due and payable, while enforcement under writs of execution ceases, interest, penalties and other fines for non-performance or undue performance of monetary obligations and mandatory payments stop being accrued (with the exception of obligations that arose after the introduction of the receivership proceedings), and the previous attachments of the debtor's assets are lifted. Creditor claims may only be filed after the court has verified if they are substantiated. In this case the creditor should file a petition for the inclusion of its claims in the creditor claims register with the commercial court considering the bankruptcy case within two months of the date of the publication of information on the commencement of the receivership proceedings. Claims filed outside of this timeframe are not included in the register and are only satisfied after the repayment of all the claims included in the creditor claims register.

9.2 MANAGEMENT OF THE DEBTOR

From the date when the commercial court adopts a decision on the recognition of the debtor as bankrupt and the commencement of receivership proceedings, the powers of the managing director of the debtor and other management bodies of the debtor cease. Their authorities are exercised by the receiver, to be appointed by the court.

As a rule the commercial court appoints as the receiver the bankruptcy administrator who exercised his functions in the previous stages of the bankruptcy of the debtor.

The following constitute the main responsibilities of the receiver:

- to maintain the creditor claims register;
- to recover accounts receivable;
- to perform a stocktake of the debtor's assets, look for and recover the debtor's assets held by third parties;
- to sell the debtor's assets;
- to make payments to creditors in accordance with the order of priority for satisfying the claims of creditors established by legislation.

The receiver has the right:

- to dismiss the debtor's employees, including the managing director;
- to repudiate transactions if these transactions prevent the restoration of the debtor's solvency;
- to file claims with the court on recognising as invalid transactions and decisions concluded or executed by the debtor;
- to file claims against third parties, which assume in accordance with legislation subsidiary liability for the debtor's obligations in connection with its bankruptcy;
- to perform other actions stipulated by legislation and aimed at the recovery of the debtor's assets.

9.3 SALE OF THE DEBTOR'S ASSETS AND THE ORDER OF PRIORITY FOR SATISFYING CLAIMS

Generally the debtor's assets are sold at auctions after the performance of an independent appraisal. The received monetary funds constitute the bankruptcy estate.

Then payments are made to bankruptcy creditors in accordance with the order of priority established by legislation. The claims of each category of creditors are satisfied after the claims of the previous order of priority have been satisfied in full.

Claims related to expenses on the bankruptcy case and the payment of the fee of the bankruptcy administrator and also creditor claims which arose after the introduction of receivership proceedings are not subject to the order of priority. After the satisfaction of such claims, the remaining claims of creditors are satisfied in the following order of priority:

- settlements are performed in the first order of priority to the claims of individuals whose lives or health were impaired by the actions of the debtor through the capitalization of corresponding time payments, and also the compensation of moral damage;

- settlements are performed in the second order of priority relating to the payment of severance pay and the wages of individuals who work or worked under an employment contract, and on the payment of consideration under copyright contracts;

- settlements are performed in the third order of priority with other creditors.

The claims of creditors in respect of obligations secured by the pledge of the debtor's assets are satisfied from the value of the pledged item pursuant to a special procedure:

- if the claims of a bank under a loan agreement are secured by the pledge of the debtor's assets, 80% of the proceeds from the sale of the pledged assets will be allocated to the repayment of the bank's claims under the loan agreement secured by the pledge of the debtor's assets, 15% will be allocated to the repayment of the claims of creditors of the second and third order of priority, while the remaining 5% is allocated to the repayment of claims related to expenses on the bankruptcy case and the payment of the fee to the bankruptcy administrator;

- in the remaining instances, 70% of the proceeds from the sale of pledged assets are allocated for the repayment of the claims of the creditor in respect of the obligation secured by the pledge of the debtor's assets, 20% is allocated for the repayment of the creditor's claims of the first and second priority, while the remaining 10% is allocated for the payment of expenses on the bankruptcy case and the payment of the fee to the bankruptcy administrator.

If the debtor's assets are insufficient to satisfy the claims of the creditors of one order of priority, the money is allocated between the creditors of a corresponding order or priority proportionate to the amounts of their claims included in the creditor claims register.

Claims of creditors which are not satisfied owing to a shortfall in the debtor's assets remain outstanding.

Should assets remain after satisfaction of all claims, these assets should be distributed between the shareholders of the debtor in accordance with its foundation documents.

9.4 TERMINATION OF THE RECEIVERSHIP PROCEEDINGS

After completing settlements with the creditors, the receiver submits a report on the results of the receivership proceedings to the court. On the basis of the report, the court issues a ruling on the termination bankruptcy proceedings or completion of the receivership proceedings and on the liquidation of the debtor.

In exceptional instances, if sufficient grounds appeared during the receivership proceedings for assuming that the debtor's solvency could be restored, and financial recovery and/or external administration had not been introduced previously in respect of the debtor, the commercial court may terminate the receivership proceedings and appoint external administration.

10. Amicable settlement agreement

Throughout the bankruptcy procedure an amicable settlement agreement may be concluded at any time between the debtor and its creditors. The law provides corresponding specifics for the conclusion of an amicable settlement agreement for each stage of the bankruptcy.

The decision of the creditors' meeting to conclude an amicable settlement agreement is adopted by simple majority of the total number of creditors (in other words, 50% + 1 vote). In this case, the terms and conditions of the amicable settlement agreement for creditors who voted against its conclusion (or did not participate in the voting) may not be worse than for those creditors who voted in favour of its conclusion. The agreement is concluded in writing and contains a provision on the procedure and deadlines for the performance of the debtor's obligation. The court approves the amicable settlement agreement and terminates the proceedings on the bankruptcy case.

Once the court approves the amicable settlement agreement, the powers of the provisional administrator, the external administrator and receiver cease. The external administrator or receiver performs the obligations of the managing director of the debtor until appointment of a new managing director of the debtor.

If the debtor fails to perform the amicable settlement agreement, the creditors are entitled, without terminating the amicable settlement agreement, to immediately contact the court considering the bankruptcy case to receive a writ of execution for the recovery from the debtor through enforcement procedures of the remaining unsatisfied claims.

11. Contesting the debtor's transactions

Transactions concluded by a debtor may be contested in court for general reasons or for reasons specific to Bankruptcy Law.

In accordance with the RF Civil Code, invalid transactions may be of two types:

- voidable – transactions which are recognised as invalid only on the basis of a court order. Before a voidable transaction has been determined as invalid it is a standard valid transaction;

- null and void – transactions which are recognised as invalid, regardless of whether they were recognised as such by a court. Such transactions are invalid as of the conclusion thereof.

Generally, a transaction that violates the requirements of the law or other legal acts is voidable. Such a transaction may only be null and void in the instances stipulated by the law.

An invalid transaction (both null and void, and voidable) has no legal consequences and is invalid as of the conclusion thereof. Generally, in the event of the invalidity of a transaction, each party is required to return to the other party everything received under the transaction (e.g. transferred goods or the purchase value under a purchase agreement).

11.1 VOIDABLE TRANSACTIONS OF THE DEBTOR

The following constitute general grounds for recognising voidable transactions of the debtor as invalid:

- the transactions of the legal entity which contradict the purposes of its activities, explicitly determined in the foundation documents of the legal entity;

- transactions concluded without the consent of a third party, the body of a legal entity or state (municipal) authority, as required by law;

- transactions concluded by a representative or body of the legal entity in violation of the restrictions on the authorities established by the contract or the foundation documents or other internal regulations of the legal entity;

- transactions concluded by the representative or the body of the legal entity, to the detriment of the interests of the legal entity;

- transactions concluded under the influence of material misrepresentation (misrepresentation regarding the subject of the contract or the nature of the transaction, etc.);

- transactions concluded under the influence of deceit, violence or a threat;

- transactions on extremely unfavourable terms and conditions that the person was compelled to conclude due to a combination of adverse circumstances that the other party exploited (onerous transactions);

- other transactions stipulated by legislation.

In addition, the Bankruptcy Law recently stipulated special grounds for contesting a debtor's transactions. They concern the following transactions:

- transactions concluded by the debtor after filing the bankruptcy petition, or within one year before filing and where the unequal reciprocal performance of the obligations by the other party to the transaction is characteristic (for example, if the transaction price and/or other terms and conditions differ materially to the detriment of the debtor from the price and/or other terms and transactions in which analogous transactions are concluded in comparable transactions);

- transactions which were concluded by the debtor for the purpose of causing damage to the property rights of creditors after filing of the bankruptcy petition, or within three years before its filing, if such damage was caused as result of their performance, and if the other party to the transaction knew about the indicated purpose of the debtor by the time of the conclusion of the transaction. At the same time, the goal of causing damage to the property rights of the creditors is assumed if at the time of the conclusion of the transaction the debtor met or as a result of the conclusion of the transaction began to meet the indicia of insolvency or had insufficient assets and the transaction was concluded for no consideration or with an interested party, or was aimed at payment for a participation interest in connection with the withdrawal of a shareholder of the debtor, or was concluded despite the existence of other circumstances indicated in the law;

- transactions concluded by the debtor with an individual creditor or other person after the filing the bankruptcy petition or within one month (in certain instances – six months) before its filing and which result or could result in the prioritization of one of the creditors before the other creditors regarding the satisfaction of claims (for example, when the transaction resulted or could result in a change in the order of priority of the satisfaction of the creditors' claims under obligations that arose prior to the conclusion of the contested transaction).

The application on contesting the debtor's transactions may be filed with the court by the bankruptcy administrator on his/her initiative or further upon decision of the meeting or committee of creditors.

Such an application may also be filed by a creditor in receivership proceedings or the competent authority, if the amount of the corresponding accounts payable included in the creditor claims register exceeds 10% of the total amount of the accounts payable included in the register, excluding the amount of the creditor's claims in respect of which the transaction is contested, and its related parties.

11.2 NULL AND VOID TRANSACTIONS OF THE DEBTOR

Legislation provides the following instances of the nullity of transactions:

- transactions which violate the requirements of the law or another legal act, and at the same time encroach on public interest or the rights and legally protected interests or third parties (unless it follows from the law that such a transaction is voidable or other legal consequences should be applied);

- transactions concluded for purposes that are patently contrary to the fundamental principles of law or morality (as a rule, these are criminally punishable acts);

- sham transactions, in other words transactions concluded for show, without any intention of creating corresponding legal consequences;

- fraudulent transactions; transactions concluded for the purpose of concealing other transactions with other terms and conditions;

- transactions concluded in violation of the bans stipulated by the Bankruptcy Law or restrictions on the disposal of property;

- other transactions which are null and void by law.

12. Liability of controlling persons

In certain instances the Bankruptcy Law formalises a number of provisions regarding the possibility of holding liable the management and the owners of the bankrupt debtor.

First and foremost, we would like to draw your attention to the common obligation of the director, shareholders, members of the management body of the debtor and third parties to reimburse losses caused as a result of the violation of the provisions of the Bankruptcy Law

Hereinafter the head or members of the liquidation commission of the debtor may be held subsidiarily liable for the debts of the bankrupt company if they failed to file a petition for the recognition of the debtor as bankrupt when this is required in accordance with the Bankruptcy Law (see section 3).

If the debtor is recognised as bankrupt as a result of the actions (omission to act) of the persons controlling it (hereinafter the “Controlling Person”), such persons, if the debtor has insufficient assets, assume jointly and severally subsidiary liability in respect of its obligations (the so-called “piercing of the corporate veil” takes place).

Controlling person – person that has or had less than three years before the adoption by the commercial court of the petition on recognising the debtor as a bankrupt (1) the right to issue binding instructions for the debtor or (2) the ability by virtue of being related by blood or by marriage to the debtor, official position or otherwise to determine the debtor’s actions, inter alia through compulsion or the exertion of pressure in another form on the debtor‘ management.

Standard list of Controlling Persons (is not exhaustive):

- Managing director of the debtor;
- Shareholder owning 50% or more of the voting shares (participation interest) of the debtor;
- Person that may conclude transactions on the debtor's behalf by virtue of powers based on a power of attorney, a regulatory and legal act or by virtue of special powers;
- Member of the liquidation commission.

The law establishes the presumption of guilt of the Controlling Persons if the debtor is recognised as bankrupt due to one of the following circumstances:

- damage is caused to the property rights of the creditors[13] as a result of the conclusion (1) by the Controlling Person or (2) in favour of this person or (3) the approval by this person of one or several transactions of the debtor, including suspicious transactions, or transactions resulting in the prioritisation of one of the creditors before the other creditors (see section 11);
- there are no accounting and/or reporting documents, which should be kept and stored, or the information they contain is incomplete or they are distorted. The violation should have occurred by the time of the issue of the ruling on the introduction of supervision or adoption of the decision on recognising the debtor as bankrupt. As a result of this violation, the performance of procedures applicable in a bankruptcy case should be complicated, including the establishment and sale of the bankruptcy estate[14].

Third-priority creditor claims on principal debt appearing as a result of criminal, administrative or tax violations performed after a decision to hold the debtor or the acting/former sole director liable came into force (including claims on the payment of debt identified as a result of case proceedings on these violations) exceed fifty per cent of total third-priority creditor claims on principal debt included in the creditor claims register on the date of closing of the register[15].

[13] The term damage to the property rights of the creditors is understood to mean the impairment or reduction in the size of the debtor's assets and/or increase in the amount of the property claims filed against the debtor, and also other consequences of the transactions or legally significant actions committed by the debtor or omission to act, resulting in the fact that the creditors lose in full or in part their ability to receive satisfaction for their claims relating to the obligations of the debtor from its assets.

[14] These grounds relate to persons that are required to organise the accounting and storage of documents.

[15] These grounds apply to the person who held the position of sole director of the debtor during the period of performance by the debtor or by this person of the relevant violation.

The Controlling Person must prove that it is not to blame for the recognition of the debtor as bankrupt. Such a person is recognised as innocent if the former acted in good faith and reasonably in the interests of the debtor.

The amount of the subsidiary liability of the Controlling Person is determined as the amount of the outstanding claims, namely:

- the claims of creditors included in the register;
- the claims filed after the closing of the register;
- creditor claims in respect of current payments.

The following persons may file a petition for holding the Controlling Person subsidiarily liable [16]:

- the receiver (on his/her initiative, or further to a decision of the creditors' meeting or the creditors' committee);
- the bankruptcy creditor;;
- the representative of the debtor's employees;
- the employee or former employee of the debtor;
- the competent Authority.

The deadline for filing a petition on holding the Controlling Person subsidiarily liable – one year from the day when the applicant learned or should have learned about the grounds for the imposition of subsidiary liability, but no later than three years from the day when the debtor was recognised as bankrupt. In the event of the omission of this deadline, it may be restored by a court for a good reason.

The money recovered from the Controlling Persons is included in the bankruptcy estate. The claim on holding the Controlling Person subsidiarily liable may also be realized pursuant to the procedure for assigning a right of claim. Furthermore, the received money is included in the bankruptcy estate.

[16] Such an application may be filed at the stage of the receivership proceedings (after the commencement, but before the completion of the receivership proceedings)

The debtor's shareholders may file a claim for the reimbursement of losses by the bodies of the legal entity in the part not covered by the amount of the subsidiary liability, on common civil law grounds: violation by the authorised representative (or member of the collegiate body) of the fiduciary duty to act in the interests of the legal entity in good faith and reasonably.

13. Bankruptcy of individuals

The regulations on the bankruptcy of individuals who do not engage in entrepreneurial activities are new for Russian law. They entered into force on 1 October 2015 and contain a number of deviations from the general provisions.

An individual who does not engage in business and whose debts exceed RUB 500,000 may be recognised as bankrupt.

In this instance the petition for the bankruptcy of the individual may be filed with the court by:

- the creditor;
- the competent authority;
- the actual debtor.

The aforementioned requirement on the minimum amount of the debt does not apply to a personal bankruptcy petition filed by the actual debtor. In special instances a debtor may file a personal bankruptcy petition in court even if the amount of the debt is smaller.

The competent courts for bankruptcy cases of individuals are the commercial courts of the Russian Federation.

The court verifies the validity of a bankruptcy petition upon receipt. If the petition is substantiated, the court appoints a financial administrator as proposed by the creditor, the Competent Authority or the actual debtor, who has the right to

- contest the debtor's transactions on the grounds indicated in the Bankruptcy Law;
- file objections regarding creditor claims;
- hold a meeting of creditors in order to resolve issues on the preliminary approval of the transactions and decisions of the debtor;

- request from the debtor information on his/her activities relating to the performance of the debt restructuring plan;

- file a petition with a court on the adoption of measures aimed at safeguarding the debtor's assets, and also on the revocation of such measures.

The financial administrator is required to

- adopt measures aimed at identifying and safeguarding the debtor's assets;

- analyse the financial position of the individual, and identify indicia of a premeditated and fictitious bankruptcy;

- maintain the creditor claims register, notify the creditors of the holding of creditors' meetings, and send reports to the creditors;

- convene and hold the creditors' meeting;

- notify the creditors on the introduction of debt restructuring or the sale of the debtor's assets, and control the implementation of the debt restructuring plan and performance of current payments by the debtor.

13.1 DEBT RESTRUCTURING

The Bankruptcy Law stipulates that an individual's debts may be restructured for up to three years. The court only approves the debt restructuring plan with the consent of the creditors.

The debt restructuring plan of an individual should contain provisions on the procedure and deadlines for the proportionate settlement of the claims of all the bankruptcy creditors and the competent authority.

In respect of creditors under obligations secured by the pledge of the individual's assets, the debt restructuring plan of the individual should stipulate the priority satisfaction of their claims from the sale proceeds of the pledged item.

Debt restructuring may not be approved by the court if the debtor was previously convicted for economic crimes, was subject to administrative liability for petty theft, damage to another person's property or other crimes in the area of bankruptcy. In addition, the debt may not be restructured if the bankruptcy petition was filed in respect of an individual, who has already been recognised as insolvent during the past five years.

During the debt restructuring period a moratorium is imposed on the payment of debts in full and also on the accrual of penalties. The debtor will not be able to acquire interests in companies or perform unilateral transactions. At the same time, transactions such as taking

out loans, pledging assets, the sale and purchase of assets with a value of over RUB 50,000, vehicles and securities, will only be possible with the written consent of the financial administrator.

13.2 RECOGNITION AS BANKRUPT AND THE SALE OF PROPERTY

The court adopts a decision on the recognition of the individual as bankrupt in cases where:

- the individual, bankruptcy creditors or competent authority did not submit the debt restructuring plan of the individual;
- the debt restructuring plan of the individual was not approved by the creditors' meeting;
- the court revoked the debt restructuring plan of the individual. Such revocation is possible in particular upon application of the bankruptcy creditor or Competent Authority if the individual defaults on his/her obligations in accordance with the terms and conditions of the restructuring plan.

By declaring an individual bankrupt, the court resolves initiation of the sale of the individual's assets. The sale of the individual's assets is introduced for a term of no more than six months, which may be extended by the court.

The assets are sold at an auction. Some of the assets required for the life of the debtor and his family may not be sold. The debtor's only place of residence and land underneath, household artefacts and articles, items of individual use, cheap assets required for the professional occupation of the individual, food products and money in the amount of the subsistence minimum, etc., may not be confiscated for the payment of debts.

The list of the individual's assets which are excluded from the bankruptcy estate is approved by court.

As of the declaration of the individual as bankrupt:

- all rights in respect of the assets constituting the bankruptcy estate, including their disposal, are only exercised by the financial administrator;
- any transactions concluded without the participation of the financial administrator in respect of the assets making up the bankruptcy estate are deemed null and void;
- only the the financial administrator may register transfer/encumbrance of the debtor's rights to assets (inter alia, to real estate and securities) ;
- third party obligations should be enforced solely by the financial administrator;

- the debtor may not personally open bank accounts and deposit accounts at credit institutions and take out money.

In addition, the court is entitled to issue a ruling regarding temporary restrictions on the right on the individual to leave the Russian Federation.

The order of priority of the settlement of creditor claims is analogous to the order of priority established by the Bankruptcy Law in respect of bankrupted organizations and sole proprietors (see section 9.3).

Generally once the assets have been distributed among the creditors, the individual is released from any remaining liabilities.

Nevertheless, the release of the individual from remaining liabilities does not apply to a number of claims: creditor claims on current payments, on the reimbursement of harm caused to lives or health, on wage and severance payments, on the reimbursement of moral damage, on the recovery of alimony, other claims inextricably linked to the personality of the creditor, and also intentional and fictitious bankruptcy, the concealment by the debtor of information from the financial administrator, fraud, malicious evasion of the settlement of debts, etc.

13.3 SPECIAL CONSEQUENCES OF RECOGNISING AN INDIVIDUAL AS BANKRUPT

The status of bankruptcy is retained by the individual for five years, in other words during this term he/she has no right to assume obligations under credit and loan agreements without indicating his/her bankruptcy. During this term the same individual may not file his/her bankruptcy case again.

In addition, within three years of the date of completion in relation to the citizen of the procedures on the sale of property or termination of the bankruptcy proceedings during the course of these procedures, he/she may not hold positions on the management bodies of a legal entity or participate in some way in the management of a legal entity.

14. Cross-border bankruptcy

A cross-border bankruptcy is understood to mean a bankruptcy complicated by a foreign component, for example in cases where a foreign legal entity is a debtor or the property of the Russian debtor is located abroad. Instances are also possible where the creditor is a foreign citizen or foreign legal entity, and foreign bankruptcy proceedings have been commenced in respect of said person.

14.1 LEGAL REGULATION OF CROSS-BORDER BANKRUPTCY

The Bankruptcy Law contains only separate norms concerning bankruptcy proceedings complicated by a foreign element, namely: the term "cross-border insolvency" has been formalised, the priority of Russia's international treaties before national legal regulation has been determined; it was established that the norms of the law also apply to foreign persons and the grounds for recognising the decisions of foreign courts on bankruptcy cases were stipulated [17].

14.2 SPECIFICS FOR THE PARTICIPATION OF FOREIGN COMPANIES DURING A BANKRUPTCY

Proceedings on an insolvency case in a Russian court may only be commenced in respect of legal entities located in Russia. The Russian court may not instigate bankruptcy proceedings in respect of foreign companies located outside the Russian Federation.

Foreign companies participating in bankruptcy cases being considered by Russian courts as creditors are subject to the legal framework in Russia. Consequently, foreign creditors possess all the rights provided to creditors in accordance with the Bankruptcy Law. The specifics of the participation of foreign creditors relates only to the special form of the attestation of the official foreign documents to be submitted to the court (legalisation or apostille), with their translation into Russian, and also the special procedure for notifying foreign persons that do not have a management body, branch, representative office or representative in Russia authorised to carry out business on their behalf. The procedure for the attestation of documents and notification of foreign persons is determined in accordance with international treaties, with the participation of the Russian Federation [18].

14.3 RECOGNITION AND ENFORCEMENT OF THE DECISIONS OF THE FOREIGN COURTS IN RESPECT OF FOREIGN DEBTOR

Court orders issued by foreign courts on recognising foreign debtors as insolvent may be recognised by Russian courts and enforced in the Russian Federation.

[17] In 2011 the Ministry of Economic Development of the Russian Federation drafted a separate federal law regulation governing material aspects of cross-border bankruptcy, taking into account individual provisions of the UNCITRAL Model Law on Cross-Border Insolvency – 1997, and also Council Regulation No. 1346/2000 of the European Union on insolvency proceedings of 29 May 2000. The draft Federal Law "On Cross-Border Insolvency (Bankruptcy)" reinforced the statutory definition of cross-border insolvency, stipulated the principle of concurrent proceedings, and also contained provisions on cooperation between the bankruptcy administrators, applicable law and the competence of commercial courts. However, work on the project was put on ice and to date no separate law has been adopted on cross-border bankruptcy in Russia.

[18] For example, the Hague Convention Abolishing the Requirement for Legalisation for Foreign Public Documents, 5 October 1961 the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done in New York, 10 June 1958.

The recognition and enforcement of such decisions is performed on the basis of international treatie[19], and in their absence – on the basis of reciprocity pursuant to paragraph 2 of Clause 6 of Article 1 of the Bankruptcy Law.

The substance of the principle of reciprocity is the ability to recognise and enforce the decision of the court of a foreign state on a bankruptcy case in the Russian Federation provided that analogous decisions of the Russian Federation are recognised in this foreign state[20].

This brochure does not constitute legal advice; statutory regulation has been set out as of 24 October 2016.

[19] For example, the Treaty between the Russian Federation and the Republic of Belarus dated 17 January 2001 "On the Procedure for the Reciprocal Enforcement of the Court Orders of the Commercial Courts of the Russian Federation and the Business Courts of the Republic of Belarus"; Treaty on the Procedure for Resolving Disputes Related to the Performance of Business Activities, Kiev, 20 March 1992; Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, Minsk, 22 January 1993.

[20] One can cite as an example of the reciprocal recognition of court decisions the Judgment of the Federal Commercial Court of the North-West District dated 28 August 2008 on case No. A56-22667/2007, which established that Russian courts could recognise the decisions of German state courts on bankruptcy cases.vency proceedings of 29 May 2000. The draft Federal Law "On Cross-Border Insolvency (Bankruptcy)" reinforced the statutory definition of cross-border insolvency, stipulated the principle of concurrent proceedings, and also contained provisions on cooperation between the bankruptcy administrators, applicable law and the competence of commercial courts. However, work on the project was put on ice and to date no separate law has been adopted on cross-border bankruptcy in Russia.

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10/2018