

# BIRCH LEGAL

## Legal Alert

The new rules for obtaining clearance for share transactions with foreign parties connected with “unfriendly” countries

The new minutes of the meeting of the Governmental Sub-Commission (the “**Governmental Commission**”) No. 171/5 was published on 12 July 2023 establishing new rules for obtaining clearance for transactions with shares (participatory interests) in Russian companies if carried out with a party to such a transaction that is deemed as “unfriendly” countries.

New rules to be applied	Previous rules that still apply
<p>All governmental approvals required for transaction shall be obtained before filing with the Governmental Commission (e.g., FAS).</p>	<p>An appraisal report on market valuation of the target company shall be prepared by an independent appraiser recommended by the Governmental Commission.</p>
<p>Payment procedure:</p> <ol style="list-style-type: none"> <li>1. Transfer of monetary fund to type “C” account; or</li> <li>2. Settlements on transaction shall be made in rubles within the Russian banking system without transferring funds outside Russia; or</li> <li>3. Payments shall be made in instalments if funds are to be transferred to a foreign bank account (without any more precise rules).</li> </ol>	<p>An expert opinion from the self-regulatory organization (SRO) recommended by the Governmental Commission is required.</p>
<p>Requirements for the call option allowing to buy back the shares/participatory interests in the target company are as follows:</p> <ol style="list-style-type: none"> <li>1. Purchase price shall be determined as the full market price at the date of exercise of the call option.</li> <li>2. Approval of the Governmental Commission for such call option is valid for no more than 2 years from the date of initial transaction.</li> <li>3. Justification of economic benefit from the call option for a Russian resident holding the target company is required.</li> </ol>	<p>Discount to the purchase price amounting to no less than 50% of the market valuation of the target company.</p>

New rules to be applied	Previous rules that still apply
<p>The voluntary contribution shall be paid within 3 months from the transaction's closure.</p>	<p>Voluntary contribution to the Russian budget amounts to:</p> <ol style="list-style-type: none"> <li>1. a minimum of 10% of half of the valuation of the target company based on the independent appraiser's report (i.e., 5% of the market valuation), if the discount to purchase price is less than 90% of the market valuation; or</li> <li>2. a minimum of 10% of the full figure of the target company's valuation as specified in the independent appraisal report if the discount to the purchase price is more than 90% of the market valuation.</li> </ol>
	<p>Establishing KPIs for the new owners and (or) target company.</p> <p>The KPIs must include retaining the technological potential and competencies of a Russian entity, employment figures, and contractual commitments with other entities.</p>
<p>For public joint-stock companies only:</p> <p>Placement for public offering of up to 20% acquired shares within 4 years.</p>	

# Key contacts for further information



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