



BIRCH LEGAL

Legal alert

New regulation for digital assets

On 8 August 2024, two laws regulating the procedure of issuing and circulating digital currency (“cryptocurrency”) were simultaneously adopted:

- a) Federal Law dated 8 August 2024 No. 221-FZ “On amending certain legislation of the Russian Federation”^[1] (hereinafter – “**Law No. 1**”)
- b) Federal Law dated 8 August 2024 No. 223-FZ “On amending certain legislation of the Russian Federation”^[2] (hereinafter – “**Law No. 2**”)

We will analyze the provisions of these laws in greater detail below.

1 LAW No. 1

The Law No. 1 was submitted to the State Duma back in November 2022, but the active phase of its consideration had not begun until April 2024 which ended in the law’s adoption on 8 August 2024. The law establishes the key requirements and restrictions in relation to the activities of persons engaged in mining cryptocurrency as well as the obligations of the regulators overseeing such activities.

The law introduces the following terms:

mining

mining pool

mining infrastructure

mining infrastructure operator

address identifier

person organizing the activities of the mining pool

foreign digital rights

The following persons/entities may engage in mining cryptocurrency:

- 1) Russian legal entities and entrepreneurs listed in the relevant register to be created soon; and
- 2) Individuals that are Russian citizens who are not entrepreneurs and not included in the special register and do not exceed the established energy consumption limits

Most of the amendments come into force after 10 days, and the rest of the provisions, e.g., those involving the special registers described further below, become effective from **1 November 2024**.

[1] <http://publication.pravo.gov.ru/document/0001202408080016?index=8>

[2] <http://publication.pravo.gov.ru/document/0001202408080020?index=2>

Inclusion into the register

The oversight over the activities of miners entails the creation of the following registers:

- 1) register of persons who engage in mining cryptocurrency
- 2) register of mining infrastructure operators

The requirements for the procedures governing the management of the registers and the mining infrastructure operators' activities will be later established by the Government of the Russian Federation.

Disclosure

Persons who acquire cryptocurrency from mining must now report the following information:

- the acquisition of cryptocurrency
- the address identifier, including the address identifier of the mining pool

Furthermore, the state has the right to prohibit and (or) restrict cryptocurrency transactions as well as maintain a list of address identifiers of those suspected of money laundering or financing terrorism.

Business reputation requirements

Persons engaged in mining cryptocurrency must adhere to the established requirements on business reputation and the lack of a criminal record.

These requirements are applied in relation to founders, beneficiaries and the sole executive bodies of legal entities that are miners.

Ban on advertisement

The law establishes a ban on advertising or offering cryptocurrency in any form as well as a ban on goods (services) for the purposes of organizing the issuance, organizing the circulation and (or) the circulation of cryptocurrencies.

Regulation of digital financial assets

The law provides for even more general changes aimed at optimizing the regulation of digital financial assets (“DFA”):

- the concept of foreign digital rights (“FDR”) is introduced, which are now allowed to circulate in Russia as digital financial assets provided that they are qualified as such by the operator of the information system in which the DFAs are issued
- Russian citizens are precluded from acquiring FDR unless otherwise is established by the Central Bank of Russia
- The Central Bank of Russia is empowered to establish additional requirements for the FDR, as well as the specifics of the accounting and circulation of FDR in Russian information systems, and also to introduce a ban on the admission of certain types of FDR into circulation in the Russian Federation
- the possibility of issuing digital financial assets to limited addresses is envisaged, i.e., for their acquisition to only be possible by the persons specified in the decision on the issuance or corresponding to the criteria specified in the decision

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LAW No. 2

The law establishes an experimental legal regime (“ELR”) for organizing trade with cryptocurrency.

The Central Bank of Russia is appointed as the authority regulating all issues arising from the ELR in terms of digital innovation in the financial market.

From **1 September 2024**, it will be possible to create an experimental platform for using cryptocurrencies in international payments and conducting exchange trading in cryptocurrency within the ELR, including the ability to create an operator for settlements in cryptocurrencies based on the National Payment System (NPS) within the ELR.

Within the framework of the ELR, cryptocurrency will be able to be exchanged for rubles by persons engaged in mining and participants in foreign economic activity. This operation can be carried out either on foreign exchanges or on a platform that will be created during the ELR.



CONCLUSIONS

LAW No. 1

The introduction of requirements for regulating the activities of miners will eliminate the existing legal uncertainty. In our opinion, this legislative initiative is primarily aimed at supporting and further developing the activities of all participants in the digital currency market.

The law should be also taken into account in order to avoid violating any prohibitions concerning the advertisements of cryptocurrencies.

Lastly, the introduction of the ability to use foreign digital rights (provided their qualification as digital financial assets) can expand companies' options in terms of taking advantage of cryptocurrencies.

LAW No. 2

The law is primarily aimed at resolving Russian companies' existing problems in conducting foreign trade payments, which continue to arise in connection with the introduction of "secondary" sanctions. In the event of the development of a platform for cross-border payments in digital currencies outside the ELR, the procedure for international settlements with counterparties, including from China and India, as well as other countries, may be significantly simplified.

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