



March 2010

[www.ssd.com](http://www.ssd.com)

## Amended Rules on Foreign Issuances of Shares of Russian Companies – Blue Chips May Be Able to Issue Depository Receipts on a Standalone Basis and Avoid Local Offering Requirement

### Foreign Issuances of Shares Have Been Curtailed Under New Rules Effective 1 January 2010

The Federal Financial Markets Service of the Russian Federation (FFMS) issued an order<sup>1</sup>, which entered into force on 1 January 2010, amending the procedures for obtaining approval for the placement and trading of issued securities of Russian companies outside the Russian Federation (the **Foreign Issuance Order**). The Foreign Issuance Order supersedes the prior order regulating these matters.<sup>2</sup>

The Foreign Issuance Order curtails depository receipt programs of Russian issuers by:

- (i) reducing the total amount of shares of a single issue that may be placed or traded outside the Russian Federation from 70 percent to 50 percent;
- (ii) reducing the cap on foreign placement of Russian shares, whether initial or a combination of initial and secondary placement, from 70 percent to 50 percent; and
- (iii) mandating that publicly offered shares and secondary shares of Russian companies may be

Founded in 1890, Squire, Sanders & Dempsey L.L.P. has lawyers in 32 offices and 15 countries around the world. With one of the strongest integrated global platforms and our longstanding one-firm philosophy, Squire Sanders provides seamless [legal counsel worldwide](#).

#### Contacts:

[Sergey A. Treshchev](#)  
+7.495.363.1672

[Ivan A. Trifonov](#)  
+7.495.258.5250

[David M. Wack](#)  
+44.20.7189.8153  
+7.495.258.5280

[Patrick J. Brooks](#)  
+7.495.258.5250

[Elena E. Yurkina](#)  
+7.495.258.5250

Squire Sanders publishes on a number of other topics. To see a list of options and to sign up for a mailing, visit our [subscription page](#).

Cincinnati · Cleveland · Columbus · Houston · Los Angeles · Miami · New York · Palo Alto · Phoenix · San Francisco · Tallahassee · Tampa · Tysons Corner · Washington DC · West Palm Beach |

offered outside the Russian Federation only if they are simultaneously offered in Russia.

Publicly offered shares are considered to be offered in Russia if the conditions of their placement provide for their trading on a Russian stock exchange or their offer and sale by a Russian broker. Secondary shares are considered to be offered in Russia if they are traded on a Russian stock exchange or offered by a Russian broker.

In the case of a secondary share placement, not more than 50 percent of the shares offered in the territory of the Russian Federation by the shareholder-owner of the same may be offered abroad.

However, Russia's blue chip companies may be exempted from the narrowing of the rules in certain respects. While the Foreign Issuance Order was pending approval, the FFMS circulated a proposed Order on Amendment of the Foreign Issuance Order (the **Amendment**), further refining the Foreign Issuance Order. The Amendment enters into force on 13 March 2010.

### **Russia's Blue Chip Firms May Enjoy Certain Exemptions From the New Restrictions**

The Amendment provides that the requirements on (1) the obligatory offer of shares outside of the Russian Federation simultaneously with their offer in Russia and (2) the 50-percent cap on foreign placement of Russian shares **do not apply to "A" category listed shares** on a Russian stock exchange offered outside Russia if the following conditions are met:

- (i) the application for FFMS's consent to placement and trading of Russian securities outside of the Russian Federation is signed by the issuer of the shares and by the depository holding the shares;
- (ii) the shares are to be offered outside of the Russian Federation through placement and trading of foreign securities;
- (iii) the Russian shares are held by a Russian depository (a qualified depository) that meets the following requirements: (1) it has been providing depository services for at least seven years, (2) it has charter capital of at least 150 billion rubles, (3) the market value of the securities held by the depository in custodianship have a value of at least 150 billion rubles and (4) no bankruptcy proceeding or license suspension or revocation

Bogotá+ · Buenos Aires+ · Caracas · La Paz+ · Lima+ · Panamá+ · Rio de Janeiro · Santiago+ · Santo Domingo · São Paulo | Bratislava · Brussels · Bucharest+ · Budapest · Frankfurt · Kyiv · London · Moscow · Prague · Riyadh+ · Warsaw | Beijing · Hong Kong · Shanghai · Tokyo | +Independent network firm

occurred in respect of the depository in the last two years;

(iv) the foreign securities issuer has a deposit account with the qualified depository; and

(v) the foreign securities issuer has agreed to provide the Russian issuer, at least on a quarterly basis, a list of the holders and owners of such foreign securities indicating the number of securities registered in their names.

The Amendment did not change the Foreign Issuance Order requirement that the amount of shares offered outside Russia through placement and trading of foreign securities cannot exceed 25 percent of the issuer's shares of the same category.

For more information on the Foreign Issuance Order or its Amendment, please contact your principal Squire Sanders lawyer or one of the individuals listed in this Alert.

---

<sup>1</sup> Order No. 09-21/пз-н of 10 June 2009 "On Adoption of Regulation on the Procedure for the Issuance by the Federal Financial Markets Service of Consents to the Placement and/or Trading of Issued Securities of Russian Issuers outside of the Russian Federation".

<sup>2</sup> Order No. 06-5/пз-н of 12 January 2006 "On Adoption of Regulation on the Procedure for the Issuance by the Federal Financial Markets Service of Consents for the Placement and/or Trading of the Issue-Grade Securities of Russian Issuers outside of the Russian Federation" (as amended).

---

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations. Counsel should be consulted for legal planning and advice.

©Squire, Sanders & Dempsey L.L.P.  
All Rights Reserved  
2010

This email was sent by Squire, Sanders & Dempsey (Moscow) LLC  
4, bld. 2 Romanov pereulok, 125009, Moscow, Russia

We respect your right to privacy – [view our policy](#)

[Manage My Profile](#) | [One-Click Unsubscribe](#) | [Forward to a Friend](#)