

Tougher criminal liability is planned for illegal currency transactions.

FAO CEOs of organisations, heads of legal, financial, tax departments, and chief accountants

Pepeliaev Group advises that a draft law has been published¹, which proposes to strengthen criminal liability for illegal currency operations under article 193.1 of the Russian Criminal Code.

We remind you that article 193.1 of the Russian Criminal Code (the "Criminal Code") provides for liability for transferring funds in any currency to a non-resident's bank account with false or misleading documents being submitted to the authorised bank.

False or misleading documents are taken to be documents containing information that is known to be incorrect about the reasons, purposes, and designation of the transfer. In practice, this concept is interpreted broadly, with individuals being held liable under this article not only when carrying out currency operations through fictitious or fraudulent transactions but also for overstating a transaction's price or for a transaction not being reasonable (for example, when a resident undertakes transactions with offshore companies that are related parties or entities that it controls).

In the draft law, there are two main types of amendments:

1. There is an increase in the fines provided for by the article as one of the forms of punishment:

- The fine for the basic offence is raised from between 200,000 and 500,000 rubles to between 200,000 to 5,000,000 rubles.
- For aggravated offences, the fine of up to 1,000,000 rubles is increased to a fine of between 1,000,000 and 5,000,000 rubles (this applies, in particular, to violations of an amount exceeding 13.5 million rubles per year and 65 million rubles per year).
- The fine for the basic offence in the amount of the convicted person's salary or other income for a period of one to three years is increased to a fine in the amount of the convicted person's salary or other income for a period of one to five years.

¹ <https://regulation.gov.ru/projects/159642>

2. New fines are introduced, calculated as a multiple of the amount of the violation:

- For the basic offence, a fine equal to 100% of the amount of the violation.
- For aggravated offences, a fine ranging from 100% to 300% of the amount of the violation.

When the basic offence is charged (article 193.1(1) of the Criminal Code), a fine is a standalone punishment. For aggravated offenses (article 193.1(2) and 193.1(3) of the Criminal Code), a fine is imposed only in addition to imprisonment.

Pepeliaev Group's comment

Fines calculated as a multiple of the amount of the violation are already provided for under article 15.25(1) of the Russian Code of Administrative Offences (the "Code of Administrative Offences") as penalties for undertaking illegal currency operations, which apply to both legal entities and individuals. Currently, the fine ranges from 20% to 40% of the amount of the amount of the violation. Further, if an individual is punished not for their own illegal currency operation but as an officer of a legal entity, the maximum fine is capped at 30,000 rubles.

If the draft law is passed, an individual could face a fine under article 193.1 of the Criminal Code of up to 300% of the amount of the violation, along with possible imprisonment. Currently, the maximum fine under this article (for an aggravated offence, as well as imprisonment) can be set at up to one million rubles or in the amount of the convicted person's salary or other income over a period of up to five years. This highlights a significant worsening of the situation for persons who may be held liable: officers and other employees of legal entities, members of management bodies, participants, and beneficial owners of companies, as well as individuals conducting independent currency operations.

It is important to bear in mind that the Russian Federal Tax Service, as the body responsible for currency control, is directing subordinate agencies to prioritise holding individuals liable under article 193.1 of the Criminal Code (informing law enforcement authorities) before imposing fines under article 15.25 of the Code of Administrative Offences.

Currently, there is a practical trend among currency control agencies to recognise payments to a non-resident as illegal currency operations if they are carried out based on inaccurate documents. Such claims lead to the fines being imposed under article 15.25(1) of the Code of Administrative Offences. The principle of "substance over form," previously characteristic of tax audits, is gradually shifting across to currency control.

This trend has intensified after the Russian Supreme Court in 2024 adopted an Overview of Judicial Practice regarding the application of article 15.25 of the Code of Administrative Offences, which included several such cases. Consequently, this increases the risk of claims under article 193.1 of the Criminal Code for a company's officers and other individuals.

The Russian Ministry of Finance has drawn up the draft law based on proposals from the Russian Federal Tax Service and it has been published on the federal portal for regulatory instruments at regulation.gov.ru². The explanatory note accompanying the draft law states that it has been prepared to toughen liability for unlawful actions relating to violations of currency legislation.

The draft law will be put before the State Duma, the lower chamber of Russia's parliament, by the Russian Government, making it more likely to be adopted.

Pepeliaev Group's comment

Against a backdrop of the emerging practice of seizing assets, with all payments made under the relevant transactions being appropriated as state property, and fines being imposed under article 193.1 of the Russian Criminal Code, these penalties could become another effective tool for combating violations. This may prompt law enforcement agencies to take an increased interest in currency payments and may lead to the number of criminal cases under article 193.1 of the Criminal Code rising.

What to think about and what to do

It is advisable to check operations carried out with non-residents (as well as transactions between residents that involve a foreign element) for risks of violating currency legislation, particularly in terms of claims under article 15.25 of the Code of Administrative Offences and under article 193.1 of the Criminal Code.

Help from your adviser

The lawyers of Pepeliaev Group stand ready to advise on issues connected with currency legislation, as well as to offer protection under administrative law and criminal law. This covers both preventive measures and cases where state authorities have made claims.

² <https://regulation.gov.ru/>

Contact details



Ivan Khamenushko
Senior Partner

Tel: +7 (495) 767 00 07
i.khamenushko@pgplaw.ru



Leonid Kravchinsky
Partner

Tel: +7 (495) 767 00 07
l.kravchinsky@pgplaw.ru



Lyubov Romaschenko
Senior Associate



Alena Kanygina
Senior Associate