



# Amendments to currency control regulations in 2018

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February 14, 2018

## Introduction

The [amendments](#) to Federal Law No. 173-FZ of December 10, 2003 "On Currency Regulation and Currency Control" [[hereinafter - the "Law"](#)], which came into force starting January 2018, has changed the existing order of currency control.

It is important to consider a concept of "[officials](#)" for the purpose of bringing to administrative responsibility for violation of currency legislation.

Multiple changes shall take effect during the [first half of 2018](#).

We believe that these changes are significant and will influence the companies engaged in foreign trade operations.

## Who became a currency resident starting 2018

Starting **January 1, 2018** all citizens of the Russian Federation have been recognized as currency residents, and they are subject to the Law.

Residents who are **abroad more than 183 days in a calendar year** (i.e. to those who previously were not recognized as residents), the following requirements of currency legislation **shall not be applied**:

- ❖ notice of opening accounts in foreign banks
- ❖ crediting of funds to them
- ❖ providing reports on the flow of funds on such accounts
- ❖ restrictions on the performance of foreign exchange transactions between such residents

## Registration of an external economic contract

Starting **March 1, 2018** the Russian Central Bank has canceled the requirement to maintain transaction passports. Instead, it introduces the requirement to set foreign trade contracts for accounting. To do this, you will need to provide:

- ❖ Requisites of participants in a foreign economic transaction
- ❖ Details of the contract:
  - type of contract
  - date and number
  - contract currency
  - amount of mutual settlements
  - date of completion of obligations under the contract

The contract is subject to registration in case the amount of the contract is:

≥ 3 million rubles - for **import** contracts

≥ 6 million rubles - for **export** contracts

## Cancelation of currency operation inquiries

Starting **March 1, 2018** banks will not require information on currency transactions.

However, the documents themselves associated with the conduct of operations, still have to be provided. Such documents need to be accompanied by a **certificate of supporting documents**, which will become a unified form of accounting and reporting on foreign exchange transactions for residents.

Contracts with price for **less than 200 thousand rubles** are excluded from this rule. Organizations will have to provide only information about the code of the transaction type to the bank, without supplementary documents.

## Refusal to perform a currency transaction

At the present time, the grounds for refusal are:

- ❖ Non-submission or submission of inaccurate documents upon request
- ❖ Suspicion of the legalization of criminal incomes or the financing of terrorists\*

\* The basis is stipulated by item 11 of article 7 of the Federal law from 07.08.2001 № 115-ФЗ «On the Counteraction of the Legitimization of the Proceeds of Crime and the Financing of Terrorism»

Starting May 14, 2018 the following grounds will be added:

- ❖ Violation of the provisions of Art. 9 "Currency transactions between residents" of the Law
- ❖ Failure to comply with the provisions of Article 12 "Accounts of residents in banks located outside the territory of the Russian Federation" Law
- ❖ Violation of the requirements of Article 14 "Rights and obligations of residents in the implementation of foreign exchange transactions" of the Law
- ❖ Non-fulfillment of other legislation acts\*

\* To the best of our understanding such a wording of the grounds for the refusal is unacceptable for the sphere of currency regulation, due to its legal uncertainty and the potential for refusing to perform a currency transaction when the bank's employees practically freely read any act of currency legislation (para 4, part 5, article 23 Law).

## Administrative responsibility strengthening

Starting **May 14, 2018**:

- ❖ A new **procedure for calculating fines** for the commission of currency offenses has been established: a **key CBR rate** will be applied to calculate fines
- ❖ It is specified that members of boards of directors, members of collegial executive bodies of legal entities, heads of organizations, founders (participants) of legal entities, as well as a number of other persons named in Art. 2.4. Administrative Code of the Russian Federation, can be prosecuted for currency offenses as **officials**.
- ❖ Officials may be involved for any currency offense. The main measure of responsibility for them is a fine in the amount of **RUB 20 to 30 thousand**
- ❖ In case of a repeated currency offense, an official may be **disqualified** for a period of 6 months to 3 years (**by court order**)

## Conclusion

Currency control is not simplified, but the order of document circulation between the bank and the resident becomes more convenient.

The main innovation is a replacement of the obligation to issue a transaction passport with an obligation to register foreign trade contracts. As far as the new mechanism facilitates the activities of residents, remains to be seen.

It should be noted that some of the changes considered by the Bank of Russia instructions, in particular, the abolition of transaction passports, require reflection in the Law itself. However, to date no relevant act has been adopted.

We will inform you about the further stages of the development of the legislation.

In case of additional questions, we will be happy to provide clarifications.

The information contained in this presentation is current as of February 14, 2018 and can not serve as a basis for making a professional judgment.



## Legal Acts

- ❖ [Federal Law No. 427-FZ of December 28, 2017](#) "On Amendments to the Federal Law" On Currency Regulation and Currency Control “
- ❖ [Federal Law No. 325-FZ of 14.11.2017](#) "On Amending Articles 19 and 23 of the Federal Law" On Currency Regulation and Currency Control« and the Code of the Russian Federation on Administrative Offenses"
- ❖ [Instruction No. 4360-U of the Bank of Russia of April 25, 2017](#) "On Amendments to Instruction No. 138-I of the Bank of Russia of June 4, 2012" On the Procedure for Submission of Documents and Information Concerning the Conduct of Currency Operations by Residents and Non-Residents to Authorized Banks, transactions, as well as the procedure for accounting by authorized banks of foreign exchange transactions and control over their conduct”
- ❖ [Instruction of the Bank of Russia No. 181-I of 16.08.2017](#) "On the procedure for the submission by resident and non-residents to authorized banks of supporting documents and information in the implementation of foreign exchange operations, on uniform forms of accounting and reporting on currency transactions, the procedure and timing of their submission"



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