

## business &amp; finance lawflash

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## Amendments to Bank of Russia's Basel III Requirements Published

Several clarifications have been provided with regard to subordinated debt instruments.

On 30 November 2013, amendments to the Bank of Russia's Regulation 395-P, "On the Methodology of Determination of the Amount and Assessment of Sufficiency of the Capital of Credit Organizations (Basel III)", were published.<sup>1</sup> The amendments, which aim to address certain questions and concerns from Russian banks that arose from a lack of clarity in Regulation 395-P, provide for the following with regard to subordinated instruments:

- A subordinated loan that is extended to a Russian bank by a nonresident for a term of 50 years or more and that gives the bank a unilateral right to extend the loan no more than once every 50 years will now be eligible for inclusion in the bank's Tier 1 capital.
- Amounts received by a Russian bank from Russian and certain foreign nongovernment pension funds are not eligible for inclusion in the bank's regulatory capital calculation.
- The minimum base capital ratio—which triggers a write-down of a Tier 1 subordinated instrument when it is breached—has been reduced to 5.5% from its previous level of 6.4%.
- The requirement for an undertaking from a Russian bank's shareholders to take measures to restore the bank's required capital ratios if the other measures contemplated by Regulation 395-P prove to be insufficient is no longer in effect.

The amendments also provide clarification as to which bankruptcy prevention measures under Federal Law No. 175-FZ, "On Additional Measures for Improvement of Stability of the Banking System", will trigger a write-down or conversion into equity of Tier 2 subordinated instruments under Regulation 395-P. According to the amendments, the bankruptcy prevention measures that trigger a write-down or conversion into equity are limited to certain equity investments made in the relevant bank by the Agency for Deposit Insurance (ADI). The date on which the write-down or conversion into equity is triggered is the date on which the bank receives notice from ADI that it has adopted a decision to implement a plan contemplating such investments that was approved by the Central Bank of the Russian Federation. In addition, the Amendments indicate that, upon the occurrence of a trigger event, the obligation of the bank to repay the interest and principal under the subordinated instrument will terminate.

The amendments will come into force on 1 January 2014.

### Contacts

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1. For more information on the Basel III requirements applicable to Russian banks, which became effective on 1 March 2013 pursuant to Regulation 395-P, see our 6 March 2013 LawFlash, "Bank of Russia Adopts Basel III Regulation", available at [http://www.morganlewis.com/pubs/BF\\_LF\\_BankofRussiaAdoptsBaselIIIRegulation\\_06march13](http://www.morganlewis.com/pubs/BF_LF_BankofRussiaAdoptsBaselIIIRegulation_06march13).

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