

## business &amp; finance lawflash

6 March 2013

## Bank of Russia Adopts Basel III Regulation

*Any subordinated debt, including Eurobonds, issued after 1 March 2013 must comply with the new rules in order to qualify as regulatory capital.*

On 22 February, the Ministry of Justice of Russia registered the Bank of Russia's Regulation No. 395-P, "On methodology of determination of the amount and assessment of sufficiency of own capital of credit organizations (Basel III)" (the Regulation), which was dated 28 December 2012. The Regulation was published in the Herald of the Bank of Russia No. 11 on 27 February and incorporates Basel III principles with respect to the calculation of capital for Russian banks.

The following is a general summary of the implementation of the Regulation, including certain timing considerations that are relevant to subordinated Eurobond issuances by Russian banks:

- The effective date of the Regulation (with exceptions for certain limited parts of the Regulation) is 1 March 2013. For purposes of reporting with the Bank of Russia, Russian banks will need to calculate their regulatory capital under the new rules as from the reporting quarter beginning on 1 April 2013.
- All subordinated instruments—which include loans, bonds, and deposits—attracted or issued before 1 March 2013 that do not meet the requirements of the Regulation are subject to gradual amortization at 10% per annum beginning 1 April 2013 and then on 1 January of each subsequent year. Under this amortization process, at the relevant date in each year, 10% of the principal amount of the relevant instrument that is counted toward the relevant bank's regulatory capital will cease to qualify as regulatory capital. The amortization requirement applies to any subordinated instruments that are currently included in a bank's Tier 1 or Tier 2 capital under the previous Regulation No. 215-P of 10 February 2003.
- Subordinated instruments attracted or issued after 1 March 2013 that do not meet the requirements of the Regulation will not count toward a bank's regulatory capital. Therefore, in order to qualify as regulatory capital, any subordinated instruments of a Russian bank (including, for example, subordinated Eurobonds) will now have to comply with the Tier 1 or Tier 2 capital eligibility requirements set out in the Regulation.
- The Regulation does not stipulate when the Bank of Russia will begin to apply sanctions for noncompliance. However, the Bank of Russia's top officials have unofficially indicated in the past that such sanctions will begin to be applicable as of 1 October 2013. Accordingly, it appears that, from 1 March until 1 October 2013, there will be a transition period during which the Bank of Russia will monitor how prepared Russian banks are for compliance with the new rules.

### Contacts

If you have any questions or would like more information on the issues discussed in this LawFlash, please contact any of the following Morgan Lewis lawyers:

#### Moscow

Yulia Cherkassova  
Carter Brod  
Anatoly Alexandrov

+7 495 212 2500  
+7 495 212 2550  
+7 495 212 2565

[ycherkassova@morganlewis.com](mailto:ycherkassova@morganlewis.com)  
[cbrod@morganlewis.com](mailto:cbrod@morganlewis.com)  
[aalexandrov@morganlewis.com](mailto:aalexandrov@morganlewis.com)

# Morgan Lewis

## About Morgan, Lewis & Bockius

With 24 offices across Europe, the United States, and Asia, Morgan Lewis provides comprehensive litigation, corporate, transactional, regulatory, intellectual property, and labour and employment legal services to clients of all sizes—from globally established industry leaders to just-conceived start-ups. Our international team of lawyers, patent agents, benefits advisers, regulatory scientists, and other specialists—more than 1,600 legal professionals total—serves clients from locations in Almaty, Beijing, Boston, Brussels, Chicago, Dallas, Frankfurt, Harrisburg, Houston, Irvine, London, Los Angeles, Miami, Moscow, New York, Palo Alto, Paris, Philadelphia, Pittsburgh, Princeton, San Francisco, Tokyo, Washington, D.C., and Wilmington. For more information about Morgan Lewis or its practices, please visit us online at [www.morganlewis.com](http://www.morganlewis.com).

This LawFlash is provided as a general informational service to clients and friends of Morgan, Lewis & Bockius. It should not be construed as, and does not constitute, legal advice on any specific matter, nor does this message create an attorney-client relationship. These materials may be considered **Attorney Advertising** in some jurisdictions. Please note that the prior results discussed in the material do not guarantee similar outcomes. Links provided from outside sources are subject to expiration or change. © 2013 Morgan, Lewis & Bockius. All Rights Reserved.