

## business & finance lawflash

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### 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

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