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Russian Federation

1. Antimonopoly regulation on financial services market emerged after enactment of the Federal Law 23.06.1999 №117-FZ “On protection on financial services market”. Since then it has specifics, which establish that the regulation in different aspects is carried out by the Competition Authority together with the Financial Regulator.

2. Currently the regulation and supervision of financial organizations in Russia are implemented by the Central Bank of the Russian Federation (the Bank of Russia) under the Federal Law 10.07.2002 №86-FZ “On the Central Bank of the Russian Federation”. These are credit organizations, microfinance organizations, insurance providers, professional securities market participants, stock exchanges, non-government pension funds; the management companies of investment funds and specialized depositaries of investment funds, unit investment funds and non-government pension funds. After passing the federal law in 2018 the Bank of Russia will also get power to regulate and supervise leasing companies.

3. While extending the authority of the Bank of Russia with respect to different kinds of financial organizations, relevant changes were made to the current Federal Law dated 26.07.2017 №135-FZ “On Protection of Competition” (further-the Law on Protection of Competition) with respect to antimonopoly regulation of financial organizations.

4. Thus, the existing version of the Law on Protection of Competition assumes that in order to provide co-regulation with the Bank of Russia while implementing the antimonopoly policy on financial markets in consultation with the Bank of Russia new legal documents are passed which determine the following:

- the conditions for recognizing as dominant the position of a financial organization and the rules of its identification (clause 7 Article 5 of the Law on Protection of Competition);
- the rules for non-discriminatory access to the goods of financial organizations with the dominant position in case of violation of antimonopoly legislation (clause 10.5 of the Law on Protection of Competition);
- -of determination of an unjustifiably high and unjustifiably low price of a credit organization's service (clause 2.2 Article 23 of the Law on Protection of Competition);
- the procedure of conducting analysis of condition of competition in order to establish dominant position (clause 2.3 Article 23 of Law on Protection of Competition).

5. Besides, in consultation with the Bank of Russia the value of the financial organizations' assets are established. While increasing it there should be received a prior consent of Competition Authorities for transactions with shares, assets and rights in respect of financial organizations (Articles 27 and 29 of Law on Protection of Competition).

6. These values are changed annually if there is a necessity referring to the information given by the Bank of Russia about the growth rate of aggregate value of financial organization's assets in the previous year. It helps to exclude from antimonopoly

control the transactions, which will not have a significant impact on competition on financial services market.

7. Competition Authority and the Bank of Russia should also consider the fact of violation of the Law on Protection of Competition by financial organizations, operators of payment systems and operators of payment infrastructure services.

8. For these purposes according to Article 40 of the Law on Protection of Competition representatives of the Central Bank of the Russian Federation should be included on a parity basis in the Commission of both federal and regional antimonopoly bodies.

9. According to Article 23 of the Law on Protection of Competition, representatives of the Bank of Russia are also included in the collegial bodies of the FAS Russia to review decisions and determinations issued by regional offices of the FAS Russia, if such decisions and determinations breach uniformity in interpretation and applying the norms of the antimonopoly law.

10. Other lines of cooperation between the FAS Russia and the Bank of Russia are determined by concluded agreements, which traditionally contain agreement to exchange information in certain spheres.

11. Besides the agreement mentioned above, since 2010 there has also been executed an agreement to provide the FAS Russia with the information about performance measures of credit organizations(banks) by the Central Bank of Russia in electronic form every three months.

12. The FAS Russia uses this information for:

- monitoring the competitive situation on banking services market including the purposes of revealing the existing problems on the market and elaborating measures to develop competition;
- investigating the cases of violation of antimonopoly legislation by banks;
- controlling the economic concentration on banking services market.

13. The existence of such an agreement between the FAS Russia and the Bank of Russia helped to reduce administrative workload of credit organizations because previously the needed information was requested from the market's participants. Currently the FAS Russia and the Bank of Russia in view of the new agreement made in 2017 are elaborating certain regulations concerning Central Bank's provision of information on the activity of other financial organizations every three months.

14. In the framework of concluded agreement the FAS Russia and the Bank of Russia also hold mutual consultations; involve each other in participating in events organized by both, including conferences, workshops, expert meetings; jointly participate in elaborating the projects of legal documents or new informational material and background information on issues important for the financial market.

15. Currently it is possible to give certain examples of significant results of the coordination between the FAS Russia and the Central Bank of Russia. The reasons of this coordination in certain cases were originally the breaches in antimonopoly legislation found by the FAS Russia.

1. Consumer credit

16. Up to 2013 there was no special act in Russia for regulating the sphere of consumer credit. These issues were regulated by legal documents, including civil law acts and laws on the protection of consumers.

17. Because of this Russian legislation did not establish, in particular, the specifics of informing potential debtor on the conditions of consumer credit arrangements. In certain cases it did not allow to fully secure citizens from unfair behavior of credit organizations.

18. Thus, in 2005 the FAS Russia revealed and stopped unfair competition of one of the credit organizations, which attracted clients to extend credits not giving full and reliable information to these clients on the conditions of credit extension, including the cost conditions.

19. In this case, the revealed breach of antimonopoly law was the reason to issue a joint information letter of the FAS Russia and the Bank of Russia in the same year. It contained recommendations on standards of giving the information while extending the credit.

20. For several years this letter had been the only document, which established special rules of information on the conditions of credit extension.

21. The effect of the letter was stopped only in 2014 after the enactment of the Federal Law of 21.12.2013 №353-FZ “On consumer credit(loan)”, which contained necessary requirements for informing the debtors on the conditions of getting, service and repayment of consumer credits and loans.

22. The FAS Russia and the Bank of Russia representatives participated in a special Working Group on elaborating this law. Currently they hold consultations on its amendments aimed at creating the conditions for fair competition between creditors. In the framework of one of such consultations in 2016 and 2017 the Bank of Russia supported the proposal of the FAS Russia to make some amendments in order to decrease creditor’s imposition of extra insurance services while extending the credit.

23. Credit organization’s imposition of insurance services on debtors is a long-term problem and sometimes is stipulated by anticompetitive agreements between credit and insurance organizations.

24. Regarding this, the issue of extending credits with a condition to get insurance services and the issue of coordination of both organizations in general while insuring debtors was the cause of holding special meetings of the FAS Russia Expert Council on protection of competition on financial services market with government body representatives, the Bank of Russia and financial organization representatives and other experts.

25. As a result of these meetings and discussions, in order to prevent anticompetitive coordination between banks and insurers and to create conditions for eliminating negative consequences were elaborated:

- general exclusions with respect to the agreements between credit and insurance organizations (the Resolution of the Government of the Russian Federation of 30.04.2009 №386). It was aimed at identifying conditions when relevant agreements between banks and insurers could be found acceptable in terms of antimonopoly law. But in fact this document somehow established customs of

trade in this particular sphere despite of its limited scope of application. Taking this into account, the effect of this act was prolonged repeatedly; as revealing new market practices and discussing them with experts, including the Bank of Russia representatives, this act was amended. The last amendments were implemented in 2017 (the Resolution of the Government of the Russian Federation of 24.04.2017 №487);

- Bank of Russia Ordinance of 20.11.2015 №3854-U “On minimal (standart) requirements for conditions and procedure of implementation of different kinds of voluntary insurance”. By this act the Bank of Russia introduced a so-called “period of cooling”, that means period of time (5 working days), during which it is possible to cancel the voluntary insurance contract and get a paid insurance.

2. Attraction of citizens’ money into bank deposits on a certain period

26. For the last several years the problem of unfair competition on bank deposits market has been urgent in the Russian Federation.

27. Thus, for example, since 2015 there were investigated about 400 applications of citizens concerning unfair competition of banks only in the FAS Russia. As a result, the following circumstances were found.

28. In the end of 2014 because of the crises in country’s economics, banks significantly increased the loan interest rates, assuring that there was a possibility to increase deposits at an increased rate during the whole period of validity.

29. At the same time, after decreasing market average rates of interest in 2015 several banks used different measures to worsen consumer characteristics of previously extended deposits for decreasing their deposit liabilities.

30. Among those were:

- the introduction of payment for increasing deposits (from 3% to 10%)
- the introduction of payment for withdrawals and transfers of money from bank accounts, where amounts of deposits are transferred to after its termination;
- the decrease of rate interest charged on contributions to deposits from a particular date of increase (for example, from 18% per annum to 13% per annum);
- fixing a small maximum amount which can be used for increasing deposit during one calendar month (from 10 thousand roubles to 100 thousand roubles)
- significant increase of minimal amount which can be used for one-time increase of deposit (for example, from 5 thousand roubles to 5 million roubles)
- prohibition of previously approved operations of increasing deposits

31. Performing these measures, banks despite of getting advantages, caused damages to competitors in the form of loss of profit as many depositors would not have entered into a contract if they knew about performance of such actions. They would use services of other banks.

32. For several years joint commissions of the FAS Russia and the Bank of Russia and their regional commissions finds these behavior as unfair competition as a result of investigating the cases of violating antimonopoly law and stopped it by issuing relevant rulings.

33. In 2016 the Arbitration Court found the decisions and rulings one of such commissions of the FAS Russia and the Bank of Russia lawful. It was the most relevant event for the last time. The decisions and rulings concerned the bank, which decreased the amount of interest charged on contribution to deposits. Considering this, in the performance of the direction the bank cancelled its decision to decrease rate and paid to 156 million roubles of deposit interests, which were not charged, to almost 10000 depositors.

34. Taking into account the fact that similar cases were revealed since 2010, the FAS Russia and the Bank of Russia are planning to prepare a joint letter on practice of finding bank's actions of attracting citizens' money to fixed term bank deposits with a following worsening of their consumer characteristics as unfair competition. It will be implemented in order to prevent possible violation.

3. Commodity Exchange

35. In 2015 in order to develop exchange product market there was created a so-called Commodity Exchange Committee by the agreement between the FAS Russia, the Bank of Russia and the Federal Tax Service of Russia.

36. In the framework of its meetings they analyze current situation on an exchange product market; discuss problems arising during the organization and holding exchange trades; undertake all the measures for developing and improving exchange trade; give recommendations to all of the market's participants which are aimed at preventing possible violations of law and interpretation of existing laws.

37. In 2017 the Ministry of Industry and Trade and the Ministry of Agriculture of Russia joined the agreement; in 2018 the Ministry of Economic Development of Russia is also planning to take part in this agreement.

38. For implementing such tasks as increasing financial market capacity and transparency, the Commodity Exchange Committee realizes different activities, which are aimed at spreading the derived financial tools spectrum as well.

39. One of the examples could be working on launching the trading sessions by supply futures contract on Russian export oil. Such trades will form Russian price standard of Urals oil, which does not depend on changes in Brent oil, and this way will minimize the possibility of unfair manipulations of Russian oil price for export. The creation of Russian price standard can lead to the increase of marginal gains of Urals' oil for export.

40. In order to provide efficiency of market infrastructure, including tasks for consolidation of exchange infrastructure, the Commodity Exchange Committee participates in legislation to develop exchange product market.

41. For instance, in 2015 the Resolution of the Government of the Russian Federation of 28.07.2015 №764 was passed as a result of Committee's activity. This way several changes and additions were made to the existing procedure of registration on over the counter transactions exchange. That is, for example, inclusion of natural gas and petroleum gas to the list of goods, with respect to which there is an obligation to give information on secured transactions; additions about oil export contracts and other important information.

42. Considering the development of organized product markets in the framework of the Commodity Exchange Committee, currently there has been elaborated new changes to over the counter transactions procedure of registration, aimed at the inclusion of the range of products, admitted to organized trading sessions, to the list of goods. The information of making over the counter contracts with respect to these goods should be presented to the exchange. These goods, for example, include forest and timber; oil bitumen; agriculture products, mineral fertilizers; construction materials (cement), sugar.

43. These changes could consolidate information on over the counter transactions with goods (the assets of exchange tools) and form representative and transparent price indicators.

44. In 2017 the FAS Russia, the Federal Tax Service of Russia and the Bank of Russia, participants of the Commodity Exchange Committee, passed the Action Plan on development of small-batch exchange trade of oil products (petrol). It contains a list of activities, performing which can help to form representative price indicators of the market.

45. Moreover, the Commodity Exchange Committee elaborates the issues of launching organized trading sessions of mineral fertilizers and cement; further development of trading sessions of forest and timber, crops and sugar. There are corresponding subcommittees and work groups created in order to carry out all the mentioned tasks.

4. Leasing companies services market

46. Currently there is the Federal Law of 29.10.1998 №164-FZ “On finance lease (leasing)” (further- the Law on lease), which regulates relations concerning lease of inconsumable property (except for plots of land and other natural objects).

47. The activity of leasing companies carried out under the law is not regulated and supervised by any special government bodies. All the disputes arising in this sphere are resolved by civil law.

48. Currently reforms in leasing services market and particularly the draft law on lease with several amendments are discussed in the Russian Federation. The draft law was elaborated in order to implement the reform. Besides, it provides delegation of regulation, supervision and control power over leasing companies to the Bank of Russia.

49. As these changes establish extra barriers to entry the market, including the minimum amount of leasing company’s own resources (capital), the FAS Russia decided to conduct a research and assess possible consequences for competition regarding these changes.

50. For these purposes after gathering all the information Russian Competition Authority analyzed two scenarios based on assumptions of the worst consequences in case of reform’s implementation.

51. In both hypothetical situations a part of leasing companies will have to exit the market and market leader will get all of their contract payments because of the failure to comply with the requirements for the minimal amount of its own capital.

52. At the same time, estimates of the FAS Russia showed that none of these scenarios would lead to any significant changes for competitive situation and transfer from current low concentration to moderate concentration.

53. Besides this circumstance, the draft law establishes rather low barriers to entry the market, transition and alternative strategies for adaptation to new conditions, for example, changing the line of business of the company to non-financial lease or instalment sale. Taking this into account, the FAS Russia supported the new reform.

54. Bilateral discussions between the FAS Russia and the Bank of Russia in the framework of this analysis and also the results of it are currently the basis for promoting and substantiating the possibility of leasing services market reform. During 2017 the FAS Russia and the Bank of Russia repeatedly held joint meetings, including conferences and seminars to discuss the conducted analysis and the reform with other government bodies, market participants and experts.

55. Besides, the FAS Russia and the Bank of Russia defined the directions for further joint actions for developing leasing services market, which particularly will be connected with providing equal conditions to leasing companies to get government support.

5. Activity Plan (“roadmap”) “Development of competition on financial services market”

56. In 2017 the FAS Russia in consultation with the Bank of Russia approved the Activity Plan (“roadmap”) “Development of competition on financial services market”, which became a relevant achievement and another step of purposeful coordination and bringing together of these bodies.

57. The events included in it are aimed at creating legal conditions for developing competition on financial services market, excluding the negative impact of government bodies on competition, reducing the possibility to have an impact on common conditions of service circulation on this market by certain market participants and preventing certain forms of unfair behavior of financial organizations.

58. Presenting this “roadmap”, the FAS Russia and the Bank of Russia representatives held a joint briefing where mass media representatives and financial services market participants could learn more about the plans of regulators.

59. Thus, currently the FAS Russia and the Bank of Russia proceeded to actions for:

- limiting the share of one of the creditors in calculation of average market value of a full cost of credit, which, in turn, under the law cannot be exceeded by market participants more than by a third. Provision of fair market conditions of pricing on consumer credits and decrease of impact on its possible violations of law by dominant players necessitate this activity;
- researching the conditions of rendering of representative services on insurance indemnity in regions to elaborate proposals for extending the range of possible representatives. The services are rendered by insurance companies, which deal with compulsory insurance of vehicle owner’s public liability;
- specification and detailed elaboration of approaches to determination of income amount for full renovation of damaged vehicle to provide insurer’s conscientious behavior while estimating the amount of insurance indemnity under the contracts of compulsory insurance of vehicle owner’s public liability;

- possible changes in procedure of committee formation of central depository services users in order to provide possibility for service users to influence the tariff policy of central depository;
- developing competition on forex-dealer market by excluding the practice of attracting clients without the Bank of Russia license, including through study centers. In this field the Bank of Russia and the FAS Russia have already agreed on exchanging the information on evidence of breaching the advertising law;
- preventing the violation of citizen's rights to choose organizations, including banks, by means of which they can get social and other benefits;
- creating a united standard of accepting payments through official web-sites of government bodies and other Internet resources, providing render of state services.

60. As the "roadmap" is a plan for developing competition on financial services market in the near term perspective, later it will be broadened when there will arise the necessity of coordination of positions on the need to realize particular events.