

**THE CENTRAL BANK
OF THE RUSSIAN FEDERATION
(Bank of Russia)**

DEPUTY GOVERNOR

12 Neglinnaya St., Moscow 107016

d/d 31 July 2014 No. 015-55/6227
to No. _____ d/d _____

To: Joint-stock companies and professional participants in the securities market that maintain a register of security holders (registrars)

Re: The obligation of joint-stock companies that maintain their own registers of shareholders to transfer the maintenance of their registers of shareholders to a registrar; the maintenance by an independent registrar of a register of shareholders compiled by public joint-stock companies

Due to numerous applications to the Bank of Russia, we bring to the notice of joint-stock companies and professional participants of the securities market that maintain a register of security holders (hereinafter registrars) information on the necessity to transfer the maintenance of their registers of shareholders to registrars, as well as the maintenance of the shareholder register of public joint-stock companies by an independent registrar (Annex to this letter).

This letter is to be published in the Bank of Russia Bulletin.

Vladimir V. Chistyukhin

1. Regarding the obligation of joint-stock companies that maintain their own registers of shareholders to transfer the maintenance of the registers to a registrar

In accordance with Federal Law No. 142-FZ, dated 2 July 2013, 'On Amending Sub-section 3 of Section I of Part 1 of the Civil Code of the Russian Federation' (hereinafter Law No. 142-FZ), from 1 October 2013, all joint-stock companies that maintain their own registers of shareholders (hereinafter the register) shall transfer the maintenance of the register to an entity in possession of a license prescribed by law, that is to a professional participant of the securities market that maintains a register (registrar). The period established by Law No. 142-FZ to meet this obligation expires on 1 October 2014.

In this regard, the Bank of Russia draws the attention of joint-stock companies (hereinafter a company), that have not yet transferred the register to a registrar, that by 2 October 2014, they are to:

- choose and approve the company's registrar and the terms of the agreement therewith;
- prepare the documents and information that is required and sufficient to transfer the register;
- make an agreement for the maintenance of the register;
- disclose information on the approval of the registrar and the notification of registered entities (if the company has such an obligation);
- transfer the register on the date agreed upon with the registrar and meet the related obligations, including the one to eliminate discrepancies (if any);

- enter data about the registrar into the Single State Register of Legal Entities.

The Bank of Russia notes that the provisions of Article 149 of the Civil Code of the Russian Federation (hereinafter the Civil Code) and Law No. 142-FZ do not contain any exceptions from the above obligation to transfer the register, regardless of any conditions, including: the number of shareholders (less than 50), the company type (public or non-public), other licenses (including for bank operations, depository activities or register maintenance), financial standing, distance from the registrar, availability of employees certified as financial market specialists for register maintenance (third type) and other qualifications.

2. Regarding the obligation of companies that maintain their own registers should they fail to meet the obligation to transfer the registers to a registrar

In the event of a failure to meet the obligation for transferring registers to a registrar, the companies shall incur the legal risk of being brought to administrative responsibility for illegal register maintenance under Part 2 of Article 15.22 of the Code of Administrative Offences of the Russian Federation.

In addition, the Bank of Russia draws attention to the obligation of the company's management bodies to fairly and reasonably exercise their rights and perform their duties with respect to the company, and the liability of the management bodies towards the company for the damages inflicted upon it through their misconduct (inaction) (Article 71 of Federal Law No. 208-FZ, dated 26 December 1995, 'On Joint-Stock Companies' (hereinafter the Law on Joint-Stock Companies)).

3. Regarding regulations specifying the procedure for transferring registers to a registrar

The procedure for transferring the documents and information that constitute a register is determined by Section II of the Regulation on the Interaction Procedure when Transferring Documents and Information that Constitute the Maintenance System of a Security Holder Register, approved by FFMS Order No. 10-77/pz-n, dated 23 December 2010 (hereinafter Regulation No. 10-77/pz-n) (which applies insofar as it does not conflict with the Civil Code and Law No. 142-FZ).

When a register holder has been replaced, an issuer discloses (provides) information thereof under the procedure established by the Bank of Russia (Paragraph 23 of Point 3 of Article 8 of Federal Law No. 39-FZ, dated 22 April 1996, 'On the Securities Market').

The obligation for the disclosure of information on the approval of a registrar and the terms of agreement therewith in the form of notices of material facts is determined by Points 6.1.7 and 6.2.2.1 of the Regulation on the Disclosure of Information by the Issuers of Equity Securities, approved by FFMS Order No. 11-46/pz-n, dated 4 October 2011.

Please note that the obligations stipulated by Point 2.7 of Regulation No. 10-77/pz-n on the publication and notification of the fact that the registrar has been replaced, have to be met.

4. Regarding the maintenance of the register of a public company by an independent registrar

The provision of Point 4 of Article 97 of the Civil Code as amended by the version taking effect from 1 September 2014 establishes an additional requirement for public companies to make sure that a register is to be maintained and the functions of a counting commission are to be performed by an independent registrar.

When establishing the requirement for a registrar to be independent, the Civil Code does not specify any criteria (signs) on the basis of which the registrar's independence may be determined.

In this respect, the Bank of Russia believes that when meeting the requirements of Point 4 of Article 97 of the Civil Code in the said version, the public company and its registrar may take into account affiliation relationship, the relations of direct or indirect control between the registrar and the company whose register it maintains, as well as actual circumstances evidencing the dependence of the registrar on the company whose register it maintains (for example, a large share of fees paid by the company in registrar's income, testifying to the registrar's actual dependence on the company).

Please note that under the provisions of Sub-point 1 of Point 3 of Article 67¹ of the Civil Code as amended by the said version, the adoption by the general meeting of the company's members of a resolution and the members of the company who were present at the time of its adoption shall be confirmed with respect to the public company by an entity maintaining the register of the company and performing the functions of the counting commission.

5. Regarding the appointment of a company's registrar, and the terms of agreement therewith upon the establishment of a company

According to Point 2 of Article 44 of the Law on Joint-Stock Companies, a company is required to ensure the maintenance and storage of its register in line with Russian legislation from the date of its state registration.

Under Article 9 of the Law on Joint-Stock Companies, the company may be established by a resolution of its founders.

Therefore, the company's registrar and the terms of agreement therewith may be determined by a resolution on the company's establishment. Given that the obligation to ensure the maintenance of the register of shareholders is vested in the joint-stock company, the joint-stock company is required to ensure that resolution on the approval of the registrar and the terms of agreement therewith is adopted by the company's management body in accordance with its Articles of Association.

A list of licensed registrars is available on the Bank of Russia's website in Section Financial Markets - Financial Market Participants - Securities Market at: http://cbr.ru/sbrfr/contributors/financialmarket/market_professional_operators/reestersavers/reestersavers_list.xlsx