

## Newsletter

### *Introduction of digital rights and amendments to the requirements to the form of transactions*

April 9, 2019

#### Dear Ladies and Gentlemen,

This is to inform you that, on March 18 2019, the Federal Law of the Russian Federation on "Introduction of amendments to the first, second part and Article 1124 of the third part of the Civil Code of the Russian Federation" (the "**Law**") was adopted.

The Law edits the list of objects of civil rights and introduces a new concept "Digital rights", and also amends the requirements to the form of transactions to the Civil Code of the Russian Federation ("**CC RF**"). The Law comes into force on **October 01, 2019**.

As the Law provides for amendments relevant to conducting business using information technology, including the Internet, we would like to inform you on key provisions of the Law.

#### 1 Digital rights

Pursuant to the Law, the Digital rights are property rights. As such, the content and conditions for their exercise are determined by the rules of information system, where such rights exist.

The authors of the Law comment that, in the first instance, the Law is aimed at regulating cryptocurrency, anti-money laundering and terrorist financing. It also introduces the possibility of including the Digital rights to estate, or bankruptcy estates.

Execution and disposal of the Digital rights are only possible within the information system and through making relevant entries into the information system. A person who can dispose of such right, by the rules of the information system, is deemed to have the respective Digital right. At the same time, the transfer of a Digital right, under a transaction, does not require consent of the person bound by such Digital right.

The Law does not provide for any specific characteristics, or classification, of the Digital rights and

does not define, nor state, the features of types of information systems. The relevant rules will be specified in other regulations, including the law on "Digital financial assets", the enactment of which is expected soon.

#### 2 Form of transactions

The Law supplements Article 160 of the CC RF with a provision on compliance with the written form of transaction, when such a transaction is made using such electronic or technical means that allow unchangeable reproduction of the transaction content on physical media.

The Law also simplifies the rule for signing such transactions and states that the signature requirement is fulfilled if the signing method allows reliable identification of the person agreeing to the transaction. However, either the law, or an agreement between the parties, may provide for a different (e.g., more complicated) procedure for identification of the person.

These amendments reflect the existing practical aspects of contracting in electronic form through determining parties, e.g., by using SMS or biometric identification, without threatening their validity and avoid the need to enter into a separate agreement on signing of such transactions.

#### 3 Smart contracts

In addition to that, the Law establishes the possibility of executing a transaction, using information technology upon the occurrence of the circumstances specified in such transaction, without making a performance request to the counterparty. This provision of the Law allows the parties, for example, to agree on the automatic execution of transactions, including so-called "smart contracts".

Therefore, in general, the Law expands the legal regulation of the use of information technologies by introducing the concept of "Digital rights" and the rules for performing "smart contracts", as well as simplifies signing of transactions in electronic form.

ALRUD specialists are ready to provide any necessary legal assistance in all matters related to use of these mechanisms and new provisions of CC RF.

We hope that the information provided herein will be useful for you. If any of your colleagues would also like to receive our newsletters, please let us know by sending us his/her email address in response to this message. If you would like to learn more about our **Commercial Practice** and **Financial Technology Practice**, please let us know in reply to this email. We will be glad to provide you with our materials.

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