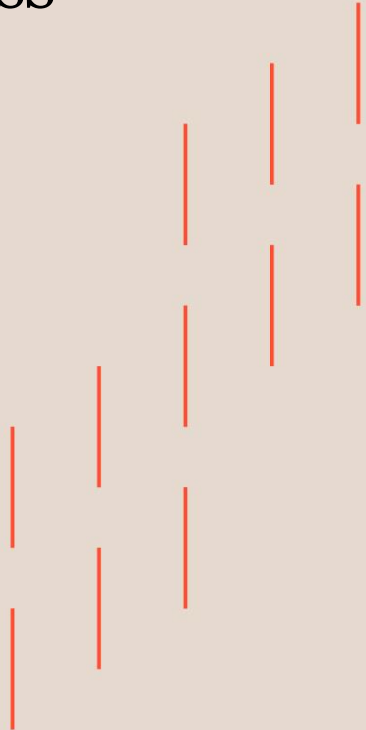


The cessation of foreign business in Russia

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| Speakers



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The ways of cessation of foreign business in Russia

MAIN STRATEGIES FOR FOREIGN INVESTORS

- **Termination of activities:** temporary suspension, liquidation
- **Exiting from Russian business** through a sale:
 - ✓ Management buy-out with or without buy-back right
 - ✓ Market sale: sale of the company to market players with or without buy-back right



Termination of activities: temporary suspension

Temporary suspension

General recommendations

- Refer to external circumstances (outside of control of the Russian subsidiaries) as an impediment to continue business and the reason to suspend
- If sale of business/assets is contemplated - engage an investment advisor, prepare market reports, find buyers
- Minimize public statements in the mass media

Mechanism of suspension

- Corporate resolution at the shareholders/participants level, with reference to external reasons, instructing Russian management "*in accordance with Russian law and in compliance with obligations to third parties*"

Main risks and difficulties

- Performance of the company's obligations: creditors, counterparties, taxes, employees
- Bill on external administration
- Fiduciary duties

Restrictions on distribution of dividends

- Dividends exceeding RUB 10 million or equivalent in foreign currency per month – through a special "C" type account (in Rubles)

Termination of activities: liquidation

Liquidation

Overview

- Complicated procedure (3 major filings, appointment of a liquidator, notification of all creditors, tax inspection, liquidation balance sheet etc.)
- Time-consuming (more than 6 months, maximum 12 months)

Possible risks and difficulties

- Liquidation financing (performance of the company's obligations to the creditors, payments to the budget)
- Distribution of the company's remaining assets to the founders (*no statutory bans, however there is a risk of having to perform distribution only through a special "C" type account (in Rubles) – ?*)
- Highly bureaucratic, additional degree of scrutiny from the regulation authorities and especially from the Russian Tax Service
- Presidential Decree No. 618 dated September 8, 2022 – potentially wide interpretation prohibiting the liquidation

Exiting from Russian business: new clearance regime

Transactions in respect of the **shares in JSC and participatory interests in LLC** with “unfriendly” non-residents (*Presidential Decree No. 81 dated March 1, 2022, and Presidential Decree No. 618 dated September 8, 2022**)


- **Approval of the Sub-commission** headed by the Minister of Finance
- The **deadline** is not set, **but** the meetings of the Sub-commission are held daily
- **No** any legally established **criteria** (e.g., the Sub-commission’s permission may set of any conditions for the transaction, such as the price for the shares etc.)

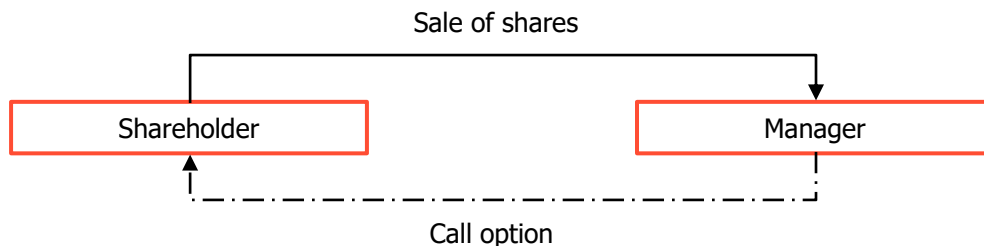
**The procedure for obtaining approval under the Decree No. 618 in respect of LLC shall be published within 10 days from the issuance of the Decree (the estimated date – September 22, 2022)*

Transactions in **finance, fuel and energy sectors** with “unfriendly” non-residents (*Presidential Decree No. 520 dated August 5, 2022*)

- **Full prohibition of transactions** in respect of certain companies in finance, fuel and energy sectors or service providers thereof, **unless a special decision of the President** of the Russian Federation is obtained
- **The list of strategic companies** is already **approved** (*Presidential Decree No. 1009 dated August 4, 2004*). The full prohibition is also replied to their subsidiaries
- **The lists of other companies** in finance, fuel and energy sectors are **not yet published**
- **The procedure** for obtaining the special decision of the President of the Russian Federation **is not yet established**

Exiting from Russian business: management buy-out

 **Main idea:** transfer of ownership title to shares to management with or without a right to buy back in the future



- Trusted persons
- Simplified documentation
- Fast negotiation process
- Nominal purchase price or deferred payment

Difficulties and risks:

1. **Regulatory restrictions:** in some cases, prior regulatory approvals may be required
2. **Typical risks when selling to individuals:** death, disability, illness, and others (consider using a corporate entity)
3. **Lack of funding:** the necessity of initial funding from the foreign investor or agreeing on the criteria of the permitted investors in Russia

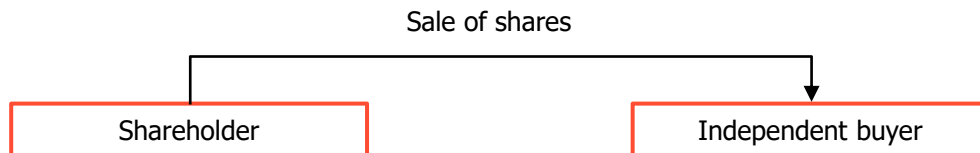
Tools of protection:

1. Use of a SPV as the buyer with personal guarantee as security
2. Pledge of shares
3. SHA + specific provisions of the charter (transfer of shares, reserved matters)
4. Offers + waivers/consents in advance
5. Power of Attorney

Exiting from Russian business: market sale



Main idea: sale of all Russian assets/shares to the market participant



Difficulties:

- **Finding a buyer:** current or potential competitors; some of the major Russian market players are currently under various sanctions, so special attention should be given to pre-transaction compliance checks; in case it is difficult to find an independent buyer promptly, as an intermediate step it may be considered to implement the MBO with management's obligation to find such buyer and to return the market price to the initial seller. Additional option is to conclude a call option between the initial seller and the management conditional to failure of finding a market buyer
- **Complicated documentation and negotiation process**
- **Regulatory restrictions:** in some cases, prior regulatory approvals may be required
- **Purchase price:** market value (with substantial discounts); difficulties with receiving funds from Russia; exchange for a minority share in a larger business
- **Tools for protection of ownership:** same as in MBO (SHA, pledge over shares, etc.)
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- **and management from civil liability:** (i) letters of indemnity; (ii) limitation of liability provisions – only for the seller's non-deliberate actions and only for management's non-reasonable actions

Thank you for your attention!



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