

Newsletter

On certification of corporate decisions made by shareholders of Russian companies

February 28, 2020

Dear Ladies and Gentlemen,

We would like to inform you that on **December 25th 2019**, the Supreme Court of the Russian Federation clarified the interpretation of the rules relating to the certification of corporate decisions by sole shareholders and shareholders' meetings of Russian companies.

The new interpretation for **limited liability companies (LLCs)** is as follows:

- 1 decisions of sole shareholders' shall now be notarized in all cases requiring obligatory notarization of the decisions of shareholders' meeting of the same LLC;
- 2 decisions of shareholders' meetings and sole shareholders, which settle that the LLC will use an alternative way of certification of its shareholders' decisions without notarization, will henceforth require notarization.

The new interpretation for **joint stock companies (JSCs)** is as follows:

- 1 The Russian Federal Notarial Chamber clarified that the new interpretation by the Supreme Court of the Russian Federation may also apply to decisions of sole shareholders of JSCs, which shall also be notarized, or certified by the registrar.

The new interpretation specifically applies to all corporate decisions taken on and after **December 25th, 2019**. This requirement does not extend to any previous decisions. This latter point was directly clarified by the Supreme Court of the Russian Federation on December 30th, 2019.

Cases when certification of shareholders' decisions (via notary, or registrar) can be avoided:

- For both LLCs and JSCs – when a decision is taken via an absentee voting procedure (if applicable);
- For LLCs only – when their charters clearly envisage alternative ways of certification without notarization.

Our recommendations are as follows.

- **For LLCs:** to follow the notarization requirement for all decisions of the sole shareholder taken since **December 25th, 2019**. Notarization by a foreign notary will be acceptable in Russia, subject to proper legalization/apostille.
- **For LLCs:** to follow the notarization requirement for those decisions of shareholders' meetings, which envisage alternative ways of certification and were made from **December 25th, 2019 onwards**. It is also a possibility to take the decision of a shareholder to use the alternative way of certification, in a separate document, which extends its effect to all future decisions. However, this approach needs to be checked in advance with your particular notary because, in practice, certain notaries may not accept this approach in their work.
- **For LLCs:** to amend and register a new editions of their charters, if they do not currently specify an alternative way of certification of its shareholders' decisions without notarization (e.g. by signature of all shareholders, by the presiding person and secretary, by sole shareholder, etc.).
- **For JSCs:** to follow the certification requirement via notarization, or certification by the registrar, for all decisions of the sole shareholder taken from **December 25th, 2019 onwards**. When you decide whether to choose the notary, or registrar, for certification purposes, it is recommended to take into consideration that (i) the certification choice (notary, or registrar) must correlate with the certification option envisaged in the charter, (ii) if the notarization option is chosen – as per the recent comments from the Federal Notarial Chamber adopted on January 15, 2020 (**which version, in Russian, is attached to this Newsletter**), the notary will only have to certify the signature of the sole shareholder on the decision, without checking any other legal formalities, (iii) if notarization is chosen – notarization by foreign notary will be acceptable in Russia, subject to

proper legalization/apostille, (iv) if the registrar is chosen – please keep in mind that there are no uniform rules for certification of the sole shareholder’s decisions, and the exact requirements have to be checked, well in advance, with your respective registrar.

- **When interacting with counterparties:** to check that their documents are properly executed in

compliance with above described rules, otherwise require correction of the documents.

As this approach is a novelty for Russian corporate law and is in conflict with the previous practice, we will keep you informed if, and when, the above-mentioned rules, or practice, change.

ALRUD’s team would be pleased to assist you with all the necessary actions, if required.

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.

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If you have any questions, please, do not hesitate to contact ALRUD Partner, Alexander Zharskiy, or ALRUD Associate, Head of Registration Department, Dmitry Pashkov



Alexander Zharskiy

Partner, Advocate, PhD

Head of Corporate / M&A Practice

E: azharskiy@alrud.com



Dmitry Pashkov

Associate

Head of Registration Department

E: dpashkov@alrud.com

Sincerely,
ALRUD Law Firm