

AUGUST 8, 2012

Regulation No. 383-P of the Russian Central Bank of June 19, 2012 on Money Transfer Rules

The new Regulation on Money Transfer Rules came into effect on July, 9, 2012. It replaced Regulation No. 2-P of October 30, 2002 on the Cashless Money Transfers in the Russian Federation and Regulation No. 222-P of April 1, 2003 on the Cashless Money Transfers by Individuals in the Russian Federation.

The new Regulation establishes a framework for the order of all types of cashless transfers of funds in the Russian Federation, including the mechanism of “direct debit” of the payer’s bank account on the basis of the recipient’s payment request¹ and other payment documents.

The payer’s bank may transfer the requested funds either on the basis of prior payer’s consent (acceptance) or subsequent payer’s acceptance.

Prior Payer’s Consent (Acceptance)

The prior consent² of the payer may be given (in respect of one or more of the payer’s accounts, one or more payees and one or more payment requests of the payee(s)):

- (i) in the agreement between the payer and the payer’s bank (not with the payee, as was the case under Regulation No. 2-P), or
- (ii) as a separate document, notification, message or formal declaration which can be provided to the bank in hard copy or in electronic form.

Subsequent Payer’s Acceptance

In the absence of the prior consent (acceptance) for withdrawal of funds at the request of a payee, the payer’s bank shall transfer the request (or notification of such request) to the payer either in electronic or paper form. The payment will be executed if the payer accepts the request (which should be done within five (5) working days or a shorter period of time if so provided by the bank account agreement).

¹ Regulation of the Central Bank of Russia No. 2-P of October, 3, 2002 also provided for mechanism of direct debit of an without consent (acceptance) of the payer. However, such mechanism was abolished by the Federal Law on the National Payment System of June, 30, 2011 and Directive of the Central Bank of Russia No. 2749-U of December 12, 2011.

² Prior consent (acceptance) shall specify: (i) the sum of accepted withdrawal (or the order of its determination), (ii) identity of the payee, (iii) information on the payer’s obligation to the payee and relevant agreement between payer and payee, and (iv) the possibility (or restriction) of partial performance of payee’s request by the bank.

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Payment Request Performance

If the payer has neither given its prior consent to the payment nor subsequently accepted the payment request the payer's bank cancels the payment request and informs the payee of such cancellation not later than on the following working day after receipt of payer's refusal or expiry of term for receipt of payer's consent (acceptance). The payer may also accept (consent to) a payment request in part. In such a case the payer's bank sends to the payee a notification on partial acceptance of the request and performs it in designated part.

Once the prior consent or subsequent acceptance has been obtained the payer's bank should check whether there are sufficient funds on the payer's account to make the payment. If the amount of funds is insufficient, the payer's bank cancels the payment request and notifies the payee of the cancellation, unless:

- (i) the payment request received is a request for payment of taxes ("transfer of funds to the Russian budgetary system") or is a request of the same or higher priority under Russian law;
- (ii) the payment request received is a request of the "collector" (i.e. a person/entity/governmental body which is entitled to demand the withdrawals from the payer's bank account pursuant to the legislation, e.g. bailiff service and tax authorities);
- (iii) the payment request is accepted by the payer's bank pursuant to the provisions of an agreement, entered into by such bank.

In cases described above the payer's bank must keep the payment requests in a 'queue' and perform them in accordance with the order of priority established by the Russian law.

If the payer's Bank acts as a payee the funds may be transferred from the payer's bank account on the basis of the prior consent (acceptance) pursuant to the bank order (instead of payment request) prepared in accordance with the bank account agreement.

Transitional Provisions

Please note that pursuant to the new Regulation the banks and other credit organizations are obliged to approve (not later than by July 9, 2013) the internal documents, prepared in accordance with the new Regulation with respect to:

- (i) contents and order of preparation of the payment documents;
- (ii) order and procedures for acceptance, revocation, return and cancellation of the payment documents;
- (iii) order and procedures for performance of the payment documents; and
- (iv) other credit organizations' activity on cashless money transfers. In cases described above the payer's bank must keep the payment requests in a 'queue' and perform them in accordance with the order of priority established by the Russian law.

Until April, 1, 2013:

- (i) the "Terms of payment" (35) of all payment requests should specify "with acceptance";
- (ii) the dates, sums and types of payment in the payment documents should be specified in the order provided by the bank;
- (iii) the "Contents of operation" (70) in the payment orders should specify "partial payment";
- (iv) payment requests, partially accepted by the payer, should be performed in order provided by the bank.

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We will continue to monitor the legislation on cashless transfers of funds in the Russian Federation, and will provide you with the periodic updates.

Please feel free to ask if you have any further questions.