



RUSSIAN COUNTER-SANCTIONS MEASURES: NEW DEVELOPMENTS

9 August 2023

On 4 August 2023, Federal Law No. 470-FZ (the **Law**) was published. The Law introduced certain mechanisms for the exclusion of foreign holding companies associated with unfriendly states, which hold at least 50% of the voting rights in Russian legal entities that are considered essential for the Russian economy (the **Foreign Holding Companies** and the **Significant Companies**, respectively), from the ownership structure of the Significant Companies.

For the purposes of the Law, a Significant Company is a company which is important for the economic sovereignty and economic security of Russia, and which is included in a list of such companies drawn up by the Russian Government.

In order for a company to qualify as a Significant Company, the following tests must be met:

1. The group of companies to which the Significant Company belongs must meet at least one of the following quantitative criteria:

- revenues in excess of 75 billion roubles;
- asset value in excess of 150 billion roubles;
- staff in excess of four thousand employees;
- at least ten billion roubles paid in taxes in the previous calendar year.

2. The Significant Company or its subsidiary must be:




- as at 1 February 2022, an operator of critically important informational infrastructure; or
- as at 1 February 2022, a city-forming organisation that has a significant impact on the development of a region; or
- an IT company, which implements technologies and/or software for publicly important services and/or provides information technology or communication services; or
- an organisation that participates in the creation and modernisation of highly productive and/or high-paying jobs; or
- a systemically important financial institution.

3. The Russian beneficiaries must hold over:

- 50% of the shares in the Foreign Holding Company; or
- 30% of the shares in the Foreign Holding Company if such Russian beneficiaries were able to determine the outcome of the latest general shareholders' meeting of the Foreign Holding Company; or
- 20% of the shares in the Foreign Holding Company if such Russian beneficiaries or the Significant Company itself is a target of US or EU sanctions, or sanctions of other unfriendly states.

The Law contains a list of circumstances, each of which can serve as a basis for court proceedings seeking to suspend the Foreign Holding Company's corporate rights in the Significant Company. Such circumstances include:

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-  the Foreign Holding Company's actual or expected refusal to exercise/perform, or evasion of the exercise/performance of, its rights and obligations as a shareholder of the Significant Company;
-  the Foreign Holding Company's action or inaction aimed at the creation of obstacles to management of the Significant Company or conduct by it of its business;
-  the Foreign Holding Company's action or inaction which may result in the termination or suspension of the activities, liquidation or insolvency of the Significant Company.

The competent court that reviews cases on the suspension of corporate rights in the Significant Companies is the *Arbitrazh* (Commercial) Court of the Moscow Region.

The Law requires that the Russian nationals and/or Russian residents which indirectly, through a Foreign Holding Company, hold interests in the Significant Company, should take direct ownership of such interests in accordance with the procedure provided for by the Law. At the same time, the Law lists grounds for refusal to transfer such interests into the direct ownership of such persons.

The Law allows the Significant Company to pay dividends, both declared and to be declared, to Russian nationals and/or Russian residents directly – which can be done on the basis of the relevant court decision after the persons concerned become the direct shareholders of the Significant Company.

The Foreign Holding Company may, at any time while its corporate rights are suspended, require that the Significant Company pay it compensation equal to the market value of the shares (equity interests) in the Significant Company which were not transferred to the Russian nationals and/or Russian residents.

The Law will come into effect 30 days after the date of its publication.



The information contained in this document is intended for general guidance and should not be considered as legal advice or opinion.