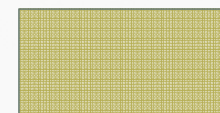




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# **RUSSIAN CIVIL LAW REFORM 2013**



DECEMBER 4, 2013  
THE RUSSIAN TRADE REPRESENTATION  
WASHINGTON, DC

# Russian Civil Code Reform 2013

In 2013 the Russian Civil Code has been undergoing a number of major changes.

The reform has been performed in several steps by passing the laws amending the Russian Civil Code.



# Russian Civil Code Changes 2013

The main changes were put together in the draft Federal law of April 13, 2012 [№ 47538-6](#).

The main goal of the reform is to improve and modernize the Civil Code of Russia including Part One that contains the common and key provisions and definitions of the Russian civil law.



# Key Changes to the Civil Code

1. **Federal Law N302-FZ dated December 30, 2012 “On amendments to chapters 1, 2, 3 and 4 of Section I of the Civil Code of the Russian Federation”.**  
Effective March 1, 2013.
2. **Federal Law N100-FZ dated May 07, 2013 “On amendments to subsection 4 and 5 of Section I and the Article 1153 of the Part 3 of the Civil Code of the Russian Federation”.**  
Effective September 1, 2013.
3. **Federal Law N142-FZ dated July 02, 2013 “On amendments to subsection 3 of Section I of the Civil Code of the Russian Federation”.**  
Effective October 1, 2013.



# Other Changes to the Civil Code

More Changes?



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# TODAY

## **1. Overview of 2013 Civil Code Reform**

- March
- September
- October

## **2. Amendment: Good Faith**

## **3. Supreme Arbitrazh Court: Good Faith Liability of Officers**

## **4. Amendment: Abuse of Rights**



# Changes Effective March 2013

- Good faith is defined as fundamental principle of civil law
- Abuse of rights is defined as act of bad faith that causes harm to another person, act in circumvention of law, or any other intentional exercise of civil rights in bad faith
- Compensation for damages caused by lawful actions of state and municipal bodies
- A new procedure for registration rights for real estate
- Removal of the requirement of state registration:
  - sale of enterprise
  - sale of residential property
  - gift of real estate
  - annuity agreement (disposal of real estate)

# Changes Effective September 2013

## ■ Form of Transaction

- No writing for cross-border transaction
- No writing for transactions between individuals (10 thousand rubles)
- Validating transaction in absence of required notary certification or compelling state registration through court proceedings

## ■ Invalidity of Transactions

- Violation of mandatory legal requirement – voidable (ex-void)
- Change in standing to challenge the transaction for non party
- No challenge of the transaction, approved through actions + curing
- 3 years SOL for non-party claimants (max 10 years)
- Fewer grounds for courts to implement consequences of null/void transaction at court's discretion
- New grounds for invalidation of the transaction



# Changes Effective September 2013

## ■ Resolution of Meetings

- New Chapter 9.1 introduced in the Civil Code
- Governs meetings of shareholders, co-owners of real estate assets, creditors in bankruptcy proceedings
- Grounds for Resolution of the Meeting to be void/voidable
- Standing to challenge Resolution of the Meeting
- Procedure for challenge Resolution of the Meeting

## ■ Power of Attorney

- Irrevocable POA
- Cancellation of the maximum term of three years
- No seal requirement
- Change to notarization requirements
- Cancellation of POA by publication

## ■ Statute of Limitations

# Changes Effective October 2013

## **Real Estate**

- New Concept - an integrated real estate complex
- The benefits earned from the use of a property belongs to the property owner

## **Non-Material Rights**

- Recourse - rebuttal of defamatory statements by same means they were disseminated and damages
- SOL for claim - 1 year after publication of defamatory statement
- Individuals only can sue for damages for moral harm caused by defamatory statements
- Special provisions on protection of an individual's private life

## **Certified Securities v. Uncertified Securities**

- No definition of "securities": documents v. rights
- Types of certified securities: not name, but type (bearer, order, registered)
- Rules pertaining to transfer, reinstatement of right, replevin, etc.

# GOOD FAITH

Good Faith is now a fundamental principle of the Civil Code (**Article 1**)

❖ **Good Faith places an obligation on individuals and legal entities to act in good faith and prohibits them to benefit from their own or unlawful conduct.**

- Balance: Good Faith v. Freedom of contract
- Balance: Good Faith v. Economic gain
- Exists in legal doctrine of countries with developed legal systems



: Resolution of the Plenum of Supreme Arbitrazh Court No. 62 "On certain issues of compensation of damages by members of the company's management bodies"



# OVERVIEW OF LIABILITY OF OFFICERS OF RUSSIAN COMPANIES

## Resolution of the SAC Plenum # 62 , dated July 30, 2013

- Extended the list of officers/managers who could be held liable
- Liability for actions in **bad faith** or **against all senses**
- Liability if company held liable for administrative or tax violations as a result of **bad faith** or **against all senses** actions of a director
- Liability if company held liable for **bad faith** or **against all senses** actions of an employee/contractor
- Burden of providing explanations regarding alleged **bad faith** may be shifted on director
- No escape from liability for **bad faith/against all senses** actions for director even if his actions approved by the board

### **No** liability, if

- Reasonable business risk
- Recovery obtained
- Voted against or did not vote
- Unfavorable transaction is part of series of transactions
- No unified position of state authorities





# ABUSE OF RIGHTS

Article 10 of the Civil Code defines Abuse of Right as:

- exercise of civil rights with intention to cause harm to another person
- acting in circumvention of the law, or
- any other intentional exercise of civil rights in bad faith.

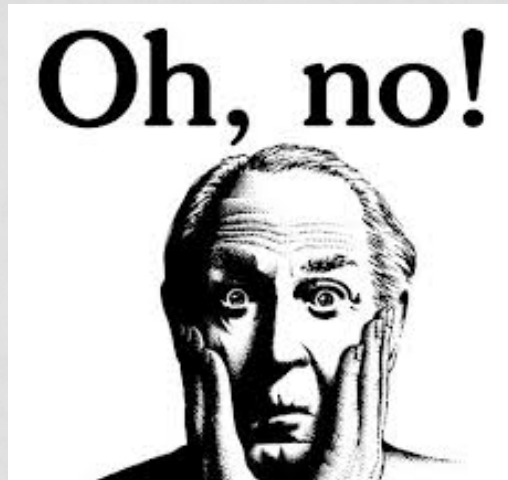
❖ NEW: Compensation of damages  
caused by abuse of right

Other remedies?

Declaring a transaction invalid?

# Changes Effective November 2013

Even More Changes?



- Amendments to Section of "Private International Law"
- Extended statute of limitations for claims for compensation of harm to the life and health of a person, if such harm was caused by a terrorist attack



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NOT TODAY!

# THANK YOU!

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