



## In brief

On 19 July 2022, the Bank of Russia’s Board of Directors took a decision to abolish the 30% limit on advance payments to non-residents on import contracts, which was in effect from 27 March 2022.

## In detail

In order to implement para 1 of the Presidential Decree of 18 March 2022, the [resolution](#) of the Bank of Russia’s Board of Directors of 25 March 2022 set out that from 27 March 2022 prepayments (advances) by residents to non-residents could only be made within 30% of the amount of liabilities provided for by each foreign trade import contract for services, work and intellectual activity results.

Now the resolution of the Bank of Russia’s Board of Directors of 19 July 2022 has abolished the 30% limit on advance payments.

Therefore, Russian companies and Russian residents are entitled to make advance payments under foreign trade contracts to their foreign counterparty in any amount.

### *Requirements on advance payment repatriation*

It is important to remember that foreign trade contracts stipulating prepayment are subject to repatriation requirements, i.e. the obligation to return an advance payment if the services or goods from a non-resident are not received in due time, which is often the case in the current situation.

In case of non-return, the Russian company and the officer may be charged a penalty.

### *Requirements on crediting royalty to a special Russian account*

Presidential Decree No. 322 of 27 May 2022 (“**Decree No. 322**”) introduced a special procedure on discharging monetary obligations related to the use by residents of intellectual activity results and/or means of individualisation to certain right holders, including right holders from “unfriendly” countries or entities under their control.

All payments (including remuneration and payments related to execution and protection of exclusive rights owned by a right holder and other payments, including penalties (fines and late payment interest) and other financial sanctions) to such foreign right holders should be made to special type “O” Russian rouble accounts opened with an authorised bank in the name of the right holder.

To transfer funds from the type “O” account to another account of the right holder (including to accounts abroad) it is necessary to obtain a permission from the Government Commission for Control over Foreign Investments in Russia. In other words, type “O” accounts are significantly limited in use, and settlements through such accounts will not allow the right holder to receive funds.

However, para 17 of Decree No. 322 sets out an important exception from the special procedure for using type “O” accounts. Thus, payments under the licence agreement to a foreign right holder from an “unfriendly” country may be made without using the type “O” accounts (including to accounts abroad) if the resident can demonstrate to the bank performing such payments that the non-resident properly fulfils its obligations under licence agreements signed with the resident and the non-resident does not fall under other criteria for using type “O” accounts, i.e. the non-resident should not perform any actions on supporting sanctions against Russia and/or discrediting the Russian armed forces etc.

In addition, para 17 of Decree No. 322 provides for other exceptions when restrictions related to licence fee payments to non-residents may be inapplicable (e.g., when such payments are made to create and/or use computer programmes, databases, information systems and data processing centres etc. in Russia).

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We are a team of experienced lawyers of the TeDo foreign currency law practice. We would be glad to help you, provide professional legal support in foreign currency and counter-sanctions law, minimise the risk of penalties, and to reduce or abolish penalties if you are held liable.

In particular, we can help you with the following:

- abolishing/reducing penalties and terminating court and administrative proceedings if already initiated;
- conducting diagnostics of transactions already performed by you on foreign accounts if you have any doubts (e.g., for further use of such instrument as capital amnesty).

We would be happy to answer any questions you may have.

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