



Investment Fund Amendment Law Passed

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On 26 July 2019 a law was passed¹ that makes sweeping changes to current investment fund legislation² and related laws.

The amendments are primarily designed to (a) reduce the regulatory burden on investment funds, including funds intended for qualified investors, and (b) raise the investment appeal of unit investment funds.

Some of the new provisions are already in effect. Other amendments will enter into force in stages over the period 2020-2022.

¹ Federal Law No. 248-FZ of 26 July 2019 "On Amendments to Certain Legislative Acts of the Russian Federation"

² Federal Law No. 156-FZ of 29 November 2001 "On Investment Funds"

The law allows for more entities to act as agents of unit investment fund (UIF) management companies, eliminates mandatory auditing of UIF assets and, effective from 1 February 2022, abolishes the Model Rules on Asset Management of UIFs, which will be replaced by general Bank of Russia requirements relating to the content of UIF management rules. Furthermore, investors of any kinds of UIFs will be able to receive current income on units held - previously, this was only possible for holders of units in closed and exchange-traded UIFs.

The regulatory burden is to be reduced further for funds aimed at qualified investors: management companies of such funds will be able to distribute information about them through the Bank of Russia's website as well as their own sites; investors will have the option of receiving in-kind redemption of their share in a fund's assets; and some of the Bank of Russia's supervisory functions are to be transferred to specialized depositories.

These and other changes made by the new law are discussed below.

Changes affecting all UIFs

- ▶ A management company is no longer barred from assuming management of and/or using assets held in asset management to acquire its own units (investment units of a UIF which it manages).

A management company may be granted this right on the basis of an agreement with the client/principal and subject to the client being given advance written notification of the reasoning for the planned transaction (unless the client has formally opted out of receiving such notifications).

The agreement may also stipulate the management company's right to take part in the general meeting of holders of investment units. Otherwise, it is the principal that has that right (and the management company must facilitate that participation).

- ▶ Assets of a UIF fund will now be subject to annual audit only if this is expressly required by the management rules. However, the requirement for an annual audit of the management company itself remains in place. Previously, UIF's assets were subject

to mandatory audit together with its management company, but the change in the law reflects the view that this is a superfluous requirement given that transactions involving the UIF's assets are monitored by the specialized depository on a daily basis.

- ▶ Not only specialized depositories, brokers and registrars but also credit and insurance organizations may now act as agents for the issue, redemption and exchange of investment units. This will facilitate the circulation of units and the access of clients to the services in question.
- ▶ The superfluous requirement for a person terminating a UIF to prepare and submit a statement of the UIF's assets to the Bank of Russia before commencing settlements with creditors has been eliminated. The requirement for regular reports to be made to the Bank of Russia in the process of terminating of a UIF means that the Bank of Russia already receives the necessary information.
- ▶ The Model Rules on the Asset Management of UIFs, compliance with which is mandatory at present, will be abolished from 1 February 2022. Instead, the Bank of Russia will establish general requirements relating to the content of such rules.

The abolition of the Model Rules will give management companies of UIFs greater flexibility in structuring management rules, allowing them to be tailored to a UIF's specific characteristics and the situation on the market.

Changes affecting open-ended and interval UIFs

- ▶ As from 1 February 2021, it will be possible for the management rules for open-ended and interval unit investment funds to specify:
 - (a) types of assets that may be transferred into the management of such funds (at present only money may be transferred)
 - (b) the right of holders of investment units in such UIFs to receive income from the units in the form of assets constituting the unit investment funds

Changes affecting investment funds for qualified investors

- ▶ Restrictions on the distribution of information on investment funds for qualified investors have been lifted.

Such information may now be publicly distributed by posting it both on the website of the fund itself and of its management company and specialized depository and on the official website of the Bank of Russia.

Joint stock investment funds and management companies of UIF's for qualified investors are also exempted from the obligation to provide information to the Bank of Russia or to an organization authorized by the latter before distributing, providing or disclosing it.

- ▶ As from 23 January 2020, some supervisory powers relating to investment funds for qualified investors will be transferred from the Bank of Russia to specialized depositories. In particular:

(a) instead of being registered with the Bank of Russia, management rules will have to be agreed with the depository, which will then forward the agreed rules to the Bank of Russia

(b) the depository will also approve reports on the termination of UIFs and perform a number of other duties delegated to it by the new law

Violating requirements relating to the agreement of management rules and approval of a report on the termination of a UIF could result in a specialized depository being sanctioned by the Bank of Russia, up to and including the annulment of its licence.

- ▶ As from 1 February 2021, owners of investment units intended for qualified investors will be able to demand in-kind redemption of their units. This means that a qualified investor will be able to receive not only cash, but also underlying securities or other assets of the fund.

This right must be expressly stated in the fund's management rules.

What does it mean for you?

In view of the new developments, it may be advisable to review the expediency of using particular forms of UIFs and to examine the need for changes to the management rules and/or management agreement of existing UIFs.

We would be happy to provide our support and assistance in these matters.

Authors:

Ilya Murzinov

Marina Komochkina

Svetlana Eysner

For more information, contact the authors of this publication:

Pavel Koutovoi
+ 7 (495) 664 7899
Pavel.Koutovoi@ru.ey.com

Ilya Murzinov
+ 7 (495) 664 7868
Ilya.Murzinov@ru.ey.com

Inquiries may be directed to one of the following executives:

Moscow

CIS Tax & Law Leader Irina Bykhovskaya	+7 (495) 755 9886	Cross Border Tax Advisory Vladimir Zheltonogov	+7 (495) 705 9737
		Andrey Vostokov	+7 (495) 755 9708
Oil & Gas, Power & Utilities Alexei Ryabov	+7 (495) 641 2913	Transfer Pricing and Operating Model Effectiveness Evgenia Veter	+7 (495) 660 4880
Marina Belyakova	+7 (495) 755 9948	Maxim Maximov	+7 (495) 662 9317
Financial Services Alexei Kuznetsov	+7 (495) 755 9687	Tax Policy & Controversy Alexandra Lobova	+7 (495) 705 9730
Maria Frolova	+7 (495) 641 2997	Alexei Nesterenko	+7 (495) 622 9319
Ivan Sychev	+7 (495) 755 9795	Global Compliance and Reporting Yulia Timonina	+7 (495) 755 9838
Industrial Products Andrei Sulin	+7 (495) 755 9743	Alexei Malenkin	+7 (495) 755 9898
Consumer Products & Retail, Life Sciences & Healthcare Dmitry Khalilov	+7 (495) 755 9757	Law Georgy Kovalenko	+7 (495) 287 6511
		Alexey Markov	+7 (495) 641 2965
Real Estate, Hospitality & Construction, Infrastructure, Transportation Anna Strelnichenko	+7 (495) 705 9744	St. Petersburg Dmitri Babiner	+7 (812) 703 7839
Technology, Telecommunications, Media & Entertainment; Tax Performance Advisory Ivan Rodionov	+7 (495) 755 9719	Vladivostok Alexey Erokhin	+7 (914) 727 1174
Tax Technology Sergey Saraev	+7 (495) 664 7862	Ekaterinburg Irina Borodina	+7 (343) 378 4900
People Advisory Services Ekaterina Ukhova	+7 (495) 641 2932	Krasnodar Alexei Malenkin	+7 (495) 755 9898
Gueladjo Dicko	+7 (495) 755 9961		
Sergei Makeev	+7 (495) 755 9707		
Private Client Services Anton Ionov	+7 (495) 755 9747		
Customs & Indirect Tax Vadim Ilyin	+7 (495) 648 9670		
Transaction Tax Yuri Nechuyatov	+7 (495) 664 7884		

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Contacts

Almaty +7 (727) 258 5960	Novosibirsk +7 (383) 211 9007
Atyrau +7 (7122) 55 2100	Nur-Sultan +7 (7172) 58 0400
Baku +994 (12) 490 7020	Rostov-on-Don +7 (863) 261 8400
Bishkek +996 (312) 665 997	St. Petersburg +7 (812) 703 7800
Ekaterinburg +7 (343) 378 4900	Tashkent +998 (78) 140 6482
Kazan +7 (843) 567 3333	Tbilisi +995 (32) 215 8811
Kyiv +380 (44) 490 3000	Togliatti +7 (8482) 99 9777
Krasnodar +7 (861) 210 1212	Vladivostok +7 (423) 265 8383
Minsk +375 (17) 240 4242	Yerevan +374 (10) 500 790
Moscow +7 (495) 755 9700	

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