THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED
BY THE RUSSIAN FEDERATION

ARTICLE 12 UNCAC

PRIVATE SECTOR AND PUBLIC-PRIVATE PARTNERSHIPS

RUSSIAN FEDERATION (THIRD MEETING)

Ministry of Finance

The requirements concerning accounting and auditing standards, contained in article 12
of the Convention, have largely been met in the legislation of the Russian Federation.

Article 12, paragraph 1 Under article 12, paragraph 1, of the Convention, each State party,
shall take measures, in accordance with the fundamental principles of its domestic law, to
prevent corruption involving the private sector, enhance accounting and auditing
standards in the private sector and, where appropriate, provide effective, proportionate
and dissuasive civil, administrative or criminal penalties for failure to comply with such
measures. In order to strengthen accounting standards, systematic efforts are under way
to improve the country’s accounting and auditing system on the basis of internationally
recognized standards, namely the International Financial Reporting Standards (IFRS),
which the Government believes provide to a great extent for the quality, accuracy and
transparency of accounting or financial accountability. IFRS are directly applied in the
interests of consolidating the financial accountability of socially significant Russian
organizations under the Federal Consolidated Financial Statements Act No. 208-FZ of 27
July 2010. In 2011, a procedure was introduced whereby IFRS could be applied in the
territory of the Russian Federation, in accordance with the requirements of the Act.
Ministry of Finance Order No. 160n of 25 November 2011 brought IFRS into force in the
territory of the Russian Federation. Thus, beginning with financial statements issued in
2012, socially significant organizations will be required to compile, submit and publish
consolidated financial statements using IFRS. Such organizations include private
institutions, insurance institutions and other organizations whose securities may be
exchanged in organized markets.

The accounting system and the quality of financial statements will be further enhanced by
the Federal Accounting Act No. 402-FZ of 6 December 2011, which constitutes a
revision of the Federal Accounting Act No. 129-FZ of 21 November 1996 and enters into
force on 1 January 2013. The revised Act provides for the application of a legal
mechanism for conducting and regulating accounting that corresponds to the current
economic conditions governing the activities of organizations. The Act provides for the
application of international standards as the basis for developing national accounting
standards, since they constitute one of the principles of the legal regulation of accounting.
The Act introduces the application of a model of regulating accounting that is recognized worldwide, which is based on a combination of the activities of both governmental and non-governmental bodies and provides for the participation of self-regulating organizations, including enterprises and other users of accounting, in developing accounting standards. Side by side with the development of a legislative basis for accounting and accountability, work is under way to bring Russian standards of accounting into line with IFRS. Russian accounting standards are issued in the form of laws and regulations that must be complied with by all who engage in economic activities. The system of standards comprises 24 instruments. Accounting standards are regularly reviewed, in line with amendments to IFRS, and the corresponding revisions are made. The Ministry of Finance Plan for 2012-2015 for the development of accounting and accountability in the Russian Federation, on the basis of IFRS, issued under Ministry of Finance Order No. 440 of 30 November 2011, provides that the system of Russian accounting standards will have been brought into line with IFRS by the end of 2015. Article 12, paragraph 2, of the Convention states that measures to achieve the purpose of preventing corruption may include, among others, promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions. One of the most important professional bodies dealing with accountancy in the Russian Federation is the Institute of Professional Accountants of Russia.

The General Meeting of the Institute passed a resolution to adopt its Code of Ethics for professional accountants and auditors who are members of the Institute (Report No. 2 of 28 May 2009), which corresponds to the Code of Ethics adopted by the International Federation of Accountants (IFAC). The Code sets out the basic principles of conduct that must be observed by a professional accountant: honesty, objectivity, professional competence and the requisite care, confidentiality and professionalism of conduct. The Code also contains provisions relating to the various circumstances that might put at risk a professional accountant’s ability to comply with the main principles of conduct:

(a) The threat of personal interest, which may arise as a consequence of the financial or other interests of a professional accountant, his close relations or members of his family;

(b) Difficulties of self-regulation that may arise where a previous judgement needs to be reassessed by a professional accountant who was also responsible for the earlier judgement;

(c) The dangers associated with advocacy, which may arise where, in putting forward a position or opinion, a professional accountant comes up against a barrier beyond which his objectivity may be called into question;

(d) The dangers of close friendship, which may arise where, as a result of close personal relations, a professional accountant may begin to show excessive sympathy with other people’s interests;
(e) The possibility of blackmail, which may arise where an attempt is made by means of threats — either real or perceived — to prevent a professional accountant from acting objectively. The Code recommends precautionary measures that may eliminate such threats and difficulties or weaken them so that they become more manageable.

Article 12, paragraph 3

Under article 12, paragraph 3, of the Convention, each State party is required to take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts:

(a) The establishment of off-the-books accounts;

(b) The making of off-the-books or inadequately identified transactions;

(c) The recording of non-existent expenditure;

(d) The entry of liabilities with incorrect identification of their objects;

(e) The use of false documents; and

(f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.

The Federal Accounting Act No. 129-FZ of 21 November 1996, the Federal Accounting Act No. 402-FZ of 6 December 2011 and other laws and regulations on accounting and financial statements set out the necessary conditions for compliance by all organizations with the requirements for accounting, including rules for using primary accounting documents for business transactions, systematizing information in accounting registers, carrying out inventories and retaining accounting documents and also the procedure for drawing up financial statements.

Article 12, paragraph 3 (a)

The Federal Accounting Act No. 129-FZ of 21 November 1996, article 13, establishes how an organization’s financial statements should be set out. The contents and methodological basis for drawing up a statement are established by the Regulations on accounting contained in “Accounting in organizations” (Regulation 4/99), adopted in Ministry of Finance Order No. 43n of 6 July 1999. Under this regulation, accounting must provide full and accurate representation of an organization’s financial position, the financial results of its activities and changes in its financial position. Accounting is deemed full and accurate when it is produced on the basis of the rules laid down in accounting rules and regulations.

Article 12, paragraph 3 (b), (c), (d), and (e)
The Act sets out the unified legal and methodological basis for the organization and conduct of accounting. Under article 8 of the Act, an organization is required to do its accounts from the moment it is registered as a legal person until it is reorganized or wound up. All business transactions and results of stocktaking must be recorded in the accounts in a timely fashion, without any omission or incomplete information.

Article 9 of the Act stipulates that all economic transactions must be justified by documentation. Such documentation constitutes the primary accounting documents on the basis of which the accounting is carried out. The Act sets out a list of the prerequisites for primary accounting documents, which include the names of the officials responsible for conducting an economic transaction and ensuring that it is properly carried out and the signatures of the officials listed. A primary accounting document must be prepared at the time that a transaction is conducted and, if this does not prove possible, directly after its completion. The persons who compile and sign the primary accounting documents are the ones responsible for their proper and timely execution, their submission within the established deadline for inclusion in the accounts and the reliability of the data that they contain. It is prohibited to alter cash books or bank documents. Alterations may be made to other primary accounting documents only by agreement with those participating in the economic transaction concerned and must be countersigned by the persons who signed the documents, with an indication of the date of the amendment.

Under article 12 of the Act, organizations are obliged, in order to ensure the accuracy of the accounting data and financial statements, to carry out an inventory of property and liabilities in order to check their existence, condition and value and to confirm these in writing. The Federal Accounting Act No. 402-FZ of 6 December 2011 contains provisions similar to the provisions cited above of the existing Federal Accounting Act. However, the revised Act also contains a number of new provisions requiring guarantees to be made for the users of the accounting information and financial statements of obtaining reliable and accurate information. The implementation of these measures will help create the conditions to prevent corruption, in line with the requirements of the Convention. This basically involves rules to regulate issues of accounting or financial accountability when a corporation is reorganized or wound up, the use of online documentation for accounting purposes and the implementation of internal controls in economic entities. A regulation on accounting, entitled “Correction of errors in accounting reports and financial statements” (Regulation 22/2010), approved by Ministry of Finance Order No. 63n of 28 June 2010, sets out the rules for correcting mistakes in accounting reports and the procedure for disclosing information about mistakes. The regulation includes a requirement that mistakes in accounting reports and their consequences must be corrected.

A regulation on accounting entitled “Expenditure of an organization” (Regulation 10/99), approved by Ministry of Finance Order No. 33n of 6 May 1999, defines the meaning of an organization’s expenses and establishes the rules on setting out accounting information on the organization’s expenditure.

Article 12, paragraph 3 (f)
Both the Federal Accounting Act No. 129-FZ of 21 November 1996 and the new Federal Accounting Act No. 402-FZ of 6 December 2011 contain a requirement that primary accounting documents, accounting registers and registers of financial statements must be kept for the period laid down in accordance with the organizational regulations of the State archive and for not less than 5 years. The legislation of the Russian Federation sets out “direct” measures of liability for breaching procedural rules and the time limits for retaining documents. Moreover, there is a range of laws of the Russian Federation relating to both administrative and criminal violations establishing liability for an illegal act, which may include the intentional destruction of accounting documentation.

The Code of Administrative Offences of the Russian Federation, which relates to the gross violation of the rules of bookkeeping and of the submission of financial statements, provides for the imposition of an administrative fine on officials for a gross violation of the rules of bookkeeping and of submission of financial statements and also sets out the procedure and the time limits for retaining accounting documents.

**RUSSIAN FEDERATION (SECOND MEETING)**

Article 12 of the Convention relates to the maintenance of cooperation between the State and the private sector in preventing corruption, disallowing the tax deductibility of expenses that constitute bribes and prohibiting the abuse of financial and tax accountability. In addition, States Parties to the Convention are invited to regulate conflicts of interest that may arise in connection with the work of former public officials in offices or enterprises formerly under their charge.

The public prosecution service maintains close cooperation on combating corruption with private organizations and community associations through a constant exchange of information and participation in joint projects. It also engages in constructive cooperation with the Civic Chamber of the Russian Federation.

In addition, in order to provide protection for the rights and lawful interests of persons engaged in business, the public prosecution service has, on the instructions of the Prosecutor-General’s Office, established standing councils, which are already operational, for the protection of small and medium-sized enterprises.

The councils are composed of representatives of Russian regional prosecutor’s offices, law enforcement and oversight agencies, social organizations, business associations and representatives of regional branches of political parties.

The councils’ purpose is to establish the opinions of business people, combat corruption, actively and speedily identify and suppress breaches of the law and enhance the openness and transparency of the work of the public prosecution service.
The provisions of article 12, paragraph 2 (e), of the Convention are enshrined in article 12 of the Federal Anti-corruption Act.

A citizen who has previously held a post within a State or municipal agency — a list of public service positions being established under Russian legislation — may, within two years of separation from that post, take up a post in a private or non-profit organization provided that his or her former duties as a public official included the State administration of such organizations and that his or her appointment has been approved by the relevant commission responsible for monitoring compliance with the rules of conduct of public officials of the Russian Federation and regulating conflicts of interest.

In order to implement the other provisions of article 12 of the Convention, a number of legislative acts, including Federal Act No. 129 of 21 November 1996 on accountancy (amended on 28 September 2010), Federal Act No. 307 of 30 December 2008 on auditing (amended on 28 December 2010) and Government Decision No. 696 of 23 September 2002 on the approval of federal auditing standards (amended on 27 January 2011), have been adopted and are in force in the Russian Federation.

Article 18 of the Federal Accountancy Act provides that “the heads of organizations and other persons responsible for the organization and keeping of accounts shall, in accordance with the legislation of the Russian Federation, be liable under administrative or criminal law for any failure to keep accounts in accordance with the procedure established by the legislation of the Russian Federation and by the regulations of bodies responsible for the regulation of accounting, and for any falsification of accounts or non-compliance with deadlines for the submission and publication of accounts.”

The falsification of financial and tax accounts, depending on the gravity of the consequences and the intended purposes of such falsification, may be categorized as an administrative offence under the Code of Administrative Offences (chapter 15) or the Tax Code of the Russian Federation or as a criminal offence under articles 174 to 199.2 of the Criminal Code of the Russian Federation.

On 30 November 2005, the Government of the Russian Federation issued Decision No. 706 on measures to ensure the conduct of mandatory audits. Liability for the failure of an organization to carry out a mandatory audit is regulated partly by the provisions of article 5 of the Federal Auditing Act, article 126 of the Tax Code and article 15.6 of the Code of Administrative Offences.

Provisions relating to the internal oversight of businesses are set out in Federal Act No. 115 of 7 August 2001 on the laundering of proceeds of crime and the financing of terrorism.
Article 7 of the Act establishes that, in order to prevent the laundering of proceeds of crime and the financing of terrorism, organizations that perform operations involving monetary or other assets are required to establish internal control regulations and mechanisms for their enforcement, appoint special officers responsible for monitoring compliance with those regulations and implementing the corresponding mechanisms and adopt other internal organizational measures as necessary.

The internal control regulations for organizations performing operations involving monetary or other assets must include a procedure for recording the required information in documentary form; a procedure for ensuring the confidentiality of information; staff training requirements; and the criteria for identifying unusual transactions and the elements constituting such transactions, taking into account the particular nature of the activities of the organization concerned.

Internal control regulations are drawn up in accordance with the recommendations established by the Government of the Russian Federation (through Government Order No. 983 of 17 July 2002) or, in the case of credit institutions, the recommendations established by the Central Bank of the Russian Federation (in accordance with Official Communication No. 99 of 12 July 2005 of the Bank of Russia).

The qualification requirements for special officers responsible for monitoring compliance with internal control regulations and corresponding enforcement mechanisms, staff training requirements and the identification of clients and beneficiaries are determined in accordance with the procedure established by the Government of the Russian Federation (in Government Decision No. 715 of 5 December 2005 on the qualification requirements for special officers responsible for monitoring compliance with internal control regulations and corresponding enforcement mechanisms, staff training requirements and the identification of clients and beneficiaries in order to prevent the laundering of proceeds of crime and the financing of terrorism) or, in the case of credit institutions, the procedure established by the Central Bank (through Bank of Russia Directive No. 1485 on staff training requirements in credit institutions).

In full conformity with the principles of the Convention, (article 12, paragraph 4), Russian legislation does not provide for the tax deductibility of expenses that constitute bribes.