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Executive summary

Note by the Secretariat

Addendum

Contents

	<i>Page</i>
II. Executive summary	2
Russian Federation	2

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II. Executive summary

Russian Federation

1. Introduction: overview of the legal and institutional framework of the Russian Federation in the context of implementation of the United Nations Convention against Corruption

The Russian Federation signed the Convention on 9 December 2003 and ratified it through Federal Act No. 40 of 8 March 2006, depositing its instrument of ratification with the Secretary-General of the United Nations on 9 May 2006.

The implementation by the Russian Federation of chapters III and IV of the Convention was reviewed in the second year of the first review cycle and the executive summary of that review was published on 23 April 2013 ([CAC/COSP/IRG/II/2/1/Add.13](#)).

Pursuant to article 15 of the Constitution, the generally accepted principles and norms of international law and international treaties to which the Russian Federation is party form an integral part of its legal system. Where an international treaty establishes rules differing from those established by domestic law, the rules of the international treaty take precedence.

The national legal framework for combating corruption includes provisions of the Constitution, of Federal Act No. 40 of 8 March 2006 ratifying the United Nations Convention against Corruption and of the Criminal Code, the Code of Criminal Procedure, the Code of Administrative Offences and the Civil Code, in addition to specific legislation such as Federal Act No. 273 on countering corruption (Anti-Corruption Act), Federal Act No. 115 on countering the legalization (laundering) of proceeds of crime and the financing of terrorism (Money-Laundering and Terrorist Financing Act), Federal Act No. 79 on the State Civil Service of the Russian Federation (Civil Service Act), Federal Act No. 172 on the anti-corruption assessment of legislation and draft legislation, Federal Act No. 230 on the monitoring of consistency between the expenditures and income of persons occupying public positions and of other persons, and Federal Act No. 79 on the prohibition of certain categories of persons from opening and holding accounts (deposits) and keeping cash and valuables in foreign banks located outside the territory of the Russian Federation and from owning and/or using foreign financial instruments.

The Russian Federation is a party to a number of international agreements on international cooperation, crime control and crime prevention.

The country's institutional framework for preventing and countering corruption comprises the Council of the President of the Russian Federation for Countering Corruption (Council for Countering Corruption), the Presidential Anti-Corruption Directorate, the prosecutorial authorities, the Ministry of Labour and Social Protection, the anti-corruption units and commissions of State and municipal authorities, and the Federal Financial Monitoring Service (Rosfinmonitoring) as the country's financial intelligence unit.

International cooperation in combating corruption is governed by chapters 53 to 55.1 of the Code of Criminal Procedure; Decree No. 1799 of the President of the Russian Federation on the central agencies of the Russian Federation responsible for implementing the provisions of the United Nations Convention against Corruption relating to mutual legal assistance; chapter IV of the Money-Laundering and Terrorist Financing Act; article 4 of the Anti-Corruption Act; and chapter 29.1 of the Code of Administrative Offences.

The Russian law enforcement authorities cooperate through different mechanisms and networks, as described below.

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

The Russian Federation has established a comprehensive legal and institutional framework for implementing the Convention's provisions relating to prevention, including federal laws, enactments of the President and of the Government and legislative instruments adopted by the authorities of the constituent entities of the Russian Federation and local government bodies.

The Russian Federation has adopted a national anti-corruption strategy, which sets out key elements of the prevention system and requires State and local government bodies, and civil society organizations, to take effective measures to prevent corruption. Furthermore, since 2008, national anti-corruption plans have been adopted and implemented, usually covering two-year periods. The national anti-corruption plan for 2018–2020 includes actions to strengthen preventive measures in the areas of public procurement and education and in the private sector, and to enhance international cooperation. The implementation of the national anti-corruption plan is subject to monitoring and evaluation.

The institutional framework for preventing corruption includes the Council for Countering Corruption, the Presidential Anti-Corruption Directorate and the anti-corruption units and commissions of State and municipal authorities. In order to ensure the coordination of inter-agency activities to combat corruption, the executive committee of the Council for Countering Corruption has established three working groups (on collaboration with civil society organizations; on partnership between the business community and State authorities in combating corruption; and on monitoring the implementation of the national anti-corruption plan for 2018–2020). The prosecutorial authorities oversee the implementation of anti-corruption legislation. The Ministry of Labour and Social Protection issues recommendations for State and local government bodies, and for entities, on the application of that legislation. The independence of the Council for Countering Corruption and the Presidential Anti-Corruption Directorate is ensured by their position in the hierarchy of public bodies and the fact that they are directly accountable to the President of the Russian Federation. Adequate resources are made available for their activities.

Article 5 of the Anti-Corruption Act establishes that the Prosecutor General of the Russian Federation and prosecutors under the Prosecutor General's authority are responsible for coordinating the anti-corruption activities of the internal affairs bodies, the agencies of the Federal Security Service, the customs authorities and other law enforcement bodies.

The Russian Federation participates in regional and international anti-corruption initiatives and programmes, including the Group of States against Corruption (GRECO), the OECD Working Group on Bribery in International Business Transactions, the Organization for Security and Cooperation in Europe, the Group of 20, the Asia-Pacific Economic Cooperation, the Financial Action Task Force (FATF) and the BRICS Anti-Corruption Working Group.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

Matters relating to entry into the civil service, career progression and termination are governed by the Civil Service Act, as is determination of the legal status of federal civil servants and civil servants of the constituent entities of the Russian Federation.

Recruitment of civil servants is competitive and based, inter alia, on the principles of fairness and merit (chapter 4 of the Civil Service Act). Information on vacancies is posted on the official website of the public body concerned and in the national consolidated information system for human resource management of the State Civil

Service. The Civil Service Act provides for an appeal mechanism enabling unsuccessful candidates to challenge recruitment decisions (art. 22 (6) and (11)). Civil servants are provided with training on various topics, including corruption. Special procedures are in place for the rotation of individuals holding managerial positions or performing oversight functions (art. 60 of the Civil Service Act).

The criteria to be met by candidates for elected public office are listed in Federal Act No. 67 establishing fundamental guarantees of citizens' electoral rights and right to participate in referendums. Additional requirements applicable to candidates for the office of President of the Russian Federation or deputy of the State Duma of the Federal Assembly of the Russian Federation are established in Federal Act No. 19 on presidential elections and Federal Act No. 20 on the election of deputies of the State Duma of the Federal Assembly. Candidates are automatically disqualified if they fail to disclose a criminal record or to comply with anti-corruption requirements (article 38 of the Federal Act Establishing Fundamental Guarantees of Citizens' Electoral Rights and Right to Participate in Referendums).

Article 58 of Federal Act No. 19 and article 71 of Federal Act No. 20 establish thresholds for individual donations made by citizens and legal entities. Information on donations made to and the expenditures of political parties is published by the Central Election Commission. Political parties are required to submit quarterly financial reports, and a consolidated annual financial report detailing their assets, liabilities, income and expenditure, to the Central Election Commission or its local bodies (art. 34 of Federal Act No. 95). In addition, political parties and candidates must submit final financial reports on funding received and expenditures made during an election campaign to the Central Election Commission or to the election commissions of the constituent entities of the Russian Federation no later than 30 days after the end of the election campaign. Political parties are allowed to receive donations in the form of money and property (art. 30 of Federal Act No. 95). Donations to political parties from an individual or a legal person must not exceed the amounts of 4,330,000 roubles and 4,300,000 roubles, respectively, per year. The total amount of annual donations received by a political party must not exceed 4,330,000,000 roubles. The Central Election Commission, together with the Ministry of Finance and the Ministry of Economic Development, has developed guidelines for political parties on how to evaluate in-kind donations (funding) and include them in the relevant reports. Those recommendations were distributed to all political parties through information letter No. 15-07/2463 of 12 July 2013.

The procedure for preventing and resolving conflicts of interest is set out in the Anti-Corruption Act (in particular, in article 11) and in article 19 of the Civil Service Act (on requirements with respect to the official conduct of a civil servant). Civil servants must avoid actual or potential conflicts of interest and must disclose such conflicts to a specially designated representative of their employer. They are also required, as is the employer's representative, to take measures to prevent and resolve conflicts of interest. The Ministry of Labour and Social Protection issues guidance on resolving conflicts of interest and dealing with officials who do not comply with the legislation. Article 6 of Federal Act No. 3 on the status of members of the Federation Council and the status of deputies of the State Duma of the Federal Assembly of the Russian Federation requires all members of the Federation Council and deputies of the State Duma to disclose their significant personal interests.

Outside employment of public officials is permitted only if it does not lead to a conflict of interest (art. 14 of the Civil Service Act), and is subject to the employer's agreement. Civil servants are prohibited from engaging in business activities and, with certain exceptions, from participating in the management of commercial and non-commercial entities (art. 17 (1) of the Civil Service Act). Other paid work may be performed by a State or municipal civil servant, subject to prior notification of the representative of the hiring entity (employer), provided that there is no conflict of interest. However, the notification procedure does not guarantee that permission will be granted.

Failure to take measures against conflicts of interest is an offence that entails the dismissal of the civil servant who is a party to the conflict of interest, and the dismissal of the civil servant who is a representative of the employer, from the civil service (art. 19, paras. 3.2 and 4.1, of the Civil Service Act).

Civil servants are prohibited from receiving remuneration from a natural or legal person in connection with the performance of their official duties (art. 17 (1) (6) of the Civil Service Act). Gifts received by a civil servant in connection with protocol activities, official travel and other official activities must be handed over to the State body with which the civil servant is employed. Acceptance of gifts is permitted if the value of the gift does not exceed 3,000 roubles and the gift is not related to the performance of official duties. Regardless of the value of the gift, a civil servant must report all instances in which he or she receives a gift to the competent division of the State body concerned. A gift the value of which has been verified by means of documents and which exceeds 3,000 roubles, or the value of which is unknown to the civil servant who received it, must be handed over. If the value of the gift does not exceed 3,000 roubles, the gift remains with the civil servant. Any gift the value of which exceeds 3,000 roubles is recorded for accounting purposes and may be repurchased at its full value by the civil servant who received it. Otherwise, the gift may, for example, be donated to a charitable organization.

Non-compliance with anti-corruption prohibitions, restrictions and obligations entails disciplinary measures, the most severe of which is dismissal on the grounds of loss of trust. In such cases, information on the person's dismissal on the grounds of loss of trust is included for a period of five years in a register of such cases published on the Internet (art. 15 of the Anti-Corruption Act).

In 2010, the Council for Countering Corruption approved a model code of ethics and official conduct of public officials, which serves as a basis for the drawing up of internal codes of ethics and official conduct for the State, regional and municipal authorities. The Anti-Corruption Act and Federal Act No. 58 on the civil service system of the Russian Federation provide for disciplinary measures in the case of violation of the rules.

Public officials are required to report suspected offences to a designated representative of their employer (arts. 9 and 11 of the Anti-Corruption Act) and are under the protection of the State (art. 9 (4) of the Anti-Corruption Act). All reported cases are assessed in order to determine whether the requirements relating to "official" conduct and conflicts of interest have been violated. In addition, paragraph 21 of Presidential Decree No. 309 states that public officials may report suspected cases of corruption to the law enforcement authorities or to the media.

Article 120 of the Constitution enshrines the principle of independence of the judiciary. The recruitment of judges is governed by the Act on the Status of Judges in the Russian Federation (Act No. 3132-1, arts. 4, 5 and 6). The Code of Judicial Ethics, adopted in 2012, regulates the outside activities and discipline of judges. The Act on the Status of Judges in the Russian Federation provides for disciplinary sanctions for judges in cases of violation of the Act and of the Code of Judicial Ethics.

The organization and functioning of the prosecutorial bodies is governed by the Federal Act on the Office of the Prosecutor of the Russian Federation (Act on the Office of the Prosecutor). The Office of the Prosecutor is a federal centralized system of bodies that is independent of the other branches of power (chapter 7 of the Constitution) and is headed by the Prosecutor General, whose term of office is five years. The Act prohibits prosecutors from combining their main activities with another paid or unpaid activity other than teaching, research and other creative work (art. 4 (5) of the Act) and sets out the rights and obligations of prosecutors, including rules relating to conflicts of interest, and other restrictions and prohibitions established in accordance with the Anti-Corruption Act (art. 40.2 of the Act on the Office of the Prosecutor). The prosecutorial bodies act transparently – in particular, by publishing information on the income and property of prosecutors – to the extent that such transparency does not violate any legal requirements relating to protection

of the rights and freedoms of citizens or those relating to State and other secrets specially protected by law (art. 4 (2) of the Act on the Office of the Prosecutor). Judges and prosecutors undergo continuous training, including training on ethical issues.

Public procurement and management of public finances (art. 9)

The Russian Federation has established a centralized procurement system in accordance with Federal Act No. 44 on the contract system for the procurement of goods, works and services in order to fulfil State and municipal needs (Procurement Act). Article 112 of the Procurement Act stipulates that the procurement of goods, works and services must be carried out exclusively through electronic platforms. Furthermore, paragraph 44 of the same article establishes a list of exceptions to the requirement to complete procedures for identifying a supplier (or contractor or executor) in electronic form.

Under the Procurement Act, only legal entities that have not incurred administrative liability for an offence under article 19.28 of the Code of Administrative Offences (“Illegal remuneration on behalf of a legal entity”) within the two years preceding their application to participate in a procurement procedure are permitted to take part in the procedure in question. Article 4 of the Procurement Act provides for the establishment and operation of a unified information system in the area of procurement in order to provide informational support for the contract system in that area. In addition, in accordance with article 5 of the Procurement Act, electronic documents in the contract system are managed using electronic platforms through which, inter alia, competitive methods are used to identify suppliers (or contractors or executors) electronically.

Article 6 of the Procurement Act states that the contract system in the area of procurement is based, inter alia, on the principles of openness and transparency of information.

Under the Procurement Act, in procurement proceedings, procuring entities use competitive methods to identify suppliers (or contractors or executors) or make purchases from a single supplier (contractor or executor). The rules and procedures for evaluating tenders and awarding contracts are established in the Procurement Act and in Government Decision No. 1085 approving rules for evaluating tenders and final proposals of participants in the procurement of goods, works and services to fulfil State and municipal needs.

State procuring entities are obliged to make their procurement plans, open tenders, contract notices, selection criteria, contract award notices and awarded contracts available to the public in advance through the centralized system of procurement information.

Article 24 (5) of the Procurement Act establishes that the procuring entity independently determines the method for selecting the supplier (or contractor or executor) in accordance with the provisions of the Act. However, the procuring entity does not have the right to carry out actions that result in an unjustified decrease in the number of participants in the procurement proceedings.

Article 105 (1) of the Procurement Act establishes that all participants in a procurement procedure have the right to appeal through judicial or administrative proceedings. The number of complaints and appeals is an indicator of participants’ awareness of procurement laws and procedures.

In accordance with article 4 (4), of the Procurement Act, the information stored in the unified information system is publicly available and provided free of charge.

In 2019 and 2020, the Ministry of Labour and Social Protection prepared guidance on steps to identify any personal interests of State and municipal civil servants and employees that lead or may lead to a conflict of interest in procurement proceedings, and on identifying and minimizing corruption risks in the course of procurement. No

special rules have been established by law or in practice for monitoring the implementation of major infrastructure projects.

In accordance with article 97 of the Procurement Act and Government Decision No. 728 of 26 August 2013, the Ministry of Finance performs monitoring and control functions in relation to all procurement activities. Civil society monitoring of compliance with procurement-related legislation is carried out by citizens, civil society organizations and associations of legal entities (art. 102 of the Procurement Act). The personal integrity of procurement staff is underpinned by special requirements relating to staff selection and staff conduct and by enhanced provisions on preventing conflicts of interest and on stricter disciplinary liability. Articles 200.4 and 200.5 of the Criminal Code establish criminal liability for abuse in the procurement of goods, works and services to fulfil State or municipal needs and for bribery of an employee of a procurement entity, a procurement manager or a member of a procurement commission.

The process of drawing up and adopting the republican and federal budgets is governed by the Budget Code. The budget is prepared by the Government and approved by the State Duma.

According to Federal Act No. 41 on the Accounts Chamber of the Russian Federation, the Accounts Chamber is responsible for auditing State accounts, State subsidies and payments and public procurement. Furthermore, it audits the internal oversight systems of public bodies with respect to their efficiency and effectiveness, suggests corrective measures in connection with the audit findings and may recommend disciplinary measures, and also ensures the accountability of State bodies.

The Federal Treasury and the State (and municipal) financial oversight authorities, which are executive bodies of the constituent entities of the Russian Federation (or local government authorities), are responsible for internal State (or municipal) financial oversight, including in the area of procurement (art. 265 of the Budget Code).

In accordance with the Model Anti-Corruption Plan for the Federal Executive Authorities, which was approved by the Government Commission on Administrative Reform (minutes of the Commission's meeting of 15 June 2012, No. 134, section VII (2)), provisions are in place for the organization by the federal executive authorities of assessments of corruption risks arising during the performance by those authorities of their functions.

The procedures for storing budgetary and accounting documents and for accessing such documents are set out in Federal Act No. 402 on accounting. Articles 172.1 and 172.3 of the Criminal Code establish criminal liability for offences relating to the integrity of accounting documents.

Public reporting; participation of society (arts. 10 and 13)

Access to information is governed by Federal Act No. 8 on access to information relating to the activities of State and local government bodies. State and local authorities publish a range of information on their official websites. In addition, any person who so wishes can request access to other official documents. If access to information is not granted, appeals can be made in electronic form to the competent public bodies. Information on the activities of State and local government bodies is published on the Open Data Portal. Violation of citizens' rights to access information may lead to administrative sanctions (art. 13.27 of the Code of Administrative Offences). Measures are being taken to simplify administrative procedures through the use of electronic services provided through the Internet.

The participation of society in public decision-making processes is promoted through the establishment of civil society councils under the national and local authorities. Relevant entities, including non-governmental organizations, professional associations and scientific organizations, are invited to participate in the work of the civil society councils and to provide comments on draft laws relating to their

respective areas of expertise. Decisions and documents of certain types cannot be adopted without prior consultation. Draft laws and the results of public consultations are published online and any person may provide comments. The responsible bodies are required to consider and respond to all proposals received online from citizens and organizations.

Representatives of civil society participate in the work of commissions established to monitor compliance with requirements relating to official conduct and the resolution of conflicts of interest (para. 8 (c) of the Regulations approved by Presidential Decree No. 821 of 1 July 2010); they also conduct independent anti-corruption assessments if accredited by the Ministry of Justice of the Russian Federation (art. 5 of the Federal Act on the anti-corruption assessment of legislation and draft legislation).

The Russian Federation has established a comprehensive programme of anti-corruption education for secondary schools and institutions of higher education. The programme is aimed at promoting ethical conduct and strengthening integrity among students and young people.

Citizens can report corruption directly to the Prosecutor General's Office through a dedicated section of the Office's website. All State bodies have virtual reception rooms and hotlines through which citizens can report corruption, including anonymously.

Article 141 (7) of the Code of Criminal Procedure states that anonymous reports of offences cannot serve as a ground for the initiation of criminal proceedings. They may, however, serve as the basis for police inquiries aimed at verifying the information that the reports contain with respect to incidents of corruption. If the reported information is corroborated, the inquiry findings are submitted to an investigator so that a preliminary investigation can be conducted.

Private sector (art. 12)

The prevention of corruption within State enterprises, corporations and entities established on the basis of federal legislation is governed by the Anti-Corruption Act and other federal laws, the Corporate Governance Code and the Anti-Corruption Charter of Russian Business. According to article 13.3 of the Anti-Corruption Act, entities are required to draw up and adopt measures to prevent corruption. All entities are subject to that requirement, regardless of their form of ownership, their organizational and legal form, the sector in which they operate and any other circumstances. In order to ensure the sustainability of activities to prevent corruption within State enterprises, corporations, entities and other private sector companies, efforts to that end must be maintained.

As part of efforts to provide guidance on fulfilling the requirements of anti-corruption legislation, the Ministry of Labour and Social Protection, in collaboration with relevant federal bodies and associations of business entities, has prepared a toolkit containing the following: "Recommendations for conducting an assessment of corruption risks within an entity"; "Measures to prevent corruption within entities"; a leaflet entitled "Consolidating the obligations of entity employees in preventing corruption: responsibilities and incentives"; and a booklet entitled "Principles of corruption prevention within entities".

Pursuant to article 7 (1) of the Federal Act on Auditing Activities, auditing activities are carried out in accordance with the International Standards on Auditing adopted by the International Federation of Accountants and recognized in accordance with the procedure prescribed by the Government of the Russian Federation. Legal entities must keep proper books and accounts; if they fail to do so, they are subject to the sanctions set out in the Code of Administrative Offences. Serious violations of bookkeeping and accounting obligations, such as falsification of financial documents, are offences under art. 172.1 of the Criminal Code.

The national authorities and the private sector jointly carry out anti-corruption activities to eliminate corruption risks, raise awareness and promote integrity and transparency.

Legal entities are required to retain information on the identity of their beneficial owners (art. 6.1 (3) (2) of the Money-Laundering and Terrorist Financing Act) and to provide that information to Rosfinmonitoring and the tax authorities upon request (art. 6.1 (6) of the Money-Laundering and Terrorist Financing Act). The Bank of Russia (Central Bank), in exercising its supervisory powers, has access to the information held by supervised entities, including information on the beneficial owners of customers of those entities. Customers are required to provide entities that conduct transactions involving money or other property with the information necessary in order for those entities to comply with the requirements of the Money-Laundering and Terrorist Financing Act, including information on their beneficiaries, founders (participants) and beneficial owners (art. 7 (14) of the Money-Laundering and Terrorist Financing Act). Entities that carry out transactions involving money or other property in accordance with internal oversight rules are required to record the information obtained through the application of those rules and to ensure its confidentiality (art. 7 (2) of the Money-Laundering and Terrorist Financing Act).

Rosfinmonitoring is authorized to receive information regarding beneficial owners not only directly from legal persons under article 6.1 of the Money-Laundering and Terrorist Financing Act but also, in accordance with article 7 of the Act and upon request, from reporting entities that verify information concerning the beneficial owners of their customers. This combined approach makes it possible to reconcile the information received by Rosfinmonitoring from different sources in order to ensure that State bodies have access to reliable data on beneficial owners.

Former State or municipal civil servants who, within two years of separation from State or municipal service, enter into employment or civil law contracts for the performance of similar work (rendering of services) are required to inform their employer of their last place of service.

The Ministry of Labour and Social Protection, in its guidance materials ("Measures to prevent corruption within entities"), recommends that entities provide for measures to protect persons who report corruption from possible adverse consequences of their disclosure of that information.

In accordance with Russian legislation, the deduction, for tax purposes, of expenses constituting bribes is not allowed.

Measures to prevent money-laundering (art. 14)

The legal regime for countering money-laundering consists principally of the Money-Laundering and Terrorist Financing Act, related Government decisions and regulatory instruments issued by the Central Bank, Rosfinmonitoring and other supervisory bodies. Legal requirements relating to money-laundering and the financing of terrorism apply to financial institutions, credit institutions and non-credit financial institutions listed in article 5 of the Money-Laundering and Terrorist Financing Act and designated non-financial businesses and professions, including persons that provide licensed money or value transfer services. The rendering of unofficial money or value transfer services is illegal and is punishable under article 172 of the Criminal Code. In particular, obligations include compliance with requirements relating to the identification of customers, customer representatives and beneficiaries, the application of such measures as are justified and available in the circumstances to identify the beneficial owners of customers, and the fulfilment of requirements relating to record-keeping and the reporting of suspicious transactions, as detailed below in relation to article 52. "Mandatory control" measures involve the use by an authorized body of a mandatory control system that is considerably broader than the monitoring of individual transactions or customers (art. 7 of the Money-Laundering and Terrorist Financing Act). Accordingly, financial institutions

and designated non-financial businesses and professions are required to submit to Rosfinmonitoring information on transactions involving money or other property as specified in article 6 of the Money-Laundering and Terrorist Financing Act. The information received by Rosfinmonitoring is subject to verification, which is the core component of mandatory control, and subsequently serves as a basis for informing law enforcement agencies about detected illegal acts, including corruption, and for alerting supervisory bodies and other competent authorities to risks arising in connection with the activities of entities under their supervision. The rights and obligations of lawyers, notaries and persons engaged in business activities relating to the provision of legal or accounting services are set out in article 7.1 of the Money-Laundering and Terrorist Financing Act.

The Money-Laundering and Terrorist Financing Act requires supervised entities to apply a risk-based approach to customer due diligence and beneficial owner identification. A national money-laundering risk assessment and a plan of action to minimize identified risks were adopted in 2018. Supervisory authorities also carry out verification activities and monitor compliance taking risks into account.

The competent body for combating money-laundering and the financing of terrorism was established by Presidential Decree No. 314 of 9 March 2004. Matters relating to the activities of Rosfinmonitoring are governed by Presidential Decree No. 808 of 13 June 2012, according to which Rosfinmonitoring is the federal executive body responsible for countering money-laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction; for legal regulation and the development of State policy in that area; for coordinating the relevant activities of the federal executive authorities and other State bodies and entities; for acting as a national centre for assessing national security threats arising from transactions involving money or other property; and for developing measures to counter those threats.

Pursuant to article 10 of the Money-Laundering and Terrorist Financing Act, State authorities engaged in activities to combat money-laundering and the financing of terrorism cooperate with the competent authorities of foreign States in accordance with the international treaties to which the Russian Federation is party at the stages of information gathering, preliminary investigation, court proceedings and enforcement of court decisions. The relevant bodies provide current information to the competent foreign authorities upon the request of the latter or on their own initiative, as provided for in international treaties or on the basis of the principle of reciprocity.

Bilateral agreements concluded by Rosfinmonitoring with foreign financial intelligence units in accordance with Government Order No. 1922 provide for cooperation, including information exchange, at the stages of collecting, processing and analysing information on operations suspected of being related to money-laundering or the financing of terrorism and related criminal activities, including corruption offences. They also provide for cooperation in the exchange of information relating to the activities of natural and legal persons involved in those operations.

The cross-border movement of cash and (or) monetary instruments is regulated by the provisions of the Customs Code of the Eurasian Economic Union and the Treaty on Countering Money-Laundering and the Financing of Terrorism in Relation to the Movement of Cash and (or) Monetary Instruments across the Customs Border of the Customs Union. In accordance with the Customs Code of the Eurasian Economic Union, cash and (or) traveller's cheques are subject to customs declaration if the total amount of such cash and (or) traveller's cheques upon their simultaneous import into the customs territory of the Eurasian Economic Union or simultaneous export from the customs territory of the Eurasian Economic Union by a natural person exceeds a sum equivalent to \$10,000 at the exchange rate in effect on the day the passenger's customs declaration is submitted to the customs authority; monetary instruments (other than traveller's cheques) are also subject to customs declaration, regardless of the sum concerned. Russian legislation establishes criminal liability for the smuggling

of cash and (or) monetary instruments (art. 200.1 of the Criminal Code) and administrative liability for failure by a natural person to declare, or the submission by a natural person of a false declaration in respect of, cash and (or) monetary instruments (art. 16.4 of the Code of Administrative Offences). In February 2020, Decision No. 130 of 6 August 2019 of the Board of the Eurasian Economic Commission, on the submission of documents confirming the origin of cash and (or) monetary instruments, entered into force, establishing that the passenger's customs declaration must be accompanied by documents confirming the origin of the cash and (or) monetary instruments concerned if the total amount of such cash and (or) monetary instruments upon their simultaneous import into the customs territory of the Eurasian Economic Union or simultaneous export from the customs territory of the Eurasian Economic Union exceeds a sum equivalent to \$100,000 at the exchange rate in effect on the day of the passenger's customs declaration is submitted to the customs authority.

The Russian Federation participates actively in global, regional, subregional and bilateral mechanisms for cooperation in countering money-laundering, including FATF, the Eurasian Group on Combating Money Laundering and Financing of Terrorism, the Council of Europe Committee of Experts on the Evaluation of Anti-Money-Laundering Measures and the Financing of Terrorism (MONEYVAL), the Egmont Group and the Council of Heads of Financial Intelligence Units of the States Members of the Commonwealth of Independent States. The Russian Federation has been assessed as part of the fourth round of FATF mutual evaluations, the fifth round of MONEYVAL mutual evaluations and the second round of evaluations conducted by the Eurasian Group on Combating Money Laundering and Financing of Terrorism. The fourth-round FATF mutual evaluation report on the Russian system for countering money-laundering and the financing of terrorism was approved in October 2019.

Rosfinmonitoring has concluded more than 100 inter-agency agreements on cooperation and information exchange with foreign financial intelligence units. The Central Bank has concluded more than 30 bilateral memorandums of understanding relating to banking supervision, those instruments including provisions on cooperation and information exchange in relation to money-laundering and the financing of terrorism, and has also concluded special memorandums on cooperation in countering money-laundering and the financing of terrorism.

2.2. Successes and good practices

- A coordinated system of bodies involved in combating corruption: this system makes it possible to monitor and coordinate the implementation of national anti-corruption policies, which are developed in consultation with various stakeholders, including civil society organizations, academic institutions and other non-governmental organizations (art. 5 (1))
- Specific regulations and guidance for employers on how to deal with reports of corruption made by employees, including guidelines on the requirements for employers to provide protection for reporting persons if necessary (art. 8 (4))
- An electronic procurement system that facilitates the online submission of tenders, the selection of contractors and the exchange of documents between participants in procurement proceedings (art. 9 (1))
- A comprehensive plan of awareness-raising activities aimed at promoting non-tolerance of corruption and increasing the effectiveness of anti-corruption education, approved by Government Order No. 2884 of 21 December 2018 and covering the period 2019–2020

2.3. Challenges in implementation

It is recommended that the authorities of the Russian Federation:

- Within the framework of the measures taken to raise the awareness of civil servants, judges and prosecutors with regard to the applicable rules and regulations for identifying, preventing and resolving conflicts of interest (arts. 7 and 11), continue efforts to raise awareness among public officials in those categories, including through their systematic training and the preparation of surveys of practice and guidance containing practical examples of potential conflict-of-interest situations and how such conflicts might be resolved
- Continue to prioritize the prevention of corruption in the private sector and in State-owned enterprises (art. 12)

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

Mutual legal assistance in criminal matters, including for the purposes of asset recovery, is provided on the basis of bilateral and multilateral treaties, including the Convention, or on the basis of the principle of reciprocity (art. 473.1 of the Code of Criminal Procedure, in conjunction with art. 453 of the Code). Dual criminality is a requirement for coercive action, such as search and seizure of property and the confiscation of proceeds of criminal activities.

The Russian Federation is a party to a number of bilateral and multilateral treaties and agreements on judicial and legal cooperation that can be used in the context of asset recovery. In paragraph 8 of Act No. 40 ratifying the United Nations Convention against Corruption, the Russian Federation declared, in accordance with article 55 (6) of the Convention, that it would consider the Convention, on the basis of reciprocity, as the necessary and sufficient treaty basis for taking the measures provided for in paragraphs 1 and 2 of article 55 of the Convention.

Special cooperation is carried out primarily in accordance with article 10 of the Money-Laundering and Terrorist Financing Act by Rosfinmonitoring, through inter-agency agreements on cooperation and information exchange with foreign financial intelligence units and through INTERPOL.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

Exceptions to the requirements established in respect of customer due diligence and beneficial owner identification are set out in article 7 (paras. 1.1, 1.2, 1.4, 1.4-1, 1.4-2, 1.4-3, 1.4-4, 1.4-6 and 1.14) of the Money-Laundering and Terrorist Financing Act and are associated with low money-laundering and terrorist financing risks on account of the sums involved and the circumstances in which the transactions referred to are carried out. If financial institutions suspect money-laundering, those exceptions do not apply. Furthermore, in accordance with article 7 (1) (2) of the Money-Laundering and Terrorist Financing Act, beneficial owner identification, including the storage and updating of information on such persons, is not required in the case of customers in respect of which beneficial owner information is publicly available or the existence of a beneficial owner is impossible for objective reasons, including trusts and similar legal entities. The only case in which the beneficial owners of unincorporated foreign entities are not identified is if the organizational form of such entities does not provide for the existence of a beneficial owner.

With regard to politically exposed persons, financial institutions are required to take the following measures:

(a) Introduce risk management systems that make it possible to take reasonable and feasible measures to determine whether a new or existing customer is a domestic or foreign politically exposed person (art. 7.3 (1) (1) of the Money-Laundering and Terrorist Financing Act; section 3.2, subparagraphs 1 and 6, of Regulation No. 375 for credit institutions; and section 3.2, subparagraphs 1 and 5, of Regulation No. 445 for non-credit financial institutions).

(b) Obtain the approval of senior management before providing services to foreign public officials, in accordance with article 7.3 (1) (2) of the Money-Laundering and Terrorist Financing Act. The guidelines issued by Rosfinmonitoring on the identification of politically exposed persons provide clarification on this point and explain that the same requirement applies to officials of public international organizations and to domestic politically exposed persons if the financial transactions of such customers have been assigned a high level of risk of money-laundering or terrorist financing as applicable to such transactions.

(c) Take such measures as are reasonable and feasible in the circumstances to identify the sources of money or other assets of foreign public officials, in accordance with article 7.3 (1) (3) of the Money-Laundering and Terrorist Financing Act. Financial institutions are also required to regularly update available information on the foreign public officials that they serve, in accordance with article 7.3 (1) (4) of the Money-Laundering and Terrorist Financing Act.

(d) Pay particular attention to transactions carried out by foreign public officials, including their close relatives, in accordance with article 7.3 (1) (5) of the Money-Laundering and Terrorist Financing Act.

Article 7.3 (4) of the Money-Laundering and Terrorist Financing Act establishes that the inclusion of a person in the category of foreign politically exposed persons is determined in conformity with the recommendations of FATF. The range of domestic politically exposed persons is defined in article 7.3 (1) (1) of the Money-Laundering and Terrorist Financing Act.

With respect to the regulations governing politically exposed persons, it should be noted that the requirements do not explicitly cover close associates of politically exposed persons.

With regard to electronic (wire) transfers of funds, complete information on the originator is required under article 7.2 of the Money-Laundering and Terrorist Financing Act. The Act stipulates that any incoming electronic transfer that lacks or contains incomplete information on the originator must be refused. If information on the originator is not provided, and employees of the credit institution where the recipient holds a bank account suspect that the transaction is being carried out for the purpose of money-laundering or the financing of terrorism, the credit institution must send a suspicious transaction report to the competent body.

The Central Bank and Rosfinmonitoring have issued recommendations drawing the attention of financial institutions to persons, accounts and transactions in relation to which enhanced due diligence is required, such as politically exposed persons and cash transactions, and to related record-keeping measures and procedures that must be complied with. For example, the Money-Laundering and Terrorist Financing Act requires the Central Bank to communicate to supervised entities information received from Rosfinmonitoring with regard to cases in which supervised entities have refused to carry out customer transactions or conclude bank account (deposit) agreements and cases in which such agreements have been terminated on the grounds provided for by the Act. The Central Bank has also issued guidelines on working with high-risk customers (for example, Guidance Note No. 35 and Guidance Note No. 4). The Central Bank regularly provides supervised entities with information on money-laundering and terrorist financing risks, new schemes and supervised entities' customers involved in suspicious transactions the intended purposes of which may be

money-laundering, the financing of terrorism or the commission of other offences. The attention of supervised entities is drawn to the need to make adjustments to existing systems for monitoring compliance with requirements for combating money-laundering and terrorist financing in order to detect and prevent suspicious transactions more effectively (for example, Central Bank Guidance Note No. 10).

Records concerning accounts and transactions, including information required for customer and beneficial owner identification, must be stored for at least five years from the date on which a client relationship is terminated or an occasional transaction is carried out (such transactions include one-time transactions).

Article 1 of the Act on Banks and Banking Activities provides that credit institutions must be legal entities registered in accordance with the legislation of the Russian Federation. Article 7 (5) of the Money-Laundering and Terrorist Financing Act prohibits Russian credit institutions from establishing and maintaining correspondent relationships with shell banks. According to article 7 (5.1) of the Money-Laundering and Terrorist Financing Act, Russian credit institutions are also required to take appropriate measures to ensure that they do not establish relationships with foreign respondent financial institutions that permit their accounts to be used by shell banks.

For information on financial disclosure systems for public officials, see above with regard to article 8 (5).

In accordance with article 12 (2) of Act No. 173 on currency regulation and currency control, as a general rule, all residents are required to notify the tax authorities if they open or close an account with a bank located outside the Russian Federation or if their foreign bank account details change, except in the cases specified in article 12 (8).

Furthermore, in accordance with Federal Act No. 79 on the prohibition of certain categories of persons from opening and holding accounts (deposits) and keeping cash and valuables in foreign banks located outside the territory of the Russian Federation and from owning and/or using foreign financial instruments, certain categories of employees, together with their spouses and minor children, are prohibited from opening and holding accounts, keeping money and valuables in foreign banks and owning and/or using foreign financial instruments. Russian prosecutors carry out checks to verify compliance with that Act.

Pursuant to article 5 (6.1) of Federal Act No. 273 of 25 December 2008 on countering corruption, which entered into force on 6 August 2019, the Prosecutor General's Office of the Russian Federation, in the cases provided for by federal laws, cooperates with the competent authorities of foreign States when authorized officials of State bodies, local government bodies and entities carry out checks to verify compliance with the restrictions, prohibitions and requirements established to counter corruption.

Under the same Act, the Prosecutor General's Office of the Russian Federation is the only body authorized to arrange for the transmission to the competent authorities of foreign States of international requests for the purpose of verifying compliance with anti-corruption restrictions, prohibitions and requirements once an authorized official has issued a decision, in accordance with the established procedure, to the effect that such verification should be carried out.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Foreign States have the right to initiate civil action in their courts to establish ownership or possession of property. The key provisions in that regard are article 17 of Federal Act No. 297 on jurisdictional immunities of foreign States and their property in the Russian Federation and article 417.1 of the Code of Civil Procedure, which establishes that civil cases involving a foreign State are examined in accordance with the general rules governing judicial proceedings.

The right of foreign interested persons¹ to file a claim in a national court enables Russian courts to decide on the return of property to foreign interested persons who are the legitimate owners of that property. In the case of damage caused by an offence, a foreign interested person may become a party to criminal proceedings as victim (article 42 of the Code of Criminal Procedure) or civil plaintiff (article 44 of the Code of Criminal Procedure) and file a claim for damages; such persons may also apply for recognition as the legitimate owner of property acquired as the result of an offence.

Article 442 of the Code of Civil Procedure states that foreign interested persons have the right to apply to a court for the release of property in the event that a Russian court, in criminal proceedings, decides to confiscate the property of a convicted person.

Chapter 55.1 of the Code of Criminal Procedure establishes the procedure for recognizing and enforcing decisions and orders issued by the courts of foreign States with regard to the confiscation of proceeds of crime located in the territory of the Russian Federation. The chapter sets out a list of requirements that a request made by a competent foreign authority must satisfy, including the documents that should be attached to the request. Requests are received by the Ministry of Justice and subsequently transmitted to the appropriate court for consideration (art. 473.3 of the Code of Criminal Procedure). Article 473.4 of the Code of Criminal Procedure defines the procedure for holding hearings. Requests are considered by the judge in open court, notice thereof being given to the person whose property is the subject of the confiscation order or decision issued abroad and to other interested persons, the competent foreign authority and the prosecutor. Article 473.5 of the Code of Criminal Procedure establishes an exhaustive list of grounds for refusal to recognize and enforce a decision or order of a foreign court, including the evidence that must be submitted. In all other cases, the court decides whether or not to recognize and enforce a decision or order relating to the confiscation of proceeds of crime (art. 473.6 of the Code of Criminal Procedure).

According to article 104.1 of the Criminal Code, confiscation is the seizure of assets without compensation, seized assets becoming the property of the State in the event of a conviction. Thus, property is confiscated on the basis of a court decision (sentence) handed down in criminal proceedings. Although proceeds of certain corruption offences (for example, unlawful participation in a business activity (art. 289), bribe-giving (art. 291) and intermediation in bribery (art. 291.1)) are not subject to mandatory confiscation under article 104.1 of the Criminal Code, means, equipment and other instrumentalities used to commit such offences may be confiscated on the basis of a court decision in criminal cases in accordance with article 81 (3) (1) of the Code of Criminal Procedure and paragraph 2 of Decision No. 17 of the plenum of the Supreme Court.

With respect to the confiscation of proceeds of offences committed abroad in cases where such proceeds are located in the Russian Federation, there is no requirement in articles 174, 174.1 or 175 of the Criminal Code that the offence must necessarily have been committed in the territory of the Russian Federation or that, where the offence has been committed abroad, it must constitute an offence in both countries. However, the provisions of the Criminal Code and the Code of Criminal Procedure do not specifically refer to proceeds of offences committed abroad.

¹ According to article 2 of Federal Act No. 297 on jurisdictional immunities of foreign States and their property in the Russian Federation, "foreign State" includes: (a) a State other than the Russian Federation, and its State authorities; (b) constituent parts of such a foreign State (constituent entities of a foreign federative State or administrative divisions of a foreign State) and their authorities to the extent that the latter are authorized to perform actions for the purpose of exercising the sovereign power of the foreign State and that they act in that capacity; (c) institutions or other entities, regardless of whether they are legal persons, to the extent that they are authorized to perform, and in practice perform, actions for the purpose of exercising the sovereign power of the foreign State in question.

Confiscation under the Criminal Code is conviction-based. However, if the property concerned is declared to constitute material evidence (art. 81 (3.1) of the Code of Criminal Procedure), it may be confiscated on the basis of a decision made by an investigator or court to terminate the criminal proceedings (including in the event of the death of the accused or for other reasons). However, in the absence of a conviction, means, equipment or other instrumentalities used to commit an offence may be seized.

Pursuant to Decision No. 17 of 14 June 2018 of the plenum of the Supreme Court, paragraph 13, if the court terminates criminal proceedings because charges have not been pressed, a decision may be taken to confiscate money, valuables and other property not constituting means, equipment or other instrumentalities used to commit the offence, as referred to in article 104.1, subparagraphs 1 (a) to (c), of the Criminal Code.

With regard to requests to seize property on the basis of an order issued by a court or competent authority of a foreign State, or on the basis of a request made by a foreign State, article 457 of the Code of Criminal Procedure states that the court, the prosecutor, the investigator and the head of the investigative body shall execute, in accordance with the established procedure, requests for procedural actions submitted by the relevant competent authorities and officials of foreign States. When considering a seizure request, a Russian court may decide to seize the property with a view to its possible confiscation in the absence of a decision or order issued by a foreign court, provided that there is sufficient evidence. A decision to seize property for the purpose of possible confiscation also provides that the investigator, subject to the consent of the head of the investigative body or the prosecutor, may apply to the court for seizure of the property. When deciding to seize property, the court must indicate the specific, factual circumstances on the basis of which it has made its decision and establish restrictions applying to the possession, use and disposal of the seized property. Furthermore, under Russian legislation, property may be seized not only for the purpose of confiscation but also to secure enforcement in respect of a civil claim or to levy a fine or other property-related penalty.

The procedure for storing and preserving the integrity of evidence and seized property (including perishable and other types of evidence) is set out in article 82 of the Code of Criminal Procedure. Article 115 of the Code of Criminal Procedure establishes that property may be seized or transferred, at the discretion of the person who effected the seizure, for storage to the owner or holder of the property or to any other person; the person to whom the property is transferred must be informed of the transfer in advance and must bear responsibility for the safety of the property, that information being recorded in the case file. With respect to seized money and other valuables held in an account, deposited with or in the custody of a credit institution, and for the purposes of preserving the integrity of money and funds, special rules and procedures apply. Additional protective measures indicated in a request may be given due consideration.

Although a request for confiscation of property should, in principle, be accompanied by a decision or order of a foreign court providing for confiscation and by a copy of the sentence (art. 473.2 (3) and art. 473.5 (3) of the Code of Criminal Procedure), the Russian Federation may consider a request made by a foreign authority to confiscate property in the absence of such a decision or order if there is sufficient evidence for a Russian court that is considering the possibility of conducting an investigation to make a decision to seize the property with a view to its possible confiscation.

Article 454 of the Code of Criminal Procedure sets out the content and form of requests. Additional requirements governing requests for the seizure of property for subsequent confiscation are set out in the Asset Recovery Guide.

The law does not provide for the refusal of requests on the ground that the property concerned is considered to be of *de minimis* value.

The Russian competent authorities consult with requesting States as a matter of practice wherever possible before lifting any provisional measures.

The rights of bona fide third parties are protected under article 473.4 of the Code of Criminal Procedure and article 442 of the Code of Civil Procedure.

Return and disposal of assets (art. 57)

Confiscated property is disposed of on the basis of a court ruling, including through the enforcement of foreign decisions on confiscation in accordance with article 473.6 of the Code of Criminal Procedure.

As stated in the Asset Recovery Guide, “assets shall be returned to the initiator of the request in accordance with applicable Russian Federation law.” According to article 104.3 of the Criminal Code, in the consideration of matters concerning the confiscation of property, the matter of compensation for damage caused to the lawful owner should be resolved first. If the offender has no property that can be confiscated other than property of the kind referred to in article 104.1, paragraphs 1 and 2, of the Criminal Code, the damage caused to the lawful owner is compensated from the value of that property and the remaining value is converted into State revenue.

The matter of costs is dealt with in accordance with the applicable treaties, which take precedence over any legislative instruments that otherwise provide for the reimbursement of court costs and expenses relating to the performance of enforcement actions. The Asset Recovery Guide states that “assets may be returned either in full or in part in due consideration, inter alia, of the possible need to reimburse the competent authorities of the Russian Federation for related expenses.”

The conclusion of agreements and arrangements for the final disposal of confiscated property between States is not prohibited by Russian law, but there is no practice of concluding such agreements or arrangements.

3.2. Successes and good practices

- The Russian Federation actively contributes to the development and strengthening of regional and international cooperation in combating money-laundering, in particular through its active participation in FATF, the Eurasian Group on Combating Money Laundering and Financing of Terrorism and the Egmont Group (art. 52)
- Explicit regulation of the participation of foreign States in civil proceedings (art. 53)

3.3. Challenges in implementation

It is recommended that the authorities of the Russian Federation:

- Continue to collaborate actively with reporting entities with regard to the identification of domestic and foreign politically exposed persons and their close associates and family members (art. 52 (1))
- Consider updating the Asset Recovery Guide in order to provide requesting States with current and precise information on asset recovery requirements to (art. 55 (3))
- Adopt legislative and other appropriate measures to ensure that confiscated property is returned to the requesting State party in accordance with article 57 (3) of the Convention, and consider including in the Asset Recovery Guide a reference to the binding nature of the requirements set out in article 57 (art. 57 (3))
- Consider regulating costs arising from asset recovery proceedings in accordance with article 57 (4) of the Convention