

E-Money, Payments and Russia's New Payment System Law

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Many Moscow Times readers are likely to recall a time, only 10 to 15 years ago, when ordinary

bank cards were trendsetting status symbols, brandished by a select few, primarily foreigners in major cities. Yet few, even "up to date," expats are aware of a current phenomenon of the financial world that is likely to revolutionize payments in a similar way: e-money.

Banks and payment system and terminal operators have had to fit their systems and processes within the overall framework of the Civil Code, which does not fully cover the developments taking place, and it has become quite clear to lawyers, businesspeople and ordinary consumers that a regulatory environment needs to be established guaranteeing the uninterrupted functioning of the payment system and protecting the rights of those making payments (against unsanctioned operations on accounts, data transfer security, etc.).

Only in June this year did President Dmitry Medvedev sign Federal Law No. 161-FZ "On the national payment system" (the Law), which addresses legal regulation of e-money, Internet and mobile phone payments.

The Law, which comes into effect Sept. 29, 2011, defines a "payment system"; establishes requirements for the organization, infrastructure and functioning of such a system; identifies participants in the payment system, requirements on their activities, products provided thereby (in particular, "e-money" and "electronic payment means") and the procedure for exercising supervision and monitoring within the national payment system. We consider some of the given provisions of the Law in more detail below.

E-money and payments

The Law makes e-money officially and legally a new form of non-cash settlement performed exclusively by credit institutions (e-money operators) on the instructions of their individual or legal entity clients.

E-money usage has specific characteristics worth mentioning:

1. E-money is always a prepaid product;
2. Use of e-money involves use of electronic means of payment (cards, e-wallets, payment chips) — hardware and software allowing the owner of the e-money to instruct the e-money operator on their use;
3. It is prohibited for an e-money operator to pay interest on a client's account balance. This requirement accounts for the difference between credit institutions acting as e-money operators and traditional e-money — it is not permitted to use e-money to draw deposits.

The Law also lays the foundations for regulating mobile payments: funds in the subscriber's account with the mobile operator may be transferred to an e-money account in a given payment system and used to pay for goods and services. Current software allows these operations to be performed in seconds, and this opens up a broad scope for e-commerce: development of near-field communications, mobile banking, development of cash-desk-free stores, etc.

Use of E-money by legal entities AND INDIVIDUALS

The Law allows both individuals and legal entities to remit e-money. With regard to legal

entities, the Law stipulates that, when forming an e-wallet, the legal entity "links" it to an existing bank account, so it cannot replenish so-called "corporate payment means" with cash, and funds may be provided only via a bank account. E-money payments may be made by legal entities exclusively to individuals who provide information, allowing these individuals to be definitively identified. To avoid abuse and potential money laundering, the Law does not envisage payments between legal entities in e-money. It should be remembered that if a legal entity's e-money balance exceeds 100,000 rubles (or the equivalent in another currency), the e-money operator is required to transfer the excess funds to the legal entity's bank account, meaning an automatic mechanism is envisaged for transferring e-money into the account currency.

Individuals are entitled to make or receive e-money payments provided that funds for non-identified means of payment (i.e., those not requiring payer identification) do not exceed 15,000 rubles and that the total operations using it do not exceed 40,000 rubles a month.

If the payer is identified (personified payment), the balance limit rises to 100,000 rubles and there is no monthly payment limit. These requirements were introduced to bring the given Law in line with anti-money laundering legislation, but it is not quite clear what prevents a person from performing a range of small operations using several non-identified electronic means of payment (such as Internet wallets of a single payment system, registered on different accounts/e-mail addresses).

Where do we go from here?

Even though the Law has not yet come into effect, some payment market participants have already reacted to its passing. Unfortunately, the reaction has been mostly negative. In particular, the biggest Russian social network, Vkontakte, has announced it is closing down its own payment system because of the substantial number of additional obligations (obtaining licenses, increasing authorized capital, etc.) imposed by the Law on the operator. This is illustrative, as until recently "pocket" payment systems were set up as supplementary services bringing in minor profits. We see that the passing of the Law will greatly increase the cost of maintaining such a payment system, meaning that some companies will cease providing this service and effectively shrinking the market.

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