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Russia Accelerates Legislation to Avoid Fines as FATCA Talks Stall

By Peter Hobson

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FATCA will take effect on July 1, and the U.S. has been concluding intergovernmental agreements with states worldwide in the run-up to its implementation.

The Finance Ministry is drawing up legislation allowing Russian banks to give information about their clients to foreign tax authorities, after U.S. stonewalling halted bilateral negotiations on a financial information sharing agreement.

At the same time, the ministry intends to oblige foreign banks to report similar information to the Russian tax service, Vedomosti reported Wednesday, citing sources in the ministry.

The proposals were prompted by the breakdown of talks over FATCA, a U.S. law that seeks to crack down on tax avoidance by obliging foreign banks to provide information about the bank accounts of U.S. citizens to the U.S. taxman, threatening penalties for noncompliance.

FATCA will take effect on July 1, and the U.S. has been concluding intergovernmental agreements with states worldwide in the run-up to its implementation. But as U.S.-Russia relations tanked in the aftermath of Russia's annexation of Crimea from Ukraine in March, the U.S. halted active negotiations with Russia.

The stalled deal would have allowed the Russian tax service to transfer information to the U.S. authorities. Finance Minister Anton Siluanov plans to discuss FATCA during a meeting of the Group of 20 in Washington from April 10 to 11, but his ministry, wary of the approaching deadline, wants to introduce amendments to the civil code and laws on bank secrecy and use of personal data to allow Russian banks to cooperate with the U.S. authorities on their own.

Currently, banks are not legally permitted to share information about their clients with foreign tax authorities.

The Finance Ministry expects the legislation to be approved in the spring session of the State Duma.

By giving Russian banks the tools to comply with FATCA, the Finance Ministry is enabling them to avoid the penalties of noncompliance. If any bank misses the July deadline to conclude an agreement with the U.S. tax authorities, the U.S. will block 30 percent of any payments made to the bank by U.S.-based entities.

At the same time, the Finance Ministry is drafting an analogous law that would oblige foreign banks to share information about Russian account holders. This initiative would also require intergovernmental agreements, but it is not clear whether Moscow will have a similar ability to bludgeon foreign institutions into complying. The Americans are acting from a position of strength, as a levy on dollar transactions would be a blow to any bank, said Alexander Zakharov of legal firm Paragon Advice Group. But Russia does not have such a trump card, he added.

The new law may also not be implemented quickly. "We are not expecting a rapid effect. Our requirements to foreign banks are a way of preserving political face," a government official said.

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