

Russia Races to Dodge Sanctions by Adapting Law to FATCA

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IRS headquarters in Washington D.C. The IRS is planning to use FATCA to crackdown on global tax evasion.

Russia is in a race against time to adapt its laws to the U.S. Foreign Account Tax Compliance Act, or FATCA, and save its banks from financial sanctions.

Legislation allowing Russian financial institutions to share information about their U.S. clients with the U.S. tax service, the IRS, was submitted to the State Duma on Wednesday, but has no hope of being passed before FATCA comes into force on July 1, Kommersant reported.

Realizing this, legislators have resorted to creative law-making, pinning a package of stopgap measures to unrelated legislation due to be passed by the parliament on Friday. But this has not been enough to soothe bankers' nerves, and they have appealed to the Central Bank for clarity.

FATCA is part of a U.S. crackdown on tax avoidance, signed into law in 2010, that requires financial institutions worldwide to share information on the accounts and transactions of U.S. taxpayers with the IRS and act as tax agents, withholding money on the IRS's behalf. Banks must register with the IRS by May 5, and the law comes into force on July 1. After that date, Washington will block 30 percent of payments made to noncompliant financial institutions by U.S. entities.

A bilateral agreement between Russia and the U.S. was supposed to create a compliance mechanism, but the U.S. quit the negotiating table soon after Russia's annexation of Crimea from Ukraine in March.

The legislation submitted to the Duma on Wednesday would allow not just banks, but financial institutions including brokers, depositaries, insurers, investment funds and pension funds to pass information to the U.S. tax service, and give them the right to refuse clients who do not provide adequate personal information.

However, the law will not give banks the right to withhold funds on behalf of the IRS. Last week, Kommersant reported that banks would be permitted to farm out that responsibility to foreign intermediaries.

The stopgap measures attached to the legislation to be passed on Friday are narrower, allowing banks only to reject clients that refuse to provide adequate personal information. They do not allow banks to share information or withhold taxes.

Bankers are anxious about the approaching deadline. On Wednesday, the National Financial Market Council sent a letter to the head of the Central Bank, Elvira Nabiullina, asking for the regulator to clarify its position on allowing Russian financial organizations to register with the IRS. The timing of the legislation is unclear, the council said, and the measures set to pass on Friday provide only a partial solution.

"One law is not enough," said the council's vice president Alexander Naumov. "A comprehensive decision needs to be taken on the status of Russian banks and their registration with the IRS."

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