

## Client Alert

November 26, 2014

### Bank of Russia Has for the First Time Published Marginal Values of Full Cost of Payday Loans

On November 14, 2014, the Bank of Russia has for the first time published information on the weighted average of full cost of consumer loans calculated for the period from September 1 to September 30, 2014 and the marginal values of full cost of consumer loans (borrowings) (the “**FCLs**”). The FCLs shall apply, inter alia, to all microfinance (payday) loans, offered by microfinance organizations (the “**MFO**”) to individuals in 2015 Q1.

Publication of the weighted averages and the marginal values of the FCLs has been made on the authority granted to the Bank of Russia by paragraph 11 of article 6 of Federal Law N 353-FZ “On Consumer Loans (Borrowings)” of December 21, 2013 (the “**Law on Consumer Loans**”). In accordance with the Law on Consumer Loans, the FCL of a microfinance loan (as of the date of relevant loan agreement) is not permitted to exceed the weighted average of the FCL for the corresponding category of loans as calculated by the Bank of Russia applicable in the relevant calendar quarter by more than one third of the relevant weighted average. This is to say that when offering microfinance loans and establishing applicable interest rates and other fees on such loans, the MFO shall be required to take into account the FCL corresponding to the relevant category of microfinance loans as published by the Bank of Russia.

A breach of this requirement may result in a number of supervisory measures being applied to a non-compliant lender. In accordance with article 7 of Federal Law N 151-FZ “On Microfinance Activity and Microfinance Organizations” of July 2, 2010 (the “**Law on MFO**”), breach by an MFO of the Law on MFO or enactments of the Bank of Russia may result in the removal of the non-compliant MFO from the state register of MFOs. As a matter of Russian law, enactments of the Bank of Russia include directives, regulations and instructions. However, according to the website of the Bank of Russia, the FCLs are published as analytical and information material and are not made in the form of directive, regulation or instruction.

It is not yet clear whether in practice the Bank of Russia will seek to address violations of the requirement to comply with marginal value FCL limits by removing non-compliant MFOs from the state register of MFOs. MFOs should be aware that any microfinance loan agreements made in breach of the requirement to comply with FCL limits, may be treated as being in breach of the Law on Consumer Loans, and as such may be void to the extent that they do not comply with the Law on Consumer Loans.

## Contact Information

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