

The Russian Ministry of Digital Development, Communications and the Mass Media is proposing to amend the accreditation rules for IT companies

FAO heads and employees of companies that have been or are intending to be included in the Register of accredited IT companies

Pepeliaev Group advises about the planned amendments in the Regulations on the state accreditation of companies engaged in the field of IT.¹

The amendments will concern the following:

- restrictions will be introduced on companies that are under foreign control obtaining accreditation;
- the list will be expanded of the types of activity in relation to which companies will be able to obtain accreditation, as will the list of persons who are entitled to obtain accreditation;
- major companies will be obliged to enter into education agreements;
- a register of small-sized startups will be created;
- a company will be required to indicate on its website its principal registration information and the types of its activity.

Restrictions on companies that are under foreign control obtaining accreditation

According to the planned amendments, Russian legal entities and/or Russian nationals should manage or control, directly or indirectly, more than 50% of the shares (membership interests) in a company's issued capital.

No company with a share of foreign control of 50% and over will be permitted to obtain accreditation.

¹ The Russian Government's Draft Resolution "On amending the Russian Government's Resolution No. 1729 "On approving the Regulations on the state accreditation of Russian business entities that are engaged in the field of information technologies" dated 30 September 2022", with the Draft ID being: 154642, <https://regulation.gov.ru/Regulation/Npa/PublicView?npaID=154642>.

As argued in the Executive Summary of the Draft Resolution², the aim of excluding companies under foreign control is to cut off measures of support that are being granted to them.

For active participants with 50% of foreign control and over, this will serve as the ground for the accreditation to be revoked.

The list is being expanded of the types of activity in relation to which companies will be able to obtain accreditation, as is the list of persons who are entitled to obtain accreditation

It is anticipated that accreditation will become available to companies that carry out activity in the field of:

- quantum communications and
- information security.

It has been proposed that the following be added to the range of persons that are entitled to obtain accreditation:

- business entities that carry out activity in the field of information security and in which the Russian Federation or a constituent entity of it holds, directly and/or indirectly, over 50% of the ownership interest. The revenues from the above activity should account for at least 70% of the annual income.
- telecom carriers that hold a significant position on the market, provided that their revenues from communications services account for at least 70% of the annual income.

We note specifically that the right to obtain accreditation does not apply to those telecom carriers that provide data communications services for the purposes of transmitting voice data or communication services for the purposes of cable broadcasting and telematic communications services.

Obliging major companies to enter into education agreements

Major accredited companies that apply benefits will be obliged to enter into agreements with universities to jointly develop training programmes for future IT specialists. In this context, a major company is understood to mean a company whose income exceeds RUB 1 billion and that employs at least 100 people.

The budget of such training projects should be at least 5% of the funds that were saved owing to the reduced tax rates being applied.

Creating a register of small-sized startups

² The Executive Summary regarding the assessment of the regulatory effect of the Russian Government's Draft Resolution "On amending the Russian Government's Resolution No. 1729 dated 30 September 2022".

The Ministry of Digital Development, Communications and the Mass Media will create a national register of startups to include business entities whose revenues are lower than RUB 1 million and that were established not more than 3 years before an application has been filed for the accreditation to be obtained.

Such startups will be entitled to obtain accreditation irrespective of whether they meet the requirement of a 30% minimum share of revenues from IT-related activities. Moreover, no scheduled or non-scheduled audits will be conducted in relation to the above startups to verify their accreditation.

A company will be required to indicate its principal registration information and the types of its activity on its website

The Draft Resolution clarifies that the website of a company that has obtained or is planning to obtain accreditation should state such information as the company's name, legal and actual addresses, the taxpayer's identification number, the principal code from the All-Russian Classifier of Economic Activity (known by the Russian abbreviation 'OKVED'), contact details and information concerning the types of IT activity according to the Order of the Ministry of Digital Development, Communications and the Mass Media regarding the list of IT activities.³

What to think about and what to do

In connection with the anticipated amendments to the accreditation rules for IT companies, we recommend that companies consider the risks of an accreditation being revoked or not being obtained owing to foreign control over the company being at 50% or more, or if a major company does not enter into an education agreement.

Since the list of companies that are entitled to obtain accreditation is expanding, a company's activity should be analysed from the perspective of whether the company can be included in the Register of IT companies.

Help from your adviser

Pepeliaev Group's specialists have extensive experience of providing legal advice to IT companies, including with regard to matters of whether accreditation can be obtained and the IT benefits can be applied.

We are ready to provide comprehensive legal support to companies by determining risks in connection with the amendments that are being made and also by preparing a legal position on contentious matters.

³ Order No. 449 of the Ministry of Digital Development, Communications and the Mass Media "On approving the list of types of activities in the field of information technologies" dated 11 May 2023.

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