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**Russia – New Type of  
Work Permit Introduced  
for Individuals from WTO  
Countries**

by KPMG, Russia (a KPMG  
International member firm)

## flash International Executive Alert

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A new Russian law<sup>1</sup> came into force on 10 January 2014, that creates a new category of foreign worker for immigration purposes: foreign individuals assigned to work in Russia by foreign commercial organizations that are registered in the territory of a World Trade Organization (WTO) member state.<sup>2</sup>

### Why This Matters

In order to mitigate the risk of penalties due to non-compliance, it is important to understand the recent changes to Russia's immigration rules in light of the country's accession to the WTO.

Bringing foreign employees into Russia who will work for a foreign commercial organization of a WTO member state could be, in certain circumstances, an easier process than bringing a foreign employee into Russia under the normal work permit procedures.

However, bringing foreign employees into Russia under the new WTO-related provisions in Russia's immigration law means that these employees, under certain conditions, will be subject to coverage under the Russian Pension Fund rules. This could mean higher international assignment costs for employers.

### New Law

The new Federal law "On changes into separate legislative decrees of the Russian Federation", added Article 13.5 to 115-FZ<sup>3</sup>. This article regulates the employment of foreign individuals assigned to Russia by foreign commercial organizations that are registered in the territory of a WTO member-state (hereinafter, "foreign employees" and "FCC") and assigned to:

- **FCC Representative Offices** – The law regulates persons assigned to representative offices of FCCs that are registered in the territory of a WTO member-state for the purpose of top management replacement, as well as replacement of personnel who coordinate representative office activities (including the head of the representative office). The FCC representative office is allowed to employ up to five foreign employees (for the banking sector, up to two foreign employees) but not exceeding the total number of employees as allowed by the "permission on accreditation" that was issued for this representative office.
- **FCC Branches or Russian Subsidiaries of FCCs** – The law regulates persons assigned as "key personnel" for the purposes of:
  - replacing the head of the branch or subsidiary of the FCC;

- replacing personnel in other positions on the condition that the foreign employee's annual salary is at least RUB 2,000,000 and he or she is highly qualified and/or has "uncommon knowledge" that (i) satisfies specified requirements of the Russian government and (ii) is essential for the branches and subsidiaries to provide their services.

Under the new rules, the key features of the work permit process for foreign employees are as follows:

- Employers in Russia do not need to ask for permission to employ an exact number of expatriates prior to their employment in Russia (known as "expat quota application process"<sup>4</sup>);
- Employers in Russia do not need to apply for the corporate permit to employ foreigners;
- Work permits for foreign employees are to be issued for the period of their assignment to the representative office, branch, or subsidiary of the FCC as per a decision of the FCC, but not for more than for three years;
- Foreign employees working in several regions of Russia can have one work permit covering all regions.

It is important to note that:

- the above work permits under Article 13.5 of 115-FZ are issued to foreign employees if they have been working with the FCC for at least one year prior to their Russian assignment;
- work permits are not issued if the services in which the foreign employees will take part are not in the list of services provided by the Russian Federation in regards to its membership of the WTO (and those work permits issued are annulled).

Although the law creating this new category of foreign employees entered into force on 10 January 2014, further detailed guidance on the application procedures/documents is still pending.

### **KPMG Note**

The hiring of foreign employees in Russia according to Article 13.5 of 115-FZ may serve as an alternative to hiring foreigners on the basis of a regular work permit.

Unlike highly-qualified specialists (whose employment is regulated by article 13.2. of 115-FZ), foreign employees are not excluded from the list of insured persons provided for in the Federal law "On compulsory pension insurance" dated 15.12.2001 N 167-FZ. Therefore, the FCC representative office, branch, or subsidiary making payments to foreign employees who are temporarily present in Russia with employment contracts valid for at least six months during one calendar year are obliged to contribute into the Russian Pension Fund on behalf of those employees.

*Footnotes:*

- 1 The Federal law "On changes into separate legislative decrees of the Russian Federation."
- 2 For the list of World Trade Organization member-states please follow this link: <http://www.wto.org> .
- 3 At the end of 2013, the Russian parliament had passed the Federal law "On ratification of Protocol about accession of the Russian Federation to Marrakesh Agreement Establishing the World Trade Organization dated 15 April 1994" dated 28 December 2013, No. 390-FZ, the law which approved Russia's accession to the WTO. This law amended the Federal law "On the legal status of foreign citizens in the Russian Federation" dated 25 July 2002, No. 115-FZ (hereinafter, "115-FZ").
- 4 Every employer is obliged to inform the local employment center about the number of expatriates it plans to employ in the coming year (few exceptions exist). The employment center then approves this, generally. This information is gathered by Russia's migration authority and before a new year begins, the authority issues information on how many expatriates may be employed in Russia and by a given region/employer in the next year ("quota").

Along with a work permit (document issued for an individual) there is a requirement for certain employers to have a corporate permit to employ expatriates (this document is issued for employers).

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For further information or assistance, please contact your local KPMG IES or People Services professional, or one of the following professionals with KPMG in Russia:

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The information contained in this newsletter was submitted by the KPMG International member firm in Russia. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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