

COVID-19: RECENT DEVELOPMENTS IN COMMERCIAL LEASES IN RUSSIA CLARIFICATION OF LEASE DEFERRAL

Further to our legal alert in respect of **State intervention in real estate lease agreements** (The previous legal alert can be found by [this link.](#)), we would like to inform you that the Russian government has clarified the conditions, timeline and requirements for deferrals in lease payments for a certain period of 2020¹.

A deferral applies (a) for lease contracts concluded before the introduction in 2020 of a high alert or emergency regime by the competent local authorities and (b) only with respect to tenants from an official list of economic sectors, mostly those heavily impacted by COVID-19. The list of such sectors has been approved by a Decree of the Russian Government² and include such industries, as: aviation, tourism, transportation, organization of conferences and exhibitions, hotels, etc.

The key provisions of this Decree of the Russian Government are as follows:

- 1) A deferral is possible for tenants of both public and private real estate, with the exception of residential premises;
- 2) The deferral is granted for a period up to October 1, 2020, starting from the date of the introduction of the high alert or emergency regime on the territory of the Russian Federation;
- 3) The conditions for the deferral are as follows:
 - ✓ lease indebtedness for the respective period shall be payable no earlier than January 1, 2021, and no later than January 1, 2023, no more than once in a month in equal instalments, the amount of which shall not exceed half from a monthly payment;
 - ✓ deferral is granted for the amount of lease payments related to the duration of the high alert regime or emergency on the territory of Russia and 50 percent of the lease from the date of the end of the relevant regime until October 1, 2020;
 - ✓ penalties and other liabilities (including those, provided for in the particular contract) in connection with the breach of the terms of deferred lease payments shall not apply;

¹ Decree of the Russian Government No. 439 dated April 3, 2020 "On establishment of the requirements of the conditions and terms of deferral of payment of lease under lease agreements"

² Decree of the Russian Government No. 434 dated April 3, 2020 "On approval of the list of sectors of the Russian economy that were most affected by the deteriorating situation as a result of the spread of a new coronavirus infection".

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- ✓ the landlord is not allowed to establish additional payments due to deferral of lease;
 - ✓ the parties may agree on a decrease in the amount of the lease which is subject to deferral;
 - ✓ utility payments and charges for maintenance of premises which are included in the lease payment under the general rule are not subject to deferral;
 - ✓ the parties may agree on other conditions of deferral which do not lead to deterioration of the conditions provided by the Government;
- 4) The landlords who provided deferral will be able to rely on state support measures with respect to payment of a property taxes for the period of deferral, however, the relevant measures have not yet been adopted.

Summarizing the above, it should be noted that the above support measures are relevant only for limited sectors which are affected by market disruption due to COVID-19 and are not applicable to most business entities active in Russia. We hope that similar support measures are being developed in respect of other sectors of the economy.

PETERKA & PARTNERS is following these measures closely and will keep you updated in case of any news. Please do not hesitate to contact our **COVID-19 Help desk** at: covidhelpdesk@peterkapartners.com.