



Association of
Institutional Investors (API)

STATE DUMA REJECTS DRAFT LAW ELIMINATING LOOPHOLES IN REGULATION OF MANDATORY OFFERS AND SQUEEZE-OUTS

On July 4, 2018, the State Duma rejected the draft law governing acquisitions of large blocks of shares in Russian joint-stock companies. The draft law was submitted by the Russian Government in 2016.

The key point of the draft law for investors was the closing of a huge loophole in the regulation of mandatory offers for the acquisition of shares in public joint-stock companies and mandatory squeeze-out procedures. Taking advantage of the imperfect law, investors acquiring large blocks of shares were able to sidestep the statutory obligation to acquire shares from other shareholders in various ways, or, on the contrary, artificially created opportunities for squeezing out the remaining shareholders buying their shares at a lower price and thus causing significant damage to the interests of such shareholders. The judicial practice based on this regulation made it virtually impossible for disadvantaged shareholders to protect their legitimate interests.

In view of the above, the Russian investment community took an active part in discussing the draft law provisions. For its part, the Bank of Russia prepared amendments for the second reading of the draft law, staying in contact with all interested parties, for more than two years to eliminate all contradictions as far as possible. These efforts gave birth to a compromise version of the document suiting almost all interests in the discussion. Among other things, this version eliminated the most obvious conditions for numerous abuses and evasion of mandatory squeeze-out offers.

The factors leading to the draft law rejection referred to in the opinion of the State Duma Committee on Natural Resources, Property and Land Relations could, in our view, serve as a ground for improving the draft law rather than completely rejecting it. Moreover, the version prepared by the Bank of Russia for the second reading eliminated these factors.

The investment community is disappointed about the draft law rejection. Taking into account the long-term diligent work of the Bank of Russia, investors, large businesses (the Russian Union of Industrialists and Entrepreneurs), interested ministries and authorities towards the draft law refinement, this decision looks sudden and unmotivated.

This abrupt move is coming into conflict with the Bank of Russia's efforts to stimulate shareholder activity, shareholders' involvement in the governance of Russian public joint-stock companies, objectively weakening the capitalization of such companies and the Russian stock market as a whole.

In addition, the rejected draft law could have contributed favorably to the development of the Russian portfolio investment industry and the pension savings management industry, mitigating the Russian capital market's dependence on international factors creating heavy market volatility and hampering access to capital for Russian companies.

The rejected draft law primarily aimed at protecting these sectors, investors in them and their clients. If passed, the draft law could have facilitated creation of the infrastructure for managing national pension savings, ensuring the necessary accumulation of assets for the benefit of clients (including

pensioners), on the one hand, and unrestricted access to the national capital market for Russian companies, on the other hand.

In view of the above, the API considers it necessary to resume, as soon as possible, the drawing-up of the draft law with the involvement of all interested parties, its consideration and adoption on a priority basis.