

Russia is laying groundwork for “smart contracts”

On October 1, 2019, Federal Law No. 34-FZ of April 18, 2019, which introduces the regulation of digital rights and smart contracts into the Civil Code, enters into force. Under the new law, digital rights will become a new subject of civil rights.

DIGITAL RIGHTS

The new Federal Law introduces the basic concept of “digital law” into civil law. In accordance with the new article 141.1 of the Civil Code, “digital rights are recognized as obligations and other rights, the content and conditions for the implementation of which are determined in accordance with the rules of the information system that meets the criteria established by law”. The exercise of such rights, as well as their disposal, is possible only in the information system without resorting to a third party. Digital law is a set of electronic data (numeric code, designation) that certifies the rights to civil rights objects. Such rights are recognized only in cases provided for by the law. The creation of digital rights, their scope of use and the peculiarities of their circulation will be determined by other federal laws. Digital law is a complex of electronic data (digital code, designation) that certifies the rights to civil rights objects. Such rights are recognized only in cases provided by law. The creation of digital rights, the scope of their use and features of the turnover will be determined by other federal laws.

SMART CONTRACTS

The new regulations lay the foundation for “smart contracts”.

In order to facilitate transactions with digital rights, new rules on the form of transactions will appear in the Civil Code. A person’s expression of his/her will, using electronic or other similar technical means (for example, when filling out a form on the Internet), will be equivalent to a simple written form of transaction. The rule will work, provided that it is possible: will be equated to a simple written transaction form. The rule will work provided that it will be possible to:

- reproduce the contents of the transaction unchanged on a tangible medium (for example, print on paper);
- reliably identify the person who expressed his/her will.

An example of such a transaction is the sale of goods via an online store.

In addition, the new version of Article 309 of the Civil Code expressly provides for the possibility of the parties to agree on the execution of the transaction in the event of certain circumstances using information technology and without taking additional actions aimed at execution. Such self-executing algorithms, known as “smart contracts”, have not yet been regulated by law, and therefore the possibilities of their application in practice have been limited.

VALUE FOR BUSINESS

The main goal of the law is to prepare the Civil Code of the Russian Federation for the subsequent adoption of laws on digital financial assets and crowdfunding (attracting investments through electronic platforms). This Federal Law has enshrined the starting civil law norms for regulating the circulation of digital rights, for making and executing transactions in the digital environment. Moreover, the law provides judicial protection of the rights arising in relations regarding such objects. The legalization of smart contracts will streamline the relationship between professional market participants and citizens. Today, the conclusion of contracts using information

technology or sending SMS is quite widespread. However, Russian law still has not regulated these relations directly.

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