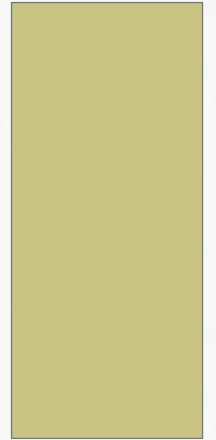


**CURRENCY CONTROL  
AND CFC RULES IN 2016**





**Tax resident and  
resident for currency control purposes  
of the Russian Federation**

**Personal accounts in  
foreign banks**

**Corporate accounts for  
CFC companies in  
foreign banks**



**Resident for currency control purposes  
of the Russian Federation**

In accordance with the current legislation of the Russian Federation the following persons shall be treated as **residents for the currency control purposes**:

- 1) citizens of the Russian Federation, except those who permanently stay in a foreign country on the basis of the residency permit or long student and/or employment visa;
- 2) persons with foreign citizenship or no citizenship, having residency permit in the Russian Federation.

A Russian citizen staying in a foreign country shall be treated as resident for currency control purposes in case he:

- 1) visits the Russian Federation at least for 1 day in a year;
- 2) keeps permanent registration at the address of living in the Russian Federation;
- 3) does not have the consular registration abroad in the country of his permanent stay.

1) a visit to the RF for at least 1 day in a year shall result the residency for the currency control purposes in the RF (clarifications given in the appeal of Moscow City Court dd. 04.04.2014, case №33-10871/14; Letter of Federal Tax Agency dd. 14.08.2015 №AS-17-2/112);

2) being discussed: all citizens of the RF since 2017 may not be treated as residents for currency control purposes, even if they come to RF, if they have consular registration in the countries of their permanent stay.

**Rights of the residents:**

- 1) to open the accounts with foreign banks (except for the state employees, having relevant limitations);
- 2) to conduct operations under their accounts with foreign banks, that are permitted by the laws of the RF.

**Obligations of the residents:**

- 1) to submit a notification on opening the account in a foreign bank;
- 2) to notify within the stipulated time limits on operations under the accounts with foreign banks (first notification to be submitted for the year of 2015 before 01.06.2016);
- 3) to comply with the requirements of tax rules with regard to personal incomes (reporting and tax payments);
- 4) to comply with the restrictions and prohibitions on conducting certain operations under the foreign bank accounts.



**Resident for currency control purposes  
of the Russian Federation**

**Credit transactions**

List of the permitted operations is provided for in the laws of the Russian Federation.

**Debit transactions**

Operations with foreign accounts are permitted, provided that:

- 1) funds have been credited with no breach of the currency control rules of the RF;
- 2) such operations have no connection with payment of goods and services in the Russian Federation.

**Repatriation**

Loan repayments can be made only to the accounts in the Russian Federation.



**Resident for currency control purposes  
of the Russian Federation**

**Permitted credit transactions**

**Transactions under accounts in all countries**

1. Transfers to personal foreign accounts disclosed to the tax authorities of the RF from personal accounts in the RF;
2. transactions and gifts from spouses and near relatives;
3. receipt of interests under the account/deposit, transfer of any minimum required amount, necessary for opening and activating the account;
4. credits resulting from exchange operations;
5. returns of funds previously paid (subject to the requirement on repatriation of loans to the accounts in the RF);
6. credits of incomes and salaries under the contracts with foreign companies, reimbursement of expenses incurred in foreign trips;
7. credits of amounts received under foreign court rulings, except for international commercial arbitration court rulings;
8. credits of alimonies, pensions, insurance payments from foreign insurers.

**Transactions under accounts  
in the countries of OECD and FATF**

1. Credits of loans with the term exceeding 2 years from creditors in OECD and FATF countries;
2. credits of incomes from the rent of the foreign property to non-residents;
3. credits of interest (coupon interest) relating to the foreign securities;
4. credits of other incomes relating to the foreign securities (dividends, obligations payments, share capital decrease by the issuer of the relevant security);
5. credits of incomes from the trust management of cash funds and securities by a non-resident asset manager.



**Resident for currency control purposes  
of the Russian Federation**

**Non-permitted transactions**

**Current regulation**

1. Credits resulted from the sale of the securities;
2. credits resulted from the sale of the foreign property;
3. credits of loans with the term not exceeding 2 years from creditors in OECD and FATF countries;
4. loans from other creditors (off-shore companies, Cypriot and Latvian banks);
5. derivatives incomes;
6. other operations, which are not in the list of the permitted operations.

Penalty for the non-compliance may be 75%-100% of the amount of the relevant operation.

**Under consideration**

Starting from 2018 – to include incomes from the sales of the listed securities in the list of the permitted operations.  
Limitation period to be increased from 1 to 2 years.

**LIST OF STOCK-EXCHANGES FOR THE PURPOSE OF THE PERMITTED OPERATIONS RELATING TO THE SALES OF THE LISTED SECURITIES STARTING FROM 2018 (FEDERAL FINANCIAL MARKET SERVICES OF THE RF DECREE DATED 27.04.2007 №07-51/PZ-N)**

- 1. New York Stock Exchange
- 2. Nasdaq
- 3. London Stock Exchange
- 4. Tokyo Stock Exchange
- 5. Euronext
- 6. German Stock Exchange
- 7. Spain Stock Exchange
- 8. Shanghai Stock Exchange
- 9. Italy Stock Exchange
- 10. Northern Stock Exchange
- 11. Swiss Stock Exchange
- 12. Toronto Stock Exchange
- 13. Shengenskaya Stock Exchange
- 14. Hong Kong Stock Exchange
- 15. Korea Stock Exchange
- 16. Australia Stock Exchange
- 17. Taiwan Stock Exchange
- 18. Oslo Stock Exchange
- 19. American Stock Exchange
- 20. National Indian Stock Exchange
- 21. San Paulo Stock Exchange



**Resident for currency control purposes  
of the Russian Federation**

**Reports on foreign accounts to be submitted on annual basis.**

**Reporting period: starting from 01 of January until 31 of December (starting from 2015)**

**Time limits for the reporting:**

- 1. existing accounts and accounts closed in 2015: before June 1 of the year following the reporting year, the first report to be submitted no later 01.06.2016 for 2015 reporting year;**
- 2. accounts closed in 2016 and later: within 1 month from the date of closing together with the notification on closing of the relevant account.**

**To be submitted to the local tax authority either personally or with the use of electronic excess**

**Information to be submitted:**

- 1. the remaining amount at the beginning of the reporting period;**
- 2. the remaining amount at the end of the reporting period;**
- 3. total amount of credits;**
- 4. total amount of debits.**

It is not required to provide the banking documents in support of the information indicated in the report, but tax authorities may require to provide such documents in addition (bank statements and other relevant documents at their discretion).





**Resident for currency control purposes  
of the Russian Federation**

**Responsibility for the breach of the currency control rules**

**Code on Administrative Offences of the RF**

- 1.** Conducting of the operations, that are not permitted and/or not provided for in the currency control laws of the Russian Federation, as well as operations for the account of funds credited to a foreign bank account with breaches of the currency control requirements of the Russian Federation. Penalty for the breach shall be 75-100% of the amount of the relevant operation;
- 2.** breach of the time limits for the notification on a foreign bank account, penalty 1000 - 1500 roubles;
- 3.** non-filing of the notification on a foreign bank account, penalty 4000-5000 roubles;
- 4.** breach of the order of filing of the report on operations under a foreign bank account, penalty 4000-5000 roubles, second breach – 40000 roubles;
- 5.** breach of the time limits for the filing of the report on operations under a foreign bank account, penalty 500-5000 roubles.

For the purpose of the Tax Code of the RF: foreign company shall be treated as a Controlled Foreign Company, if this company:

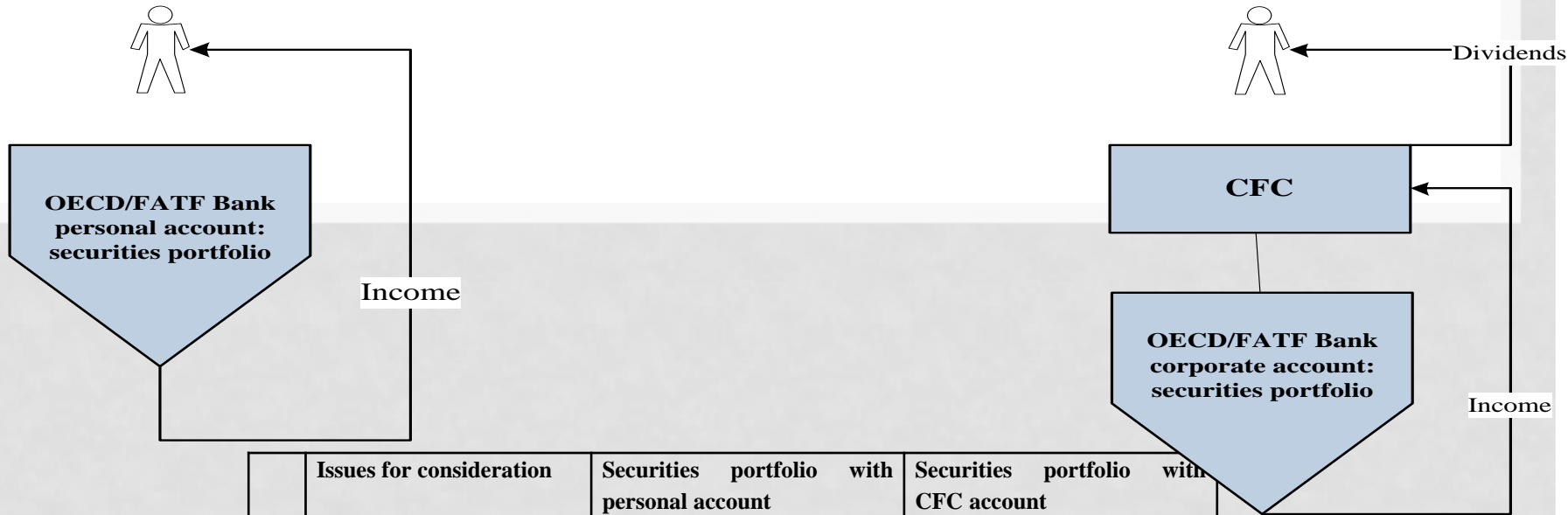
- 1) is not a tax resident of the RF;
- 2) is controlled (up to a determined level) by a tax resident of the RF.

The CFC rules shall as well apply to the structure, having Foundations, Trusts, Partnerships and/or other collective investments schemes and/or trust management schemes, in case such structure shall have the right in accordance with its personal law to carry on activities with the purpose to gain income in favor of its participants, settlors, beneficiaries and other persons.

For the purpose of CFC rules a controlling person shall be:

- 1) individual or entity, if his participation in this company is more than 25%;
- 2) individual or entity, if his participation (for individuals – the participation of spouses and children to be included) is more than 10%, provided that the participation of all persons – tax residents of the RF in this company is more than 50%.

Control with regard to the structure shall mean the right of a person to influence on the decision-making process on asset acquisition and asset management, profit distribution and other similar issues. As a rule, settlor, contributor and protector shall be treated as the controlling persons, as well as other persons subject to their rights. The settlor (and other persons) may not be considered as a controlling person in case he: 1) has lost all rights with regard to the assets; 2) has no direct or indirect right to receive income; 3) has no right to influence on the decision making process; 4) has no direct or indirect right to instruct with regard to the income; 5) has lost all rights to reinstate all the above-mentioned rights.

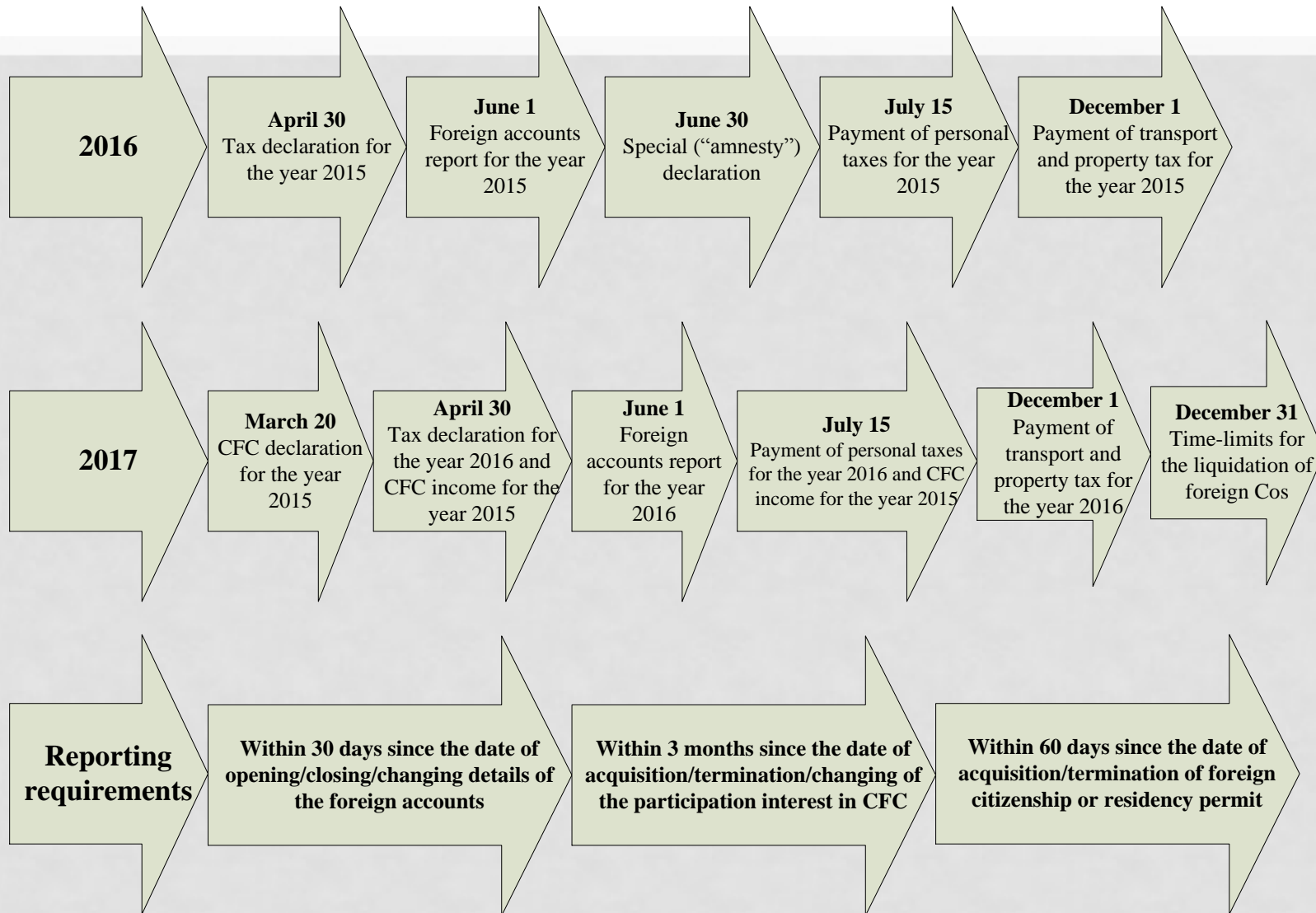


	Issues for consideration	Securities portfolio with personal account	Securities portfolio with CFC account
1.	Subject to currency control rules	Yes	No
2.	Notifications on the operations on the foreign bank account	Yes	No
3.	CFC	No	Yes
4.	CFC Notification	No	Yes
5.	Residency/Permanent presence	No	At risk
6.	Tax burden	13% on income (exchange rate difference income to be included)	13% on dividends and CFC income (no need to transfer into roubles in case of audit)
7.	Inheritance	Will, no tax	Will, no tax
8.	Asset protection	Low	Limited
9.	Complexity	Low	Low
10.	Expenses	Low	Average

**Minimum  
requirements to the  
presence of foreign  
portfolio companies**

- 1) Tax residency certificate ;**
- 2) Independent directors – non-residents of the Russian Federation (Russian tax resident can be a director, but not a sole);**
- 3) Decision making process (Board of Directors) takes place abroad;**
- 4) Office abroad wherein the documents of the company are kept (to be demonstrated that foreign company is managed from abroad) ;**
- 5) No general powers of attorney in favor of Russian tax residents (powers of attorney with limited terms and authorities);**
- 6) Secretary company that handle all documents;**
- 7) Financial statements and audit;**
- 8) Incomes from other activity taxable abroad shall be a plus.**

# REPORTING CALENDAR



# NEW OPPORTUNITIES FOR ASSET MANAGERS

- 1) For Russian tax residents deoffshorization shall cause increase of the administrative burden and expenses (tax and legal advisors, service agents, auditors, etc.), as well as the increase of the tax obligations;
- 2) Using collective investments schemes (collective investments funds) may give an opportunity to exclude the application of CFC requirements, if the participation interest of the Russian tax resident is less than required by the laws and in case his control is excluded;
- 3) Investment fund may be acknowledged as actual (beneficial) receiver of income;
- 4) Flexible investment strategy: cash management with the accounts in foreign banks, securities of different types and maturity.

## Advantages for the clients:

- no need to calculate and pay the income on the current operations of collective investments schemes, that may be treated as CFC income;
- confidentiality.

## Advantages for asset managers:

- possibility to offer interesting opportunities to the clients.

**THANK YOU VERY MUCH FOR YOUR  
KINDEST ATTENTION!**