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ANALYSIS OF NOMINAL HOLDING OF SECURITIES AND NOMINEE SERVICE: LEGAL CONSTRUCTIONS FOR THE SERVICE OF CAPITAL

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ABSTRACT

The paper addresses the peculiarities of nominal holding of securities in accordance with Russian law and its comparison with the trust and nominee services, which are widely available in offshore jurisdictions. It aims to research the features of the legal regulation of nominal holding of securities and to determine its correlation with trust management on the base of the analysis of the current legislation, the theory of trust and trust management, judicial practice of the Russian Federation. It is noted that the nominal holding of securities under Russian law is a unique legal phenomenon that differs from the ownership of shares by a trustee and nominal service in law of most foreign jurisdictions. The figure of the nominee does not suit to the ideal system of the Russian private law and is inevitable on the way of conflict with the idea of acquiring rights and duties under his own name. At the same time it is argued that setting up the rules on nominal holding in the structure of the special (non-codified) law as well as the preservation of such legal phenomenon in the Russian objective law are relevant and logical.

1. INTRODUCTION

The analysis of the nominal holding of securities provided for in Russian objective law and the nominee service which is widely represented in offshore jurisdictions should be started with a brief introduction on the trust property problem. On the one hand, the relevant insight will facilitate understanding of the difficulties encountered in connection with the attempt made by the authors to examine the above phenomena of legal reality, and on the other hand, will give a reader more opportunities to properly assess the potential limits of the spread of the findings to the most diverse national legal order.

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Talking about trusting property for the lawyers who are guided by the right of continental Europe is associated with complexities of semantic and even, if one may say so, "structural" order. To a certain extent, this can be confirmed by the content of the Convention on the Law Applicable to Trustee Property and Its Subsequent Recognition (concluded in Hague, July 1, 1985) [An Introduction to U.S. Law, 1991, p.311-335], in the preamble of which its participants [1] indicated that the states decided to adopt the named international legal act, considering that the institution of trust property, developed by the courts of justice in common law jurisdictions and adopted with some changes in other jurisdictions, is a unique legal institution. At the same time, for the purposes of the Convention, a trust is defined as a legal relationship created by a person who establishes it - both during life and after death – when the property is transferred under the control of the trustee in favor of a beneficiary or for other specific purposes.

Such a definition of trust, which provides for the splitting of property rights and interests between different persons with respect to a thing, is certainly based on its understanding in common law countries [Introduction to the Law of the United States, 1992, p.214-215; 5, p.91, 92; 19, p. 775]. Such an institution, as is known, is the result of the activities of the courts of justice, primarily the Court of Chancery [English Private Law, 2013 p.210-211], when in medieval England landowners who had previously entered into agreements to transfer their land to management, including due to the need to participate in the Crusades and for other reasons, were not protected in the courts of common law, but subsequently found support from the Lord Chancellor based on the rules of justice. In addition to the case law, the statutory law created by Parliament also influenced on the development of the trust.

If we turn to the legal nature of the trust, then we'll see that there is still no common understanding on this issue, even in English-language literature. In this institution, the signs of both law of property and law of obligations are fairly distinguished simultaneously [English Private Law, 2013, p.210]. This indicates the need for its delimitation from the contract, agency, pledge, legal entity, executor, etc. [Kanashevskiy, 2016, p.777-779].

It should be noted that the formation of similar institutions of a mixed nature took place not only in England, but also in the countries of civil law, including in Russia. In particular, fiduciary relations regulated by the norms of Russian law of obligations somewhat resemble trust relations in the content of the rights and obligations of the parties. It could not be otherwise. In the absence of any such rules in different countries, it would be extremely difficult for foreign trusts to fit into the system of property rights and bankruptcy legislation in foreign jurisdictions [Chshmarityan, 2017, p.82]. Moreover, the existence of a trust relationship model often has to be considered in Russia, and in its courts, when considering disputes, in particular on insolvency (bankruptcy), corporate and hereditary disputes, and disputes over the division of property of spouses.

2. METHODS

The purpose of the paper is to study the peculiarities of legal regulation of the nominal

holding of securities and determine its relationship with trust management based on an analysis of current legislation, trust theory and trust management, and judicial practice of the Russian Federation.

When writing the paper, we have used both general scientific cognition methods - induction and deduction, abstraction, analysis, synthesis, modeling, historical, etc., and special methods of legal research - first of all formal legal and comparative legal.

The theoretical basis of the study was the work of Russian (V.A. Kanashevsky, Yu.A. Meteleva, G.N. Shevchenko, and others) and foreign (W. Swadling, and J. Trone, C. Turner C. et al.) scientists. At the same time, special attention was paid to the analysis of the Concept on development of civil legislation in the Russian Federation [2].

The regulatory framework includes the Convention on the Law Applicable to Trust and its Recognition 1985, Civil Code of the Russian Federation (hereinafter - the Civil Code of the Russian Federation) [3], Federal Law № 39-FZ "On the securities market"[4], the Federal Law dated October 26, 2002 № 127-FZ "On Insolvency dated April 22, 1996 (on Bankruptcy)" [5], and other regulatory legal acts in force in the territory of the Russian Federation.

The empirical base of the research is represented by the practice of the Supreme Court of the Russian Federation and the arbitration courts of the Russian Federation.

3. RESULTS

The trust property institute is unique. It is the result of judicial rule-making and was subject to the influence of statutory law. The implementation of English law in other national legal orders may occur with the distortion of the original ideas. Refined structures in this case can acquire a very intricate final form in the positive law and law enforcement practice of a particular country, including Russia.

In particular, the Russian legislators consider the trustee and nominal holder of securities to be distinct professional participants of the securities market. However, the boundaries essentially delineated by the legislator are very conditional. It is not by chance that international standards of transparency are addressed, including to trust relations involving the trustee and the beneficiary, which resemble trust management, nominal holding and nominee service, from the standpoint of Russian law.

In general, it should be stated that nominal holding of securities under Russian law is a unique legal phenomenon, which differs from the ownership of shares by the trustee and nominee service under the law of individual or most foreign jurisdictions. The level of confidentiality is certainly higher in trust jurisdictions; otherwise their very existence would be meaningless. Another thing is the level of the interest protection of a beneficiary in the event of conflicts that may arise with the denomination. It seems that the opportunities associated with a figure of nominal holder under Russian law provide in this case certain guarantees to the right holder. In this regard, the placement of rules on nominal holders of

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securities in the structure of a special (non-codified) law in Russia seems quite logical, as by the way, it is reasonable to preserve the said legal phenomenon in Russian objective law.

4. DISCUSSION

4.1 TRUST MANAGEMENT OF SECURITIES IN RUSSIAN LAW

The problem of trust management as a model of contractual relations in the Concept of development of civil legislation of the Russian Federation [6] was not given much attention to. Most likely, that the reference to a trustee, which occurs when describing the circle of the legal owners of a thing (clause 1.4 of Section IV of the Concept) was necessary only for the legal-technical conjugation of the institutions of law of property and law of obligation, or the presentation of a coherent categorical apparatus.

The following provision in Section VI of the Concept ("Legislation on Securities and Financial Transactions") seems important: "Taking into account the specifics of transferring rights on securities and the procedure for legitimizing securities owners, established by the Civil Code and other laws, it is necessary to solve in the Civil Code a complex of issues associated with necessity of simultaneous making a transaction with a security and formalizing the transfer of rights over the security. For example, a system for recording rights to uncertified securities should reflect the basic status of a person depending on the acquired rights under the relevant transaction (the account of the owner, pledgee, trustee), and also the volume of his/her rights if, in accordance with the law, this volume is determined by the content of the relevant transaction. In relation to documentary securities, a clause should be introduced on the procedure for formalizing the transfer of rights on the relevant paper when making a particular transaction with this security."

As can be seen in this case, the developers of the Concept separated an owner of the securities from a trustee, despite the fact that under the section on law of property, they attributed the trustee to the number of legal owners. It seems that such an approach can hardly be seen as a problem: since the extension of all developments of the real right to the area of law governing relations with respect to securities, especially uncertified ones, is at least incorrect. As Leon Julio de la Morandier quite rightly noted in his time, "neither possession of a legally binding claim, nor possession of a civil status is not subject to the rules on the ownership of real rights and does not entail advantages associated with the latter" [Zhyulio, 1960, p.124,125].

More importantly, the figure of the nominal holder of securities, in general, and shares, in particular, is not mentioned in the Concept at all. At the same time, the recognition by developers of the principle possibility and even the expediency of the existence of legal relations with the participation of entities-nominees directly follows from the proposal to introduce into civil law the rules on nominal account (paragraph 2.4.1 of Section VI of the Concept) implemented to date in Art.860.1–860.6 of the Civil Code of the Russian Federation [7].

We believe that the absence of references to nominal holders of securities in the Concept is part of the trend indicating a desire to exclude the use of legal tools that do not fit into the framework of the pandectual system of law when regulating relations. To say that this trend is negative means to wry one's soul. One of the main properties that should be inherent in any concept of legal regulation is its consistency. But one should not forget about the purpose of such documents - increasing the effectiveness of the entire system of relevant relations, including those that were in a legal vacuum from the position of their regulation by a codified act. And at the same time, it is necessary to remember that the legal consolidation of the status of a nominal holder of securities at the level of a special law and by-laws promotes the accumulation of capital within Russian territorial and legal boundaries.

Anyway, a nominal holder of securities is today a figure to whom a whole series of norms of a special legislative act is devoted — the Federal Law dated April 22, 1996.№ 39-FZ "On the securities market" [8] which is substantially updated lately. Such a person is understood as a depositary, the personal account (depot account) of which accounts for the rights to securities owned by other persons (clause 1, article. 8.3). It also follows from Part 11, Art. 7 of the Federal Law “On the Securities Market” that the position of a nominal holder is derived from depository status: “The depositary has the right to register in the register of security holders or with another depositary as a nominal holder in accordance with the depositary agreement”. By the way, the term “holding” or “nominal holding” is not at all used in the law. Article 8.2 of the Federal Law “On the Securities Market” provides a legal typology of personal accounts. To account for the rights to securities, depositories and registry holders may open the following types of personal accounts (custody accounts): a) owner’s account; b) the account of a trustee; at) nominal holder's account; d) deposit account; e) the issuer's treasury account (the person liable on securities); f) other accounts provided for by federal laws.

4.2 TRANSPARENCY AND BENEFICIAL OWNERSHIP

We can find the text of the recommendations themselves, as well as measures for their implementation in such a document as the FATF Guidelines "Transparency and beneficial ownership (Recommendations 24 and 25)" [9]. According to Recommendation 24 “Transparency and beneficial owners of legal entities”, participating countries must ensure that they have sufficient, accurate, and up-to-date information on beneficial ownership and control of legal entities, which (or access to which) can be promptly obtained by authorized bodies. In particular, countries in which legal entities may issue bearer shares or bearer warrants, or in which nominee shareholders or nominee directors may exist, should take effective measures to ensure that they are not used for money laundering or terrorist financing.

Recommendation 25, Transparency and Beneficial Owners of Legal Entities, states that countries should ensure that they have sufficient, accurate and up-to-date information on trusts established by agreement of the parties, including information about trustors

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(principals), trustees and beneficiaries, which (or access to which) could be got by authorized bodies.

The above extracts from recommendations relating to legal entities and legal corporations indicate that nominee service (nominal holding) and trust property (trust management) make property relations less transparent in terms of subject composition than relations with direct and public participation of ultimate beneficiaries in them, and therefore are subject to closer attention from the state.

4.3 NOMINAL HOLDING AND TRUST MANAGEMENT

In Russia, after the adoption of the Federal Law "On the Securities Market", it was noted that: "Nominal holding is beneficial primarily by the anonymity of the real owner of the shares. If a shareholder does not want its (his) name to be known to a joint stock company, it (he) can use the services of a nominal holder" [Meteleva, 1998, p.22]. At the same time, two main positions were expressed regarding the relationship between trust management and nominal holding. According to the first, trust management and nominal holding of shares are identical in their legal nature [Drobyshev, 1998, p.54]. According to the second, the trustee essentially owns the property transferred to it (him) for management during the term of the contract for the restrictions that are established in the law or the contract, and nominal holding is an intermediary activity, a purely binding relationship [Meteleva, 1998, p.23].

It should be noted that Russian developers of securities legislation tried to separate and isolate nominal holding and trust management. Determining the status of a nominal holder, rulemakers gave the option which is additional for the securities market participants - the ability to maintain confidentiality. In other words, the determination of the legal status of a nominal holder entails vesting an object of civil law - non-documentary securities - the fundamental property of non-transparency for the public.

In this regard, G.N. Shevchenko, describing the current state of Russian law and practice, notes the possibility of emerging a number of links of nominal holding relationships: "There may be situations where an owner of securities concludes a depositary agreement with a depositary, instructing the latter to keep records of their securities. The depositary opens a special custody account in the accounting register in the name of the owner of the securities. Therefore, in the register of owners of securities, it is not the owner of the securities that is indicated, but the depository acting as the nominal holder. Moreover, there can be quite a lot of such depositories being nominal holders which form a chain of nominal holders." [Shevchenko, 2015, p.100].

Availability of a personal account and a custody account at a depositary legitimizes the owners of securities registered in his name as a shareholder of a corporate organization. At the same time, this means that the person specified in the register is the holder of subjective rights that are predetermined by this legal status. It should be noted that this generally accepted conclusion has recently undergone a correction: owning a share causes a

shareholder to have a corporate legal capacity along with specific subjective rights; implementation of that capacity leads to the emergence of other subjective (corporate) rights. Corporate legal capacity refers to the ability to commit so-called corporate acts - actions that constitute the process of implementing corporate legal capacity, as well as the ability to rely on initiative actions on the part of a corporation, aimed at creating conditions for such implementation (Corporate law, 2014, p.542).

So, the shares provide their owners with a wide range of corporate rights, not only the opportunity to expect to receive dividends, but also to participate in managing the affairs of the corporation, and in case of disagreement, appeal against the decisions made by the bodies of the legal entity.

At the same time, it should be noted that the right to dispute a corporate decision belongs only to the copyright holder. As G.N. Shevchenko rightly writes, "neither a depositary nor a trustee of securities listed in the register of holders of shares as nominee holders do not have this right, while these persons are entitled to a claim for recovery of securities from illegal possession under art.149.3 of the Civil Code of the Russian Federation [Shevchenko, 2015, p.102-103].

An important detail: the authors name both the depositary and the security trustee among the nominal holders. It seems, G. Shevchenko is right in essence: no matter how the legislator tries to dissolve the "nominee holder" and the "trustee" in the law, the latter remains nominal, since its (his, her) change under the domestic legal order (that is, the dissolution of the trust agreement and the conclusion of a new one) is not much harder than to change gloves. The trustee of securities in the domestic law and order often follows the instructions of the founder of management. And how could it be otherwise?

4.4 PUBLIC SERVICE AND CONFLICT OF INTEREST

Today, civil service legislation puts officials in front of the need to transfer existing shares to trust management. In such statutory provisions, one can see attempts to somehow resolve the inevitable conflict between public interests and subjective interests of an official. Of course, the relevant legal provisions create certain risks for a beneficiary, since the authority of the trustee is formally quite wide. However, in reality, such trustees are nothing more than puppets in the hands of civil servants, and even more so the persons in public office.

Part 2, Art. 17 of the Federal Law dated July 27, 2004 № 79-FZ "On the civil service in the Russian Federation" [10] establishes that: "In the event that a civil servant's ownership of securities (participation shares, stakes in authorized (share) capital of an organization) results or may result in a conflict of interest, the civil servant is obliged to transfer the securities belonging to him/her (shares, shares in authorized (share) capital of organizations) in trust management in accordance with the civil legislation of the Russian Federation". There exists a similar rule, for municipal employees, which also does not impose unconditional restrictions on the ownership of shares [11].

Part 7, Art. 71 of the Federal Law dated November 30, 2011 No. 342-FZ "On service in the internal affairs bodies of the Russian Federation and the introduction of amendments to certain legislative acts of the Russian Federation" imposes an unconditional obligation to transfer securities for relevant employees: "In the event that an employee of the internal affairs bodies owns securities (shares in the authorized (share) capital of organizations), he/she is obliged in order to prevent conflicts of interest to transfer the securities belonging to him/her (shares, shares in the authorized (share) capital of organizations) in direct trust management in accordance with civil law." Limitations in content exist for customs officers [12] and for Federal Fire Service officers [13].

If we talk about the figure of a nominal holder in the narrow (legally enshrined) sense of this term, which hides beneficiaries, it can be used to ensure the confidentiality-related interests of families of persons holding public office and serving public service. The transfer of shares owned by a relative of an official to nominal holding makes the property less transparent for a wide variety of investigators (journalists, bloggers, or employees of international non-governmental organizations).

The existing procedure for distributing profits among shareholders is also not conducive to the observance of public interests, since "now an issuer must send dividends not directly to the depositors of nominal holders, but to nominal holders with shares in the registry accounts. At the same time, nominal holders should receive from the issuer not only money, but also information, make payments to their depositors, return the money and submit information on unpaid dividends" [Mugudinova & Alieva, 2015, p.9]. Noting the innovations by virtue of which "the nominal holder or the trustee is not obliged to disclose to the registrar (the issuer or the registrar) the information about the persons in whose interests he/she owns the shares," E.E. Mugudinova and Z.B. Aliyeva make a fair conclusion about increasing the degree of confidentiality of a shareholder [Mugudinova & Alieva, 2015, p.10].

4.5 OFFSHORE JURISDICTIONS AND TRUST DECLARATIONS

However, it is too early to think that Russian law provides such a degree of non-transparency of relations with the participation of nominal holders of securities that would fully suit state functionaries, as well as representatives of large and medium capital not affiliated with the state. And here the opportunities of foreign, first of all offshore legal orders come to the rescue providing opportunities for using trusts for these purposes,.

V.A. Kanashevsky rightly points out the pronounced "offshore" nature of the Russian economy, which can be explained by considerations of optimizing taxation, maintaining confidentiality, and protecting against raider attacks [Kanashevskij. 2017, p.86]. He writes: "The beneficiary of an offshore company does not appear in its constituent documents; its name is not contained in any public registries, but it is the beneficiary who has full control over the actions of the nominal director and nominee shareholder on the basis of a confidential agreement concluded) "[Kanashevskij. 2016, p.29].

The scale of the problem is not only not appreciated, but it can hardly be determined as

much as possible given the possibility of multilink nominal participation, which makes it difficult to understand who controls the company registered in the offshore zone (what G. Shevchenko paid attention to, describing the domestic legal order). Difficulties are also explained by the fact that the trust declaration provided for in the law of foreign states is not an unconditional evidence of the existence of confidential relations between the person signing it and the person indicated in it as the beneficiary.

Here, we are forced to briefly highlight the problem that is not covered in the domestic legal research, the relevance of which may increase due to the increased responsibility of controlling persons in connection with the debtor's insolvency, which is caused by the introduction [14] into the Federal Law dated October 26, 2002 № 127-FZ "On Insolvency (Bankruptcy)" [15] of new chapter III.2 "Responsibility of the head of the debtor and other persons in a bankruptcy case".

According to the norms of the Russian "bankrupt" legislation, the beneficial owner may be recognized as the beneficial owner of shares of a foreign company, if it is a shareholder of a bankrupt organization established under Russian law. It is clear that in the practice of law enforcement there are already being encountered and more and more often encountered the references to trust declarations, where the beneficial owner has indicated as a Russian citizen who does not want to advertise his name. For example, trust declarations made on the territory of the Republic of Cyprus, as sources of information on the management of companies, are quite common when courts consider such requirements as invalidating decisions of the governing bodies of Russian organizations [16] share subscription agreements [17], pledge agreements [18] et al.

Analysis of specific trust declarations, the certificate of which was produced in the territory of the Republic of Cyprus, suggests that an official (notary) in conducting an action, as a rule, indicates the authenticity of the signature of a particular individual on bthe document. It does not verify: a) whether the relevant individual is authorized to act on behalf of the company that is the nominal holder; b) whether the company named as a nominal holder (shareholder) possesses any shares at all; c) whether the person referred to in the trust declaration as the "beneficial owner" gave his/her consent to be such and whether it knows at all that such a declaration exists.

Under such conditions, a trust declaration which is a document signed by a person who calls himself/herself a nominal shareholder, can be considered proof of the existence of confidential property relations of a trust, but only if the beneficiary owner himself performs actions testifying to his role as the person managing the company, or otherwise confirms its role in writing, orally, and possibly through conclusive action. It is important that the court, deciding whether there is control over a bankrupt organization, is not simply based on the content of the trust declaration, since it can call any person who is not aware of the existence of a nominal shareholder or company as a "beneficiary the owner of the shares of which he is called, and checked the essence of management relations.

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4.6 NOMINEE SERVICE

Nominee service used in offshore jurisdictions is a phenomenon with enormous potential which is often associated with the use of illegal schemes and schemes in circumvention of the law. Only the most general idea can be obtained about the scale of the problem, if to analyze the data of the Register of Companies of Cyprus using a publicly available search engine [Turner & Trone, 2013] with the search value "nominee service" in the field “company name”. A search system with such a request proposes to clarify the data, since it found more than 200 options (companies of nominee service). It is very difficult to judge how many such individuals are. At the same time, we emphasize that trust declarations are signed by a much wider circle of persons, and not only by those companies that have the name “nominee service” in their names. In this regard, A.M. Khuzhin and M.V. Karpychev rightly notes: “The owner of a company that uses the services of a nominal director actually manages his/her company and can represent it in all matters (signing contracts, opening bank accounts, etc.). For this, a general power of attorney is issued to the true owner when registering an enterprise in the name of the nominal director who authorizes the true owner to conduct the company's affairs”. [Huzhin & Karpychev, 2010, p.19]

Moreover, beneficiaries often keep options open in case of illegal actions of nominees: “In order to protect the interests of the actual owner of their company from the unfair behavior of nominee shareholders, when establishing the company, the nominee sign an undated contract to sell the actual owner of the shares (Instrument of Transfer). Very often, such contracts, general powers of attorney and other documents are drawn up in a blank manner, that is, the data of a specific person (representative, buyer) are not specified, which allows for additional confidentiality of information about the actual owner”[Huzhin & Karpychev, 2010, p.19].

5. CONCLUSION

The figure of a nominal owner of securities, including shares, does not fit well into the ideal system of Russian private law and inevitably, in one way or another, conflicts with the idea of acquiring rights and obligations under his own name (Clause 1, Article 18, and Clause 1, Article 48 of the Civil Code). In this regard, the placement of rules on nominal holders of securities in the structure of a special (non-codified) law is quite logical, as, in other cases, it is reasonable to preserve the said legal phenomenon in Russian objective law. The abolition of the status of a nominal holder, which is formally possible and can have a positive impact on the systemic nature of Russian civil legislation, is associated with immeasurably high economic risks – an increase in capital outflows in those jurisdictions where confidentiality is higher than normatively established or actually guaranteed by the state.

6. REFERENCES

An Introduction to U.S. Law. Butterworth Legal Publishers, 1991.

Chshmarityan P.S. Testamentary trust as the basis of cross-border inheritance.– Society: politics, Economics, law. 2017. № 10. P. 77–82. (In Russ.)

Clark, D., and T. Ansay. Deventer. (Ed). Introduction to the Law of the United States. Boston, 1992. 475 p.

Convention on the law applicable to trusts and on their recognition (Hague, 1.VII.1985) // Treaty Series. Volume 1664.- New York: United Nations, 2000.

Corporate law. Actual problems of theory and practice / under the General editorship of V. A. Belov. Moscow : Yurait, 2014. 678 p. (Series "Author tutorial"). (In Russ.)

Drobyshev P. Trust management of securities falls within the legal field. – The securities Market. 1998. № 2. P. 52–55. (In Russ.)

Hay P. An Introduction to U.S. Law. Butterworth Legal Publishers, 1991. 218 p. (In Eng.)

Huzhin A.M., Karpychev M.V To the nominee service: problems of legal regulation, economic security, and liability. – Bulletin of the Academy of economic security interior of Russia. 2010. № 4. P. 18–22. (In Russ.)

Kanashevskiy V.A. Concept of beneficial ownership in Russian judicial practice (private law aspects). – Journal of Russian law. 2016. № 9. P. 27–38. (In Russ.)

Kanashevskij V.A. Rights of the heirs of the beneficiaries of offshore companies and trusts – Journal of foreign legislation and comparative law. . 2017. № 5 (66). P. 85–91. (In Russ.)

Meteleva Yu.A. Nnominal holding and asset management on the securities market.– Law and Economics. 1998. № 9. P. 21–24. (In Russ.)

Mugudinova Eh.Eh., Alieva Z.B. New rules on payment of dividends: the position of Registrar].– Bulletin of graduate programs. 2015. № 5-2 (44). P. 9–10. (In Russ.)

Rotova O.S. Development of the concept of "beneficial owner" in Russia. – Scientific notes of young researchers. 2014. № 3. P. 17–19. (In Russ.)

Shevchenko G. Uncertificated securities in Russian civil law. – Business, management and law. 2015. № 1. P. 98–103. (In Russ.)

Burrows, A. (Ed). English Private Law. Oxford, 2013. 1434 p. (In Eng.)

Turner C., Trone J. Australian Commercial Law. Pyrmont, 2013. 1040 p.

Zhyulio de lya Morand'er, Leon. French civil law]. Vol. 2. M.: Foreign literature, 1960. 728 p. (In Russ.)

Notes

[1] The parties to the Convention are: Australia, Great Britain, Italy, Canada, Cyprus, China, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, San Marino, the USA, France, Switzerland.

[2] The concept of development of civil legislation in the Russian Federation (approved by the decision of the Council under the President of the Russian Federation on the codification and improvement of civil legislation dated October 7, 2009)// Bulletin of the Supreme Arbitration Court of the Russian Federation. 2009 No. 11

[3] Collected Legislation of the Russian Federation.1994. № 32. Art.3301; 1996. No 5. Art. 410.

[4] Collected Legislation of the Russian Federation.1996. No. 17. Art. 1918.

[5] Collected Legislation of the Russian Federation.2002 No 43.Art. 4190.

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[6] The concept of development of civil legislation in the Russian Federation (approved by the decision of the Council under the President of the Russian Federation on the codification and improvement of civil legislation dated October 7, 2009)// Bulletin of the Supreme Arbitration Court of the Russian Federation. 2009 No. 11

[7] Federal Law dated December 21, 2013№ 379-FZ "On Amendments to Certain Legislative Acts of the Russian Federation" // Collected Legislation of the Russian Federation. 2013. No. 51, Art.6699.

[8] Collected Legislation of the Russian Federation.1996. No. 17. Art. 1918.

[9] http://www.eurasiangroup.org/files/FATF_docs/Rukovodstvo_FATF_Prozrachnost_i_BS.pdf (access date: 07.12.2017).

[10] Collected Legislation of the Russian Federation.2004. No. 31 Art.3215.

[11] Part 2.2. Art. 14.1 of the Federal Law dated March 2, 2007 № 25-FZ "On the municipal service in the Russian Federation" // Collected legislation of the Russian Federation. 2007. No 10. Art. 1152.

[12] Clause 3, Art.7 of the Federal Law dated July 21, 1997 № 114-FZ "On the service in the customs authorities of the Russian Federation" // Collected legislation of the Russian Federation. 1997 No 30. Art. 3586.

[13] Part 7, Art.72 of the Federal Law dated May 23, 2016 No. 141-FZ "On the service in the federal fire service of the State fire service and on the introduction of amendments to certain legislative acts of the Russian Federation" // Collected legislation of the Russian Federation.2016 No 22Art. 3089.

[14] Federal Law dated July 29, 2017№ 266-FZ "On Amendments to the Federal Law" On Insolvency (Bankruptcy) "and the Code of Administrative Offenses of the Russian Federation" // Collected Legislation of the Russian Federation. 2017, No. 31. Art. 4815.

[15] Collected Legislation of the Russian Federation.2002 No 43.Art. 4190.

[16] Decision of the Supreme Court of the Russian Federation dated 03/31/2016 in case N 305-ES15-14197, A40-104595 / 2014 (ATP ConsultantPlus).

[17] Decision of the Supreme Court of the Russian Federation dated 05/31/2017 in case N 308-ES17-1916, A63-5209 / 2016 (ATP ConsultantPlus).

[18] Resolution of the Ninth Arbitration Court of Appeal dated November 27, 2017. No. 09AP-56626/2017-GK in case No. A40-29146/17-159-268. URL: https://kad.arbitr.ru/PdfDocument/e784860b-39fb-4ef7-af1d-72702aad803b/A40-29146-2017_20171122_Postanovlenie_apelljacionnoj_instancii.pdf (access date: 10.12.2017).

[19] URL: https://efiling.drcor.mcit.gov.cy/DrcorPublic/SearchForm.aspx?sc=1 (communication date: 12/12/2017).

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