

International Corporate Rescue



Published by:

Chase Cambria Company (Publishing) Ltd
4 Winifred Close
Barnet, Arkley
Hertfordshire EN5 3LR
United Kingdom

www.chasecambria.com

Annual Subscriptions:

Subscription prices 2017 (6 issues)

Print or electronic access:

EUR 730.00 / USD 890.00 / GBP 520.00

VAT will be charged on online subscriptions.

For 'electronic and print' prices or prices for single issues, please contact our sales department at:
+ 44 (0) 207 014 3061 / +44 (0) 7977 003627 or sales@chasecambria.com

International Corporate Rescue is published bimonthly.

ISSN: 1572-4638

© 2020 Chase Cambria Company (Publishing) Ltd

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, mechanical, photocopying, recording or otherwise, without prior permission of the publishers.

Permission to photocopy must be obtained from the copyright owner.
Please apply to: permissions@chasecambria.com

The information and opinions provided on the contents of the journal was prepared by the author/s and not necessarily represent those of the members of the Editorial Board or of Chase Cambria Company (Publishing) Ltd. Any error or omission is exclusively attributable to the author/s. The content provided is for general purposes only and should neither be considered legal, financial and/or economic advice or opinion nor an offer to sell, or a solicitation of an offer to buy the securities or instruments mentioned or described herein. Neither the Editorial Board nor Chase Cambria Company (Publishing) Ltd are responsible for investment decisions made on the basis of any such published information. The Editorial Board and Chase Cambria Company (Publishing) Ltd specifically disclaims any liability as to information contained in the journal.

Problems of Determining the Place of Cryptocurrency and Data-Information in the Bankruptcy Estate of a Debtor

Roman Prokofiev, Associate, ART DE LEX, Moscow, Russia

Synopsis

The article is intended to disclose the current situation of the bankruptcy institute in Russia within the framework of rapid digitisation of the economy. The current legal framework of digital financial assets is analysed in relation to the provisions of bankruptcy legislation. The findings of this study indicate that despite legislative gaps, the Russian judicial system adequately resolves bankruptcy disputes concerning the inclusion of digital assets in the insolvency estate of the debtor.

I. Is Russia ready for the digital economy? Do digital financial assets have a future in the Russian economy?

In contrast to other major industrialised countries, especially Germany, productivity growth in the United States increased by an average of 1.51 per cent per year between 1974 and 1995, and already averaged 3.09 per cent between 1996 and 2003¹. This situation looks illogical, because at that time the productivity of labour should have increased faster in Germany, which the researchers attribute to the following:²

1. The reunification of West and East Germany was supposed to increase productivity.
2. The manufacturing industry was the fastest-growing and the biggest contributor to productivity growth in Germany.
3. In contrast to the United States, where the labour force is generally considered to be made up of lower-skilled workers, Germany has long been pushing less-qualified workers out of the workforce, which has a positive impact on productivity growth.

Today we can confidently say that such productivity results are associated with the emergence of the 'New Economy,' the essence of which is the progress of information and communication technologies (Internet,

computer technology, software). The United States has begun to invest in the New Economy, first, much earlier, and secondly, much more than other countries, which is reflected in a much greater increase in productivity.

According to *Digital Russia: A New Reality*, a study by the McKinsey & Co. service, Digital McKinsey, in 2017, the process of 'digital revolution' approached its triumph, as every second citizen of the Earth connected to the global network Internet. This allows us to say that in the next 20 years, about 50% of all operations in the world can be automated. Researchers at McKinsey compare these economic changes to the industrial revolution that took place in the 18th and 19th centuries.

At that time, the change in the main factor of production allowed some countries to achieve a leading economic position, which allowed them to dominate for a long period of time.

At a time when productivity growth depends on the process of implementing New Economy practices, countries face the challenge of adopting these practices, developing them, and creating a convenient and transparent infrastructure for their application.

Can we say that Russia is ready for the transition to the 'Digital Economy' and do the digital financial assets (one of the main tools of the digital economy) have a future in the Russian economy?

The Digital McKinsey study shows that Russia is actively developing New Economy products: (1) the number of Russian Internet users ranks the first place in Europe and the sixth in the world; (2) 60% of the population have smartphones that provide unhindered access to the Internet; (3) the number of users of portals of state and municipal services approaches 40 million people.

Despite the fact that Russia is not currently among the leaders in the development of the digital economy in terms of (1) the level of digitalisation, (2) its share of the Russia's GDP, and (3) the development of technologies used in leading countries, it nonetheless is possible to distinguish and positive trends:

Notes

1 Deutsche Bundesbank (2002), 50.

2 Olaf Gerzemann, *Cowboy capitalism: European Myths and American Reality* (2004), 45.

1. The share of the digital economy in the country's GDP is growing. From 2011 to 2015 it grew by 59%.
2. Large digital companies have been created from scratch, a number of which have achieved international recognition: e.g., the independent online bank Tinkoff Bank; the digital portals and ecosystems of the Yandex and Mail services; the manufacturer of electronic navigation systems, Tranzas; and Kaspersky Lab, the company that develops digital solutions for data security.
3. Significant digital infrastructure projects are being created in Russia: e.g., the creation of a federal Unified Information System in the field of procurement, and the system of state and municipal services.

Thus, Russia has all the necessary prerequisites to fully integrate into the Digital Economy system and take a leading position. In addition to the above-mentioned prerequisites, the country has a strong scientific and intellectual base, which is supported by a good level of secondary and higher technical education.

The pre-revolutionary Russian civilist I.A. Pokrovsky noted that 'As society progresses, as it becomes necessary to move to the highest forms of economic activity, the corresponding relations are becoming more and more permeated by private law.'³ It is obvious that even in the case of the transition to the Digital Economy, private law regulation seems to be most appropriate.

Russian legislators seem to agree with this approach, as a number of legislative initiatives aimed at regulating relations in the field of digital assets are currently being considered, namely: draft Federal Law No. 419059-7, *On Digital Financial Assets*, (edited, adopted by the State Duma of the Federal Assembly of the Russian Federation in the first reading on 22 May 2018); and draft Federal Law No. 424632-7, *On Introducing Amendments to Parts One, Two and Four of the Civil Code of the Russian Federation*, (edited, adopted by the State Duma of the Federal Assembly in the first reading on 22 February 2018).

It can be concluded from this that the necessary economic infrastructure for the introduction of the use of Digital Economy products in Russia has been created, and the legislative branch is taking steps to establish the necessary legal regulation to protect the turnover.

II. Legal regulation of cryptocurrency and data-information in Russia and foreign jurisdictions

Legal regulation of cryptocurrency

The financial sector in the digital economy must undergo the most significant changes. In the field of financial services, the institution of financial technology, which includes all innovations and technologies, is developing rapidly. Such technologies include cryptocurrency based on blockchain technology.

In 2017, Russian President Vladimir Putin instructed the Government of the Russian Federation, together with the Bank of Russia, to implement a program to amend legislation to determine the status of digital technologies used in the financial sector.⁴ As part of this program, 'Digital Economy of the Russian Federation,' the above mentioned draft federal laws have been developed, the main purpose of which is to define virtual currencies. What, then, is cryptocurrency?

A professor at the Russian State University of Justice suggests the following, as it seems to be the most successful definition of cryptocurrency: 'This is a digital (virtual) currency, the creation and control of which is based on cryptographic methods (mathematical algorithms), for which full decentralisation is established (the absence of an external or internal administrator in the network that guarantees (confirms) the correctness of the system's operations, including the lack of opportunity to influence the transactions of system participants).'⁵

The planned changes should refer the cryptocurrency to the digital assets included in Article 128 of the Civil Code of the Russian Federation (hereinafter: the Russian Civil Code) and give the individual elements of digital assets definitions in a special law on digital financial assets.

Meanwhile, according to Article 75 of the Constitution of the Russian Federation, the currency unit is the ruble, and the monetary issue is managed exclusively by the Central Bank of the Russian Federation. The introduction and issuance of other money is not allowed. Article 140 of the Russian Civil Code also enshrines the provision that the ruble is a legal tender, which is obligatory for acceptance at face value throughout the territory of the Russian Federation. Because of the effect of these provisions, the future reference of the cryptocurrency as legal tender in the Russian Federation is unlikely.

In this regard, the researchers propose an approach by which the use of cryptocurrency in economic

Notes

³ Professor I.A. Pokrovsky, *The Main Problems of Civil Law* (Law Legal Warehouse edition, Petrograd, 1917), 15.

⁴ Order of the Government of the Russian Federation of 28 July 2017, No. 1632-r, *On Approval of the Program 'Digital Economy of the Russian Federation'* / NW RF 2017. No. 32. 5138.

⁵ I.A. Tsindeliani and L.B. Nigmatulina, 'Cryptocurrency as an Object of Civil and Financial Regulation', *Financial Law* 7 (2018), SPS 'ConsultantPlus'.

activities may be regulated by the rules of the exchange contract.⁶

Also relevant is the question of the functions of cryptocurrency as an investment. Foreign experience shows that this function of a digital asset is very convenient. For example, the Swiss Financial Market Supervisory Authority (FSA) defines tokens that give the holder the right of claim against the issuer who has carried out the initial coin offering (ICO), or the right to participate in the activities of the corporation in the sense of corporate law.⁷ Hence, there is the possible comparison of investment tokens with shares and stakes in corporations.

The U.S. also uses a similar approach, recognising everything that can be qualified as a security (investment for profit).⁸ Thus, qualification of a cryptocurrency as a security is possible.

The European Securities and Markets Organisation, in its position of 13 November 2017, noted that the structuring of investment tokens determines their qualification as securities, which implies the need for appropriate regulation as securities.⁹

Russian legislation, however, defines uncertificated securities as mandatory and other rights enshrined in paragraph 1 of Article 142 of the Russian Civil Code, which are fixed by the decision to issue them or in another act of the person who issued securities in accordance with the requirements of the law, and the implementation and transfer of which are possible only in compliance with the rules of accounting for these rights, in accordance with Article 149 of the Russian Civil Code.

According to paragraph 1 of Article 149 of the Russian Civil Code, the persons responsible for the execution of book-entry securities include the person who issued the security, as well as persons who have provided security for the execution of the relevant obligation. Persons responsible for the execution of a non-documentary security must be specified in the decision on its issue or in another act of the person who issued the security as provided for by law.

In terms of the investment token, its issuer has an obligation to pay dividends to the token holder, but Russian legislation does not regulate this process based on the above provisions of the Russian Civil Code.

It seems that the model of investment tokens is a promising analogue of the usual corporate mechanisms of participation in and management of corporations (shares, stakes), because of: (1) the exclusion of any

possibility of falsification of data; (2) the publicity of information about owners of tokens, available at the request of third parties; and (3) the simplified mechanism for the payment of dividends.

Despite this, Russian legislation does not yet stipulate the emergence of obligations from the transfer of investment tokens from one person to another. In contrast to the foreign approaches, described above, clause 2 of Article 142 of the Russian Civil Code stipulates only that an object named as such in the law or recognised as such in accordance with the procedure established by law may be recognised as a security.

The absence of cryptocurrency in the legislative mechanism means that corporate law will ignore possible innovations in the near future, but the above-mentioned legislative initiatives may become a step towards recognising cryptocurrency.

Cryptocurrency develops and, based on its nature, does not depend on legislative regulation and control. The Russian economy and business environment are ready to participate in large projects using the latest achievements of financial technology, and the Russian legal regulation, which has the main task of reducing the risks from participation in such projects, will develop in its wake, as evidenced by the initiatives of the president and the government.

III. Legal regulation of data-information (big data).

What is data-information, or 'big data'?

M.A. Rozhkova, a member of the Expert Council of the State Duma Committee on Information Policy, Information Technologies, and Communications, defines the essence of data-information as follows: 'This is a dynamic, non-stop process of appearance of new data, some of which are not structured and processed in any other way, while others have already been the subject of processing. That is, first of all, big data is a constant flow of huge amounts of information, continuously coming from different sources.'¹⁰

The author of this definition, in the same study, singles out two types of sources of information:

1. *Technical sources* (90% of all new information, created without human participation): Technical sources collect information from sensors of

Notes

6 I.A. Cindelianni, 'The Legal Nature of Digital Financial Assets: the Private Legal Aspect', *Lawyer* 3 (2019) SPS 'ConsultantPlus'.

7 FINMA, 'Guidelines for Enquiries Regarding Framework for Initial Coin Offerings (ICOs)', 16 February 2018.

8 *Securities and Exchange Commission v. W.J. Howey Co.*, 328 U.S. 293 (1946).

9 European Securities and Markets Authority (ESMA), 'ESMA Alerts Investors to the High Risks of Initial Coin Offerings (ICOs)', and 'ESMA Alerts Firms Involved in Initial Coin Offerings (ICOs) to the Need to Meet Relevant Regulatory Requirements', 13 November 2017.

10 M.A. Rozhkova, 'What is big data, how do they differ from ordinary data, and what is the problem of the legal regulation of big data' *Zakon. ru.* (22 April 2019) URL: https://zakon.ru/blog/2019/4/22/chto_takoe_bolshie_dannye_big_data_chem_oni_otlichayutsya_ot_obychnyh_dannyh_i_v_chem_sostoit_proble

controllers, consumption meters, devices, audio and video recording devices, *etc.*

2. *Social sources* (created by humans): Information is formed through social networks, virtual worlds, forums, photo hosting, dating applications, *etc.*

Similar sources of the formation of information are singled out by the member of the advisory council at Roskomnadzor, A.I. Saveliev: (1) industrial big data; and (2) big user data. This defines big data as: 'Dynamically changing file of the information that represents value, owing to the big volumes and possibilities of effective and fast processing by the automated means that, in turn, provide the possibility of its use for analytics, forecasting, and automation of business processes.'¹¹ At the same time, both authors agree in their researches that big data refers not only to the information itself but also to the technologies of the processing methods and tools (technical solutions, algorithms) that are applied to it.

Also, data-information differs from traditional databases (which measure data by the quantitative value of information units), in that it takes into account the so-called '3 Vs': (1) volume (data volume); (2) velocity (information growth rate); and (3) variety (data diversity and their sources).

It is worth mentioning that the existence of the big data phenomenon causes a lot of topical questions in the field of personal data protection. Previously, before the advent of computers and the Internet, the assembly, processing, and storage of personal data on paper could not cover its cost and could not be as effective as it is now when using computer algorithms. This was a barrier that prevented companies and the state from to ignore the 'personal space' of individuals. Now that such a barrier has lost its significance, it is generally accepted that legislation that should protect personal data in the current technological realities. Such barriers in foreign jurisdictions have been raised in the legislation on personal data in Europe and a number of legislative acts in the United States dedicated to the protection of privacy of citizens.¹²

Thus, there are two main approaches to the possible regulation of information collection, processing and storage, as well as another one, formed in China:

1. *European approach*: Big data is included in the legislation regulating personal data. The General Data Protection Regulation (GDPR) came into force on 25 May 2018. The problem of big data is addressed through the observance of human and civil rights. Companies collecting and analysing information

must comply with certain rules from the very beginning of the collection of information until it is destroyed or anonymised. Strict control over the observance of the necessary rules is confirmed by the existence of large fines for their violation (up to 20 million euros).

2. *American approach*: Unlike the European approach, the American approach differs in its reliance on a greater degree of self-regulation. Big data is considered to be a commodity that can be the subject of commercial transactions. There are laws that define the types of protected personal information depending on (1) its use, an (2) its subject matter.
3. *Chinese approach*: On 1 May 2018, a new Standard on Personal Information Protection came into force in China, which continues the Cyber Security Law adopted earlier, on 1 July 2017. China's legislation has a number of specific features, including: (1) a very broad definition of personal data, similar to the European one; (2) the establishment of very strict requirements for consent and processing of personal data; and (3) the provision of technical and organisational measures for the protection of processed data.¹³

It seems logical that Russia, currently without its own legal regulation of the collection, processing, and storage of information as it is presented in the three jurisdictions described above, will be guided by the volume of foreign trade with foreign countries to establish Russian regulations similar to those of the countries that provide the main part of the trading volume. According to the data of one portal of foreign economic information, China accounts for the main turnover of Russia's trade, followed by Germany and the Netherlands (with growth rates of 24.5%, 19.3%, and 19.4%, respectively).¹⁴ Taking into account that these countries focus on the protection of personal data in the use of technologies for processing large amounts of information, Russia should consider this when forming its legal regulations, as the impact of the uniform application of the rules should facilitate trade between countries.

Currently, there have been discussions in Russia about the fact that big data relates to the objects of intellectual property rights. For example, M.A. Rozhkova continued her research by noting that in order for big data to be considered as objects of copyright or related rights, it must meet the criteria established by the Russian Civil Code:

Notes

11 A.I. Saveliev, 'Directions of Big Data Regulation and Privacy Protection in the New Economic Realities', *Law* 5 (2018).

12 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2000034.

13 S. Sacks, 'New China Data Privacy Standard Looks More Far-Reaching than GDPR,' Center for Strategic and International Studies, 29 January 2018, URL: <https://www.csis.org/analysis/new-china-data-privacy-standard-looks-more-far-reaching-gdpr>.

14 http://www.ved.gov.ru/monitoring/foreign_trade_statistics/countries_breakdown/.

1. In order to become an object of copyright and receive the protection provided for by Chapter 70 of the Russian Civil Code, the object should be recognised as ‘a composite work – if an innovative approach has been implemented in the selection and arrangement of its components, original creative ideas and creativity have been used.’ Thus, Chapter 70 of the Russian Civil Code of the Russian Federation will protect not the content of databases, but only the order of its formation and analysis systems.
2. In order to become an object of related rights and receive the protection provided by Chapter 71 of the Russian Civil Code, it must be ‘the result of significant financial, material, organisational or other investments of the base manufacturer in its creation.’ In such a case, the integrity of the database, rather than its content, will be protected in order to protect the investments made in its creation. At the same time, the main difficulty for the practical implementation of the database under such a regulation will be the fact that no person will have the right, without the consent of the right holder, to extract materials from the database and carry out their subsequent use in any form or in any way.

This logic does not seem to be justified because: (1) the information contained in the database remains unprotected from risks of data leakage, inaccurate processing, or incomplete data; and (2) it is impossible to identify the person whose rights will be protected, if different people can collect and store the data simultaneously using the same sources.

The argument that the European approach should prevail in Russia can also be given support by the practice of arbitration courts. In the judgment of the Arbitration Court of Moscow dated 5 May 2017 in case No. A40-5240/17 the following conclusion was stated: ‘Information about the subject (including personal data) contained in social networks cannot be attributed to personal data made available to the public by the subject, since social networks are not a source of publicly available personal data.’

It should also be noted that the information posted by its owners on the Internet in a format that allows for automated processing without prior modification by humans for the purpose of its reuse is considered to be publicly available information in the form of open data.

Thus, personal data processed by NBKI JSC in social networks have not been made available for disclosure to the public by person to whom the data pertains;

therefore the actions of the NBKI were considered to be a violation of the Federal Law *On Personal Data*.¹⁵

At the same time, this approach of a court of first instance was able to persist in all higher instances, including the Supreme Court of the Russian Federation.¹⁶

It can be concluded from this that data-information can be a valuable object, which, if used properly and diligently, can contribute to the development of both corporations and the state. Therefore, the future of its use in large projects in Russia is not far off.

IV. Digital assets of a debtor in bankruptcy: Russian court practice

Cryptocurrency in the bankruptcy estate of a debtor

A description of the readiness of the Russian economy for change in the Digital Economy era, as well as the current legal regulation of the Russian cryptocurrency and data information, is necessary to describe the problems that a creditor may face in the bankruptcy of a debtor with digital assets.

Despite the fact that Russian civil law does not have such a source of regulation as judicial practice, due to the fact that the Russian legal system is located in the continental legal family, law still develops through the acts of the courts. The consideration of bankruptcy disputes in general is one of the catalysts for the creation of new approaches to the interpretation of current civil law.

Therefore, it is not surprising that before the creation of a full-fledged system of legislative regulation, Russian courts were the first to take up the challenges of new economic realities of commerce. Within the framework of this article two cases, which were widely discussed by the legal community in Russia, are of interest: (1) the decision of the Ninth Arbitration Court of Appeal of 15 May 2018 in case No. A40-124668/2017; and (2) the decision of the Arbitration Court of Moscow of 18 February 2019 in case No. A40-12639/2016.

In the first case, the court of appeal overturned the lower court’s decision to refuse to resolve the disagreement regarding the inclusion of the content of the debtor’s ‘crypto-wallet’ in the bankruptcy proceedings.

According to the debtor, the cryptocurrency is not an object of civil rights and, therefore, is not subject to inclusion in the bankruptcy estate. The court of first instance agreed with this argument and resolved the disagreement in favour of the debtor.

However, the appellate instance supported the position of the financial manager, which was that the

Notes

15 https://kad.arbitr.ru/Document/Pdf/eb1907d9-be95-4b0e-85c7-0481aef89b31/867f3d91-1839-404d-82c2-8b4e9d7c4f3e/A40-5250-2017_20170505_Reshenija_i_postanovlenija.pdf?isAddStamp=True.

16 https://kad.arbitr.ru/Document/Pdf/eb1907d9-be95-4b0e-85c7-0481aef89b31/80fe83b6-f0de-4284-901c-07720678f795/A40-5250-2017_20180129_Opredelenie.pdf?isAddStamp=True.

civil law did not contain the concept of ‘other property’, enshrined in Article 128 of the Russian Civil Code. Therefore, taking into account the current economic realities and the level of development of information technology, it is acceptable to interpret ‘other property’ as widely as possible.

The court of appeal noted that it took into account the previously mentioned draft law on amendments to the Russian Civil Code, which introduces a definition of the basic concept of ‘Digital Law’.

The most important thing for the bankruptcy institution is that, in addition to the above conclusions, the court noted the following: ‘Any debtor’s property of economic value to creditors (including the cryptocurrency) may not be arbitrarily excluded from the bankruptcy estate without explicit grounds provided by the Law on Bankruptcy.’¹⁷

The Court also noted that such an approach is consistent with the position of the Constitutional Court of the Russian Federation, expressed in its ruling of 16 May 2000 No. 8-P, that the claim rights and legitimate interests of creditors in bankruptcy proceedings are subject to protection on an equal footing with the right of ownership under Article 35 of the Constitution of the Russian Federation.

In the second case, the court of first instance granted the financial manager’s request to obtain access to the Bitcoin wallet from the debtor to include it in the bankruptcy assets. The court ordered the debtor to provide the financial manager with the data to access to the Bitcoin purse (i.e., the URL for the site to access the purse, a unique purse number, and a password to the purse) in a machine-readable form in a ‘.doc’ or ‘.docx’ file format on an electronic medium. The debtor also was required to be personally present with the notary when the Bitcoin purse was opened to transfer the Bitcoins to the bankruptcy estate.

Based on both current and upcoming Russian legislation governing digital assets, two conclusions can be drawn with respect to the impact of the debtor’s bankruptcy on its cryptocurrency holdings:

The court practice excludes a possible option of unfair behaviour of debtors, who use the transformation of their assets into cryptocurrency to exclude most of them from the bankruptcy estate.

Russian bankruptcy law, as well as the civil law, is ready to accept the challenges of the impending wave of digitalisation of the Russian economy.

Data-information in the bankruptcy estate of a debtor

Despite the fact that there is no practice of including big-data technologies into the bankruptcy assets of the debtor, we can say that the accumulated information (not to mention the original technologies of its analysis and processing) can certainly be of economic value.

For example, large foreign companies such as Uber (which has accumulated data on more than 5 billion trips) and Tesla (which has accumulated data on driving more than 2 billion kilometres), may well consider the information collected as an economic asset. Another example is Spaceknow, which processes data from space imagery to predict oil prices (an analysis algorithm also determines the level of occupancy of the world’s largest oil storage facilities, taking into account the angle of incidence of shadows).

It would seem that if the data-information is of economic value, it should be subject to the provisions specified in the analysis of inclusion of the cryptocurrency in the bankruptcy estate of the debtor; that is, the available information (in one way or another) should be part of the assets available for distribution as part of the implementation of the bankruptcy proceedings.

However, it seems that everything is not as simple as big data. The problem of personal data becomes acute when collecting a large amount of information. If this process can still be controlled by protecting the personal data of individuals, what will happen to the collected information if it is transferred to other persons, such as creditors?

There is an expression in foreign sources that data-information is the new oil.¹⁸ Therefore, it is possible that such valuable assets may be the subject of a struggle. In Russia, bankruptcy proceedings can often be used to unfairly redistribute the debtor’s property or establish corporate control.¹⁹ Therefore, the risks of a threat to personal data in big data systems can be quite high, especially if the accumulated data will certainly fall into the bankruptcy estate of the debtor, and then be distributed among the creditors.

Currently, there is no regulation of this issue in Russia, but it can be assumed that legislation and court practice will not take the side of an unambiguous inclusion of information in the bankruptcy estate of the debtor who collected such information. Russia, as described above, follows a European approach to the protection of personal data of individuals in the collection, processing, and storage of information, and, consequently, the Russian jurisdiction will not allow violations of the provisions of the Federal Law *On*

Notes

17 https://kad.arbitr.ru/Document/Pdf/3e155cd1-6bce-478a-bb76-1146d2e61a4a/58af451a-bfa3-4723-ab0d-d149aafecd88/A40-124668-2017_20180515_Postanovlenie_apelljacionnoj_instancii.pdf?isAddStamp=True.

18 https://ana.blogs.com/maestros/2006/11/data_is_the_new.html.

19 R.D. Prokofiev, ‘Rights of Corporate Participants in Bankruptcy Proceedings’ (Master’s Thesis: 40.04.01: protected 18 May 2019. – M. 4 p).

Personal Data in the distribution of the debtor's assets in the bankruptcy proceedings.

It appears that this issue could be resolved as follows: (1) the creditor must have a certain status that allows it to use the data information; and (2) the data accumulated by the debtor must be anonymised.

Thus, we can conclude that the Russian economy has long been ready for major changes in favour of the transition to digital assets. Legislative regulation, as well as judicial protection, is trying to keep pace with the changing face of the new economy. The bankruptcy situation within the framework of the cases described above, when the relations between all participants are as tense as possible, is sufficient to prove it.

International Corporate Rescue

International Corporate Rescue addresses the most relevant issues in the topical area of insolvency and corporate rescue law and practice. The journal encompasses within its scope banking and financial services, company and insolvency law from an international perspective. It is broad enough to cover industry perspectives, yet specialized enough to provide in-depth analysis to practitioners facing these issues on a day-to-day basis. The coverage and analysis published in the journal is truly international and reaches the key jurisdictions where there is corporate rescue activity within core regions of North and South America, UK, Europe Austral Asia and Asia.

Alongside its regular features – Editorial, US Corner, Economists' Outlook and Case Review Section – each issue of *International Corporate Rescue* brings superbly authoritative articles on the most pertinent international business issues written by the leading experts in the field.

International Corporate Rescue has been relied on by practitioners and lawyers throughout the world and is designed to help:

- Better understanding of the practical implications of insolvency and business failure – and the risk of operating in certain markets.
- Keeping the reader up to date with relevant developments in international business and trade, legislation, regulation and litigation.
- Identify and assess potential problems and avoid costly mistakes.

Editor-in-Chief: Mark Fennessy, Proskauer Rose LLP, London

Emanuella Agostinelli, Curtis, Mallet-Prevost, Colt & Mosle LLP, Milan; Scott Atkins, Norton Rose Fulbright, Sydney; James Bennett, KPMG, London; Prof. Ashley Braganza, Brunel University London, Uxbridge; Dan Butters, Deloitte, London; Geoff Carton-Kelly, FRP Advisory, London; Gillian Carty, Shepherd and Wedderburn, Edinburgh; Charlotte Cooke, South Square, London; Katharina Crinson, Freshfields Bruckhaus Deringer, London; Hon. Robert D. Drain, United States Bankruptcy Court, Southern District of New York; Simon Edel, EY, London; Matthew Kersey, Russell McVeagh, Auckland; Prof. Ioannis Kokkoris, Queen Mary, University of London; Professor John Lowry, University College London, London; Neil Lupton, Walkers, Cayman Islands; Nigel Meeson QC, Conyers Dill Pearson, Hong Kong; Professor Riz Mokal, South Square, London; Mathew Newman, Ogier, Guernsey; John O'Driscoll, Walkers, London; Karen O'Flynn, Clayton Utz, Sydney; Professor Rodrigo Olivares-Caminal, Queen Mary, University of London; Christian Pilkington, White & Case LLP, London; Susan Prevezer QC, Quinn Emanuel Urquhart Oliver & Hedges LLP, London; Professor Arad Reisberg, Brunel University, London; Jeremy Richmond QC, Quadrant Chambers, London; Daniel Schwarzmann, PricewaterhouseCoopers, London; The Hon. Mr Justice Richard Snowden, Royal Courts of Justice, London; Anker Sørensen, De Gaulle Fleurance & Associés, Paris; Kathleen Stephansen, New York; Dr Artur Swierczok, CMS Hasche Sigle, Frankfurt; Meiyen Tan, Oon & Bazul, Singapore; Stephen Taylor, Isonomy Limited, London; Richard Tett, Freshfields Bruckhaus Deringer, London; The Hon. Mr Justice William Trower QC, Royal Courts of Justice, London; Mahesh Uttamchandani, The World Bank, Washington, DC; Robert van Galen, NautaDutilh, Amsterdam; Miguel Virgós, Uría & Menéndez, Madrid; L. Viswanathan, Cyril Amarchand Mangaldas, New Delhi; Prof. em. Bob Wessels, University of Leiden, Leiden, the Netherlands; Maja Zerjal, Proskauer Rose, New York; Dr Haizheng Zhang, Beijing Foreign Studies University, Beijing.

For more information about *International Corporate Rescue*, please visit www.chasecambria.com