

Legal Regulation of the Syndicated Lending: Banking Innovations in Contemporary Russia

Regulación legal de préstamos sindicados: innovaciones bancarias en la Rusia de hoy

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ABSTRACT:

Purpose – A very urgent need to create a suitable legal regulation system of innovative banking activity under the conditions of the new national economy's formation.

Design/methodology/approach – In terms of the legal research of the banking innovative entrepreneurial activity the authors designate actions aimed at creating a new or developed banking product, at developing and adjusting the ways of the banks' entrepreneurial activity efficiency increase, which are oriented at achieving the economic and strategic effect during banking operations and transactions. The authors substantiate the significant place of the syndicated lending in the list of such actions. The article explores the advantages and disadvantages of the syndicated lending, the demand for this innovative banking product and its application area.

The authors research the legal nature of the syndicated loan for the presence or absence of plurality of persons in obligation and for the agreement concluded between the syndicate members. The authors also explore the problem of

RESUMEN:

Propósito: una necesidad muy urgente de crear un sistema de regulación legal adecuado de la actividad bancaria innovadora bajo las condiciones de la formación de la nueva economía nacional.

Diseño / metodología / enfoque - En términos de la investigación legal de la actividad empresarial innovadora bancaria, los autores designan acciones destinadas a crear un producto bancario nuevo o desarrollado, en el desarrollo y ajuste de las formas de aumento de eficiencia de la actividad empresarial de los bancos, que están orientadas lograr el efecto económico y estratégico durante las operaciones y transacciones bancarias. Los autores corroboran el lugar significativo de los préstamos sindicados en la lista de tales acciones. El artículo explora las ventajas y desventajas de los préstamos sindicados, la demanda de este producto bancario innovador y su área de aplicación. Los autores investigan la naturaleza legal del préstamo sindicado por la presencia o ausencia de pluralidad de personas en obligación y por el acuerdo celebrado entre los miembros del sindicato. Los autores también exploran el problema del lento desarrollo de los préstamos

slow development of the syndicated lending of the economic entities in Russian Federation. The authors note that this financial technology is successfully implied abroad for a long time, while in the Russian Federation the syndicated lending is considered as an innovative banking product.

Findings – The authors come to the conclusion that this situation is caused by the lack of the detailed legal regulation of this area of business relations and also by the poor development of the mutual credit partnership between commercial banks.

Originality/value – The authors reveal the legal regulation loopholes, elimination of which will promote the syndicated lending of local debtors and, as a result, the growth of the national economy real sector in general.

Keywords: legal regulation of the banking activity, commercial banks, loan, group of banks, syndicate, consortium, agreement, syndicated lending, innovative banking product.

sindicados de las entidades económicas en la Federación Rusa. Los autores señalan que esta tecnología financiera se implicó con éxito en el exterior durante mucho tiempo, mientras que en la Federación de Rusia el préstamo sindicado se considera como un producto bancario innovador.

Resultados - Los autores llegan a la conclusión de que esta situación es causada por la falta de una regulación legal detallada de esta área de relaciones comerciales y también por el pobre desarrollo de la asociación de crédito mutuo entre bancos comerciales.

Originalidad / valor: los autores revelan las lagunas de la regulación legal, cuya eliminación promoverá el préstamo sindicado de los deudores locales y, como resultado, el crecimiento del sector real de la economía nacional en general.

Palabras clave: regulación legal de la actividad bancaria, bancos comerciales, préstamo, grupo de bancos, consorcio, consorcio, acuerdo, préstamos sindicados, innovadores productos bancarios.

1. Introduction

Creating the innovative activity legal regulation system capable to organise the processes of scientific and technical basis improvement in the country with the subsequent entrance to the world high-technology products market, and to provide the government support of the knowledge-consumptive areas of the national economy is necessary for the purpose of increase in economic growth of the country in general (Inshakova and Frolov, 2016). The said processes demand a proper legal support.

Development of the scientific and technological potential of the country comes to the forefront in the cut-throat competition conditions along with the crisis. Generating the favorable climate for the materialization of the state scientific and technological development priorities in the economy becomes the main objective of the federal innovative policy.

The government decree dated December 8, 2011 approved the Innovation-driven growth strategy of the Russian Federation (Decree of the RF Government, 2012). According to this Strategy Russian economy is to «shift to the innovative and socially-oriented development model». The Strategy sets long-term development landmarks for the innovators, which include, first of all, public authorities of all levels, scientific research and business sectors.

The problems of innovations and modernization, technological inferiority of Russia comparing to foreign countries are connected not only with a lack of financing, but also with the fact that innovators do not have the skills of transforming the knowledge into competitive products and technologies which are in demand in the market. Generating the necessary economic, organizational conditions, including the legal ones can provide the competitiveness increase and further technological development of innovative entrepreneurship (Sepideh, 2016).

2. Innovation activity as part of the business activities of banks

The most important participants of the innovative entrepreneurship are banks. Unfortunately, today it is difficult to report on the effective development of banks as the innovative entrepreneurship participants (Vanessa, 2015). Banking infrastructure also does not meet the requirements of the contemporary innovative economic turnover. It is related, first of all, to the fact that the current Russian banking legislation ignores even such important concepts for the modern type of economy as «entrepreneurial activities of banks», «innovative activities of banks», «social responsibility of banks», etc. Besides, the matters of cooperation of banks and the government require more detailed study.

Innovative activities of banks implies either making more attractive products for consumers in comparison with the ones offered earlier or making breakthrough products to satisfy the

requirements which were not covered by the bank services earlier.

It is undeniable that Russian banking system is in need of progressive innovative advance. Such need is caused, first of all, by enhancing security of the Russian banking system, especially in the conditions of the national economic and world financial crises, when the threats which were being accumulated for a long time reflected, first of all, in the financing, having captured the production and social spheres afterwards (Ruchkina, 2010).

It is obvious that the credit is one of the necessary facilities promoting the favorable development of the innovative entrepreneurial activities.

3. Legal regulation of the syndicated loan as an innovative banking product

Russian credit organizations normally have no opportunity to grant the required credit financing to the business entity-borrower autonomously, if the required amount of financing exceeds RUB 500 million, and most importantly these organizations do not have the legal opportunity to take the risks regarding to an individual borrower, even if it is a large and widely-known subject with a good credit record. In such cases commercial banks unite into a group called in the financial sphere syndicate, or more rare – consortium. When the banks grant the required amount to the borrower cooperatively, such loan is called syndicated or consortium loan.

The main organizational functions of the syndicated loan are fulfilled by the lead bank, which is responsible for elaborating the optimal structure of the transaction and the main conditions of the credit granting, negotiating process for the membership of the potential banks-participants, preparation and harmonization of the financially-analytical and legal documentation, the formation of the lending syndicate and completing the transaction (Mikhaylov, 2014).

In the international practice the syndicated lending is rather widespread phenomenon. In Russian Federation this market has been developed approximately since 2004, and despite the numerous obstacles, including legislative ones, Russian syndicated loan market has got fairly encouraging prospects. Active development of the syndicated lending is likely to have the favorable impact not only on the Russian banking system, but also on the development of the national economy real sector in general.

Nowadays, the legal regulation of the syndicated lending in Russian Federation is practically missing. Unfortunately, the majority of the regulatory legal acts only indirectly mention the considered institute (The statement of the Russian Federation, 2011), and in the Civil Code of the Russian Federation there is no special norm regulating the relations involving the execution of the syndicated lending agreement. And the documents of the Bank of Russia which regulate the syndicated lending fall below the standards which are applied by the foreign main underwriters. Besides, there are practically no elaborated legal precedents in the market.

Until 2013 the syndicated lending institute was regulated by the Instruction of the Bank of Russia dated January 16, 2004 No.110-I "About the prudential supervision ratios" (hereinafter - the Instruction No.110), where in appendix No.4 there was a definition of the syndicated loan concept (it is a loan type when two or more banks assume risk according to the agreement or agreements concluded between them). It is worth noting that the definition fixed in such kind of enactment is mostly of an economic nature.

And besides that, the Instruction No.110 contained the classification of the syndicated loans (cooperatively/individually initiated syndicated loan, the syndicated loan without determining the sharing terms), and specified their main features.

The analysis of the syndicated lending types definitions reveals their discrepancy to the international practice, according to which in case of granting the syndicated loan to a borrower one single contract is signed by the borrower and the lenders.

The syndicated loans are also scientifically classified as follows:

- investment-grade loan and leveraged loan;

- internal loan and international loan;
- underwritten loan and best-efforts loan;
- club-deal loan and loans with the free change of creditors under the contract, term loan;
- revolving loan, the loans combining granting a swingline facility or a standby letter of credit;
- single-currency loan or multi-currency loan and others (Sapunkova, 2008).

President Vladimir Putin, speaking at the St. Petersburg International Economic Forum in 2017, noted the importance of the syndicated loan mechanism and the adoption of a law that should streamline the rules for creating syndicates. The same opinion is shared by the authors of the article. Government of the Russian Federation prepared a bill that changes the regulation of syndicated loan transactions. It is assumed that eliminating legal uncertainties will increase the availability of such loans while reducing risks for banks. The project introduces a number of new concepts, including "the credit agent" will make all calculations for the provision and repayment of the loan, and the "collateral manager" will manage the collateral for the loan. The document details the procedure for the implementation of collateral, the newspaper said. It is expected that payments from the bankruptcy estate will be made to the manager, which will then distribute the funds received in accordance with the contractual relations of the creditors. At present there is no single standard for syndicated lending in the Russian Federation. Such loans under Russian law are issued each time on the basis of individual contracts or in English law, if the syndicate involves Western banks.

Prior to the introduction of sanctions, Western banks were quite active in organizing syndications for Russian borrowers. According to our estimates, in 2005-2008 the annual volume of syndicated loans was \$35-70 billion. A sharp decline occurred in 2009, the market began to gradually recover and by 2014 reached 35-40 billion dollars. After the introduction of sanctions, the activity of foreign banks declined sharply: in 2015, only 13 deals were concluded for \$ 7 billion. Syndicated lending, which involves the creation of syndicates from several banks, allows you to share risks between several participants. This form of lending should also help launch a project financing mechanism, which is rarely used in Russia. The main lobbyist of the bill is Vnesheconombank (VEB), which will act as a credit agent in the course of syndicated lending.

The first major agreement on the attraction by Vnesheconombank of a syndicated loan of \$ 2.45 billion with a number of leading foreign banks was signed in 2011 in Moscow. The loan term is 3 years. The interest rate on the loan is 6m LIBOR + 1.3% per annum. The contract is closed with a substantial oversubscription, since initially Vnesheconombank planned to attract a loan of \$ 2 billion. The loan parameters for 2011 were record for the Russian syndicated loan market. The loan amount received by Vnesheconombank was the maximum of all Russian banks attracted for all time. The attracted credit resources were directed by Vnesheconombank to finance current investment projects.

The participants of the loan were 19 banks, including the largest banks in Europe, the US and China. The authorized leading organizers and bookrunners on the transaction were Bank of Tokyo-Mitsubishi UFG Ltd, Barclays Bank PLC, BNP Paribas, China Development Bank Corporation, Hong Kong Branch, Commerzbank Aktiengesellschaft, Credit Agricole Corporate and Investment Bank, Credit Suisse AG, HSBC Bank plc, Mizuho Corporate Bank Ltd, Societe Generale, Sumitomo Mitsui Banking Corporation Europe Limited. The authorized leading organizers were Bank of America Securities Limited, Citibank NA, London Branch, Goldman Sachs International, ING Bank N.V., JPMorgan Chase Bank, N.A., Morgan Stanley Bank International Limited, The Royal Bank of Scotland N.V. and WestLB AG, London Branch. The coordinator and payment agent of the syndicated loan is Barclays Capital.

4. Drawbacks of syndicated lending

Since January 1, 2013, when the Instruction of the Bank of Russia dated December 3, 2012 No.139-I "About the prudential supervision ratios" came in force (hereinafter – the Instruction No.139), (The instruction of the Bank of Russia, 2012) the syndicated lending

institute underwent a significant change: a new definition of the syndicated loan is stated, and the provisions on the syndicated loan types are excluded.

According to the appendix 4 of the Instruction No.139 the syndicated loan is an agreement (contract) on granting the loan to the borrower by one or several persons (the syndicate participants), and the risk of non-performance or improper performance of the loan obligations by the borrower in contract time is shared by two or more participants of the agreement (contract) at the same time. The analysis of this definition shows introduction of the new term «the syndicated loan granting agreement» to the law enforcement practice, which, unfortunately, is not explained. Apart from the things specified in the Instruction No.139, such important points as rights and obligations of the syndicated loan agreement participants are not regulated, and the procedures of realizing the rights of the entrance to the syndicate and the paying agent appointment are not established.

The only way to fill the said gaps in the legislative regulation is to stipulate a special norm devoted to the syndicated loan in the Civil Code of the Russian Federation, just like the draft federal law "About the modification of the chapter 42 of part 2 of the Civil Code of the Russian Federation and certain legislative acts of the Russian Federation" (The Federal Law draft, 2012) offers. The document also offers to supplement chapter 42 of the Civil Code with the new article 819.1 "The syndicated loan".

The edition of article 819.1 of the Civil Code offered by the draft federal law stipulates the definition of the syndicated loan concept, the loan terms (the loan amount, the loan interest rate, the procedure of the loan repayment, the procedure of making coordinated decisions by the lenders and others), specifies the contracting partners and their rights and obligations.

In fact, the need for these changes arose long ago. Enshrining of the special norm devoted to the syndicated loan in terms of legislation will undoubtedly have a favorable impact on the banking practice and will allow to use the mechanism of the innovation projects financing, which require vest investments more widely, consequently allowing to develop the most important socially significant researches and maintain the competitive ability of the Russian economy in general.

However, the draft law is not fully elaborated, it contains the unwarranted restrictions for the civil-law transactions and requires, in our opinion, considerable modifying.

5. Standardization of documents for syndicated loans

In foreign countries there is a legislative framework regulating the syndicated lending institute. In addition, the unified form of the syndicated lending contract elaborated by the London Loan Market Association (LMA) is widely used. In spite of the fact that it is a non-governmental organization, its recommendations are hugely influential, which is confirmed by the corresponding law enforcement practice (Bear Stearns Bank, 2016).

In our country there was no standard documentation on the syndicated loan arrangements for a long while. Such a situation considerably complicated using this loan form, particularly for the purpose of financing innovations. One of the problems was the fact that the deal structuring happened according to the rules set by a concrete bank.

From 2011 to 2015, the syndicated lending Committee of the regional Russian banks Association with the participation of the leading financial advisers and law firms carried out a massive work to elaborate a standard package of documents on the syndicated lending.

The result of the research was forming the standardized syndicated lending documentation which includes:

- the loan agreement, which components are the contract of guarantee, the lien management contract and the provision on the syndicated loan organization;
- remuneration agreement;
- methodological recommendations on the finance indicators calculation and the accounting transactions schemes.

The work of the regional Russian banks Association continues at the present time. The

efforts of the experts are now directed at elaborating the additional documentation to the syndicated loan agreement.

Using the standardized documentation in the law enforcement practice will simplify the conclusion procedure of the syndicated loan agreement, and will also reduce the contracting partners' legal risks.

However, in the absence of the fully functional regulatory framework regulating the syndicated lending relations, there are discussions within the doctrine about the legal nature of the syndicated lending agreement.

6. The legal nature of the syndicated loan agreement

The position of referring the syndicated lending agreement to a type of the cooperation agreement seems to us incorrect for several reasons. Firstly, the subject matter is different: only banks can be the contracting parties of the syndicated lending agreement in contrast to the simple partnership agreement, where the participation of the physical parties is allowed. Secondly, according to article 1041 of the Civil Code of the Russian Federation, finances handed to the borrower under the syndicated lending agreement do not become the common property of the lender and the borrower, as it happens under the simple partnership agreement. Thirdly, every contracting party in the simple partnership agreement is a lender and a borrower to one another at the same time because of the opportunity to demand the proper performance of the contract obligations. Such a thesis totally contradicts the essence of the relations resulting from the syndicated lending agreement. And the last thing that should be noted in justification of the said viewpoint fallacy is a matter of responsibility under these agreements: contracting parties of the simple partnership agreement bear the joint liability (Article 1047 of the Civil Code), while such liability basically cannot be imposed on the contracting parties of the syndicated lending agreement.

We adhere to the position prevailing in legal literature, according to which the syndicated lending agreement should be qualified as a mixed contract.

At the same time there is no concurrent view on an issue about the components of the mixed syndicated lending agreement. There are various models: 1) loan agreement + agency contract; 2) loan agreement + agency contract + contract of guarantee; 3) loan agreement + simple partnership agreement and others (Popkova, 2016).

There are following groups of relations resulting from the conclusion of the syndicated lending agreement:

- between the lenders-participants of the syndicate and the borrower (lending relations);
- between the lenders in the syndicate;
- between the lenders-participants of the syndicate and the facility agent (agency relations).

Such a structure confirms the viewpoint of referring the syndicated lending agreement to the mixed contract, which components are: the loan agreement, the agency contract and the agreement between the banks specifying the procedure and the amount of financing of the borrower (Article 309.1 of the Civil Code). This conclusion is proved by the court practice (The Arbitration Court decision, 2016).

It should be noted that the Commission of the Committee of the syndicated lending of the regional banks Association drew kind of a line under the said discussions having elaborated a standard form of the loan agreement which consists of the guarantee agreement, the lien management contract and the statement about the syndicated loan organization, as noted above.

Participation of the several banks united into a syndicate in granting the syndicated loan to the borrower generated a scientific discussion on the plurality of persons existence in an obligation on the lender's side.

For instance, there is a point of view according to which the syndicated loan is considered as a complex obligation consisting of the loan obligation elements and the agency obligation. The plurality of persons is found both in the loan obligation (on the participatory basis) and

in the agency obligation (only on the principal's side) (Sapunkova, 2008).

In our opinion, there is no plurality of persons on the lender's side. All the lenders have equal rights during the conclusion of the said agreement, however the amount of financing of the borrower by each of the banks may be different. Each of the syndicate's participants incurs individual liability, not joint, as it happens in terms of the plurality of persons in an obligation. Therefore, in the case under consideration there are several banks-participants of the syndicate with the unsubordinated loan obligations appearing to be the lenders.

In fact, the basic intended purpose of the syndicated lending for banks is distribution and minimization of risks. When concluding the syndicated agreement credit risks are distributed between all the syndicate's participants, and it significantly increases the credit reliability and confidence of the lenders in returning the granted finances. The bank's participation in the syndicate promotes its financial standing due to receiving a considerable remuneration for the credit granting. The borrower pays the fee to the deal maker and also an award fee to the agent bank. The amount, the procedure and the date of such payments are usually established in the fee letter, which is signed by the borrower, the deal maker and the agent bank when concluding the loan agreement. And the remuneration amount depends not only on the current state of the market but also on the financial situation of the borrower – the worse it is (a small borrower, a new market entrant, unstable financial situation), the bigger risks of the banks-lenders are, and therefore the higher is the commission.

7. Formation and development of the market of syndicated lending.

Advantages and disadvantages

Developing the syndicated lending market at the current stage of the Russian economy development is especially important for regional banks and companies as this mechanism has a number of advantages, in comparison with the usual bilateral loans, both for the bank-lender and the borrower. Most of the regional banks do not have enough capital for financing large deals. They are given an opportunity to accumulate considerable amounts of money on the basis of integrating and finance highly-profitable major projects, and they can interact with widely known international credit institutions with good reputation too.

Among the advantages of the syndicated lending for the economic entity-borrower the possibility of the loan amount and the loan period increase is of great importance. The syndicated lending gives to a few creditors an opportunity to assume the arising risks, therefore the borrower can receive bigger amounts of money for extended lengths of time. Hypothetically, it can also be realized by means of the usual bilateral loans if the borrower addresses a few lenders and receives the needed amount under the individual loan agreements with each of them. However such approach requires more time, bulky documentation and additional expenses. And it seems impossible to have complete confidence that the borrower will receive the expected amount in the end.

It is necessary to notice one more advantage – the simplification of the loan registration process for the economic entity-borrower. Each syndicate independently elaborates documentation for a concrete transaction. The borrower does not need to carry on negotiations with each of the banks-syndicate participants personally. Addressing the managing bank which agrees all the terms and conditions with other lenders is enough. Furthermore, obligations of the borrower to the syndicate participants are considered to be fulfilled at the moment of crediting funds to the agent bank account, not to the accounts of each bank (The decision of the Chuvash Republic Arbitration Court, 2014). Besides, the registration period of the syndicated loan is less than, for example, bond certificate launch period, and usually lasts from two to four months.

Along with the obvious advantages the syndicated lending also has some disadvantages. Special requirements to the financial situation of the economic entity-borrower (they are usually fixed in the contract) can be considered as a disadvantage. In particular, these are the debt load indicators, the indicators of the amount of funds on the liabilities side etc.

Apart from it, significant restrictions are imposed on the commercial activities of the loan debt.

Having analyzed the current situation in the Russian syndicated lending market we brought out some main problems.

Large syndicated loans are characteristic, first of all, for the companies of industrial branches. For example, in the first half of 2017 Rosbank continued to expand its business in the banking services market to the largest Russian and international companies, keeping its position, despite the tough competition in this segment. The largest transactions in syndicated lending in 2017 were: - a loan agreement of \$ 2 billion with one of the leaders in the telecommunications sector, while Rosbank and Societe Generale acted as authorized leading organizers; - loan agreement of \$ 1.5 billion with one of the leaders in the mining and metallurgical industry, while Societe Generale coordinated the transaction, and Rosbank acted as the original creditor and passport bank.

The Societe Generale Group and Rosbank are present in the Russian syndicated loan market since 2004. During this time, the Group has developed significant experience in arranging transactions for Russian borrowers in the sphere of retail trade, transport, chemical industry, mining, metallurgy, telecommunications and the banking sector. Since early 2017, Rosbank has participated in 6 syndicated loans for a total amount of \$ 6.7 billion provided.

It should be noted that Russian commercial banks quite actively form their liabilities, receiving syndicated loans abroad. According to the company Cbonds at the end of 2015, commercial bank Financial Corporation "Otkrytie" attracted a syndicated loan for \$ 185 million for LIBOR + 2.5% per annum for a period of 1 year with the possibility of its continuation for another year. Also syndicated loans attracted banks with state participation: The International Investment Bank attracted 60 million euros in May 2016, Vnesheconombank (VEB) - \$ 1.5 billion in September 2016 and Sberbank - 134.8 million euros at the end of 2016.

In the first half of 2017, the largest for the current period transaction of indexed lending for a private bank. Moscow Credit Bank (IBC) has concluded an agreement to attract a syndicated loan of \$ 500 million. Leading organizers were Citibank, HSBC, ING Bank, Raiffeisenbank International, Rosbank, Commerzbank, Unicredit Bank, as well as Industrial & Commercial Bank of China, Harbin Bank and JPMorgan. The syndicated loan is attracted for 364 days with maturity at the end of the term.

It should be clarified that syndicated lending in Russia is also carried out in the interests of small and medium-sized businesses. For example, in 2014, MSP Bank (VEB Group) and Vozrozhdenie Bank implemented the first transaction in the framework of the jointly developed product "MSP-Syndicate", which allows financing one investment project of a small business entity simultaneously from two sources - from the MSP of the Bank and funds partner bank, which also performs agency functions for the transaction. At the same time, the share of MSP of the Bank was 50% of the aggregate amount of the loan. The first loan in the amount of 60 million rubles was provided by LLC "Victoria" (Rostov-on-Don) for a period of 7 years at a rate of 13% per annum. The funds are directed to the implementation of the project for the construction in Rostov-on-Don of a specialized shopping center, the purchase of necessary equipment and storage equipment. The advantage of the product "MSP - Syndicate" is an increase in the maximum amount of financing (within the product line of the MSP Bank, loans in the amount of up to 150 million rubles are possible) more than 2 times, which will allow SME entities to implement large investment projects. At the same time, lending conditions remain: the rate for the borrower is not more than 13.5% per annum, the term is up to 7 years. Banks-partners get the opportunity to meet the needs of borrowers in full, while reducing their own risks and the burden on capital.

The first problem is the syndicated loan novelty as a banking product for the Russian market. The legal vacuum, the absence of the standard crediting procedure and the absence of the unified criteria of the borrower/guarantor/estimation are the reasons of non-recognition of this form of crediting and the brevity of practice of concluding such contracts in our country.

Legal gaps, restrictions and inconsistency in Russian legislation are the reasons why consummating of the business transactions majority are regulated on the basis of English law.

In the Russian syndicated lending market, deals implicating several co-borrowers did not get widespread use, mostly because of the risks of violating the currency regulation and control laws. Russian borrowers prefer to receive the whole loan amount on behalf of one company with subsequent distribution of the borrowed funds within the group.

8. Discussion and conclusions

The conducted analysis allows for the following conclusions.

1. As contrasted with foreign countries, where great attention is paid to the precontractual stage of the syndicated loan agreement, in Russian practice such preparation is less scrupulous.

2. The procedure of concluding the syndicated loan agreement is not adequately regulated by Russian legislation:

- the question of realization of rights of a group of lenders under the loan agreement is not regulated. In international practice there is an opportunity for a lender to realize his certain rights with respect to a borrower only taking into account the opinion of the lenders majority. For example, implementation of the right to demand the early loan obligations performance or making the decision on the enforcement of pledge under the collateralized loan. Realization of these rights unilaterally, as well as the unilateral refusal to perform obligations or termination of the loan agreement is inadmissible. Other issues are resolved by the qualified majority of all lenders. Such decision is obligatory for all the lenders. Nevertheless, the effectual Civil Code of the Russian Federation does not stipulate for lenders' meeting and making coordinated decisions;

- only concrete property can be pledged. In foreign countries a borrower quite often provides money on the bank account, requirements to debtors, future immovable property as a loan security. Besides that, norms of the international legislation on pledge allow contracting partners to define the subject of a pledge rather flexibly, just formalizing identification characteristics, without indicating concrete property. This rule significantly expands the scope of property which can be pledged, promoting development of the syndicated lending market.

The solution of the above-mentioned problems is making the corresponding amendments into the national legislation taking into account the legal regulation experience of European countries, particularly Great Britain's.

3. The syndicated lending institute is a financial mechanism by means of which it is possible to solve problems of the lack of pioneering industries financing in our country. Creating the regulatory framework for regulating the syndicated lending of innovative activities will broaden the area of its use, and granting basic guarantees by the government will be the risk reducing factor for the contracting partners.

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