

PUBLIC	SECTION		MAY 20 1997
	RULE	17f-5	
	PUBLIC AVAILABILITY	5-20-97	

**RESPONSE OF THE OFFICE OF CHIEF COUNSEL  
DIVISION OF INVESTMENT MANAGEMENT**

Our Ref. No. 97-130  
Russia Growth Fund, Inc.  
File No. 811-8456

By letter dated February 14, 1997, you seek assurance that the staff would not recommend enforcement action to the Commission under Section 17(f)<sup>1</sup> of the Investment Company Act of 1940 (the "Investment Company Act") or Rule 17f-5<sup>2</sup> thereunder if the Russia Growth Fund, Inc. (the "Fund") holds equity securities of Russian issuers ("Russian equities") in accordance with the custodial arrangements described in your letter.

The Fund is a non-diversified closed-end management investment company. Fleming International Asset Management, Ltd. serves as the Fund's investment adviser. The Fund's investment objective is long-term capital appreciation through investment primarily in publicly traded Russian equities. The Fund will enter into a custody agreement (the "Global Custody Agreement") with The Chase Manhattan Bank, N.A. ("Chase") pursuant to which Chase will serve as the Fund's custodian. Chase has advised the Fund that Chase will enter into a sub-custody agreement with its wholly owned indirect Russian subsidiary, Chase Manhattan Bank International ("Chase Russia") to perform certain custody functions as Chase's delegatee.<sup>3</sup>

The Fund proposes to structure its custodial arrangements for holding Russian equities in accordance with the arrangements that were the subject of the staff's no-action letter to Templeton

- 
- <sup>1</sup> Section 17(f) sets forth the custodial requirements for registered management investment companies. Section 17(f) permits four types of custodians: U.S. banks (and their foreign branches) and, subject to the Commission's rules, members of U.S. securities exchanges, U.S. securities depositories and investment companies themselves.
  - <sup>2</sup> Rule 17f-5 permits a registered management investment company to maintain assets outside the United States with certain categories of "eligible foreign custodians." Specifically, Rule 17f-5 permits funds to maintain custody of certain of their assets with foreign banks or trust companies that are subject to foreign bank or trust company regulation; majority-owned subsidiaries of U.S. banks; transnational foreign securities depositories and clearing agencies; and a securities depository or clearing agency that acts as a system for the central handling of securities or book-entries in the country that is regulated by a foreign financial authority. See Custody of Investment Company Assets Outside the United States, Investment Company Act Release No. 22658 (May 12, 1997).
  - <sup>3</sup> Chase Russia has been granted exemptive relief by the Commission pursuant to Section 6(c) of the Investment Company Act to act as a sub-custodian for U.S. registered investment companies. Chase Manhattan Bank, Investment Company Act Release No. 21101 (May 31, 1995).

Russia Fund, Inc. ("TRF") (the "Templeton letter").<sup>4</sup> The custody arrangements outlined in the Templeton letter were designed to address certain custodial risks posed by the Russian share registration system. These arrangements require, among other things, enhanced oversight of the Fund's custodial arrangements by the Fund's Board of Directors and regular confirmations of the Fund's holdings by Chase Russia.

In the Templeton letter, TRF stated that to provide reasonable protection for TRF's assets, Chase Russia would enter into a written agreement with the registrar of each issuer whose securities would be held by TRF. Each agreement would provide for: (1) regular confirmations of share registration; (2) prompt re-registration of shares following a transaction; (3) the ability of Chase Russia to hold shares in nominee name; (4) the right of review of the registrar's books and records by an independent auditor; (5) specification of the registrar's responsibilities and liabilities under applicable regulations with respect to dividends and other corporate actions; and (6) procedures for making a claim and receiving compensation from a registrar in the event of a loss.

You state that Chase Russia has been able to enter into such detailed agreements with only a relatively small number of registrars and that, in most cases, the agreements take several months to negotiate.<sup>5</sup> You believe that the Fund's ability to fulfill its investment objective and take advantage of investment opportunities on a timely basis is limited because of the time needed to negotiate detailed agreements, and because some registrars may be unwilling to enter into those agreements. You believe, however, that Russian registrars may be more willing to enter into a shorter, less complex agreement without protracted negotiations.

You propose that Chase Russia utilize a shorter form of registrar agreement (a "Short Form Agreement") than that described in the Templeton letter. You represent that each Short Form Agreement will provide for an express contractual commitment by the registrar to comply with the existing decrees, laws and regulations (which are specified in the agreement), and any future decrees and regulations, of the Russian government (and Russian government agencies) governing the registration and transfer of securities of Russian joint-stock companies (the "Registrar Regulations"). You represent that the Registrar Regulations currently in effect overlap substantially with, and provide substantially the same degree of protection as, the key provisions of

---

<sup>4</sup> Templeton Russia Fund, Inc. (pub. avail. Apr. 18, 1995). If the Fund invests in Russian government securities, you state that the Fund will structure its custodial arrangements in accordance with the staff's letter to United Export Import Bank (pub. avail. May 13, 1996).

<sup>5</sup> You state that Chase Russia has been able to enter into such agreements with only 96 registrars (a small fraction of the active Russian registrars) purporting to act on behalf of 850 Russian companies. The Fund represents that of these 850 Russian companies, relatively few would qualify for investment under the Fund's investment policy. Telephone conversation between J. Eugene Marans and Karrie McMillan, March 21, 1997.

the agreements considered in the Templeton letter.<sup>6</sup> The Registrar Regulations incorporated into the Short Form Agreement describe a registrar's responsibilities and liabilities and provide for (1) regular confirmations of share registration; (2) prompt re-registration of shares following a transaction; and (3) the ability of Chase Russia to hold shares in nominee name. You represent that the responsibilities of a registrar as to distributions and other corporate actions are established through the Registrar Representations and the Law of the Russian Federation No. 39-FZ. You represent that, although not expressly addressed under the Registrar Regulations, an independent auditor selected by the Fund would, pursuant to the Global Custody Agreement, be able to accompany Chase Russia on visits to the registrars for the purpose of conducting share confirmations. In addition, Chase Russia would have the right under the Registrar Regulations to assert a claim and receive compensation from a registrar in the event of a loss.<sup>7</sup>

You represent that Chase Russia will provide potential registrars with the operating procedures that Chase Russia intends to follow in connection with securities held by the Fund (the "operating procedures"). The operating procedures will include the principal operating procedures set out in the agreement considered in the Templeton letter. You also represent that Chase Russia will review the operating procedures with the appropriate officer or officers of each registrar that enters into the Short Form Agreement at or prior to the time the agreement is executed. In the

---

<sup>6</sup> You have attached to your letter a comparison of the obligations of registrars under the Templeton agreement and the obligations imposed on registrars by the Registrar Regulations. We have not made an independent evaluation of the Registrar Regulations but have relied on your comparison and the representations contained in your letter.

<sup>7</sup> You represent that in the event of a loss caused by a violation of the Short Form Agreement, the Fund will request that Chase Russia exercise its reasonable efforts to assist the Fund in seeking recovery of such loss, including (1) the assignment to the Fund of such private right of action against the registrar (which Chase Russia has indicated that it would expect to comply with, except in unusual circumstances) or (2) the pursuit of such private right of action directly by Chase Russia against the registrar (if deemed appropriate by the Fund and Chase Russia under the circumstances). You further represent that you understand that Russian law generally would permit the assignment to an investment fund by its custodian or sub-custodian of contractual rights relating to the fund's securities that the custodian or sub-custodian may have against a registrar without the registrar's consent and the bringing of a private action by a fund against the registrar to enforce such rights, although you are not aware of any case in which an investment fund has sought to pursue a claim against a registrar under this procedure. Telephone conversations between Robin M. Bergen and Karrie McMillan, May 7 and 8, 1997. As in the Templeton letter, neither Chase nor Chase Russia would be liable for the acts or omissions of the registrars under the Global Custody Agreement, and the registrars are not sub-custodians of Chase or Chase Russia.

event that Chase Russia has reason to believe that a registrar would not follow the operating procedures, you represent that Chase Russia would not enter into the Short Form Agreement.

You represent that Chase Russia will monitor each registrar's performance under the operating procedures and will inform the Fund and its investment adviser if it has actual knowledge of any expression of intention by a registrar not to be in material compliance with the procedures or the Short Form Agreement, or of any instance of material non-compliance with the procedures or the Short Form Agreement by a registrar.<sup>8</sup> You represent that, in the event of such non-compliance by a registrar, the board of directors of the Fund will consider appropriate measures, such as legal action and/or the disposition of affected securities, to address the non-compliance. You further represent that the Fund will not purchase additional securities of an issuer served by a non-complying registrar without the specific approval of the Fund's board of directors after consideration of the surrounding circumstances, including the risks posed by the non-compliance.<sup>9</sup>

You assert that the basic protections provided by Section 17(f) and Rule 17f-5 thereunder are satisfied by the use of the Short Form Agreement to the same extent as by the use of the more detailed Templeton agreement. You state that any future decrees or regulations concerning the registration and transfer of Russian equities would likely increase the qualitative level of protection for the Fund in the holding of Russian equities. You represent, however, that the board of directors of the Fund will consider whether the qualitative level of protection for the Fund resulting from any new Registrar Regulation is at least as great as that provided by the current Registrar Regulations. In the event that the Board determines that compliance with a new Registrar Regulation would materially decrease the level of protection for the Fund's securities, Chase will work with the Board to develop appropriate procedures and ensure that alternative arrangements are made to maintain a level of protection that is in the best interests of the Fund and its shareholders.

Based on the representations in your letter and telephone conversations, in particular your representation that the Fund and Chase Russia will comply with the procedures set forth in the Templeton letter in all other respects, we would not recommend that the Commission take any enforcement action under Section 17(f) or Rule 17f-5 thereunder if Chase Russia makes use of Short Form Agreements in connection with the maintenance of Russian equities held by the Fund.<sup>10</sup> You should note that different facts or representations may require a different

---

<sup>8</sup> Telephone conversation between J. Eugene Marans and Karrie McMillan, March 21, 1997.

<sup>9</sup> Telephone conversation between J. Eugene Marans and Karrie McMillan, March 21, 1997.

<sup>10</sup> The staff also would not recommend that the Commission take enforcement action under Section 17(f) or Rule 17f-5 thereunder against other registered management investment companies that maintain their assets with custodians that act in accordance

conclusion. Further, this response expresses the Division's position on enforcement action only, and does not purport to express any legal conclusions on the questions presented.



**Karrie McMillan**  
**Special Counsel**

---

with the procedures set forth in this letter in connection with the maintenance of Russian equities held by such investment companies.

**CLEARY, GOTTlieb, STEEN & HAMILTON**  
1752 N STREET, N.W. WASHINGTON, D.C. 20036-2806  
(202) 728-2700

FACSIMILE  
(202) 429-0946

ONE LIBERTY PLAZA  
NEW YORK, NY 10006

41, AVENUE DE FRIEDLAND  
75008 PARIS

RUE DE LA LOI 23  
1040 BRUSSELS

CITY PLACE HOUSE  
55 BASINGHALL STREET  
LONDON EC2V 5EH

ROBERT C. BARNARD  
FRED D. TURNAGE  
COUNSEL

ULMENSTRASSE 37-39  
60325 FRANKFURT AM MAIN

66TH FLOOR, BANK OF CHINA TOWER  
ONE GARDEN ROAD  
HONG KONG

SHIN KASUMIGASEKI BUILDING  
3-2, KASUMIGASEKI 3-CHOME  
CHIYODA-KU, TOKYO 100

DONALD L. MORGAN  
J. EUGENE MARANS  
DOUGLAS E. KLIEVER  
DANIEL B. SILVER  
KENNETH L. BACHMAN, JR.  
CHARLES F. LETTOW  
RICHARD G.C. HINDS  
SARA D. SCHOTLAND  
MARK LEDDY  
JOHN C. MURPHY, JR.  
HENRY J. PLOG, JR.  
DANA L. TRIER  
EUGENE M. GOOTT  
JANET L. WELLER  
MITCHELL S. DUPLER  
LINDA J. SOLDO  
GIOVANNI P. PREZIOSO  
JOHN T. BYAM  
STEVEN N. ROBINSON  
MICHAEL R. LAZERWITZ  
DAVID I. GELFAND

RICARDO A. ANZALDÚA  
ROBIN M. BERGEN  
BARBARA W. BERNSTEIN  
ROBERT T. BRADFORD  
MARCILYNN A. BURKE  
DEREK M. BUSH  
BRIAN BYRNE  
ROBERT W. COOK  
JEFFREY R. COSTELLO  
ONNIG H. DOMBALAGIAN  
THOMAS M. DOYLE II  
BRANDT J. GOLDSTEIN  
DEBRA GATISON HATTER  
STEVEN J. KAISER  
JEAN E. KALICKI  
ELIZABETH L. KATKIN  
KAREN A. KERR  
DANIEL C. KOLB  
PAUL D. MARQUARDT

MICHAEL A. MAZZUCHI  
JOYCE E. McCARTY  
DAVID H. McCLAIN  
PATRICK J. McDERMOTT  
ERUCH P. NOWROJEE  
MICHAEL F. O'CONNOR  
MITCHELL L. RABINOWITZ  
DAVID R. RICHARDSON  
SCOTT E. SICHANG  
MARK A. SINGLEY  
MICHAEL S. STEELE  
SANDRA E. TRIMBLE  
MARK E. VAN DER WEIDE  
TIMOTHY A. VOGEL  
JAMES G. VOTAW  
MICHAEL W. WALDRON  
AMY DEEN WESTBROOK  
CARLA L. WHEELER

RESIDENT PARTNERS

W. RICHARD BIDSTRUP  
SCOTT N. BENEDICT  
LINDA S. MATLACK  
KEVIN A. GRIFFIN

SPECIAL COUNSEL

\*NOT ADMITTED IN THE DISTRICT OF COLUMBIA

Section 17(f) of the Investment Company  
Act of 1940 and Rule 17f-5 thereunder

February 14, 1997

Jack W. Murphy, Esq.  
Associate Director  
Division of Investment Management  
Securities and Exchange Commission  
450 5th Street, N.W.  
Washington, D.C. 20549

Re: Custodial Arrangements for Russian Securities Held by The Russia  
Growth Fund, Inc.

Dear Mr. Murphy:

We are writing on behalf of our client, The Russia Growth Fund, Inc. (the "Fund") to request your advice that the staff would not recommend that the Securities and Exchange Commission (the "Commission") take any enforcement action under Section 17(f) of the Investment Company Act of 1940, as amended (the "1940 Act"), or Rule 17f-5 thereunder against the Fund in the event the Fund utilizes the custodial arrangements discussed below for the investment in and the holding of Russian securities.

## Background

### A. The Fund

The Fund is a recently-organized, non-diversified closed-end management investment company. The Fund filed its notification of registration on Form N-8A and its Registration Statement on Form N-2 with the Commission on January 17, 1995. Fleming International Asset Management Ltd. (the "Investment Adviser") will serve as the Fund's investment adviser. The Fund's investment objective is long-term capital appreciation through investment primarily in publicly traded equity securities of Russian issuers. In seeking to achieve its investment objective, under normal circumstances, the Fund will invest at least 65% of its assets in the securities of Russian issuers.

The Fund will enter into a custody agreement with The Chase Manhattan Bank ("Chase") pursuant to which Chase will serve as the Fund's custodian. Chase has advised the Fund that Chase will enter into a sub-custody agreement with its wholly-owned, indirect Russian subsidiary, Chase Manhattan Bank International ("Chase Russia") to perform certain custody functions as Chase's delegate. Because Chase Russia does not meet the shareholders' equity requirement necessary to qualify as an "eligible foreign custodian" under Rule 17f-5(c)(2), Chase filed an application with the Commission and has been granted exemptive relief for Chase Russia pursuant to Section 6(c) of the 1940 Act.<sup>1</sup>

### B. Compliance With Commission Staff's Letter to Templeton Russia Fund, Inc.

The Fund generally proposes to follow the custodial arrangements for holding Russian securities outlined in the Commission staff's April 18, 1995 no-action letter<sup>2</sup> to Templeton Russia Fund, Inc. (the "Templeton letter") and the May 13, 1996 no-action letter<sup>3</sup> to the United Export Import Bank, and other guidance that may be issued by the Commission or the staff. The Templeton letter permitted the use of Chase Russia as a sub-custodian for

---

<sup>1</sup> In re The Chase Manhattan Bank, Investment Company Act Release No. 21101 (May 31, 1995) ("Release No. 21101"). On June 11, 1996, the Commission granted to The Chase Manhattan Bank, N.A. ("CMB") and Chemical Bank ("Chemical") exemptive relief substituting Chase (the entity surviving the merger of CMB and Chemical) as the party to which relief was granted under Release No. 21101. In re The Chase Manhattan Bank, Investment Company Act Release No. 22009 (June 11, 1996).

<sup>2</sup> Templeton Russia Fund, Inc., SEC No-Action Letter, Fed. Sec. L. Rep. (CCH) ¶ 77,020 (Apr. 18, 1995).

<sup>3</sup> United Export Import Bank, SEC No-Action Letter, Fed. Sec. L. Rep. (CCH) ¶ 77,263 (May 13, 1996).

equity securities, provided, among other conditions, that Chase Russia would enter into a registrar agreement (a "Long-Form Agreement") with the registrar of each Russian joint-stock company (a "registrar") whose securities would be held by Chase Russia in essentially book-entry form.

Chase Russia<sup>4</sup> would provide a range of services to the Fund. The Global Custody Agreement between the Fund and Chase is expected to be Chase's customary form of Global Custody Agreement, with an amendment relating specifically to services that will be performed by Chase and Chase Russia, as custodian and sub-custodian, respectively, for Russian securities.<sup>5</sup>

C. Proposed Use of Short-Form Agreement

The Fund proposes, however, that Chase Russia also be permitted to enter into a shorter form of registrar agreement (a "Short-Form Agreement") with those registrars that might not readily be prepared to enter into a registrar agreement modeled on the Long-Form Agreement. The Short-Form Agreement would focus on the express contractual commitment of the parties to comply with the existing Russian decrees, laws and regulations (and any successors thereto) governing the registration and transfer of securities of Russian joint-stock companies. In addition, the Short-Form Agreement would include a provision under which the registrar acknowledges that it has received from Chase Russia a copy of the operating procedures Chase Russia expects will be followed with respect to the performance of the Short-Form Agreement (the "operating procedures") and that the operating procedures have been reviewed with it by Chase Russia. The operating procedures consist of the principal operating procedures set out in the Long-Form Agreement. Chase Russia would review the operating procedures with the appropriate officer or officers of each registrar that enters into the Short-Form Agreement at or prior to the time the Short-Form Agreement is executed. In the event Chase Russia has reason to believe that a registrar would not follow the operating procedures, Chase Russia would not enter into the Short-Form Agreement with such registrar.

Chase Russia would also periodically monitor each registrar's performance of certain functions (specifically those that are equivalent to the functions to be monitored by Chase Russia as described in the Templeton letter) and would inform the Fund and the Investment Adviser if it has actual knowledge of any instance of material non-compliance with any such functions by such a registrar. The Fund represents that at its next meeting following any such non-compliance report, the Board of Directors of the Fund (the "Board"), in

---

<sup>4</sup> As in the Templeton letter, various services to be provided by Chase Russia may be performed by employees or agents of Chase Russia.

<sup>5</sup> The Global Custody Agreement between the Fund and Chase will contain materially the same provisions as the custody agreement referred to in the Templeton letter.

consultation with Chase and Chase Russia, would consider the development of appropriate alternative arrangements to deal with the situation. The Fund further represents that the Investment Adviser will not purchase any additional shares of any issuer served by the non-complying registrar except with the specific approval of the Board, and the Board will consider other responses that would be in the best interests of the Fund and its shareholders, such as taking legal action to enforce its rights or requiring the Investment Manager to dispose of the shares of the issuers served by the non-complying registrar.

The Fund believes that the ability to use Short-Form Agreements would give the Fund significantly greater flexibility in making investment decisions. To date, Chase has been able to enter into Long-Form Agreements with only 96 registrars -- which is only a small fraction of the corporate registrars the Fund understands are actively operating in Russia. Although these 96 registrars purport to be acting on behalf of in excess of 850 Russian companies, the Fund believes that relatively few of these companies would qualify for investment under the Fund's investment policy.

Chase Russia has indicated to the Fund that it generally takes several months to negotiate a Long-Form Agreement, and the Fund believes that it may be possible to obtain a Short-Form Agreement from certain registrars in a considerably shorter period of time. Without the availability of the Short-Form Agreement, the Fund's ability to take advantage of investment opportunities on a timely basis would be limited to investment in the sector of the Russian equity market with existing Long-Form Agreements. Moreover, in cases where a registrar is unable or unwilling to analyze the Long-Form Agreement, the Fund will be prevented from making the investment under any circumstances. The Fund would thus be unduly restricted in its ability to exercise traditional investment policy criteria, such as diversification by industry, region, size and opportunity for appreciation.

The Short-Form Agreement includes a provision that would require the registrar and Chase Russia to adhere to and comply with various decrees, laws and regulations as enumerated in the Short-Form Agreement, and any successor legislation and regulations affecting their respective obligations under the Short-Form Agreement. The Fund expects that any such successor legislation and regulations would be likely to increase the qualitative level of protection for the Fund in the holding of its Russian securities. However, the Fund represents that the Board, in consultation with Chase, would consider and be responsible for determining whether the qualitative level of protection for the Fund required by any such successor legislation or regulations would be at least as great as under the existing decrees, laws and regulations. If the Board should determine that adherence to and compliance with any such successor legislation or regulations would materially decrease the qualitative level of protection of the Fund's securities, Chase would work with the Board to develop appropriate procedures and ensure that alternative arrangements are made to maintain a level of protection that would be in the best interests of the Fund and its shareholders.

**D. Legal Framework of Russian Regulation of Corporate Registrars**

As indicated in the Templeton letter, Russian corporate securities are issued and traded in book-entry form on a completely dematerialized basis. The current Russian legal structure for the regulation of this system is contained in federal law and a series of decrees, laws and regulations issued by the appropriate Russian authorities. The most significant components of this legal structure are:

- (i) Provisional Regulations on the Procedure for Licensing the Activity of Maintaining Registers of Holders of Registered Securities (the "Registrar Licensing Procedures") and Resolution No. 18 of the Federal Securities Market Commission of the Government of the Russian Federation of September 17, 1996 (the "Registrar Licensing Resolution");
- (ii) Decree No. 1769 of the President of the Russian Federation of October 27, 1993, On Measures to Ensure the Protection of the Rights of Shareholders ("Decree 1769");
- (iii) Decree No. 784 of the President of the Russian Federation of July 31, 1995, On Additional Measures to Ensure the Protection of the Rights of Shareholders ("Decree 784");
- (iv) Temporary Regulations on the Maintenance of Registers of Holders of Registered Securities, approved by Decree No. 3 of the Federal Commission on Securities and the Capital Markets of the Government of the Russian Federation of July 12, 1995, with amendments and addenda of August 30, 1995 and September 17, 1996 (together, the "Registrar Regulations");
- (v) Decree No. 662 of the President of the Russian Federation of July 3, 1995, On Measures for the Establishment of the All-Russian Telecommunications System and the Protection of the Rights of Holders of Securities in Connection with the Maintenance and Settlement of Securities in the Securities Market of the Russian Federation (the "Shareholder Rights Decree");
- (vi) Decree No. 1210 of the President of the Russian Federation of August 18, 1996, On Measures for Protection of Shareholders' Rights and Ensuring the Interests of the State as an Owner and Shareholder ("Decree 1210");
- (vii) Chapter VI of the Law of the Russian Federation No. 208-FZ, On Joint-Stock Companies, January 1, 1996 (the "Joint-Stock Company Law"); and

(viii) Law of the Russian Federation No. 39-FZ, On the Securities Market, April 25, 1996 (the "Securities Law").<sup>6</sup>

In addition, the Federal Securities Market Commission of the Russian Federation (the "Securities Commission") has made clear that it can and will use a variety of sanctions against any registrar found to be in violation of the rules applicable to registrars and against the related issuers, as well as publicizing any such violations. The Registrar Licensing Procedures specifically confirm the ability of the Securities Commission to suspend the license, and thus cease the operations, of a registrar in breach of Russian decrees, laws and regulations.

---

<sup>6</sup> The Joint-Stock Company Law (Article 44(3)) and the Securities Law (Article 8(1)) provide that registrars of joint-stock companies that have more than 500 shareholders must be a licensed "specialized organization." The Registrar Licensing Procedures and Registrar Licensing Resolution establish a licensing regime for registrars of joint-stock companies by the Securities Commission. The Registrar Licensing Resolution provides that a registrar must maintain either (i) 25 registers of issuers that have more than 500 shareholders, where the registrar is not located in certain enumerated urban centers, or (ii) at least 100,000 personal accounts, in order to be licensed, although the Securities Commission may make exceptions to this requirement. Under the Registrar Licensing Resolution, licensed registrars must meet certain capital requirements. Decree 1769, as amended by Decree 784, is designed to expand the Russian securities markets, promote competition in commodity and financial markets and secure the rights of shareholders. The Registrar Regulations set forth the duties of registrars and the requirements and procedures relating to the keeping of share registers of joint-stock companies. Decree 1210 and the Shareholder Rights Decree include provisions addressing certain issues regarding the protection of shareholders' rights, including the obligations of licensed registrars, as well as various other provisions concerning the operations of the Russian securities market and related matters. The Joint-Stock Company Law includes a Chapter on the register of a joint-stock company that mainly restates some of the general provisions regarding the rights of shareholders in the decrees, laws and regulations mentioned above. The Securities Law regulates the issuance of and trading in securities and the activities of professional participants in the securities market, codifying many of the standards regarding share registrars and shareholder rights that had been introduced previously by means of Presidential Decrees and regulations of the Securities Commission. The Securities Law grants the Securities Commission substantial law-making and enforcement power over the securities market. It also provides for reporting and disclosure requirements for issuers that are more rigorous than had previously existed under Russian law.

E. Comparison of Obligations Under the Long-Form Agreement With Obligations Imposed by the Decrees, Laws and Regulations

The Fund represents that the aggregate of the obligations imposed by the Registrar Regulations, the Registrar Licensing Procedures, the Registrar Licensing Resolution, the Joint-Stock Company Law, the Securities Law and the other Russian decrees, laws and regulations enumerated in the Short-Form Agreement overlap substantially with the most important provisions generally agreed to by registrars in the negotiation of a Long-Form Agreement. Indeed, we note that Russian law is even more detailed than the Long-Form Agreement concerning a number of matters, including the contents of a transfer order and the extract from a share register. Attached hereto as Exhibit 1 is a table comparing the obligations of registrars under the Long-Form Agreement with the obligations imposed on registrars by the Russian decrees, laws and regulations enumerated in the Short-Form Agreement.

In this regard, the Fund represents that the obligations imposed on registrars by the Russian decrees, laws and regulations enumerated in the Short-Form Agreement provide substantially the same degree of protection as that afforded by the principal provisions of the Long-Form Agreement discussed in the Templeton letter.

1. Regular share confirmations

The Long-Form Agreement establishes Chase Russia's right to conduct regular (i.e., quarterly) share confirmations on behalf of Chase Russia's customers and request duplicate share extracts or other sufficient evidence of verification.<sup>7</sup> The Short-Form Agreement establishes a similar right through the Registrar Regulations, the Securities Law and the Joint-Stock Company Law. The Registrar Regulations entitle Chase Russia, as the registered holder, to obtain an extract on demand from the registrar (which extract must be issued within one business day plus three days of such demand) and detail the information required to be included in such extract.<sup>8</sup> The Securities Law also provides for the right to receive a share extract from the registrar (which extract must be issued within five business days of a demand) and detailed information required to be included in such extract.<sup>9</sup> The Joint-Stock Company Law also entitles a shareholder to receive a share extract from the registrar.<sup>10</sup>

---

<sup>7</sup> See Templeton letter, at 5.

<sup>8</sup> See Registrar Regulations, Sections 10.1, 10.3, 10.4.

<sup>9</sup> See Securities Law, Article 8(3).

<sup>10</sup> See Joint-Stock Company Law, Article 46.

2. Prompt re-registration

The Long-Form Agreement obligates the registrar to effect re-registrations within 72 hours of receiving the necessary documentation.<sup>11</sup> The Registrar Regulations and the Joint-Stock Company Law require the registrar to make entries in the share register within three days of receipt of the appropriate documents and specify the documents necessary for re-registration.<sup>12</sup> The Registrar Regulations and the Securities Law also prohibit the registrar from demanding additional documents or justifying a refusal to record a change in the share register on the grounds that additional documents have not been provided.<sup>13</sup>

3. Use of nominee name

The Long-Form Agreement establishes Chase Russia's right to hold shares in the name of a Chase Russia nominee.<sup>14</sup> The Short-Form Agreement entitles Chase Russia to use nominee names through the Registrar Regulations, the Shareholder Rights Decree, the Joint-Stock Company Law and the Securities Law. The registrar must enter the nominee's name in the register upon instructions of the registered holder (i.e., Chase Russia) and must recognize the holding of securities through a nominee.<sup>15</sup>

4. Auditor verification

Chase Russia is also granted the right in the Long-Form Agreement to obtain direct access to the share register for the independent auditors of each Chase Russia customer.<sup>16</sup> Although the Russian decrees, laws and regulations enumerated in

---

<sup>11</sup> See Templeton letter, at 6.

<sup>12</sup> See Registrar Regulations, Sections 4.1, 4.8, 4.10, 4.11, 20.2; Joint-Stock Company Law, Article 45(1). The Securities Law also obligates the registrar to effect re-registrations, but does not specify a deadline for this to occur. See Securities Law, Article 8(3).

<sup>13</sup> See Registrar Regulations, Sections 4.2, 20.1; Securities Law, Article 8(3).

<sup>14</sup> See Templeton letter, at 6.

<sup>15</sup> See Registrar Regulations, Section 7.1; Shareholder Rights Decree, Section 2; Joint-Stock Company Law, Article 44(1); Securities Law, Article 8(3).

<sup>16</sup> See Templeton letter, at 6.

the Short-Form Agreement do not specifically address this issue, the Fund may, through the Global Custody Agreement, issue instructions to Chase and, as provided in the operating procedures, appoint a representative (such as its independent auditor) to accompany Chase Russia on visits to the registrar for share confirmations. It should also be noted that a shareholder who owns one percent or more of the voting stock of an issuer is entitled to inspect the register's data for the issuer under Decree 784, the Securities Law and the Registrar Regulations referred to in the Short-Form Agreement,<sup>17</sup> which offers further protection to the Fund in respect of investments meeting this percentage.

5. Specification of the registrar's responsibilities and liabilities

The Long-Form Agreement sets forth the registrar's responsibilities as to distributions and other corporate actions, the registrar's liabilities as established under the Russian regulations applicable to the share registration system and procedures for making a claim against and receiving compensation from the registrar in the event a loss is incurred.<sup>18</sup> The responsibilities of the registrar as to distributions and other corporate actions are established in the Short-Form Agreement through the Registrar Regulations and the Securities Law. The Registrar Regulations require the registrar to prepare, at the request of the issuer, a list of shareholders for the payment of dividends.<sup>19</sup> The registrar has no responsibility under the Registrar Regulations with respect to other corporate actions unless entrusted with such responsibility by the issuer. However, under Russian corporate law, any failure to timely distribute notices or permit voting by proxy is the responsibility of the issuer. The Registrar Regulations impose liability on the registrar for failing to timely register a transfer or take other necessary actions and for non-performance or improper performance of its duties, and the registrar is liable for any damages caused by delay, non-performance or illegal refusal to make an entry.<sup>20</sup> The Securities Law also provides that the registrar must inform shareholders of their rights as such, the methods and procedures required to exercise their rights, and must communicate to shareholders such information as may be provided by the issuer; the registrar is responsible to holders for damages (including

---

<sup>17</sup> See Decree 784, Section 4; Registrar Regulations, Section 3.1.5; Securities Law, Article 8(3).

<sup>18</sup> See Templeton letter, at 6.

<sup>19</sup> See Registrar Regulations, Section 17.1.

<sup>20</sup> Id., at Sections 4.2, 3.1.7.

lost profits) if the registrar's action results in an inability to exercise rights associated with the securities.<sup>21</sup>

In connection with the monitoring obligations and related rights described in Sections E.1 through E.5 above, the Fund represents that it will comply with the other requirements contained in the Templeton letter,<sup>22</sup> including the following:

- the Fund will not purchase the securities of any issuer whose registrar has not entered into a registrar contract with Chase Russia that is either a Long-Form Agreement or a Short-Form Agreement that includes substantially the provisions described herein;
- the Global Custody Agreement will incorporate Chase Russia's obligation concerning share confirmations and the related rights described herein;
- the Global Custody Agreement will require Chase Russia to maintain custody of the share extracts and will incorporate the procedures and requirements regarding the use of extract substitutes;
- the Global Custody Agreement will require Chase Russia to advise the Board and the Investment Adviser when Chase Russia has actual knowledge of any instance of material non-compliance with the operating procedures by a registrar;
- Chase will be liable under the Global Custody Agreement to the extent the Fund incurs a loss that results from the negligence or willful misconduct of Chase or Chase Russia or any agent retained by Chase or Chase Russia for share registrations or share confirmations;<sup>23</sup>
- Chase and Chase Russia will be liable under the Global Custody Agreement for any Fund loss caused by the conduct of a nominee's directors, officers and employees; and

---

<sup>21</sup> Securities Law, Article 8(3).

<sup>22</sup> See Templeton letter, at 6-7.

<sup>23</sup> Neither Chase nor Chase Russia, however, will be liable for the acts or omissions of the registrars, and the registrars are not sub-custodians of Chase or Chase Russia.

- Chase Russia will maintain a list of registrars with which it has entered into registrar contracts and make this information available to the Fund's Board and Investment Adviser upon request.

## Analysis

### A. The Templeton Letter

In the Templeton letter, the Commission staff permitted Templeton Russia Fund, Inc. (the "Templeton Fund") to hold Russian equity securities recorded in the Russian book-entry share registration system. The Templeton letter was conditioned on the commitment by Chase and Chase Russia to employ certain procedures designed (together with Board monitoring) to provide reasonable protection for the Templeton Fund's assets. The Templeton letter also contemplated that Chase would execute the Long-Form Agreement with the registrar of each issuer whose securities would be held by the Templeton Fund.

### B. Protections Under Short-Form Agreement

The Fund believes that the basic protections required by Rule 17f-5 are satisfied by the use of the Short-Form Agreement as well as or better than by use of the Long-Form Agreement. The substantive provisions of the applicable Russian decrees, laws and regulations relating to registrars are incorporated by reference into the Short-Form Agreement. As mentioned above, the aggregate of the obligations imposed by this legal structure overlap substantially with those contained in the Long-Form Agreement. In addition, the Fund represents that the obligations imposed on registrars through the enumeration of this legal structure in the Short-Form Agreement provide substantially the same degree of protection as that afforded by the principal provisions of the Long-Form Agreement discussed in the Templeton letter and referred to in Section E above. In the event of a violation of the applicable decrees, laws and regulations, the Short-Form Agreement grants contractual remedies to Chase Russia supplementing the sanctions that may be levied by the Securities Commission against registrars and other remedies Chase Russia could pursue under Russian law. Under either form of registrar agreement, the Fund is of the view that Chase Russia has the equivalent of a private right of action, which should provide a contractual mechanism for Chase Russia to enforce the provisions of the applicable registrar agreement against the registrars without relying on enforcement action by regulatory bodies in Russia.

Under Russian law, civil rights and duties arise from (i) laws and other legal acts and (ii) the actions of individuals and legal persons which, although not provided for by a law or legal act, give rise to civil rights and duties. The Civil Code of the Russian Federation (the "Civil Code") specifies that these actions of individuals and legal persons include, inter alia, entering into contracts and other transactions provided for by law and entering into

contracts and transactions that are not provided for by law but are not contrary thereto.<sup>24</sup> A contractual obligation may be enforced in Russia by (i) the state court system (which includes "arbitrage" courts or courts of economic disputes) according to the rules of jurisdiction or (ii) arbitration, as provided for in the contract by the parties. The possible remedies for violation of a contractual right seem to include the types of remedies typically available in a western legal system.<sup>25</sup> For example, Article 12 of the Civil Code provides that a right may be effectuated by means of: "restoration of the situation which existed before the violation of the right," "compensation of losses" and "awarding performance in kind." While these remedies apply to violations of civil rights generally (as defined in Article 8) and not explicitly to contractual breaches, it seems that they may be appropriate remedies in the case of a violation of a civil right as represented by a contract.

Chase Russia will be the entity in whose name shares are held in the share registers regardless of whether the registrars have executed the Short-Form Agreement or the Long-Form Agreement. Chase Russia will still perform verification procedures such as , conducting regular share confirmations on behalf of the Fund, ensuring that registrars effect prompt re-registrations of shares, obtaining share extracts and assisting auditors in the verification of the Fund's portfolio holdings through required direct access to the share registers. The Short-Form Agreement sets forth the registrar's responsibilities and liabilities by reference to the applicable Russian decrees, laws and regulations. As discussed above, Chase Russia will also monitor the registrars' contractual performance and compliance with the operating procedures on an on-going basis and report to the Fund's Board concerning these matters.<sup>26</sup> The Fund's Board will actively oversee the custodial arrangements and apply enhanced scrutiny to them. In short, the Fund and Chase Russia, in using the Short-Form Agreement, will take the same actions that the staff approved in the Templeton letter while enabling the Fund to avert the potential delays and lost opportunities of investment that would result by unnecessarily restricting investments to securities of those otherwise qualified issuers whose registrars already happen to have Long-Form Agreements in place with Chase.

The Fund recognizes that whether the Long-Form Agreement or the proposed Short-Form Agreement is used with respect to any particular registrar, there can be no assurance that a loss through the share registration system cannot occur. The Fund's prospectus will therefore include prominent and detailed disclosure regarding the risks of the Russian share register system in general and the use of registrar agreements in particular. Risk disclosure also will be provided in the Fund's shareholder reports. In this manner,

---

<sup>24</sup> Civil Code, Article 8(1) (January 1, 1995).

<sup>25</sup> Civil Code, Article 12.

<sup>26</sup> These monitoring procedures to be employed by Chase Russia are described in pages 8 and 9 of the Templeton letter.

Jack W. Murphy, Esq.  
February 14, 1997  
Page 13

investors will be able to determine for themselves whether investment in the Fund is appropriate notwithstanding these risks.

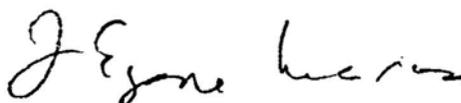
### Conclusion

For the foregoing reasons, we respectfully request that the staff take the position that it would not recommend that the Commission take any enforcement action against the Fund under Section 17(f) of the 1940 Act or Rule 17f-5 thereunder in the event the Fund invests in and holds Russian securities in accordance with the custodial arrangements discussed above.

We would appreciate consideration of this matter as promptly as practicable. If you should have any questions regarding this no-action request, please do not hesitate to contact the undersigned (at 202-728-2888), Steven N. Robinson (at 202-728-2811) or Robin M. Bergen (at 202-736-2040).

Very truly yours,

CLEARY, GOTTlieb, STEEN & HAMILTON



J. Eugene Marans

cc: Mr. John V. O'Hanlon  
Mr. Robert D. Strahota  
Mr. Phillip S. Gillespie

**Exhibit 1**

**COMPARISON OF LONG-FORM AGREEMENT WITH DECREES AND REGULATIONS  
REFERRED TO IN SHORT-FORM AGREEMENT**

<b>Primary Obligations of Registrars Under Long-Form Agreement</b>	<b>Selected Russian Regulatory Requirements Applicable to Registrars</b>
<p><b>Section 2.1.</b> <b>Compliance with Laws and Regulations</b></p> <p>Registrar will comply with all applicable legislation; in the event of a conflict with the agreement, applicable legislation takes precedence.</p> <p>Registrar will at all times act in good faith in respect of rights of the sub-custodian and owners and will do everything in its power to procure that issuer does not do anything which unlawfully affects those rights in terms of registration on the register.</p>	<p>A registrar that maintains a shareholders' register for a joint-stock company that has more than 500 shareholders must be licensed by the Federal Securities Market Commission (the "<u>Securities Commission</u>"). Provisional Regulations on the Procedure for Licensing the Activity of Maintaining Registers of Holders of Registered Securities ("<u>Registrar Licensing Procedures</u>") (approved by Federal Securities Market Commission Resolution No. 18, September 17, 1996 ("<u>Registrar Licensing Resolution</u>")); the Law of the Russian Federation No. 208-FZ On Joint-Stock Companies ("<u>Joint-Stock Company Law</u>"), and the Law of the Russian Federation No. 39-FZ, On the Securities Market, April 25, 1996 (the "<u>Securities Law</u>"). The license may be suspended or revoked if the registrar violates an applicable law or regulation of the Russian Federation. <u>Securities Law</u>, Article 44(4); <u>Registrar Licensing Procedures</u>, Sections 12 and 13.</p> <p><u>See also</u> other requirements applicable to the registrar discussed below, such as the requirement to evidence transfer of shares on the register within three days of receipt of appropriate documents and the requirement to issue an extract from the register upon request of a shareholder.</p> <p>The issuer is not relieved of its duties and responsibilities with respect to maintenance and custody of the</p>

Primary Obligations of Registrars Under Long-Form Agreement	Selected Russian Regulatory Requirements Applicable to Registrars
	<p>shareholders' register by entering into an agreement with a registrar. Federal Commission on Securities and the Capital Markets Temporary Regulations on the Maintenance of Registers of Holders of Registered Securities (approved by the Federal Commission on Securities and the Capital Markets Decree No. 3, July 12, 1995, with Amendments and Addenda of August 30, 1995 and September 17, 1996) ("<u>Registrar Regulations</u>"), Section 3.1.6; Joint-Stock Company Law, Article 44(4).</p>

Primary Obligations of Registrars Under Long-Form Agreement	Selected Russian Regulatory Requirements Applicable to Registrars
<p><b><u>Section 2.2</u></b>  <b>Pledgeholder Entries</b></p> <p>Registrar must make entry of transfer or pledge of shares within three days of receipt of (i) power of attorney of person completing transaction and documents proving such person's identity; (ii) transfer or pledge order (or other document proving right to transfer or pledge); and (iii) endorsed share certificate (if issued).</p>	<p>The documents necessary for recording of secondary transfers of shares are (i) a transfer order signed by a person registered in the register or the person's authorized representative; (ii) in cases in which the title to the securities is transferred without a professional member of the securities market, documents acknowledging the transaction or acknowledging transfer of the title to the securities through some other act or event (such as court judgment or succession); and (iii) the share certificate, in cases in which one has been issued. <u>Registrar Regulations</u>, Section 4.1, 4.10, 4.11; <u>Securities Law</u>, Article (3). The items that must be included in a transfer order are listed in the <u>Registrar Regulations</u>, Section 20.2. The registrar may not demand additional documents or justify refusal to register a change in the register on the grounds that additional documents have not been provided. <u>Securities Law</u>, Article 8(3); <u>Registrar Regulations</u>, Section 4.2, 20.1. The registrar must make entries in the share register in the name of the person named in a transfer order within three days of receipt of the appropriate documents, provided that (i) the number of securities in the transfer order does not exceed the number of securities in the account of the person issuing the transfer order and (ii) the transfer will not violate any transfer restrictions specified in Russian law, the issuer's charter or a court decision. <u>Registrar Regulations</u>, Sections 4.1, 4.8; <u>Joint-Stock Company Law</u>, Article 45(1).</p> <p>Prior to making the entry, the registrar must verify the genuineness of the</p>

Primary Obligations of Registrars Under Long-Form Agreement	Selected Russian Regulatory Requirements Applicable to Registrars
	<p>signature on the transfer order by comparing it to the specimen held in the records. The registrar may not require that such signature is notarized. <u>Registrar Regulations</u>, Sections 4.5, 4.6.</p> <p>The refusal to include a shareholder or, pursuant to the shareholder's order, the nominal holder in the register is invalid, does not result in the termination or restriction of the shareholder's rights and may be appealed in accordance with the established procedure. Decree No. 662 of the President of the Russian Federation On Measures for the Establishment of the All-Russian Telecommunications System and the Protection of the Rights of Holders of Securities in Connection with the Maintenance and Settlement of Securities in the Securities Market of the Russian Federation, July 3, 1995 ("<u>Shareholder Rights Decree</u>"), Section 2; <u>Registrar Regulations</u>, Section 3.1.7. Such a refusal may be challenged in court. Upon court order, the registrar is required to make the corresponding changes in the register. <u>Joint-Stock Company Law</u>, Article 45(2). See notes to Section 2.3 of the Long-Form Agreement, below. The registrar is liable for damages resulting from its failure to comply with the procedures for operating the register. <u>Securities Law</u>, Article 8(3).</p> <p>The registrar must inform shareholders of their rights as shareholders and the methods and procedures for exercising such rights. <u>Securities Law</u>, Article 8(3).</p> <p>All encumbrances of securities, including pledges, must be recorded in the register.</p>

Primary Obligations of Registrars Under Long-Form Agreement	Selected Russian Regulatory Requirements Applicable to Registrars
	<p><u>Registrar Regulations</u>, Section 5.1. Any share extract should indicate any encumbrance on the shares that the extract evidences. <u>Securities Law</u>, Article 8(3). The documents necessary for recording of a pledge are (i) the pledge order; (ii) a certified copy of a pledge agreement; and (iii) a certified copy of the underlying agreement secured by the pledge. <u>Registrar Regulations</u>, Section 5.2.</p> <p>The registrar shall develop in accordance with the <u>Registrar Regulations</u> the registrar's rules for keeping the register, and shall produce these rules at the request of an interested person. The rules shall include a list of documents required by the registrar to make an entry in the register. <u>Registrar Regulations</u>, Section 4.1.</p>

Primary Obligations of Registrars Under Long-Form Agreement	Selected Russian Regulatory Requirements Applicable to Registrars
<p><b><u>Section 2.3</u></b>  <b>Refusal to Register</b></p> <p>Registrar may refuse registration only where (i) Registrar has evidence that the documents submitted are not authentic; (ii) the signatory has not produced evidence of the authority to sign; (iii) the counterparty is not permitted by law or the charter of the issuer to acquire rights in the shares subject to the transaction; or (iv) the transaction is not effective or invalid.</p>	<p><u>See</u> notes to Section 2.2 of the Long-Form Agreement, above. The registrar is required to carry out the registration of the transfer or pledge if the documents are properly submitted. If the registrar rejects an entry into the register, within five business days after the rejection the registrar must send a written notice to the person whose request was rejected justifying the rejection and indicating the steps the person should take to remedy the defects in the request. <u>Registrar Regulations</u>, Section 4.2; <u>Joint-Stock Company Law</u>, Article 45(2).</p> <p>An unfounded refusal of the registrar to register a shareholder or the shareholder's nominee shall be invalid and shall not result in the termination or limitation of the rights of the shareholder and may be appealed. <u>Registrar Regulations</u>, Section 3.1.7; <u>Shareholder Rights Decree</u>, Section 2.</p> <p>The registrar may deny registration only as contemplated by federal law. <u>Securities Law</u>, Article 8(3).</p>
<p><b><u>Section 2.4</u></b>  <b>Standard Power of Attorney</b></p> <p>Sets forth a standard form of power of attorney.</p>	<p>Standard forms of power of attorney are well developed in Russia.</p>

Primary Obligations of Registrars Under Long-Form Agreement	Selected Russian Regulatory Requirements Applicable to Registrars
<p><b><u>Section 2.5</u></b>  <b>Nominal Shareholders</b></p> <p>Registrar recognizes that the shareholder may act as nominal holder on behalf of third persons.</p>	<p>The shareholder may act as nominee holder on behalf of third persons. <u>Securities Law</u>, Article 8(2); <u>see Joint-Stock Company Law</u>, Article 44. The registrar must enter the nominal holder into the register upon instructions of the shareholder. <u>Securities Law</u>, Article 8(3); <u>Registrar Regulations</u>, Section 7.1; <u>Shareholder Rights Decree</u>, Section 2. Nominal holders are not treated as owners of securities for the purposes of taxation of securities transactions and bankruptcy law. Nominal holders may not dispose of or encumber the securities they hold. <u>Securities Law</u>, Article 8(2); <u>Decree 662</u>, Section 2. Upon the request of the registrar, within seven days of the request the nominal holder must provide the registrar a list of the nominal holder's clients. Nominal holders are liable to the registrar, the issuer and the nominal holder's clients for refusing to present such list to the registrar under applicable law. <u>Securities Law</u>, Article 8(2); <u>Registrar Regulations</u>, Section 3.4.2, 19.1.</p>
<p><b><u>Section 2.6</u></b>  <b>Payments to Third Parties</b></p> <p>Registrar recognizes that income may be paid to person other than shareholder or the sub-custodian.</p>	<p>The registrar must recognize the holding of securities through a nominal holder. <u>Securities Law</u>, Article 8(3); <u>Registrar Regulations</u>, Section 7.1; <u>Shareholder Rights Decree</u>, Section 2. The Civil Code of the Russian Federation Part I, January 1, 1995; Articles 382-390 discusses the assignment of rights of a creditor.</p>

Primary Obligations of Registrars Under Long-Form Agreement	Selected Russian Regulatory Requirements Applicable to Registrars
<p><b>Section 2.7</b>  <b>Schedule of Payments for Registration</b></p> <p>Registrar will adhere to schedule of payments for registration.</p>	<p>A registrar may at its own discretion charge fees not exceeding the rates provided for in the <u>Registrar Licensing Procedures</u> for (i) the opening of a personal account with the registrar, (ii) the re-registration of securities, (iii) the issuance of a share extract and (iv) provision to a shareholder of non-confidential information (as defined in the <u>Registrar Regulations</u>) but may not collect fees for the provision of information regarding (a) a refusal to make an entry in the register or (b) the issuance of the initial share extract to a shareholder. <u>Registrar Licensing Resolution</u>, Section 9. Information regarding the amount of fees charged for services must be included in the registrar's rules for keeping the register, which are developed in accordance with the <u>Registrar Regulations</u> (see notes to Section 2.2 of the Long-Form Agreement) and must be disclosed upon request to concerned parties in accordance with Securities Commission procedures. <u>Registrar Licensing Resolution</u>, Section 8. The <u>Securities Law</u> provides that the registrar may charge fees as provided for by the Securities Commission. <u>Securities Law</u>, Article 8(3).</p>

Primary Obligations of Registrars Under Long-Form Agreement	Selected Russian Regulatory Requirements Applicable to Registrars
<p><b><u>Section 2.8.1</u></b>  <b>Recognition of Owner Named by Sub-custodian</b></p> <p>Registrar to recognize as owner of the shares the person named by the Sub-custodian, where the Sub-custodian is the registered nominal holder.</p>	<p><u>See</u> notes to Section 2.5 of the Long-Form Agreement, above. At the registrar's request, the nominal holder must submit information on the identity of the nominee's client to the registrar within seven days of such request. <u>Securities Law</u>, Article 8(2); <u>Registrar Regulations</u>, Sections 3.4.2, 19.1.</p>
<p><b><u>Section 2.8.2</u></b>  <b>Monthly Extracts</b></p> <p>Registrar to issue an extract at least once per month.</p>	<p><u>See</u> notes to Section 2.1 of the Long-Form Agreement, above. A registered holder has the right to obtain an extract on demand, and such extract must be issued within one business day plus three days of the request. <u>Registrar Regulations</u>, Section 10.1. <u>Registrar Regulations</u> Sections 10.3 and 10.4 and Article 8(3) of the Securities Law detail the information that must be included in a register extract. The registrar must issue an extract upon the request of a shareholder or a nominee shareholder. <u>Joint-Stock Company Law</u>, Article 46. The <u>Securities Law</u> provides that an extract must be issued within five business days of the request. <u>Securities Law</u>, Article 8(3).</p>

Primary Obligations of Registrars Under Long-Form Agreement	Selected Russian Regulatory Requirements Applicable to Registrars
	<p>The registrar may not charge a fee for issuing the first extract from the register to a shareholder, or for issuing an extract following any changes in the shareholder's status, but may charge a fee for issuing the extract in all other instances. <u>Registrar Regulations</u>, Section 10.1. The limit on the fee is provided for in the <u>Registrar Licensing Procedures</u> and may be set by the Securities Commission. See notes to Section 2.7 of the Long-Form Agreement, above.</p>
<p><b>Section 2.8.3</b>  <b>Ensure Payment of Income</b></p> <p>Registrar to provide information to issuer or its payment agent so that income in respect of shares is paid within five days of its becoming payable.</p>	<p>At the request of the issuer, the registrar must draw up a list of shareholders for the payment of dividends. <u>Registrar Regulations</u>, Section 17.1. However, as the registrar has no actual responsibility with respect to the payment of distributions on shares and the information on the register is always at the disposal of the issuer, this provision of the Long-Form Agreement is largely hortatory.</p>
<p><b>Section 2.8.4</b>  <b>Deliver Documents to Sub-custodian</b></p> <p>Registrar to deliver to the Sub-custodian documents in respect of shareholders' meetings or other information distributed by the issuer.</p>	<p>As with Section 2.8.3 of the Long-Form Agreement, the registrar has no actual responsibility with respect to such matters unless entrusted to it by the issuer; any failure to timely distribute such notices is the responsibility of the issuer.</p>

Primary Obligations of Registrars Under Long-Form Agreement	Selected Russian Regulatory Requirements Applicable to Registrars
<p><b><u>Section 2.8.5</u></b>  <b>Voting by Proxy</b></p> <p>Registrar shall permit voting by proxy (power of attorney).</p>	<p>Again, the registrar has no duty with respect to authorizing voting at shareholders' meetings unless entrusted to it by the issuer; any failure to permit voting by power of attorney (as provided by Russian corporate law) is the responsibility of the issuer.</p>
<p><b><u>Section 2.8.6</u></b>  <b>Compliance with Sub-custodian's Instructions</b></p> <p>Registrar to comply with all written directions of the Sub-custodian or shareholder and not to make changes in the registration without their consent.</p>	<p>The procedures for making entries in the register are specified in detail in the <u>Registrar Regulations</u>, and the registrar is not authorized to make any changes except as provided in that Regulation.</p>
<p><b><u>Section 2.8.7</u></b>  <b>Transfer of Shares</b></p> <p>Subject to the requirements of Russian legislation, registrar to register the transfer or sale of shares as the Sub-custodian directs.</p>	<p>See notes to Section 2.2 of the Long-Form Agreement, above. The registrar is required, subject to the provisions of applicable legislation, to register such transfer upon receipt of the appropriate documents.</p>
<p><b><u>Section 2.8.8</u></b>  <b>Notice to Sub-Custodian</b></p> <p>Registrar to notify the Sub-custodian of any sequestration, attachment or other order which comes to the notice of the registrar.</p>	<p>Such liens are required to be identified on any extract from the register requested by the holder. <u>Securities Law</u>, Article 8(3); <u>Registrar Regulations</u>, Section 10.4.</p>

Primary Obligations of Registrars Under Long-Form Agreement	Selected Russian Regulatory Requirements Applicable to Registrars
<p><b><u>Section 2.9</u></b>  <b>Backup Systems</b></p> <p>Registrar to maintain back-up systems.</p>	<p>A registrar is required to take measures to preserve the safety of information including measures designed to protect the information in case of fire, natural disaster or invasion. The <u>Registrar Regulations</u>, Section 3.1.2, provide that in case of loss of the register, the registrar must notify the Securities Commission in writing within one day of the loss; must publish a notice in the mass media informing interested persons and calling on them to re-register; and must restore the lost data within ten days of the loss.</p>
<p><b><u>Section 4.1</u></b>  <b>Ensure Issuer Cooperation</b></p> <p>Registrar shall use its power to ensure performance by the issuers of the obligations under the agreement and applicable legislation.</p>	<p><u>See</u> notes to Section 2.1 of the Long-Form Agreement, above. The registrar is required to carry out its functions as required by law and not to carry out orders of the issuer that conflict with the law. The issuer remains responsible for the share register. It should be noted that the registrar has limited “power” in respect of the issuer and this provision is therefore largely hortatory.</p>

Primary Obligations of Registrars Under Long-Form Agreement	Selected Russian Regulatory Requirements Applicable to Registrars
<p><b><u>Section 4.2</u></b>  <b>Prevent Issuer from Restricting Transfers</b></p> <p>Registrar shall use its power to ensure that the issuer shall not use the operation of the register to restrict transfer of shares.</p>	<p><u>See</u> notes to Section 4.1 of the Long-Form Agreement.</p>
<p><b><u>Section 4.3</u></b>  <b>Ensure Independence of Audit Commission</b></p> <p>Registrar will use all of its power to ensure that the audit commission of the issuer remains independent and impartial in relation to the consideration of any appeal of a decision of the Registrar not to register a transaction.</p>	<p><u>See</u> notes to Section 4.1 of the Long-Form Agreement.</p>

Primary Obligations of Registrars Under Long-Form Agreement	Selected Russian Regulatory Requirements Applicable to Registrars
<p><b>Section 4.4</b>  <b>Independence of Registrar</b></p> <p>Registrar to remain independent.</p>	<p>Russian law is more specific than this provision. For a company with more than 500 shareholders, the register must be held by a specialized registrar that is not involved in any other activities other than acting as registrar, except for (i) banks and credit institutions that act as registrars, which may perform the functions of a bank or credit institution provided that they do not pursue any other activity in the securities market other than acting as registrar and (ii) depositaries of mutual funds. <u>Securities Law</u>, Article 8(1); <u>Joint-Stock Company Law</u>, Article 44(3); <u>Registrar Licensing Resolution</u>, Section 2. The registrar may not be (a) a natural person, (b) a nominal shareholder of the issuer, or (c) a legal entity that is a shareholder of the issuer or that controls shares of the issuer. Decree No. 1769 of the President of the Russian Federation On Measures to Ensure the Protection of the Rights of Shareholders (as amended by Decree No. 784 of the President of the Russian Federation On Additional Measures to Ensure the Protection of the Rights of Shareholders, July 31, 1995 (“<u>Decree 784</u>”)) (“<u>Decree 1769</u>”), Section 4; <u>Registrar Regulations</u>, Section 3.1.8. Under the Joint-Stock Company Law, a Registrar must be “independent,” which means that the issuer cannot (a) control the registrar by virtue of a predominant participation in the charter capital of the registrar, or (b) hold more than 20% of the voting shares of the registrar. <u>Joint-Stock Company Law</u>, Articles 6(2) and 6(4). Cross-capitalization between an issuer and a registrar is prevented by prohibiting an issuer whose register is</p>

Primary Obligations of Registrars Under Long-Form Agreement	Selected Russian Regulatory Requirements Applicable to Registrars
	<p>held by the registrar from contributing its own securities to the registrar's charter capital. Additionally, contribution to a registrar's charter capital may not be paid with securities issued by the registrar's shareholders or founder. <u>Registrar Licensing Resolution</u>, Section 2.</p>
<p><b>Section 5</b> <b>Liability of Registrar</b></p> <p>Registrar is liable to compensate the Sub-custodian for all losses (including lost profits) caused by the registrar's failure to properly carry out its obligations.</p>	<p>In the event the registrar fails to timely register a transfer or take other necessary actions, the registrar is liable to the person who presented the transfer order for any damages caused by delay, non-performance or illegal refusal to make the entry. <u>Registrar Regulations</u>, Section 4.2. The registrar is also liable for nonperformance or improper performance of the registrar's duties and responsibilities with respect to maintenance and custody of the register which result in securities holders' inability to enforce their rights. <u>Securities Law</u>, Article 8(3); <u>Registrar Regulations</u>, Section 3.1.7.</p> <p>The issuer is not relieved of its duties and responsibilities with respect to maintenance and custody of the shareholders' register by entering into an agreement with a registrar. <u>Registrar Regulations</u>, Section 3.1.6; <u>Decree 1769</u>, Section 4; <u>Joint-Stock Company Law</u>, Article 44(4).</p>

Primary Obligations of Registrars Under Long-Form Agreement	Selected Russian Regulatory Requirements Applicable to Registrars
<p><b><u>Section 7</u></b>  <b>Inspection and Audit of Registers</b></p> <p>Audit and verification of registers, including an inspection during working hours of the entire register and periodic audits of the procedures for maintaining the share register.</p>	<p>The registrar is required to ensure access for authorized agents of the issuer to the data of the shareholders' register during the working day. <u>Registrar Regulations</u>, Section 3.1.5 (as amended by <u>Registrar Licensing Procedures</u>). A shareholder who owns one or more percent of regular (voting) stock is entitled to inspect during normal business hours the register's data or names of all securities holders, and number, category and nominal value of securities they own. The registrar must supply a shareholder who owns one or more percent of regular (voting) stock with the names of the owners registered in the register and the number, category and face value of the shares held by each owner. <u>Securities Law</u>, Article 8(3). <u>Decree 784</u>, Section 4; <u>Registrar Regulations</u>, Section 3.1.5. Any owner or nominal holder of securities is entitled to receive information on all securities registered in his name, any changes of entries with respect to him and securities registered in his name and the ratio of securities owned by him to the charter capital of the issuer. <u>Securities Law</u>, Article 8(3); <u>Registrar Regulations</u>, Section 2.11. At least once per month, the registrar must verify that the number of outstanding securities of the issuer matches that of the securities registered in the register. <u>Registrar Regulations</u>, Section 3.1.5.</p>