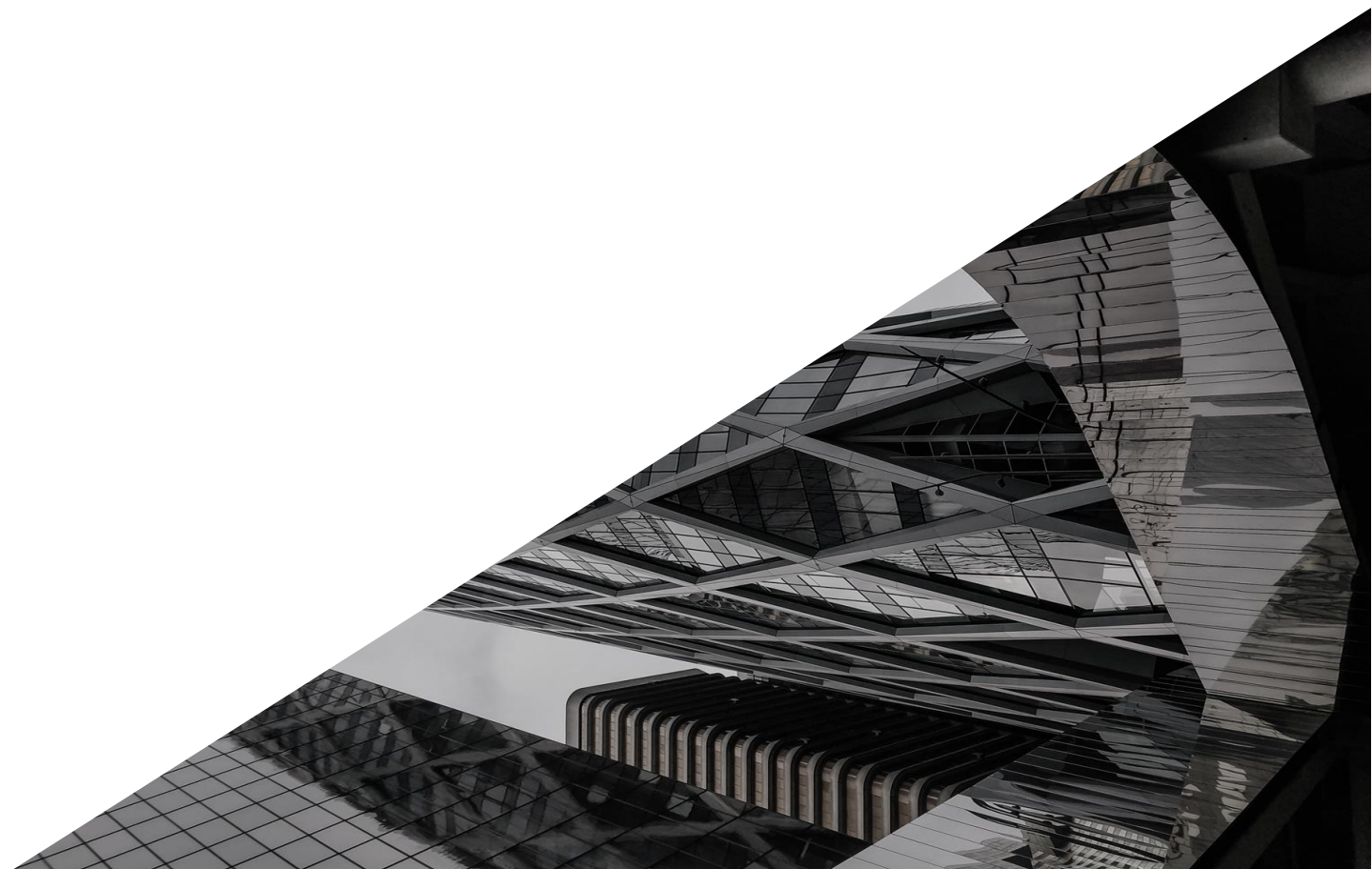


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# Euroclear Bankruptcy in Russia: CB and NSD Oppose the Procedure

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The Moscow Arbitration Court continues to consider the bankruptcy case of Euroclear Bank SA/NV ("Euroclear") (Case No. [A40-193986/2024](#)).

**At the court hearing held on 21.01.2025, representatives of the Central Bank ("CB") and the National Settlement Depository ("NSD") opposed declaring Euroclear bankrupt**

Earlier, the court had involved the CB and the NSD in the case as interveners and obliged them to submit written explanations on the possibility of implementation of a bankruptcy procedure, as well as on the termination of the proceedings.

#### CB's Position

According to the CB's position, Euroclear does not show signs of insufficiency of assets, since such assets exist, but are subject to restrictions under Presidential Decrees of 05.03.2022 No. 95 ("**Decree No. 95**") and of 09.09.2023 No. 665 ("**Decree No. 665**").

Therefore, the inclusion of the assets in the Euroclear's bankruptcy estate will be a circumvention of the restrictions under Decree No. 95 and Decree No. 665.

#### NSD's Position

The NSD's representative raised the following arguments:

- The accounts opened by Euroclear with NSD are accounts of a foreign nominee. Accordingly, the assets held therein do not belong to Euroclear and cannot be included in its bankruptcy estate by analogy with the rules on bankruptcy of professional securities traders
- The introduction of bankruptcy proceedings against Euroclear will jeopardize the possibility of making payments under Decree No. 665
- The applicant is abusing its rights, since its underlying claims for declaring Euroclear bankrupt fall within the scope of Decree No. 665 and are fifth-ranking

#### Next Meeting

The court heard the representatives of the parties and announced a break in the court session until 04.02.2025 for other parties to the case to present a rationale for their position.

### CB's Position

Indeed, neither the Bankruptcy Law, nor Decree No. 95 and Decree No. 665, nor the Resolutions of the Board of Directors of the Central Bank establishing the regime for "C" and "I" accounts provide for a change in their regime if the account holder is declared bankrupt.

If the court agrees with the CB's position, the funds from these accounts can still be used only for the purposes set forth by the special account regime. In practice, there are rare cases where the courts have upheld this approach, enabling the administrator to use the funds in "C" account, but only within the framework of the permitted actions (Case No. A40-6869/24-129-19 Б).

This being the case, the introduction of bankruptcy proceedings against Euroclear may become useless, since there is no information about other assets of Euroclear that can be used to satisfy the claims of the applicant and other creditors.

Nevertheless, when introducing the procedure of "secondary (local)" proceedings, the courts check for any signs under Article 3 and Article 6 of the Bankruptcy Law (a default exceeding RUB 2 million for more than 3 months), due to which the mere absence of signs of assets insufficiency should not entail a refusal to declare Euroclear bankrupt under the specified procedure.

### NSD's Position

- If the court agrees with the NSD's position that the assets held in Euroclear's accounts do not belong to Euroclear, and the special accounts are accounts of a foreign nominee, then one of the conditions precedent for initiating "secondary (local)" proceedings in a bankruptcy case of a foreign legal entity will not be met – the debtor's property located in Russia (Ruling of the Judicial Chamber on Economic Disputes of the Supreme Court of the Russian Federation dated 08.02.2024 No. 305-ЭС23-15177).
- We think that, in such a case, the court should waive the said procedure, since its purpose of ensuring the protection of Russian creditors in the absence of their effective access to the venue of the main bankruptcy proceedings will not be achieved.
- At the same time, if, in the event of the debtor's bankruptcy, the regime of special accounts opened in the debtor's name does not change, irregularities in payments under Decree No. 665 are also unlikely.

Anyway, Russian creditors of Euroclear are advised to monitor the case developments to promptly seek protection of their interests (if bankruptcy proceedings are initiated, creditors only have two months to join the process).

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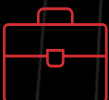
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TMT



/ Tatyana Neveeva

Managing Partner

tatyana.neveeva@verba.legal



/ Vladimir Domashin

Senior Associate

vladimir.domashin@verba.legal



/ Evgeny Mishin

Senior Associate

evgeny.mishin@verba.legal



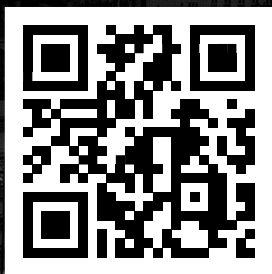
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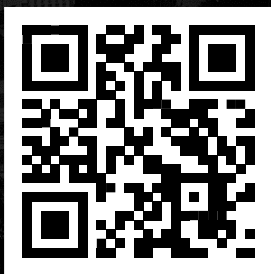
evgeny.gasparyan@verba.legal

# VERBA / LEGAL

- [info@verba.legal](mailto:info@verba.legal)
- +7 (495) 374-74-03
- 11 Gogolevsky  
boulevard, Moscow, 119019



[t.me/verbalegal](https://t.me/verbalegal)



[t.me/ma\\_nagogolevskom](https://t.me/ma_nagogolevskom)