

Employee Protection Against Currency Risks?

By [Anna Berlina](#)

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Anna Berlina

Associate
Dentons

Keep your income and expenses in the same currency" — everyone knows this golden rule, even if they are not always able to stick to it. Foreign citizens working in Russia may receive their salary in rubles, but have expenses in their home country (such as mortgage payments) in a different currency, euro for example. They may often pay their Moscow landlord in euros or dollars, as it is common in Moscow for rents to be set in foreign currency. Russian citizens often take out loans as the ruble equivalent of a foreign currency, as they believe such loans may be advantageous under certain circumstances. The fall in the ruble since the beginning of this year has hit all those whose foreign currency expenses when calculated in rubles have risen fast, while their ruble income has remained the same. As a result, working in Russia has become less attractive for many foreigners and led some to wonder whether there is a solution to the ruble salary issue, and if not, whether they should leave Russia and look for work in a country with more attractive pay conditions.

The simplest and most obvious solution would be to agree with their employer that their salary be set (and correspondingly indicated in their employment contract) in a foreign currency, given that applicable Russian law does not expressly forbid setting salaries as the ruble equivalent of an amount in foreign currency calculated in accordance with the respective exchange rate. However, the enforcement practice which formed in 2005-2006 and has been consistently upheld ever since considers setting salaries as the ruble equivalent of an amount in foreign currency to be incompatible with Russian law. Therefore, most employers reasonably refuse indicating salaries as the ruble equivalent of a sum in foreign currency.

One fairly popular solution is to include a currency risk hedging clause in employment contracts. Such clauses usually involve an undertaking by the employer to make additional payments to the employee, based on a certain formula, in the event of certain exchange rate

movements. Various formulas are used, but their general purpose remains the same: the employee and employer agree that the employee's salary (stated in rubles in the employment contract) will be compared to the ruble equivalent of a certain amount in foreign currency, and if the ruble salary is lower than the said amount, the employee will be paid the difference. As a rule, employees prefer the comparison to be made frequently (for example, upon each payment of salary, or at least once a month), however, the employers often insist on payments once per quarter, or less, on the basis that the calculations are an additional burden on accounting staff.

Some employees whose financial interests are particularly affected by the falling ruble attempt to solve the problem by agreeing on a salary increase or the payment of a special bonus intended to compensate the exchange rate losses.

Unfortunately, it should be noted that the possibility of hedging exchange rate risks is usually only available in practice to foreign employees, and far from all of them are able to agree with employers on the inclusion of such conditions in their employment contracts. Attempts by ordinary employees with Russian citizenship to agree with employers on the inclusion of adjustment clauses in their contracts (as "insurance" against the falling ruble), or an increase in salary on the basis of the falling ruble, are generally regarded by employers as inappropriate, especially at a time when talk is more about crisis management, redundancies, and the need to reduce staff costs.

What hope is there, then, for those who are not protected against the consequences of the falling ruble? Only the goodwill of their employers to introduce some kind of special payment or salary increase; and the salary indexation that employers are required by law to carry out regularly on the basis of consumer price inflation. Notably, not all employers are aware of their statutory obligation to index salaries, and many that are aware are inclined to disregard it. But that is quite a different matter...

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