

Weekly Update on Russian Legislation

10 – 30 January 2011



Banking

Mandatory reserves

On 31 January 2011 the Central Bank issued Directive No. 2573-U regarding mandatory reserves required for various obligations of credit organizations.

According to the Directive, starting from 1 February 2011 mandatory reserves for a credit organization's obligations (in rubles or foreign currencies) are as follows: (i) under obligations to non-resident legal entities - 3.5%; (ii) under obligations to individuals - 3%, and (iii) under other obligations - 3%.

The Directive entered into force on 31 January 2011.

Real Estate

On 9 January 2011 the President issued Decree No. 26 approving a list of territories close to the borders of Russia where foreign individuals and legal entities may not own land plots.

Pursuant to the Land Code, foreign individuals and legal entities may not own land plots located in areas close to the borders of Russia. The Decree now approves a list of such territories, which includes 380 municipal entities (e.g., certain territories located in St. Petersburg, Leningrad Oblast and Krasnodarsky Krai).

The Decree entered into force on 19 January 2011.

Oil Export Duty

On 21 January 2011 the Government adopted Resolution No. 15 approving new rates of export customs duty on crude oil and crude-oil products exported beyond the borders of the Russian Federation to countries outside of the Customs Union.

The Resolution increased the rate of customs duty payable on crude oil and crude-oil products extracted from bituminous formations (TN VED 2709 00) exported outside the countries that are members of the Customs Union (i.e., Russia, Belarus, Kazakhstan, Kyrgyzstan and Tajikistan). The new rate is set at USD 346.6 per ton (the previous rate was USD 317.5).

The new rate applies as of 1 February 2011.

Energy

On 24 December 2010 the Government issued Decree No. 1107 amending the Rules of the wholesale power (capacity) market during the transition period.

The Resolution amends the procedure for operating of the wholesale power (capacity) market during the transition period, approved under Government Resolution No. 643 dated 24 October 2003. The Resolution, in particular,

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specifies the procedure for obtaining the status of a participant of the wholesale power (capacity) market, including as a result of legal succession, to trade in power (capacity) on the market. It also defines of a place of performance of obligations under sale and purchase (supply) power (capacity) agreements. In addition, the Resolution introduces new provisions regulating the specifics of power (capacity) trade under regulated agreements starting from 1 January 2011.

The Resolution entered into force on 25 January 2011.

Energy Efficiency

On 27 December 2010 the Government issued Decree No. 2446-r approving the state program for energy savings and energy efficiency for the period until 2020 ("Program").

The Program aims to ensure an increase in competition, financial stability, energy and ecological safety of the Russian economy on the basis of modernisation, technological development and transition to rational and environmentally accountable use of energy resources. The Program, in particular, provides for the following measures:

- developing the required regulatory framework;
- improving tariff and tax policy to stimulate rational use of energy resources;
- decommissioning of inefficient capacities, equipment and facilities, and introducing innovative technologies and equipment in the course of new construction and modernisation;
- expanding the possibilities for implementing public-private partnerships including energy service contracts focused on energy saving and increase of energy efficiency;
- granting state guarantees for loans to organizations for the implementation of projects in the sphere of energy saving and increasing energy efficiency; and
- developing and introducing energy management systems in industries.

The Decree entered into force on 27 December 2010. The Program is available on the Government's website (www.government.ru).

Court Practice

Bankruptcy

On 23 December 2010 the Plenum of the Supreme Commercial Court adopted Resolution No. 63 regarding the application of the Bankruptcy Law provisions on challenging debtors' transactions.

The Court clarified a number of issues on challenging debtors' transactions on the grounds specified in the Bankruptcy Law, including (i) "suspicious" transactions (i.e. undervalued transactions and transactions which intentionally impaired creditors' interests) and (ii) transactions that resulted in preferential treatment of some creditors over others.

This update is a general summary of recent legislative developments and should not be treated as legal advice. Readers should seek the advice of legal counsel on any specific question. All translations of terminology in this update are unofficial.



In particular, according to the Resolution:

- transactions may be challenged on the above grounds only in the course of external management or receivership procedures, and the limitation period is one year from the moment when the external manager or receiver became (or should have become) aware of the grounds for the challenging;
- transactions that may be challenged on the above grounds include the acquisition of pledged property by the pledgeholder;
- pledge and suretyship agreements may not be challenged on the grounds of understated value (as they do not normally provide for a consideration), but may be challenged on the grounds that they impaired creditors' interests;
- pledge and suretyship agreements may not be challenged as preferential transactions if they are made in the normal course of the debtor's business and are worth no more than 1% of the debtor's assets.

The Resolution is mandatory for lower commercial courts when considering similar issues.

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