

Insight

8 – 28 October 2012

Russian Legislation Update

Banking

Reorganization

On 29 August 2012 the Central Bank adopted Regulations No. 386-P “On the Reorganization of Lending Organizations by Way of Merger and Accession.”

The Regulations were registered with the Ministry of Justice on 9 October 2012.

Regulations No. 386-P replace previously effective Central Bank Regulations No. 230-P of June 2003 on the same matter. The new Regulations, in particular, exclude the requirement to have an auditor’s report as to compliance of the reorganization procedures with applicable law. If the documents for state registration were provided in electronic form, then the registration certificates and the charter (amendments to it) are to be provided to the reorganized lending organization in electronic form as well. If the lending organization so requests, it may get a hard copy of the charter stamped by the registration authority.

The Regulations entered into force on 28 October 2012.

Evaluation of a bank’s economic position

On 1 October 2012 the Central Bank issued Directive No. 2894-U amending its Directive No. 2005-U “On the Evaluation of Banks’ Economic Position.”

The Directive was registered with the Ministry of Justice on 17 October 2012.

Pursuant to Directive No. 2005-U, the Central Bank regularly evaluates banks’ economic position, and, as a result of such evaluation, a bank is assigned one of five classification categories. The bank’s belonging to a certain category affects, among other things, its ability to obtain loans from the Central Bank.



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In This Issue...

- Banking
- Stability of the Financial System
- Power
- First Reading: Employment
- Oil Export Duty

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The amendments introduce a new indicator that will be taken into account for the classification of banks: the quality of the management of employee incentive plans (in terms of whether they are transparent, reckon with the level of risks incurred by the bank, etc.).

The Directive will enter into force on 1 July 2013.

Bank accounts

On 28 August 2012 the Central Bank issued Directive No. 2868-U amending its Instructions No. 28-I “On the Opening and Closing of Bank Accounts and Deposit Accounts.”

The Directive was registered with the Ministry of Justice on 21 September 2012.

The amendments specify, among other things, that (i) when opening a bank account, a bank is entitled not to request documents already available in the bank’s files for such client and (ii) the right of first signature belongs to the chief executive of a client that is a legal entity and to other employees vested with this right based on an order or a power of attorney.

The Directive entered into force on 7 October 2012.

Reporting

On 16 July 2012 the Central Bank issued Directive No. 2851-U “On the Rules for Completion and Submission by Lending Organizations of Reports to the Central Bank.”

The Directive was registered with the Ministry of Justice on 5 September 2012.

The Directive is an updated version of previously effective Central Bank Directive No. 1375-U dated 16 January 2004. The general rules for reporting by lending organizations to the Central Bank remain largely the same.

The Directive entered into force on 30 September 2012.

On 24 August 2012 the Central Bank issued Directive No. 2867-U amending its Directive No. 2332-U regarding reporting forms of lending organizations.

The Directive was registered with the Ministry of Justice on 20 September 2012.

The Directive amends the procedure for completion and submission of some reporting forms of lending organizations (in particular, reports on forex operations of their clients). It introduces a new monthly reporting form (a report regarding transfers between bank accounts of its clients that are lending organizations (their branches), Vnesheconombank and non-resident banks).

The Directive entered into force on 1 October 2012.

Bookkeeping

On 16 July 2012 the Central Bank issued Regulations No. 385-P “On the Rules for Bookkeeping in Lending Organizations on the Territory of the Russian Federation,” and on 26 September 2012 it issued Directive No. 2884-U amending the said Regulations.

The Regulations and the Directive were registered with the Ministry of Justice on 3 September and 15 October 2012 respectively.

The Regulations (together with the Directive) represent an updated version of currently effective Regulations No. 302-P. The amendments are mainly due to the enactment of the Law on the National Payment System and new Central Bank Regulations on the Transfer of Funds (check our legal updates for 4 – 24 June and 25 June – 8 July 2012).

The Regulations and the Directive will enter into force on 1 January 2013 (save for a few provisions of the Directive that will enter into force on 1 January 2014).

Stability of the Financial System

On 24 September 2012 the Government adopted Resolution No. 969 amending its Resolution No. 853 on the use of government securities for increasing banks’ capitalization.

The amendments extend to 31 December 2014, the time slot where banks may enter into agreements with the Russian Ministry of Finance to exchange their preferred shares for federal loan bonds.

The Resolution entered into force on 9 October 2012.

Power

On 6 September 2012 the Government issued Resolution No. 884 “On the Establishment of Protection Zones for Hydro-Power Facilities.”

Pursuant to the Water Code, the Resolution approves a procedure for the establishment of protection zones for hydro-power facilities in the areas of bodies of water in order to assure their safe operation and use. The boundaries of protection zones are to be approved by the Federal Service for Supervision of Natural Resources Use or its territorial agency.

The Resolution also defines special terms for water use within the boundaries of protection zones. In particular, the use of bodies of water within such zones is to be approved by an operator of the hydro-power facility. The types of activities subject to such approval are listed in the Resolution (e.g., exploration and production of natural resources).

The Resolution will enter into force on 1 January 2013.

On 6 September 2012 the Government issued Resolution No. 889 in relation to the decommissioning of sources of heating power and heating networks.

Pursuant to the July 2010 Federal Law No.190-FZ on Heating Supply, the Resolution establishes a procedure for temporary shutdowns (for repairs) and decommissioning of sources of heating power and heating networks. It specifies an approval procedure with interested parties for the decommissioning of the respective facilities. In particular, decommissioning of sources of heating power and heating networks requires approval from the local authorities while the decommissioning of heating networks used to supply heat to consumers is also to be approved by such consumers.

The Resolution does not apply to facilities only serving the needs of their owners and are not used to supply heat to consumers.

The Resolution entered into force on 18 September 2012.

First Reading

Employment

On 16 October 2012 the State Duma of the Russian Federation adopted in the first reading Draft Law No. 88331-6 amending the Russian Labor Code in relation to employees who work outside the employer's premises (remote work).

The amendments, among other things, establish the notion of a *remote employee* and define its relations with an employer. The employment agreement with the remote employee may be made electronically by means of enhanced-protection digital signature received from a competent certification authority (as defined in the Law on Electronic Digital Signature). The employment agreement may envisage other grounds for its termination in addition to those stated in the Labor Code. The remote employee independently manages his/her work, rest and recreation hours unless otherwise provided for in the employment agreement.

The provisions of the Draft Law will apply if adopted by the State Duma in three readings, approved by the Federation Council, signed by the President, and officially published.

Oil Export Duty

On 24 October 2012 the Government adopted Resolution No. 1090 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 the Customs Union.

The Resolution reduces the rate of customs duty payable on crude oil and certain crude-oil products extracted from bituminous formations (TN VED 2709 00) exported outside the member countries of the Customs Union (i.e., Russia, Belarus, and Kazakhstan). The new rate is set at US\$404.5 per ton (the previous rate was US\$418.9 per ton).

The new rate applies as of 1 November 2012.