

ClientInsight

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Russian Legislation Update

Franchising

On 18 July 2011 the President signed Federal Law No. 216-FZ “On Amending Part Two of the Civil Code of the Russian Federation”.

The Law amends the provisions of the Russian Civil Code that relate to franchise (commercial concession) contracts (Articles 1033-1037). In particular, a franchisee may be prohibited from competing with its franchisor within the territory defined in the contract (when carrying out entrepreneurial activities using exclusive rights belonging to the franchisor). The franchisee may also be obliged to abide by the prices set by the franchisor and to conduct business solely within a defined territory. Furthermore, the franchisor may bar the franchisee from selling similar products (performing works, supplying services) using trademarks of other franchisors.

A contract provision that contains an obligation of the franchisee to sell goods (perform works, supply services) solely to the customers residing or living within a defined territory is considered void.

If the franchisor refuses to conclude a new contract with the franchisee and, within one year of such refusal, the franchisor enters into a contract with another person under the same terms and conditions, the franchisee may claim the transfer to itself of the rights and obligations under the new contract and payment of damages (or damages only).

If the contract provides for the possibility of its termination with the payment of a break-up fee, each party may terminate the contract at any time by notifying the other party (no later than 30 days before such termination). The amendments also list the circumstances where the franchisor may terminate the contract in whole or in part.

The Law will enter into force on 21 October 2011.

Anti-Money Laundering

On 2 August 2011 the Federal Service for Financial Monitoring (Rusfinmonitoring) issued Information Letter No. 17 on the indicia of operations and activities likely to be aimed at money laundering.

The Anti-Money Laundering Law requires that companies conducting operations with money or other property of their clients report to Rusfinmonitoring on operations that “appear to have money-laundering purposes”. The Letter provides for a tentative – non-exhaustive - list of indicia of operations and activities which bear a high risk of being conducted for money-laundering purposes. The list of such indicia and activities is quite broad and includes, for example, 1) the real estate business; 2) less than one-year old

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For more information please contact:

Igor Ostapets

Partner

iostapets@whitecase.com

Irina Dmitrieva (Tax)

Partner

iridmitrieva@whitecase.com

White & Case LLC
 Tel +7 495 787 3000
 Fax +7 495 787 3001
www.whitecase.ru
www.whitecase.com

businesses; 3) activities of foreign nonprofit organizations; 4) instances where the company's client is a state-owned organization; non-resident or a foreign public official; or 5) where electronic payment systems are used.

The Letter is addressed to and will serve as a guideline for companies conducting operations with money or other property of their clients. It does not extend to lending institutions.

Securities

On 7 June 2011 the Federal Service for Financial Markets ("FSFM") issued Order No. 11-26/pz-n on reasons for exclusion of securities from quotation lists of stock exchanges.

The Order was registered with the Ministry of Justice on 22 July 2011.

The Order clarifies a number of issues in connection with the delisting of securities from quotation lists. As a general rule, according to the Regulation "On Activities for Organizing Trades on the Securities Market" approved under FSFM Order No. 10-78/pz-n dated 28 December 2010, stock exchanges shall delist securities from quotation lists (or transfer them to other quotation lists) if the issuer incurred losses following the results of the last three years (in case of exclusion from quotation lists).

The new Order now states that if such losses were incurred as an annual result of 2008, 2009 and/or 2010, stock exchanges are not to delist securities (remove them from quotation lists). FSFM Order No. 10-46/pz-n dated 16 July 2010 is no longer in force.

The Order entered into force on 14 August 2011.

Customs Union

On 15 July 2011 the Customs Union Commission issued Decision № 711 approving the Regulations "On the Single Mark of the Circulation of Goods on the Markets of the Participants in the Customs Union" (the "Regulations").

Russia, Belarus, and Kazakhstan have formed a single common customs territory within the Customs Union Agreement where single customs tariff and other unitary regulations on trade with third countries were to apply. The Customs Union Commission is the standing regulatory body of the Customs Union. (For a detailed overview of the Customs Union, please see our Special Update for September 2010).

Within the single customs territory of the Customs Union, duty rates and other economic restrictions do not apply with the exception of specific protection, anti-dumping and countervailing measures. These new Regulations are addressed to manufactures (suppliers) of goods within the Custom Union and aim at promoting and enforcing certain unified principles of technical regulation within the single customs territory.

The Regulations set forth the circumstances, rules of application, and formal requirements (graphic design, size, etc) to the single mark that may be applied to goods circulating on the markets of Russia, Belarus, and Kazakhstan. Manufactures (suppliers) of goods may attach this mark to their goods to evidence that the marked goods have passed all quality control requirements established under the technical regulations of the Customs Union.

The Regulations enter into force on 2 September 2011.