

ClientInsight

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Russian Legislation Update

Investment Treaty

On 1 December 2012 the President signed Federal Law No. 215-FZ ratifying the Agreement between the Russian Government and the Government of the United Arab Emirates on the Promotion and Reciprocal Protection of Investments, and the Protocol to it.

The Agreement (together with the Protocol) was signed on 28 June 2010 in Moscow. The Agreement grants most favoured nation treatment to the investors of contracting parties (except for the dispute resolution procedure envisaged by the Agreement). It prohibits expropriation, nationalization and other measures resulting in the loss of ownership of the investors (except when such measures are taken for the public interest and subject to prompt, adequate and effective compensation); guarantees that the investors may freely transfer abroad payments related to an investment, provided they have fulfilled all their tax obligations. The Agreement provides for the term “without delay” which is any such period that is normally required to fulfil the necessary formalities for the transfer of payments. It commences on the day when the request for transfer has been submitted and which does not exceed five working days.

The Agreement sets out that the contracting parties may accord the investors treatment no more favourable than the treatment granted by such contracting party in accordance with the WTO Agreement.

The Agreement applies to investments made starting from 1987 (except for investment disputes arisen or settled before its entry into force). It is in effect for a ten-year period and will be automatically extended for subsequent ten-year periods unless any of the parties declares otherwise.

The Agreement will enter into force after the Russian Federation and the United Arab Emirates exchange notifications that all internal ratification procedures have been completed.

The ratification law will enter into force on 14 December 2012.

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First Reading

Banking

On 21 November 2012 the State Duma adopted in the first reading Draft Law No. 116616-6 imposing a ban on the opening of branches of foreign banks in Russia.

The Draft Law excludes branches of foreign banks from the list of entities that form part of the Russian banking system and thus effectively bans the opening of branches in Russia (it formalizes the existing situation: now there are no branches of foreign banks in Russia).

Advertising

On 21 November 2012 the State Duma adopted in the first reading Draft Law No. 600029-5 on the amendments to the Law on Advertising and certain other legislative acts regarding installation, use and removal of an advertising structure.

The Draft Law seeks to amend the Federal Law "On Advertising"; Administrative Offences Code and certain other federal laws. In particular, the amendments forbid (i) installing and using advertising structures over roadways; (ii) painting or inscribing advertisements on building elements, bus stops, bikeways and footpaths, pavement or roadways; and (iii) modernizing a vehicle in order to create a transportable advertising structure.

The amendments suggest extending the term of a contract for the installation and use of an advertising structure to 15 years (currently five years).

In certain cases, local authorities may establish plans for the allocation of advertising structures and hold tenders for the right to conclude a contract for installing and using such advertising structures. Where provided for by the law, local authorities may issue an order to remove an advertising structure. The owner of an advertising structure must remove it within one month after the order's issuance date. If the owner has not removed it on time or is unknown, local authorities will address a removal order to the owner of an immovable property beneath the advertising structure or remove it at the local budget's expense.

Among other things, the amendments suggest increasing fines for the unlawful installation/use of an advertising structure and for the use of a vehicle as a transportable advertising structure to RUB 1 million (approx. US\$32,000) with confiscation of any such advertising structure (currently – RUB 200,000 and without confiscation of an advertising structure).

The provisions of the Draft Laws 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 22 November 2012 the Government adopted Resolution No. 1201 approving new export customs duty rates 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\$396.5 per ton (the previous rate was US\$404.5 per ton).

The new rate applies as of 1 December 2012.