

# ClientInsight

12 – 25 September 2011

## Russian Legislation Update

### Kyoto Protocol

**On 15 September 2011 the Government issued Resolution No. 780 specifying the procedure for approving investment projects under Article 6 of the Kyoto Protocol.**

Article 6 of the Kyoto Protocol envisages the possibility for the countries specified in Annex 1 to the Kyoto protocol (including Russia) to transfer to, or acquire from, other such countries emission reduction units ("ERUs") resulting from investment projects. The Resolution specifies the procedure for (i) selecting, approving and reviewing the projects' implementation and (ii) assigning, transferring or acquiring ERUs.

Under the Resolution, the Ministry of Economic Development approves the projects upon presentation of the selected investors (Russian companies) by OAO Sberbank. The maximum amount of the ERUs that could be generated from the investment projects is now 300 million tons of equivalent carbon dioxide.

The Resolution expands the list of documentation required from potential investors - Russian companies to implement the projects and includes, in particular, a specific project documentation and investment declaration reflecting the investor's intention to reinvest the money (received from project implementation) in projects aimed at increasing energy and ecological efficiency ERUs that could be generated from investment projects is now 300 million tons of. ERUs are to be transferred under an agreement to be concluded among the investor, Sberbank and a foreign purchaser of the ERUs.

*The Resolution will enter into force seven days after its official publication and will replace Government Resolution No. 843 dated 28 October 2009 on the same matter.*

### Securities

**On 28 July 2011 the Federal Service for Financial Markets ("FSFM") issued Order No. 11-35/pz-n approving a list of companies with which Russian depositaries may open accounts for registering rights to foreign securities for the purpose of issuing Russian depositary receipts (RDRs).**

*The Order was registered with the Ministry of Justice on 8 September 2011.*

According to the 1996 Federal Law No. 39-FZ "On Securities Market," RDRs may be issued if the rights of a Russian depositary to the underlying securities are recorded on a special account opened for it as entity acting in the interests of other persons. These rights are to be recorded by a company that records rights to securities and is included in the list approved by the FSFM. The Order now approves a list of such organizations.

The Order replaces FSFM Order No. 07-52/pz-n dated 27 April 2007 on the same matter.

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*The Order entered into force on 27 September 2011.*

## Oil Export Duty

**On 23 September 2011 the Government adopted Resolution No. 782 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 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).

The new rate is set at USD 411,4 per ton (the previous rate was USD 444,1).

*The new rate applies as of 1 October 2011.*

## First Reading

### Currency Controls

**On 21 September 2011 the State Duma adopted in the first reading Draft Laws No. 556482-5 and No. 556576-5 amending the Administrative Offences Code with respect to liability for violations of currency control rules.**

The Draft Laws aim to provide for more adequate sanctions for violations of currency control rules. Currently, Russian exporters' failure to promptly repatriate export proceeds into Russia may result in a severe administrative fine of up to the entire amount of non-repatriated funds. The proposed amendments seek to differentiate liability depending on whether the export proceeds were not repatriated when due or were not repatriated at all. In the former case the fine will be 1/150 of the Central Bank refinancing rate of the amount of funds not repatriated when due per day of delay; in the latter case the liability will be the same as it currently is.

Further, currently Russian residents' failure to comply with the procedure and terms for submitting reporting forms related to currency operations, as well as supporting documents and data related to currency operations, may result in an administrative fine of up to RUB 50,000. The proposed amendments seek to differentiate liability depending on the length of the delay in submitting the documents: for example, a delay less than 10 days will result either in a warning or a fine of up to RUB 15,000, whereas in case of a delay of 30 or more days the liability will be the same as it currently is.

## Energy

**On 22 September 2011 the State Duma adopted in the first reading Draft Law No. 562736-5 "On the State Information System of the Fuel and Energy Complex."**

The Draft Law aims to establish a state information system of the fuel and energy complex ("TEK"). The system will help to assure exchange of information between state authorities and energy companies to develop an efficient state policy and a legal framework for regulating TEK.

The Draft Law, in particular, obliges energy companies to submit certain types of information listed in the Draft Law to the state information system of TEK. Breach of this rule entails liability.

**On 20 September 2011 the State Duma adopted in the first reading Draft Law No. 572971-5 on prevention and liquidation of oil spills within the internal sea waters, territorial sea and continental shelf of the Russian Federation.**

The proposed amendments seek to improve the regulatory framework for using natural resources and conducting other activities within the internal sea waters, territorial sea and continental shelf to mitigate the negative impact on the marine environment in case of oil spills.

Under the amendments, companies using artificial islands, installations, facilities and underwater pipelines as well as conducting drilling works for the purpose of subsoil use and transportation and storage of oil within specified aquatic areas and the continental shelf are to have an approved plan for prevention and liquidation of oil spills and secure the performance of their financial obligations to fulfill measures envisaged in the plan (e.g., by means of a bank guarantee or an insurance contract).

*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.*