

# Insight

15 – 28 April 2013

## Russian Legislation Update

### Banking

#### Electronic databases

**On 21 February 2013 the Central Bank issued Regulation No. 397-P “On the Procedure for Creating, Maintaining and Storing Electronic Databases.”**

*The Regulation was registered with the Ministry of Justice on 9 April 2013.*

According to the recent amendments to the Law on Banks and Banking Activity, banks are obliged to maintain electronic databases containing information on their assets and liabilities and the traffic therein. Banks are to record all their operations and transactions in such databases and ensure the availability of such data as of each business day.

Banks are to create such databases and their back-up copies in accordance with the requirements established by the Regulation, as well as their internal regulations that need to be drawn up. The Regulation requires that the back-up copies be located on the territory of the Russian Federation, in places that differ from those where the databases' media are located.

*The Regulation entered into force on 28 April 2013.*

### Securities

**On 19 February 2013 the Central Bank issued Directive No. 2971-U amending its Instructions No. 128-I “On the Rules for the Issuance and Registration of Securities by Lending Organizations on the Territory of the Russian Federation.”**

*The Directive was registered with the Ministry of Justice on 18 April 2013.*

The Directive is issued following the entry into force of Federal Law No. 282-FZ of 29 December 2012, which was adopted to streamline the procedures of securities issuance.



**For more information, please contact:**

#### Igor Ostapets

**Partner**

+ 7 495 787 3019

[iostapets@whitecase.com](mailto:iostapets@whitecase.com)

#### Irina Dmitrieva

**Partner (Tax)**

+ 7 495 787 3003

[idmitrieva@whitecase.com](mailto:idmitrieva@whitecase.com)

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White & Case LLC

Tel + 7 495 787 3000

Fax + 7 495 787 3001

[whitecase.com](http://whitecase.com)

In particular, it provides that: (i) an increased charter capital of a lending organization may be paid by setting off claims against the lending organization on the payment of dividends; (ii) the term for the placement of securities may be extended provided the total term of such placement may not exceed three years from the state registration of the issue; and (iii) a lending organization may submit to the registration authority a notice (rather than a report) on the results of the issue provided the securities were placed by open subscription, paid with cash and admitted to organized trades (in addition, the Directive provides for an updated form of such notice).

*The Directive will enter into force on 19 May 2013.*

## First Reading

### Public-Private Partnership

**On 26 April 2013 the State Duma adopted in the first reading Draft Law No. 238827-6 “On the Fundamentals of the Public-Private Partnership in the Russian Federation.”**

The purpose of the Draft Law is to establish a uniform legal framework at the federal level to ensure cooperation between the state and private investors in relation to the development of a public services infrastructure. The proposed Draft Law also allows use of a variety of cooperation forms which are common in international practice for the implementation of public-private partnership (PPP) projects (currently, Russian law provides for a limited number of forms of cooperation, primarily on the basis of concession agreements).

In particular, the Draft Law establishes general terms and the procedure for the conclusion of PPP agreements between public partners (i.e., the Russian Federation, its constituent entities and municipal districts) and private partners (i.e., Russian or foreign companies), rights and obligations of public and private partners under a PPP agreement and guarantees of the rights and legal interests of private partners and creditors.

### Consumer lending

**On 23 April 2013 the State Duma adopted in the first reading Draft Law No. 136312-5 “On Consumer Lending.”**

The Draft Law aims to streamline regulation in the sphere of consumer lending and serves both to protect the rights of borrowers and reduce risks borne by the banks (it defines a consumer loan as a loan granted to an individual for needs not related to entrepreneurial activities).

The Draft Law requires that banks provide borrowers with a certain set of information both before and after the loan is granted; lists a number of terms and conditions that are to be included in a consumer loan agreement; sets forth special rules regarding interest and penalties; fixes the borrower’s right to prepay the loan, as well as the bank’s right to assign its claims against the borrower to any third party.

### Privatization

**On 23 April 2013 the State Duma adopted in the first reading Draft Law No. 79403-6 amending the Federal Law “On Privatization of State and Municipal Property” and the Federal Law “On Water Supply and Water Disposal.”**

The amendments seek to establish special terms for the privatization of electric grid facilities, sources of heating power and heating networks. In particular, privatization of these facilities may be possible if the owners are to undertake an obligation to build, rebuild, re-equip and operate the respective facilities. In addition, the owners of such facilities are to provide goods and services to consumers on the basis of regulated prices (tariffs). These terms are to be included in sale and purchase contracts. On the other hand, the amendments seek to prohibit privatization of water supply and water disposal facilities as well as a pledge of such facilities (or the right to use them), assignment of rights or transfer of such facilities (or the right to use them) as a contribution to the charter capital of a company.

### Procurement

**On 16 April 2013 the State Duma adopted in the first reading Draft Laws No. 105353-6 and No. 25227-6 amending Clause 4 of Article 1 of Federal Law No. 223-FZ “On Procurement of Goods, Works, Services for Certain Types of Legal Entities.”**

The Draft Laws seek to exclude from the scope of the Procurement Law certain relations such as: (i) sale and purchase of precious metals and conclusion of contracts that are derivative financial instruments (except for contracts made on the over-the-counter market) and performance by a customer lending organization of inter-bank and leasing transactions according to the Law on Banks and Banking Activity (Draft Law No. 225227-6); and (ii) conclusion and performance of contracts that are mandatory for the players on the wholesale market for electric power and capacity according to the electric power laws (Draft Law No. 105353-6).

*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.*