

# Weekly Update on Russian Legislation

23 May – 5 June 2011



## Securities

### Foreign Securities

**On 5 April 2011 the Federal Service for Financial Markets issued Order No. 11-8/pz-n approving the Regulation on Peculiarities of the Circulation and Registration of Rights to Securities Designated for Qualified Investors and of Foreign Securities.**

The Order was registered with the Ministry of Justice on 30 May 2011.

The Order establishes the peculiarities of the circulation and registration of rights to: (i) securities designated for qualified investors, and (ii) foreign securities that have not been admitted to public placement and/or public circulation in Russia. According to the Law on Securities Market, foreign securities that have not been admitted to public placement and/or public circulation in Russia, as well as foreign financial instruments that have not been recognized as securities, may not be offered in Russia "in any form or by any means", including by way of advertising, to an unlimited number of investors and to persons who are not "qualified investors" under Russian law. The Order now introduces certain exemptions from this general rule.

The Order will enter into force on 19 June 2011. We will soon issue a special update discussing the Order in more detail.

## Banking

**On 29 April 2011 the Central Bank issued Directive No. 2617-U "On Peculiarities of Evaluation of Banks' Economic Position."**

The Directive was registered with the Ministry of Justice on 25 May 2011.

The Directive is issued in addition to Central Bank Directive No. 2005-U "On the Evaluation of Banks' Economic Position," dated 30 April 2008, which provides that the Central Bank's territorial departments regularly evaluate banks' economic position, and as a result of that evaluation, a bank will be 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. Under the Directive, the banks' profitability shall temporarily not be taken into account for classification of banks.

The Directive entered into force on 12 June 2011 and will be in effect until 31 December 2011.

**On 20 April 2011 the Central Bank issued Directive No. 2612-U amending its Regulation No. 283-P "On the Formation of Provisions by Credit Organizations for Potential Losses."**

The Directive was registered with the Ministry of Justice on 24 May 2011.

According to the Directive, banks will be obliged to form provisions for potential losses related to property which they received based on pledge or compensation agreements (*otstupnoe*) or as a result of debt restructuring. The provisions'

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## Key Contacts

**Igor Ostapets**  
[iostapets@whitecase.com](mailto:iostapets@whitecase.com)

**Irina Dmitrieva (Tax)**  
[irdmitrieva@whitecase.com](mailto:irdmitrieva@whitecase.com)

**White & Case LLC**  
 Tel +7 495 787 3000  
 Fax +7 495 787 3001

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

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amount will depend on how long these assets sit in banks' balance sheets (e.g. 10% for assets recorded for more than one year, and 75% - for those recorded for more than five years). Similar rules will apply where those assets are transferred for recording to a bank's subsidiary or mutual investment fund.

The Directive will enter into force on 1 January 2012.

**On 20 April 2011 the Central Bank issued Directive No. 2613-U amending its Instruction No. 110-I "On Mandatory Economic Ratios for Banks," dated 16 January 2004.**

The Directive was registered with the Ministry of Justice on 24 May 2011.

The Directive amends the rules on calculation of a bank's net worth (capital) ratio (N1) by including 'operations subject to a high risk multiplier' in its calculation. Those risky items include, among others, property received by banks based on pledge or compensation agreements (*otstupnoe*) or as a result of debt restructuring, as well as claims for loan and interest payment with respect to mortgage loans granted to individuals, which exceed RUB 50 million and meet some other established criteria.

The Directive (save for certain provisions) will enter into force on 1 October 2011.

## Minimum Monthly Wage

**On 1 June 2011 the President signed Federal Law No. 106-FZ "On Amendments to Article 1 of the Federal Law 'On the Minimum Monthly Wage'."**

The Law increases the minimum monthly wage in Russia from the current RUB 4,330 (approximately US \$155) to RUB 4,611 (approximately US \$165) as of 1 June 2011. The minimum monthly wage rate applies only to salary payments and temporary disability allowances. Taxes, fines and other mandatory payments are calculated in multiples of 100 rubles (approximately US \$4).

The Law entered into force on 1 June 2011.

## Real Estate

**On 8 April 2011 the Ministry of Regional Development issued Order No. 161 approving the rules for defining energy efficiency classes of multi-apartment buildings.**

The Order was registered with the Ministry of Justice on 20 May 2011.

The Law on Energy Saving and Increasing Energy Efficiency provides, in particular, that the state construction supervision authority defines energy efficiency classes of multi-apartment buildings that are put into operation (either constructed, reconstructed or overhaul repaired) and are subject to construction supervision. In addition, developers must place a sign containing information on energy efficiency classes of multi-apartment buildings that are put into operation on their facades. The Order now approves (i) the rules for defining energy efficiency classes of multi-apartment buildings, and (ii) the requirements for the sign.

The Order entered into force on 14 June 2011.



## Moscow Real Estate

**On 12 April 2011 the Moscow Government adopted Resolution No. 119-PP on allocation of land plots for construction through a tender Procedure.**

The Resolution establishes a unified procedure for allocating land plots, either owned by the City of Moscow or state ownership of which is not delimited, for construction purposes through a tender procedure. Pursuant to the Resolution tenders are to be held in the form of an open auction on the basis of a decision of the Town-Planning and Land Commission of the City of Moscow. The City of Moscow Committee on Competitive Politics is entitled to organize the auctions. On the whole, the procedure for holding auctions approved by the Resolution corresponds to the procedure established on the federal level.

The Resolution entered into force on 30 April 2011.

## First Reading

### Employment

**On 20 May 2011 the State Duma adopted in the first reading Draft Law No. 451173-5 on leasing of personnel.**

There is no legislative framework for leasing of personnel in Russia. However, it is a very widespread practice. The Draft Law, in particular, (i) prohibits the leasing of personnel, (ii) introduces administrative liability for evasion by the employer of the execution of an employment agreement; and (iii) provides the possibility to re-qualify civil law relations between an individual and a company into employment relations (provided they meet certain criteria established by the Labor Code) not only by the court, but also by the state labor inspectorate.

### Energy

**On 31 May 2011 the State Duma adopted in the first reading Draft Law No. 522325-5 on safety of fuel and energy complex facilities.**

The Draft Law seeks to establish organizational and legal basis to ensure safety of fuel and energy complex facilities in Russia (except for nuclear energy facilities) from illegal actions. It also defines powers of federal and regional authorities in this sphere as well as the rights, obligations and liability of legal entities which own or hold legal title to the respective facilities.

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.

## Court Practice

### Immovable Property

**On 26 May 2011 the Constitutional Court adopted Resolution No. 10-P regarding the possibility for arbitration tribunals to resolve disputes over immovable property.**

The Court recognized that arbitration tribunals are entitled to resolve civil law disputes regarding immovable property (including those on levying execution on mortgaged property) and that arbitral awards may serve as a basis for the state

This update is a general summary of recent legislative developments and should not be treated as legal advice. Readers should seek the advice of legal counsel on any specific question. All translations of terminology in this update are unofficial.

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registration of rights. Notably, the Court directly recognized the above possibility for domestic arbitration tribunals but did not expressly opine with respect to international arbitration tribunals.

**The Resolution entered into force on 26 May 2011.**

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