

ClientInsight

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Russian Legislation Update

Securities

On 17 January 2012 the Federal Service for Financial Markets (“FSFM”) issued Order No. 12-2/pz-n which supplements and specifies the list of insider information.

The Order was registered with the Ministry of Justice on 13 March 2012.

The Order amends FSFM Order No. 11-18/pz-n of 12 May 2011 which follows the Federal Law on Combating Unlawful Use of Insider Information and Market Manipulation (please see our legal update of 25 – 31 July 2011).

According to the Order, the following information relating to issuers of securities is now included in the list of insider information: (i) the fact that the board of directors of an open joint stock company (OJSC) has made no decision relating to recommendations concerning a voluntary or mandatory bid, obtained from a person, which include 1) evaluation of the price of the acquired securities and of possible change in their market value after the acquisition and 2) valuation of the plans of the person in relation to the OJSC (including its employees); (ii) entering into the strategic partnership agreement or other agreement not provided for under the list of insider information; and (iii) concluding an interested party transaction which is to be approved by an authorized governing body of the issuer (whether this information will be considered insider information will depend on the value of the transaction pro rated to the issuers’ asset value).

According to the Order, the information contained in the audit report prepared in respect of the annual or interim financial statements of the issuer is also considered insider information.

Information which the issuer sends to the state bodies or stock exchanges of a foreign country when the issuer places its securities in such country will be considered insider information only if such information may have a material effect on the price of the securities of the issuer.

The Order also specifies a definition of the meaning of insiders performing operations on the currency exchange.

The Order will enter into force ten days after the date of its official publication.

In This Issue...

- Securities
- Environmental
- Oil Export Duty
- Court Practice: Bank Guarantees

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Environmental

On 28 March 2012 the Government issued Resolution No. 255 on licensing of waste handling activities.

Following the adoption of a new Federal Law "On Licensing of Certain Types of Activities," the Resolution specifies the procedure for licensing of activities relating to collection, use, decontamination and disposal of hazardous waste. Activities relating to waste transportation are no longer subject to licensing. The Resolution also specifies a list of documents to be submitted by an applicant for obtaining a license as well as licensing requirements and terms for implementing waste handling activities. As before, the Federal Service on Supervision in the Sphere of Nature Use issues licenses for conducting these activities.

The Resolution will enter into force seven days after the date of its official publication and will abolish Government Resolution No. 524 dated 26 August 2006 on the same matter.

Oil Export Duty

On 21 March 2012 the Government adopted Resolution No. 205 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 increases 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 US\$ 460,7 per ton (the previous rate was US\$ 411,2 per ton).

The new rate applies as of 1 April 2012.

Court Practice

Bank guarantees

On 23 March 2012 a Plenary Session of the Supreme Commercial Court approved Resolution No. 14 "On Certain Aspects of the Practice of Resolving Disputes Related to Challenging Bank Guarantees."

The Resolution clarifies a number of issues related to the issuance of bank guarantees:

- Bank guarantee is to specify the underlying obligation; this requirement is deemed fulfilled if the guarantee indicates i) the identity of the debtor under obligation; ii) the amount to be paid by the guarantor; and iii) the underlying contract or the nature of the underlying obligation;
- Bank guarantees issued for a term shorter than the term of an underlying obligation cannot be found invalid on that basis;
- Bank guarantees may be issued in an e-form through the telecommunication system SWIFT; and
- The absence of a chief accountant's signature on a bank guarantee does not invalidate such bank guarantee.

The Resolution is mandatory for lower commercial courts when considering similar issues.