

Weekly Update on Russian Legislation

28 February – 20 March 2011



Insurance

On 4 March 2011 the Federal Insurance Supervision Service ("Rosstrakhnadzor") issued Order No. 97 "On the Amount (Quota) of Participation of Foreign Capital in the Charter Capitals of Insurance Companies."

The total foreign (capital) participation in all Russian insurance companies, combined, may not exceed the statutory fixed quota of 25%. This quota is a ratio of the total capital held by foreign investors and their subsidiaries in the charter capitals of Russian insurance companies to the aggregate charter capital of Russian insurance companies. The quota is regularly calculated by Rosstrakhnadzor.

According to the Order, as of 1 January 2011, the aggregate charter capital of all insurance companies combined equals RUB 153,369 million, out of which RUB 34,374 million is the capital of foreign insurance companies (which amounts to 22.42%). The available quota equals RUB 1,435 million. Once this quota is reached Rosstrakhnadzor, in particular, denies the granting of: (i) new licenses to foreign insurance companies, and (ii) preliminary consents to acquisitions of shares or increases of the charter capital of insurance companies by foreign investors.

Please note that according to publicly available information, at present the 25% quota of foreign capital has already been reached.¹

The Order will enter into force on the date of its official publication.

State Authorities/ Securities

On 4 March 2011 the President signed Decree No. 270 "On Measures to Improve State Regulation in the Sphere of the Financial Market of the Russian Federation."

According to the Decree, the functions of the Federal Service of Insurance Supervision with respect to control and supervision in the sphere of insurance activities are delegated to the Federal Service for Financial Markets (the "FSFM"). The FSFM is no longer under the supervision of the Government and will now be directly subordinated to the Ministry of Finance. The Government is to divide the functions of statutory regulation in the sphere of the financial market between the Ministry of Finance and the FSFM within two months and to submit to the State Duma the necessary amendments to the relevant laws.

The Decree entered into force on 4 March 2011.

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Key Contacts

Igor Ostapets

iostapets@whitecase.com

Irina Dmitrieva (Tax)

iridmitrieva@whitecase.com

White & Case LLC

Tel +7 495 787 3000

Fax +7 495 787 3001

www.whitecase.ru

www.whitecase.com

¹ See http://www.vedomosti.ru/newspaper/article/257314/strahovat_nelzya.



Subsoil

On 25 January 2011 the Ministry of Natural Resources ("MNR") issued Order No. 16 amending the procedure for reviewing applications for short-term right to subsoil use.

The Order was registered with the Ministry of Justice on 10 March 2011.

The Order amends the procedure for reviewing applications for short-term (less than one year) right to subsoil use, approved under MNR Order No. 22 dated 22 January 2005. Pursuant to the Law on Subsoil, the right of a subsoil user can be terminated before the term of its subsoil license expires. In this case, the Federal Agency for Subsoil Use ("Rosnedra") may decide to grant a short-term right to subsoil use to a new operator on the basis of an application. The Order now also authorizes Rosnedra's territorial bodies to adopt such decisions. In addition, Rosnedra will have no right to request additional documents from an applicant to clarify data reflected in the application.

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

First Reading

Anti-Corruption Practices

On 9 March 2011 the State Duma adopted in the first reading Draft Law No. 502299-5 amending the Criminal Code and the Administrative Offences Code.

The Draft Law amends the Criminal Code's provisions on bribery, commercial bribery and mediation in bribery. In particular, it increases the amount of fines for these crimes up to one-hundredfold amount of a bribe or commercial bribe (but not more than RUB 500 million). To diversify the penalties imposed for bribery, the Draft Law introduces the following types of bribes:

- ordinary bribe – bribe in an amount of up to RUB 25,000;
- bribe of substantial value – bribe in an amount of up to RUB 150,000;
- bribe of large value – bribe of up to RUB 1 million; and
- bribe of extremely large value – bribe exceeding RUB 1 million.

In addition, the Draft Law provides for bribery mediation as a separate type of offense. Further, it establishes liability for bribery with respect to a foreign officer or an officer of an intergovernmental organization.

The provisions of the Draft Law will apply if adopted by the State Duma in three readings, approved by the Federation Council, signed by the President, and officially published.

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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