

# ClientInsight

14 – 20 November 2011

## Russian Legislation Update

### Strategic Investments

**On 16 November 2011 the President signed Federal Law No. 322-FZ amending the Foreign Investments Law and the Strategic Investments Law.**

The amendments aim to improve the investment climate in Russia and remove excessive administrative barriers affecting foreign investors. The amendments introduce, in particular, the following changes:

- international financial institutions (their list will be established by the Government) are released from the obligation to obtain an approval from the Government Commission for Control over Making Foreign Investments in the Russian Federation for the acquisition of both strategic and non-strategic Russian companies;
- the Strategic Investment Law shall no longer apply to transactions between entities controlled by the Russian Federation or Russian citizens (provided that such citizens do not have double citizenship and are Russian tax residents);
- the control threshold in respect of strategic subsoil users (i.e., companies holding licenses for subsoil plots of federal significance) has been raised from 10% to 25% (number of votes allocated to voting shares or participatory interest in a company's equity capital and/or the number of directors on its board);
- the following activities are excluded from the list of strategically important activities: (a) activities involving distribution and maintenance of cryptographic means and rendering services involving information encoding performed by banks if the Russian Federation does not hold any equity stake in the bank, and (b) activities related to operations with radiation sources in the civilian sector of the economy if such activities do not constitute the company's main business.

*The amendments will enter into force on 18 December 2011.*

### Currency Control

**On 16 November 2011 the President signed Federal Laws Nos. 311-FZ and 312-FZ amending the Administrative Offences Code with respect to liability for violations of currency control rules.**

The amendments aim to provide for more adequate sanctions for violations of currency control rules.

Before the amendments, Russian exporters' failure to promptly repatriate export proceeds into Russia could result in a severe administrative fine of up to the entire amount of non-repatriated funds. The amendments 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 before.

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*This update is a general summary of recent developments in Russian legislation 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.*

Further, before the amendments, Russian residents' failure to comply with the terms for submitting reporting forms related to currency operations, as well as supporting documents and data related to currency operations could result in an administrative fine of up to RUB 50,000 (about US\$ 1,600). The amendments differentiate liability depending on the length of the delay in submitting the documents: for example, a delay not exceeding 10 days will result either in a warning or a fine of up to RUB 15,000 (about US\$ 480), whereas in case of a delay of 30 or more days the liability will be the same as before.

*The Law entered into force on 28 November 2011.*

## Insurance

### **On 3 November 2011 Government adopted Resolution No. 916 approving Regulations on Mandatory Insurance of the Owner of a Hazardous Facility against Civil Liability for Harm Caused by an Accident at the Hazardous Facility.**

The Resolution is issued pursuant to Federal Law No. 225-FZ "On Mandatory Insurance of the Owner of a Hazardous Facility against Civil Liability for Harm Caused by an Accident at the Hazardous Facility" as of 27 July 2010 (see our update for 6 – 25 September 2010). The Law obliges owners of hazardous facilities to insure, at their own expense, their civil liability for any harm caused to injured parties by accidents at hazardous facilities for the entire period of the use of such facilities.

Pursuant to the Law, the range of insurance coverage varies from RUB 10 million (about US\$ 320,000) to 6,5 billion (about US\$ 210,000,000) depending on the type of the hazardous facility and the number of injured parties. The range of insurance payments varies from RUB 25,000 (about USD 800) to two million (about US\$ 64,000).

The Regulations provide for a list of mandatory actions of the insurer and the owner of a hazardous facility in case of accident at a hazardous facility and rules for determining the amount of insurance compensation. Also the Regulations set down compulsory rules for a mandatory insurance agreement. The agreement is public and is to be concluded for each hazardous facility for a period of at least one year. The mandatory insurance agreement may be terminated early in case of certain events listed in the Regulations.

The mandatory insurance agreement must specify the following circumstances that affect the insurance premium: (a) the maximum possible number of the injured in case of accident, (b) increase/reduction of possible harm in case of accident, and (c) other circumstances that may change the insured risk.

Insurance compensation is paid to injured parties in case of harm caused to their life, health, or property due to an accident at a hazardous facility. The Regulations specify events not covered by insurance. Russian law shall apply to all disputes arising from the mandatory insurance agreement.

The Resolution will enter into force on 1 January 2012, save for provisions determining the amount of and procedure for, insurance payments in case of harm caused to health, which will enter into force on 1 January 2013.