
LAW FIRM

ANDREY GORODISSKY & PARTNERS

NEWSLETTER

REVIEW OF THE NOTABLE CHANGES IN LEGISLATION

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Securities Market

On July 20, 2010 the Federal Financial Markets Service issued its Order 10-48/pz-n "On Amendment of the Securities Issue and Offering Memorandum Registration Standards approved by the order of FFMS of Russia on January 25, 2007, No. 07-4/pz-n". The Order adjusts the securities issue and offering memorandum registration standards, more accurately defines the list of documents required for registration of additional share issue and results thereof. Now, any additional shares may be paid by off-set of monetary claims against the issuing joint stock company, provided that such option must be stated in a resolution authorizing increase the charter capital, and a copy of a request (agreement) for off-set of monetary claims together with a document certifying the availability of funds accepted for the off-set must be submitted for the purposes registration of such additional share issue.

The Order also contains some changes relating to Russian Depositary receipts ("RDR"). In case of redemption of all presented securities that are certified by RDRs of relevant issue, all RDRs of such issue will be redeemed and the issuer of RDRs must deliver to their holders all assets received by it in connection with the redemption of presented securities. If the issuer of presented securities takes over obligations to holders of RDRs, a resolution authorizing the issue of RDRs may state that the acquirer consents to termination of an agreement between the issuer of the presented securities and the issuer of RDRs in such events as provided for by such agreement.

The Order further specifies the requirements concerning the RDR placement procedure and terms. RDRs may be issued by public or private offering. If RDRs are placed with respect to new securities, a declaration of such securities' issuer or persons acting on its behalf and/or at its cost is required. In the event of issued outstanding securities, RDRs are to be placed on the basis of declarations of the securities' holders or persons acting on their behalf and/or at their cost.

The Order of the Federal Financial Markets Service "On Specifics of Application of Grounds for Exclusion of Securities Quotation Lists of Securities Exchanges" dated July 15, 2010, No. 10-46/pz-n, has introduced a rule that for the purpose of making a resolution excluding shares and bonds from quotation lists A, first and second levels, for non-compliance with the zero losses requirement for two of the three last years, such requirement does not apply to losses incurred during 2008 and 2009.

Construction

On July 27, 2010 the Federal Law "On Amendment of Urban-Planning Code of the Russian Federation and Some Legal Regulations of the Russian Federation", No. 240-FZ, was issued. The Law specifies the requirements to operations of self-regulating organizations ("SRO") in construction sector. For the purpose of entry into the register of SRO such organizations must submit only the documents expressly required by the Urban-Planning Code. The list of grounds for termination of authorization for construction works has been expanded: in particular, the authorization terminates if a SRO has been stricken off from the register. The Law determines a minimum required contribution to the SRO's compensation Fund that must be paid by each member having an authorization for certain type of works (development of design documentation, organization of construction). Powers of persons in charge of issuance of work authorizations and the minimum requirements for obtainment of an authorization are specified by the Law.

It is established that a SRO is a member of applicable national association of organizations of a relevant type. Each SRO must pay an admission fee and make other contributions. The Law contains provisions on government supervision of activities of the national associations of SROs.

Also, changes to the Licensing Law have been made to exclude development of design documentation from the list of activities that are subject to licensing.

Taxes

On July 27, 2010 the Federal Law "On Amendment of Part One and Part Two of the Russian Tax Code and Some Other Legal Regulations of the Russian Federation and On Repeal of Some Legal Regulations (provisions thereof) of the Russian Federation in Connection with Settlement of Debts Relating to Taxes, Duties, Penalties and Fines and Some Other Tax Administration Issues", No. 229-FZ.

The Law specifies the procedure for grant of deferment (right to pay by installments) for payments of taxes and duties. In case of a legal entity a deferment is granted for an amount not exceeding the entity's net assets and in case of an individual for an amount not exceeding the net value of his/her property. The Law determines a list of documents required for grant of deferment (right to pay by installments) and provides for possible change of deadlines for payment of taxes and duties as well as penalties and fines. The grounds for grant of an investment tax credit have been specified. Some changes relate to payment of individual profit tax, state authorities' charges, transport and land taxes.

The Law has adjusted the profit tax calculation and payment procedure. It sets the revised maximum amount of interest on foreign currency and ruble loans, which is taken into account for calculation of profit tax and applicable rates for the years 2011 and 2012.

The tax registration procedure has been improved. In particular, broader use of electronic forms is provided for interaction of tax authorities with tax payers, banks, registration authorities and for invoicing. The Laws has increased fines for non-compliance with tax registration formalities, failure to file a tax return or to comply with profit (loss) accounting rules, etc. Liability for a failure to file a tax return electronically has been introduced.

The Federal Law will go into force in 1 month from the date of its official publication, with exception of some provisions for with different enactment dates are set.

Accounting Reports

On July 2, 2010 the Ministry of Finance of the Russian Federation issued the Order "On Forms of Corporate Accounting Reports", which approves new forms of bookkeeping documents of legal entities (other than credit institutions or state (municipal) organizations). The forms include balance sheet, profit and loss statement, report on change of capital, report on flow of cash, and

report on special-target use of funds. The last mentioned form is to be used by public organizations (associations) that are not engaged in any entrepreneurial activities and have no sales turnover of goods (works, services), other than retired assets. Also, a balance sheet is now required to show data as of the reporting date of the designated period and as of December 31 of the previous year and of a year immediately preceding that one (previously, a balance sheet was only required to show data as of the start and as of the end of the reporting period. The composition of non-current assets has been changed; some performance factors have been changed and new performance factors have been added, in particular, reserves for contingent obligations; rules of showing some data in a profit and loss statement have been changed.

Labor Issues. Employment of Foreigners

On August 17, 2010 the Government of the Russian Federation issued its Resolution "On Amendment of the Regulations Setting Visa Form, Procedure and Terms for Visa Format, Issuance, Renewal, Issuance of a Replacement Visa in the Event of Loss, and Visa Cancellation Procedure", No. 626. As a follow-up to recent changes to the Federal Law "On Legal Status of Foreign Citizens", which have introduced special rules applicable to labor activities of high-skilled foreign specialists in Russia, the above-mentioned Resolution sets the visa issuance high-skilled specialists coming to Russia for the purpose of negotiating of their employment with employers, subsequent execution of an employment agreement and carrying on labor activities in Russia.

The Federal Migration Service published its Order "On Forms and Procedure for Notifying the Federal Migration Service about Foreign Citizens' Labor Activities Carried On in the Russian Federation", dated June 28, 2010, No. 147. In pursuance of the above-mentioned changes, the Order has approved the forms required for implementation of new provisions of the Federal Law "On Legal Status of Foreign Citizens", such as a foreign citizen's request for employment as a high-skilled specialist, a notice of a foreign specialist's job placement by an employment agency providing job placement services to foreign citizens in Russia, a notice of entry into an employment agreement (or civil-law agreement), a notice of performance of employer's obligations to pay salary to a foreign high-skilled specialist, a notice of termination of an agreement, and the procedures for completion of forms and giving notices have been approved.

Court Practice. Labor Issues.

The Civil Chamber of the Supreme Court of the Russian Federation published its Ruling dated July 23, 2010, No. 75-B10-2. The Ruling sets forth the Supreme Court's position on application of part three of Article 133 of the Russian Labor Code which requires that a monthly salary of an employee who during the relevant month has fully worked his standard working time and has fully performed his employment duties may not be less than minimum monthly wages ("MMW"). The Civil Chamber of the Supreme Court has made a conclusion that applicable labor legislation permits employers to apply a basic pay (tariff rate), as a component part of an employee's total salary, in an amount lower than MMW provided that an employee's total salary, including all components (together with compensations and incentives) may not be less than MMW set by the federal law.

Court Practice. Compensations.

The Presidium of the Supreme Arbitration Court of the Russian Federation published its Information Letter of June 25, 2010, No. 140, "On Some Issues Arising in Connection with Enactment of the Federal Law of April 30, 2010, No. 69-FZ, "On Amendment of Some Legal Regulations of the Russian Federation in Connection with Adoption of the Federal Law "On a Compensation for Violation of the Right to Trial within a Reasonable Time and the Right to Enforcement of a Court Act within a reasonable Time". The above-mentioned Federal Law, which went into force on May 4, 2010, establishes the rules of awarding a compensation of rights to trial and enforcement of a judicial act within a reasonable time, and as a follow-up to such rules amendment have been made to some legal regulations, in particular the Russian Code of Arbitration

Procedure and the Russian Code of Administrative Offences. The Presidium of the Supreme Arbitration Court comments on application of the said amendments. In particular, with regard to the statute of limitation for imposition of liability for an administrative offence which has been increased from 2 to 3 months, the Presidium explains that this rule impairing the position of a person who has committed an offence applies only to offences committed after May 4, 2010.

Also, with regard to the changes requiring statement of the recoverer's payment details for transfer of funds, it is explained that such details must be stated in a writ of execution only if it is issued with respect to a claim for a compensation for violation of the right to trial within a reasonable time or the right to enforcement of a judicial act within a reasonable time.

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This newsletter is not intended to provide legal advice and/or any other form of legal assistance that may be rendered by attorney-at-law to client. The exclusive purpose of this review is to make aware its recipient of certain recent changes in Russian laws and regulations, and of the development of law application practice. Any use of the information contained herein for particular purposes may require more detailed case-specific explanations. Further information can be obtained via +7 (495) 933 75 67 or office@agp.ru

ANDREY GORODISSKY & PARTNERS

Ul. Znamenska 13, Bldg. 3, 3rd Floor, Moscow 119019, Russia
tel.: +7 (495) 933 7567 e-mail: office@agp.ru
fax: +7 (495) 697 9226 Internet: www.agp.ru