



Insider Information

Order of the Federal Service for Financial Markets on the Approval of Amendments to the List of Information Relating to Insider Information of the Persons Specified in Clauses 1-4, 11 and 12 of Article 12 of the Federal Law on Counteractions Against Improper Use of Insider Information and Manipulation of Markets, and on Amendment of Certain Legislative Acts of the Russian Federation, dated January 17, 2012, No. 12-2/pe-n (registered by the Ministry of Justice on March 13, 2012).

The Order introduced corrections in the List of Insider Information. In particular, insider information includes recommendations regarding a voluntary or an obligatory offer received by an open joint stock company: assessment of the price offered for the securities and possible change of their market value after the purchase, assessment of the offering party's plans concerning the issuer, including its employees.

Insider information also includes information about an interested-party transaction made by the issuer, which is subject to approval by the authorized management body of the issuer, if the value of the transaction is:

- 500 million rubles or 2% and more of the book value of the issuer's assets as of the date of expiration of the reporting period preceding the approval of the transaction (or, if the transaction was not presented for approval, as of the date of expiration of the reporting period preceding the making of the transaction) for issuers whose assets' book value does not exceed 100 billion rubles;
- 1% or more of the book value of the issuer's assets as of the date of expiration of the reporting period preceding the approval of the transaction (or, if the transaction was not presented for approval, as of the date of expiration of the reporting period preceding the marking of the transaction) for issuers whose assets' book value exceeds 100 billion rubles.

Besides, insider information of the issuer includes information about the issuer's strategic partnership agreement or another agreement being not on the List, if such agreements might considerably affect the price of the issuer's securities.

As to information being provided by the issuer to a foreign country's body (organization, stock exchange) under foreign law for the purpose of its disclosure or provision to foreign investors in connection with the offering of the issuer's securities outside Russia, including through purchase of a foreign issuer's securities, such information is only regarded as insider information if it can significantly affect the price of the issuer's securities.

Taxes

Letter of the RF Federal Tax Service, dated March 13, 2012, No. ED-3/4155@, which informs tax payers and tax authorities about Letter of the Tax and Customs Tariffs Policy Department of the RF Ministry of Finance, dated February 28, 2012, No. 03-03-10/15, regarding filing of tax declarations and advance payment of the profit tax levied on organizations at the time of formation of a taxpayers consolidated group (the “TCG”)

In 2012, pursuant to the amended RF Tax Code, TCG agreements are recorded by authorized tax authorities after the beginning of the tax period. In the event of recordation, a TCG is regarded as formed on January 1, 2012. The Letter explains how and when a tax declaration is to be filed after recordation of the TCG agreement. In 2012, organizations that entered into TCG agreements should make an advance tax payment in the first quarter before the TCG agreement can be recorded by tax authorities.

Banking

Direction of the Bank of Russia on Amendment of the Bank of Russia Regulations on the Procedure for Provision by the Bank of Russia to Credit Organizations of Loans Secured by Assets or Sureties, dated January 17, 2012, No. 2774-U.

The Direction specifies the criteria that should be met by organizations bearing liability for honoring a bill or repayment of the principal amount of debt where the Bank of Russia's loans are secured by bills or the right of claim under a loan agreement. In particular, such organization should not be affiliated with the borrowing bank (potential borrower) and vice versa. Besides, such organization should inform the potential borrowing bank about the amount of receivables that are expected to be paid within 12 months after the reporting date.

Customs Regulations

Decree of the RF Government on the Approval of the Rules for Determination of the Customs Value of Goods Exported from the Russian Federation, dated March 2012, No. 191.

For the purpose of calculation of export tax duties, the Decree fixates the procedure for determination of the customs value of goods being exported from Russia, including those being moved across the customs border of the Customs Union.

The Decree also fixates the terms “identical goods” and “similar goods”. For determination of the customs value of goods being exported, the declaring person may choose, depending on the documents he has, one of the 4 methods: value of the transaction with the goods being exported, value of the transaction with identical goods, value of the transaction with similar goods, composition. If the above methods cannot be used, there is the reserve method. The Decree pays special attention to the description of each method. In particular, the method of composition means the composition of manufacturing costs or the cost of materials and production costs plus profit and commercial/management costs equivalent to those for the goods of the same class/kind.

The former rules for determination of the customs value of goods being exported cease to be in effect. The Decree comes into force on April 14, 2012.

Court Practice

Overview of the RF Supreme Court Practice in the Fourth Quarter of 2011 illustrating application by courts of procedural and substantive rules of civil law and labor law.

In particular, the Overview indicates that applicable laws and regulations do not prohibit resolution of consumer rights protection disputes through arbitration. According to the courts, consumer is the economically weak side of a legal relationship, therefore an additional mechanism of legal protection is allowed, including in the matter of determination of jurisdiction, and other means of civil-law disputes resolution are not banned.

With respect to disputes over surety it is indicated that the surety's consent to possible changes in the terms and conditions of the secured loan obligation that might increase the surety's liability to the lender should be expressed in a written form. Such consent should be express, unambiguous and formulated in a way that would exclude any doubts as to the surety's intent. Courts specifically note that the lack of objections against any increase of interest rate notified to the surety cannot be regarded as proper consent.

Draft Laws – Commerce

On March 16, 2012, the Federal Anti-Monopoly Service published on its website the Draft Federal Law on Amendment of Certain Legislative Acts of the Russian Federation. The Draft Law purports to improve legal regulation of commerce by amendment of Federal Law on the Fundamentals of State Regulation of Commerce in the Russian Federation, dated December 28, 2009, No. 381-FZ, the Code of Administrative Offences, and Federal Law on Retail Markets and Amendment of the RF Labor Code, dated December 30, 2006, No. 271-FZ.

Among other things, the Draft Law clarifies the term “trading network” as two and more outlets that are used under a common trade name or other means of individualization and are in the lawful possession of a commercial entity (and commercial entities forming a group). The present definition – “two and more outlets being under common management”.

It is also proposed to broaden the scope of obligations and prohibitions with respect to commercial entities that do business through a trading network or supply foodstuffs to trading networks. In addition to the prohibition of wholesale with the use of a commission contract, it is proposed to prohibit the use of agency contracts and mixed contracts containing the elements of the above contracts, and extend this restriction only to such contracts between the said entities, unless those entities belong to one group or to one trading network.

Besides, it is proposed to obligate those entities to determine the price of foodstuffs depending on the closeness of the use-by date (the price should be reduced evenly, in proportion to the expiration of the shelf life), if the contract stipulates a return of unsold foodstuffs with expired shelf life and foodstuffs unsold upon expiration of a certain term.

According to the Draft Law, the requirements to economic entities dealing in commerce and supplying foodstuffs would be extended to persons that form one group with such entities.

It is also stipulated that economic entities dealing in commerce and supplying foodstuffs (except for foodstuffs manufacturers) must provide Russian competent authorities with information for recordal in the trade register. A failure to meet this requirement would result in fines: from 20,000 rubles to 40,000 rubles for individual entrepreneurs and from 50,000 rubles to 100,000 rubles for legal entities.

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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



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