

ANDREY GORODISSKY & PARTNERS

NEWSLETTER

REVIEW OF THE NOTABLE CHANGES IN LEGISLATION

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Securities Market

On February 9, 2009, there was adopted Federal Law on Amendment of the RF Code of Administrative Offences to Increase Administrative Liability for Violation of the RF Laws and Regulations on Joint Stock Companies, Limited Liability Companies, Securities Market and Investment Foundations, and of the Federal Law on the Securities Market to Specify the Definition and Signs of Manipulation with Prices on the Securities Market, No. 9-FZ.

The list of persons bearing administrative liability as officers has been extended. In certain instances they may be members of the board of directors, management board, directorate, returning board, auditing and liquidation commission, as well as heads of organizations acting as the individual executive body of other organizations.

The limitation period for claiming administrative liability for violation of laws on JSC, LLC, securities market and investment foundations has been increased to one year from the date of offence (as compared to the general term of 2 months effective previously).

The new law introduces administrative liability for non-compliance with the procedure for preparation and holding of the general meeting of shareholders of a JSC, general meeting of participants of LLC, and owners of investment shares in closed investments foundations, as well as for a failure to meet the requirements to safe keeping of documents.

Fines for violation of law in the securities market have been increased. For example, the fine for improper issue of securities imposed on officers has been increased up to 10-30 thousand rubles, on legal entities – up to 500-700 thousand rubles. The fine for illegal operations with issued securities imposed on officers has become 5-10 thousand rubles, on legal entities – 300-500 rubles. Liability for use of insider information in the securities market will be borne not only by officers, but by other individuals (fine up to 5 thousand rubles), and legal entities (fine up to 1 million rubles) as well.

Administrative liability is imposed for manipulation with prices on the securities market: for employees – a fine up to 5 thousand rubles, for officers – a fine up to 50 thousand rubles or disqualification, for legal entities – a fine up to 1 million rubles.

The Federal Law on the Securities Market has been amended to give a definition of the manipulation with prices on the securities market which means, i.a., dissemination of false information influencing demand for and/or offer of securities, their price or volume of trade; pre-arranged transactions with securities at a price significantly differing from the current prices of bidding; other actions aimed at misleading traders and/or investors.

The new federal law was published in the *Rossiyskaya Gazeta*, No. 22, on February 11, 2009 and will come into force as of April 13, 2009.

Accreditation of Rating Agencies

Governmental Decree on Amendment of the Regulations on the Ministry of Finance of the Russian Federation, dated February 14, 2009, No. 109, is a step towards the goal of formation of effective institutions for financial markets regulation. This decree entrusts the RF Ministry of Finance with accreditation of rating agencies and keeping of a register of accredited agencies. The procedure for accreditation and keeping of the register is to be established by the Ministry of Finance.

Contestation of Decisions and Actions (Inaction) of Governmental Authorities –

Court Practice

On February 10, 2009, the Plenum of the RF Supreme Court issued Ruling on the Practice of Consideration by Courts of Lawsuits Contesting Decisions and Actions (Inaction) of Governmental Authorities, Local Governmental Authorities, Officers, Government and Municipal Officials, No. 2. The ruling specifies decisions and actions what may be appealed in such lawsuits.

It is indicated that both written and oral decisions may be subject to an appeal. The form of an appealable written decision can be either an established or a free one (e.g., a written notification of the officer's refusal to satisfy the application).

The ruling defines the categories of officers whose decisions or actions may be appealed in the said procedure, touches upon certain issues of determination of jurisdiction, clarifies certain matters connected with jurisdiction of place (venue), preparation of cases for consideration, formalization of final dispositions.

The ruling further explains what should be understood by action or inaction for the purpose of appeal. Action is the authoritative expression of will of an appropriate authority or person, which, although not given the form of a decision, has caused violation of rights and freedoms of citizens and organizations or created obstacles to the exercise of such rights and freedoms. Actions include, i.a., oral requirements of officers of supervising and controlling governmental authorities. Inaction is non-performance by a governmental authority, officer or official of the obligation imposed on it (him, her) by a statute or other regulation defining the powers of such persons. For example, a failure on the part of the authorized person to consider an application.

Access to Information About the Activity of Governmental Authorities

The Federal Law on Provision of Access to Information About the Activity of Governmental Authorities and Local Governmental Authorities, No. 8-FZ, adopted on February 9, 2009, establishes a unified procedure for access by individuals and organizations to information about the activity of governmental authorities and local authorities (the "information"), and defines the principles and means of provision of such access.

The new law specifies that the information can be furnished both orally and in writing (including electronic documents); defines the procedure for organization of access to the information, including Internet; establishes the rights and obligations of users of the information, governmental authorities and their officers,

and liability for non-compliance with the procedure for access to the information.

The new law introduces rules for provision of the information on request of a user, requirements to the request, terms of and procedure for consideration of a request, requirements to the response, grounds for refusal to satisfy a request. The information is provided free of charge, except where the requested and provided information exceeds the volume determined by the RF Government which also determines the charge and the manner of its collection.

The new federal law will come into force as of January 1, 2010.

State Ecological Control

On January 27, 2009, Governmental Decree No. 53 (published on February 2, 2009) approved the Rules on Exercising State Control in the Field of Environmental Protection (State Ecological Control).

State ecological control includes, i.a., control over protection of atmospheric air, water resources, animal world, Lake Baikal, subsoil, handling of waste, forestry control, control on the continental shelf, in the exclusive economic zone, in the territorial sea.

State ecological control is exercised by the Federal Service for Supervision in the Sphere of Nature Management (Rosprirodnadzor) directly and through its territorial divisions. The officers of Rosprirodnadzor hold the rank of state inspectors in the field of environmental protection. They are competent, i.a., to visit organizations, check compliance with norms, state standards and requirements, issue directions to remedy violations, institute administrative proceedings, and have other powers stipulated by applicable laws.

Ecological control is exercised in the form of scheduled and off-schedule inspections. Off-schedule inspections are only permitted for checking compliance with a direction to remedy the violation revealed earlier and upon receipt by state inspectors of documents and other evidence showing that there exist signs of violation of law.

In the course of inspections, state inspectors may consider only those documents and materials that have a direct bearing on the matter at hand. The results of inspections are documented and may be appealed in accordance with applicable laws.

New Federal Service for State Registration, Cadastre and Cartography

Pursuant to Presidential Decree on the Federal Service for State Registration, Cadastre and Cartography, dated December 25, 2008, No. 1847, the Federal Registration Service has been renamed as the Federal Service for State Registration, Cadastre and Cartography and placed under the authority of the RF Ministry of Economic Development.

The Federal Geodesy and Cartography Agency and the Federal Real Estate Cadastre Agency are abolished. All their powers and functions are transferred to the new federal service, in particular, the cadastral appraisal of land, land management and technical inventory of capital construction projects, keeping of the real estate cadastre, and other powers. The new federal service has been assigned new functions, such as organization of a unified system of cadastral recording of real estate and registration of rights to and transactions with real estate, organization of the infrastructure of spacial data of the Russian Federation.

Presidential Decree No. 1847 will come into force as of March 1, 2009, except for the renaming of the Federal Registration Service and assignment of new functions to it – those provisions came into force as of December 30, 2008.

Reorganization of Legal Entities. Making of Records in the Consolidated State Register of Legal Entities

In view of the changes in legislation concerning reorganization of legal entities, the Federal Tax Service in its Letter on the Issue of Recordation of the Place of Location of a Legal Entity Undergoing Reorganization in the Consolidated State Register of Legal Entities, dated January 23, 2009, No. MN-22-6/64, specifies the procedure for recordation of reorganization details.

The letter explains that if two or more entities are involved in reorganization, the notification of reorganization is to be given by the entity that was the last to make the decision on reorganization or by the entity identified in the decision on reorganization, and recommends the form of a written notification of commencement of the reorganization process.

The notification is submitted to the registering authority at the place of location of the entity that made the decision on reorganization or of the entity that was the last to make the decision on reorganization or of the entity identified in the decision on reorganization. The notification may be submitted directly or sent by post with stated value and description of the contents. A certificate of record made in the Consolidated State Register of Legal Entities, the record page and an excerpt from the Consolidated State Register of Legal Entities are issued to each legal entity undergoing reorganization.

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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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