

**Financial Markets**

Decree of the RF Government on Certain Issues of State Regulation in the Sphere of Financial Market of the Russian Federation, dated August 29, 2011, No. 717, in pursuance of the Presidential Decree of 04.03.2011, No. 270, by which the Federal Service for Insurance Supervision was attached to the Federal Service for Financial Markets ("FSFM"), redistributes the functions between the RF Ministry of Finance and the FSFM. In particular, it approves the Regulations on the FSFM; amends certain acts of the RF Government, including the Regulations on the RF Ministry of Finance; and recognizes as stale certain acts of the RF Government.

According to the Regulations, the FSFM performs the functions of legal regulation, control and supervision in the sphere of financial markets (except for banking and auditing activity), including control and supervision in the sphere of insurance, credit cooperation and microfinancing, commodities exchanges, exchange intermediaries and brokers, state control over compliance with laws on fighting unlawful use of insider information and market manipulation.

The FSFM adopts legal acts which establish, *inter alia*, the procedure for registration of rules on non-governmental pension funds and their amendment, standards for disclosure of information and reporting forms (except for accounting and financial reports), procedure for recordation of information on insurance companies in the consolidated state register, etc. The FSFM keeps the consolidated state register of insurance companies, registers of professional participants in the securities market and unit investment trusts, state registers of credit consumer cooperatives and microfinancing organizations.

The Ministry of Finance will develop the main directions of development of the securities market and coordinate the activity of federal executive bodies in the matters of the securities market regulation.

**Taxes**

1. Letter of the Department for Tax and Customs-Tariff Policy of the RF Ministry of Finance, dated July 20, 2011. No. 03-02-08/82, explains how to apply Article 119 of the RF Tax Code (Non-Submission of a Tax Declaration), as amended, i.e., upon introduction of changes of September 2, 2010. Failure by a tax payer to submit a tax declaration to the local tax authority within the set term entails a fine in the amount of 5% of the tax amount due, for each complete or incomplete month from the date on which the declaration is to be submitted, but no more than 30% of the tax amount and no less than 1,000 rubles (previously, 100 rubles).

The Letter also explains how the fine will be calculated, provided that the debt accrued before the amendment of the Tax Code and continues to be accruing until to date.

2. Rulings of the RF Supreme Arbitration Court, dated July 28, 2011, No. VAS-8096/11, and July 14, 2011, No. VAS-5591/11, concerning submission of tax declarations.

In particular, the Rulings find as inconsistent with the Tax Code and ineffective Clause 2 of the Federal Tax Service Order on Approval of the Form and Format of a Tax Declaration of the Organizations Profit Tax, Procedure for Filling In, dated 15.12.2010. No. MMV-7-3/730@, to the extent of the period of its application – from the beginning of submission of the declaration for 2010. The Supreme Arbitration Court indicates that the Order imposes on tax payers new obligations (such as disclosure of additional information, execution of an additional attachment to the declaration, etc.) and those obligations extend to the tax period which already expired at the time of promulgation of the Order. Therefore, the Order may not cover the relationships that arose before its official publication and should be applied starting from submission of the declaration for the reporting (tax) periods of 2011.

In one of its other decisions concerning the validity of Clause 141 of the Administrative Rules of the Federal Tax Service which deals with a free of charge provision of information to tax payers and tax agents, the Supreme Arbitration Court stresses that tax authorities must not fail to put the “accepted” notation on the title sheet of declarations arriving from tax payers by mail, because the Tax Code obligates tax authorities to put such notation on a copy of the declaration irrespective of the way it is delivered (personally (through a representative) or via mail). Thus, Clause 141 of the Rules is recognized as having no effect to the extent the said rule (as understood by tax authorities) precludes the putting of “accepted” notation and the date of acceptance on a copy of the tax declaration.

### **Registration with Migration Authorities**

Decree of the RF Government on Amendment of the Rules on Registration with Migration Authorities of Foreign Citizens and Persons without Citizenship in the Russian Federation, dated August 4, 2011, No. 654, establishes, *inter alia*, that high-qualification specialists and their families are relieved from the obligation to register with local migration authorities for a term not exceeding 90 days from the date of arrival to Russia. Also, upon arrival to a new place of stay in Russia for a period not exceeding 30 days, the said persons are relieved from the obligation to register with local migration authorities. Upon expiration of the 90-days or 30-days term, a notification of arrival is to be submitted to the Federal Migration Service directly or sent via mail within 7 business days (previously, 3 business days and without the said grace periods).

The procedure for striking a foreign citizen off the records of local migration authorities upon his/her departure is described in more detail. In particular, the accepting party is no more obligated to submit to migration authorities the detachable part of the arrival notification form. Now, local migration authorities strike a foreign citizen off the records on the basis of information from border guards about departure of the foreign citizen or information from local migration authorities about registration of the foreign citizen at the new place of stay.

### **Personal Data**

Order of the Federal Service for Supervision in the Sphere of Communications, Information Technologies and Mass Communications on the Approval of the Recommendations on Filling In of a Model Form of Notification of Processing of (Intention to Process) Personal Data, dated August 19, 2011, No. 706.

The Recommendations are aimed at establishing uniform principles and manner of filling in a notification of personal data processing (or intention to process). The notification should be on the letterhead of the operator and should be sent to the territorial department of the Federal

Service for Supervision in the Sphere of Communications, Information Technologies and Mass Communications as a paper document or an electronic document, signed by an authorized person. The notification is to indicate the details of the operator, purpose of processing and legal grounds for processing. The Recommendations contain other requirements to the contents and form of the notification.

## **State Authorities**

On August 10, 2011, the RF President issued a number of Decrees concerning the scope of information about the activity of state executive bodies (federal ministries, services, etc.) to be placed in Internet, in particular, the Ministry of Justice, Federal Migration Service, Federal Service of Court Bailiffs, Ministry of Internal Affairs, Ministry of Foreign Affairs. Thus, exercised is the right of citizens and organizations to have access to the information about the activity of Russian executive authorities. In general, the information about their activity should contain general details of a particular state body, its rule-making activity, day-to-day activity, statistical figures, staff list, work with letters from citizens and organizations, etc.

## **Real Estate – Court Practice**

Ruling of the Plenum of the RF Supreme Arbitration Court on Certain Issues of Resolution of Disputes from Contracts on Real Estate to be Created or Acquired in the Future, dated July 11, 2011, No. 54.

According to the Ruling, courts should take into consideration that the seller's lack of title to real estate – the subject of a sale contract – at the time of execution of the contract is not in itself a ground for finding such contract invalid. But the seller must have title to the real estate for state registration of the transfer of such title to the buyer. The explanations apply to disputes over land plots whose boundaries are not determined in the manner prescribed by the law at the time of execution of a sale contract.

The Ruling specifies what information is required for individualization of the subject of a contract for sale of future real estate: location, approximate area, other characteristics determined, in particular, on the basis of project documentation. The Ruling also deals with the matters of individualization of real estate not only in the contract but in supplementary documents as well (e.g., in a statement of delivery-acceptance) and with the matters that need clarification in the consideration of disputes connected with non-performance of a contract for sale of future real estate.

Explained are issues of importance for real qualification of a preliminary contract. It is specifically noted that the explanations contained in the Ruling must not be applied to disputes connected with creation of real estate under the law on a shareholding in construction.

## **Lawmaking – Joint Stock Companies**

Draft Federal Law on Amendment of the Joint Stock Companies Law and Certain Other Laws of the Russian Federation is aimed at improving the regulation of acquisition of large stakes in open joint stock companies.

In particular, the draft law provides for a voluntary offer to buy over 30% of shares of stock. According to the proposed changes in the Joint Stock Companies Law, a person intending to buy over 30% of the total number of common and preferred shares of an open joint stock

company may send the company a public offer, addressed to the holders of such shares, to buy the stock. Depending on its nature, the offer may be either voluntary or mandatory. The draft law sets requirements to the contents of such offers and conditions under which they may be given.

The draft law determines the obligations of an open joint stock company that arise upon receipt of a voluntary offer or a mandatory offer, and the procedure for acceptance of a voluntary or a mandatory offer. Special attention is paid to the procedure for decision making by the governing bodies of an open joint stock company upon receipt of a voluntary or a mandatory offer.

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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](mailto:office@agp.ru)



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