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### COMING SOON

#### 13 November, 2009 – Round-Table Talk: Securitization as Project Finance and Refinancing Tool

The agenda of the round-table talk is focused on new Russian draft laws on securitization and infrastructure bonds.

The event is organized by the Union of Corporate Lawyers and Liniya Prava.

The discussion panel involves representatives of the Federal Financial Market Service of Russia, the Ministry for Economic Development of the Russian Federation, the State Duma of the Russian Federation, the MICEX, the Agency for Housing Mortgage Lending, Rusnano Corporation and leading law firms. More details on the event, please, find at [http://www.lp.ru/eng\\_news\\_246/](http://www.lp.ru/eng_news_246/)

#### 25 November, 2009 – Practical Seminar "Burning Legal, Financial and Tax Issues of Conducting Pharmaceutical and Medical Activities"

Liniya Prava's office in Kyiv co-organizes the seminar addressed to top executives and financial managers of pharmaceutical companies, pharmacies and health centers. More details on the event, please, find at [http://www.lp.ru/eng\\_news\\_231/](http://www.lp.ru/eng_news_231/)

#### November, 2009 – Project Finance and PPP in Russia

Liniya Prava continues professional collaboration with RCB Magazine (Securities Market Magazine) and prepares a new publication on PPP in the country raising discussion around new draft laws on securitization and infrastructure bonds in Russia.

Experts from leading companies of the sector and professional organizations have contributed to the publication sharing their practical knowledge and expertise – VTB Capital, Managing Company 'Leader', Agency for Housing Mortgage Lending; State Duma of the RF, The Russian Union of Industrialists and Entrepreneurs (RSPP), etc.

### NEWS

#### Liniya Prava confirms its recommendations by IFLR 1000

IFLR 1000 has announced its ranking of international law firms. For work and achievements for the year Liniya Prava enters the recommended top list servicing Capital markets: Equity and Debt in Russia.

Liniya Prava takes an exclusive position in Debt capital being the only local legal adviser consulting on bond loans within the list. More details, please, find at [http://www.lp.ru/eng\\_news\\_250/](http://www.lp.ru/eng_news_250/)

#### Recent changes in Russian corporate and securities law

Please, read the digest on recent developments in the Russian legislation involving issue of shareholders agreement, LLC regulation, legal entity reorganization, changes in foreign securities admission, liability on capital markets and insolvency procedure. The piece is authored by Vladislav Ganzhala, Associate with Liniya Prava.

Read in full - <http://www.lp.ru/photos/258.pdf>

### CIVIL LAW

#### **The clarification by the Federal Tax Service of the Russian Federation as of 09.10.2009 'On Implementation of Provisions of the Federal Law as of 30.12.2008 № 312-Ф3 by Tax Authorities'**

The procedure for implementation of provisions of the Federal Law as of 30.12.2008 № 312-Ф3 that introduce changes to the Federal Law 'On Limited Liability Companies' to be applied by tax authorities has been clarified.

The FTS of the RF explains that if the articles of association of LLC (OOO) complies with the Federal Law as of 30.12.2008 № 312-Ф3 there is no need to produce an amended articles of association to the registering authority.

An application for a state registration shall be filed in due Form № P13001 affirmed with the Enactments of the Government of the RF as of 19.06.2002 № 439, with a separate paper attached (i) saying that the amendments are introduced in order to bring the article of association in compliance with the Federal Law as of 30.12.2008 № 312-Ф3 and (ii) signed by the applicant. The paper shall be bound with the application. In this way the tax authority points out validity of the old application form to be still used.

The applicant can use a recommended application form № P13001 placed on the web-site of the FTS of the RF in section "State Registration and Recording of Taxpayers" that contains a special line regarding bringing the LLC's article of association in compliance with the Federal Law as of 30.12.2008 № 312-Ф3.

The FTS of the RF recommends that unless the application form for refuting credibility of data on size and nominal value of shares held by the limited liability company's participants is approved, the form № P14001, the Application for Introducing Changes as for Information on a Legal Entity into the Unified Register of legal Entities, placed on the web-site of the FTS of the RF in section "State Registration and Recording of Taxpayers" ([www.nalog.ru](http://www.nalog.ru)) shall be used.

The FTS of the RF explains that failure to bring the article of association of a LLC (OOO) in compliance with the Federal Law as of 30.12.2008 № 312-Ф3 shall not entail an automatic exclusion from the Unified Register of Legal Entities. The registration authorities will start registration of changes into articles of associations of limited liability companies after 01.01.2010. However, before the articles of association of a LLC (OOO) is brought in compliance with the Federal Law (both prior to and after 01.01.2010) (i) it shall be effective in the part that bears no contradiction with new requirements of legislation on limited liability companies and (ii) the Unified Register of Legal Entities will not contain data on size of the participants' shares of the company.

The FTS of the RF specifies that limited liability companies that undergo reorganization or liquidation are not obliged to bring their articles of associations in compliance and this shall not entail a refusal in (i) state registration of legal entities that are established or cease their activity due to reorganization and (ii) liquidation of legal entities. This also extends to introducing an entry on launch of reorganization or liquidation of a limited liability company into the Unified Register of Legal Entities.

The application for state registration of changes related to alienation of a share (part of a share) by a participant (participants) in the company's chartered capital can be filed with the registration authority prior to the documentation on bringing the articles of association in compliance with the Federal Law is produced.

Additionally, before the article of association of a limited liability company is brought in compliance with the Federal Law as of 30.12.2008 № 312-Ф3 it is possible to register a new location of a LLC (OOO) or introduce changes in

data on the company's management.

If upon the date of registration of changes introduced to the article of association of a LLC (OOO) to comply with the Federal Law as of 30.12.2008 № 312-Ф3 the chartered capital of the company is less than RUR10 000, the limited liability company shall increase its capital up to RUR10 000.

Changes relating the chartered capital and location can be introduced to the Unified Register of Legal Entities simultaneously with bringing the articles of association of the limited liability company in compliance with the Federal Law.

*Effective* – document is not a regulatory legal act/

#### **The Enactment by the Government of the Russian Federation as of 17.10.2009 № 838 'On Approval of Rules for Preliminary Approval of Deals and Those for Establishing Control by Investors or a Group of Persons, that a Foreign Investor Enters, over Economic Societies of Strategic Importance for Defense Support and National Security'**

Rules adjusting (i) the procedure for preliminary approval of deals that lead to establishing control by foreign investors over economic societies that have strategic importance, (ii) the procedure for agreeing the establishing of control over economic societies by foreign investors and (iii) the procedure for considering petitions for preliminary approval of deals and those for establishing control.

The petition for preliminary approval or the petition for establishing control shall be filed with the federal executive body authorized to perform the function of controlling foreign investments in the Russian Federation and in the name of Head of the body.

The application for preliminary approval of a deal or that for agreeing the establishing of control, in addition to the information required with the Federal Law as of 29.04.2008 № 57-Ф3, shall contain (i) essential terms of the deal and (ii) an exhaustive list of persons that upon the completion of the deal will obtain rights for establishing control over an economic society.

The application and documents attached shall be filed in Russian, and when the original documents are English written they shall have a notarized and apostilled Russian translation enclosed; a record statement shall be attached to the application.

The petition for preliminary approval of deals shall be filed in respect of each deal separately. The applicant shall specify the volume of rights he will obtain in result of the deal with an economic society involved, inclusive of the rights he already obtains.

In case there are several petitions from one applicant related to one and the same economic society filed with the authorized body and undergoing the consideration procedure, the filing (registration) date as for all the petitions by the only applicant related the same economic society shall be considered the date when the last petition has been filed or the date the necessary information related to all the petitions is provided in full.

*Effective* – 7 days after the official publication (the document has not been published).

### FINANCIAL MARKETS REGULATION

#### **The Federal Law as of 30.10.2009 № 241-ФЗ 'On Amending the Criminal Code of the Russian Federation and Article 151 of the Criminal Procedural Code of the Russian Federation'**

The Federal Code as of 30.10.2009 № 241-ФЗ introduces amendments to Article 22 of the Criminal Procedural Code of the Russian Federation aimed to enhance investors' protection on the securities market and envisaging criminal responsibility for offenses on the securities market.

Criminal responsibility is additionally provided for socially dangerous acts on the securities market such as:

- Violation of order in recording rights to securities
- Manipulation in prices for securities
- Prevention of securities' holders from execution of their rights or illegal limitation of their rights

Criminal proceedings for the mentioned offences are envisaged in case when they are related to major damage or high income. Referring to the remark to Article 185 of the Criminal Code of the RF major damage and high income are those that exceed RUR 1 mln.

There are also definite amendments introduced to Article 151 of the Criminal Procedural Code of the RF to determine the investigative jurisdiction as for new constituent parts of a crime brought in the Criminal Code of the RF.

*Effective* – 14.11.2009

### BANKING REGULATION

#### **The Letter of the Bank of Russia as of 23.10.2009 № 128-T 'On Recommendations for Information Content and Organization of Web-sites of Credit Organizations in the Internet'**

To increase access to information on credit organizations and their activities the Bank of Russia recommends credit organizations to allocate the following data on their web-sites:

- Fundamental data (full company's name, brief company's name, Primary State Registration Number (ОГРН), Individual Taxpayer Number (ИНН), payment requisites of the bank/ its divisions, working hours, etc.)
- Functional data (list of banking operations and other transactions, forms of agreements for every type of banking services, telephone numbers and e-mails of servicing centers, etc.)
- Accounting reports and financial statements (financial statements for recent two years complied with the IAS, accounting reports and financial statements for recent two years, annual and quarterly reports of a credit organization, etc.)
- Additional information (rule for clients' distant access to banking services)

In case there are several web-sites used by a credit organization the exhaustive information can be placed on one of the web-sites.

*Effective* – document is not a regulatory legal act.

#### **The Letter of the Bank of Russia as of 26.10.2009 № 130-T 'On Including Securities in the Lombard List of the Bank of Russia'**

There new securities included in the Lombard list of the Bank of Russia – government bonds of the Volgograd region, bonds of OJSC 'Mechel', stock exchange bonds (birzhevye obligatsii) of OJSC 'Severstal'.

*Effective* – 28.10.2009

#### **The Directive of the Bank of Russia as of 29.10.2009 № 2313-Y 'On Size of Refinance Rate of the Bank of Russia'**

Starting from 30.10.2009 the Bank of Russia sets the refinance rate equal to 9,5 % pre annum.

*Effective* - 29.10.2009

#### **The Letter of the Bank of Russia as of 15.10.2009 № 18-1-2-9/1642 'On Accounting of Business Transactions upon Premature Termination of a Bank Deposit Agreement'**

The Bank of Russia specifies the essence of the accruals concept which lays the basis for accountancy in credit organizations

It is clarified that in case interests on deposit that have been accrued earlier within the accounting year are decreased, provided with the effective bank deposit agreement, they shall not be considered income, and the interest paid amount shall be adjusted. This basic concept shall be also applied within the term the annual report is being formed as it requires to change (decrease) the amount of expenditure through putting accountancy entries on events occurring after the balance sheet date. Thus, when a client files an application for premature termination of a bank deposit agreement this shall be regarded as an adjusting event occurring after the balance sheet date, with the application being filed within the term the annual report is formed.

After the annual report is completed and the auditor's opinion is received, the amount of expenditures confirmed and approved of in the profit and loss account is not subject to any changing; in this case the adjusted amounts shall be considered income of prior years. This shall apply to any changing in income amounts.

*Effective* – the document is not a regulatory legal act.

### TAX LAW

#### **The Enactment of the Government of the Russian Federation as of 17.10.2009 № 820 'On the Procedure for Declaring Non-recoverable and Writing Off Deficiencies in Insurance Payments to State Non-budgetary Funds and Outstanding Penalties and Fines'**

Deficiencies in insurance payments to state non-budgetary funds and outstanding penalties and fines are declared non-recoverable and are subject to writing-off in case the company is liquidated, the individual entrepreneur is declared a bankrupt, an individual person is deceased or there is a court decision that the individual person is deceased. A decision on declaring non-recoverable and writing-off shall be taken by the Pension Fund of the Russian Federation and the Social Insurance Fund of the RF due to their authorized powers.

*Effective* – 01.01.2010

### ENERGY MARKETS

#### **The Enactment of the Government of the Russian Federation as of 17.10.2009 № 816 'On Amending Some Acts of the Government of the Russian Federation Related to the Improvement of Payment Procedure as for Electric Power, Thermal Energy and Natural Gas'**

Several acts of the Government of the Russian Federation related to payments for electric power, thermal energy and natural gas have been amended. The corresponding payment procedure, stipulated with the Enactment of the Government of the RF as of 04.04.2000 № 294, has been changed and significantly enlarged:

- Regulation of the payment procedure as for electric power is ceased
- A category of 'planned total cost of thermal energy and natural gas consumed', which is used for calculation of payments for thermal energy and natural gas
- A time-table for monthly payments for thermal energy and natural gas consumed is set
- The list of legal entities that avoid the payment procedure has been added with organizations that supply of thermal energy to consumers, provided that the share of supplying thermal energy surpasses 75% of the organization's services and/or goods supplying capacity.

There are changes introduced to the Enactment of the Government of the RF as of 24.10.2003 № 643 'On Rules for Wholesale Market for Electric Power in a Transitional Period' in part of setting a time-table for monthly payments to participants of the wholesale market for electric power.

Within 'the Rules for Operation of Retail Markets for Electric Power in a Transitional Period of Reforming the Electric Power Industry', approved of by the Enactment of the Government of the RF as of 31.08.2006 № 530, the procedure for purchasers of the retail electric power market to pay the guarantee supplier has been set.

*Effective* – after 1 month after the official publication. The document has not been published.

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