

### IN THE ISSUE

#### CRIMINAL LAW

- > There changes introduced to the Criminal Code of the RF and Article 151 of the Criminal Procedure Code of the RF (p. 2)
- > Articles 236 and 246 of the Criminal Procedural Code of the RF have been amended (p. 2)

#### ADMINISTRATIVE LAW

- > The Provision stipulating rules for (i) state and municipal control authorities presenting annual draft plans of intended inspections of legal entities and individual entrepreneurs to prosecution authorities and (ii) form and content of the integrated plan of intended inspections of legal entities and individual entrepreneurs has been affirmed (p. 2)
- > Allocation of federal funds to subsidize budgets of subjects to the Russian Federation in order to enhance capitalization of guarantee and warranty funds that are aimed to support small and medium businesses has been approved of (p. 2)

#### NATURAL MONOPOLIES

- > Rules for pre-court examination of disputes related to fixing and applying prices (tariffs) that are regulated in compliance with the Federal Law 'On Natural Monopolies' have been changed (p. 2)

#### FINANCIAL MARKETS REGULATION

- > The Regulation of the Government of the Russian Federation introduces changes to the procedure for investing in the funded component of a retirement pension in the Russian Federation (p. 3)

#### TAX LAW

- > Some amendments to the Tax Code of the Russian Federation have been introduced (p. 3)
- > Methodic recommendations for organization of electronic document flow within submission of tax declarations (tax returns) in electronic format via telecommunications channels have been approved of (p. 3)

#### CIVIL PROCEDURE

- > Some district and municipal courts of the Republic of Daghestan have been abrogated (p. 3)

#### CIVIL LAW

- > The Federal Law 'On Peasant (Farmer) Economies' has been changed (p. 3)
- > The procedure for selection of electronic trading platforms for open electronic auctions has been affirmed (p. 3)
- > Qualification requirements for chief executives and chief accountants of mutual insurance associations have been changed (p. 4)

#### BANKING REGULATION

- > Rules regulating the procedure for (i) banks requesting to participate in the procedure for capitalization enhancement and (ii) making decision on satisfaction of (refusal to satisfy) a bank request to participate in capitalization enhancement have been approved of (p. 4)

### COMING SOON

**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 special Supplement on PPP in Russia raising issues related to new draft laws on securitization and infrastructure bonds. 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.

For your copy of the Supplement, please, contact us!

### NEWS

**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>

### CRIMINAL LAW

#### **The Federal Law as of 30.10.2009 N 241-ФЗ 'On Amending the Criminal Code of the Russian Federation and Article 151 of the Criminal Procedural Code of the Russian Federation'**

Enactment of the Federal Law is aimed to enhance protection of investors' rights on the securities market. In particular, the new Federal Law envisages criminal responsibility for (i) violation of order of recording rights to securities, (ii) price manipulation on securities market (including that executed via the Internet), (iii) hindering holders of securities from execution of their rights or illegal limitation of holders in executing their rights to securities.

Depending on the degree and its constituent parts an offence can be entailed with a fine or imprisonment (with collateral sanctions as fines, deprivation of a right to take a definite position (positions) or to carry out definite activity applied).

The size of damage caused serves the ground for criminal responsibility: major damage (and that caused on an especially large scale) or high income (that is raised on an especially large scale). Damage is considered major if exceeds RUR 1 mln. and the one of a specially large scale if exceeds RUR 2,5 mln.

Also the Federal Law specifies already existing constituent elements of some offences on securities markets.

Effective – 14.11.2009

#### **The Federal Law as of 30.10.2009 N 244-ФЗ 'On Amending Articles 236 and 246 of the Criminal Procedural Code of the Russian Federation'**

The amendments introduced enlarge opportunities for claiming court decisions that have been taken upon preliminary hearings. Provisions of the Criminal Procedural Code of the RF that used to prohibit claiming court judgments taken upon preliminary hearings are currently declared incompliant with the Constitution of the RF. However, the amendments still do not extend to decisions on (i) termination of criminal cases and (ii) arranging sessions for deciding on measure of restraint. There is a ban set as for claiming court judgments on arranging sessions for deciding on place, date, time and conditions of conducting those sessions (assignment of the attorney for the defense, summoning persons pursuant to lists provided by the parties, consideration of a criminal case in a closed judicial session).

Pursuant to the new amendments the ruling, that used to provide that review of a determination or court judgment on termination of a criminal case due to the state accuser's waiver of prosecution was admitted upon new or newly-discovered evidences, is declared incompliant with the Constitution of the RF and void.

At large, upon the entry of the amendments into effect, the circle of issues court decisions on which have been taken upon preliminary hearings and, thus, subject to be claimed, has been significantly enlarged.

Effective – 14.11.2009

### ADMINISTRATIVE LAW

#### **The Regulation of the Government of the Russian Federation as of 28.10.2009 'On Affirming the Provision for State and Municipal Control Authorities Presenting Annual Draft Plans of Intended Inspections of Legal Entities and Individual Entrepreneurs to Prosecution Authorities and the Form and Content of the Integrated Plan of Intended Inspections of Legal Entities and Individual Entrepreneurs'**

The Provision is adopted to protect rights of subjects to small and medium businesses within state or municipal control rendered. Starting from 01.01.2010 the controlling (supervising) authorities shall be obliged to present draft plans of intended inspections of legal entities and individual entrepreneurs to prosecution authorities in order to compile an integrated plan of inspections.

The form and content of the integrated plan of inspections have also been introduced and approved of.

Effective – 01.01.2010

#### **The Regulation of the Government of the Russian Federation as of 28.10.2009 № 854 'On Complimentary Measures within State Support of Subjects to Small and Medium Businesses'**

The Regulation provides that federal funds equal to RUR 7500 mln. shall be allocated to subsidize in 2009 budgets of subjects to the Russian Federation in order to enhance capitalization of guarantee and warranty funds, that are aimed to support small and medium businesses, so that they are financially enabled to grant security for (i) loans (for proper liabilities performance) raised by subjects to small and medium businesses from Russian credit organizations and (ii) leasing agreements between leasing companies and subjects to small and medium businesses.

Effective – 09.11.2009

### NATURAL MONOPOLIES

#### **The Regulation of the Government of the Russian Federation as of 28.10.2009 N 845 'On Amending Rules for Pre-court Examination of Disputes Related to Fixing and Applying Prices (Tariffs) that are Regulated with the Federal Law 'On Natural Monopolies'**

There some changes introduced to the regulatory procedure for pre-court examination of disputes related to fixing and applying prices (tariffs).

With the amendments enforced, the list of grounds for termination of a case consideration has been increased. The current grounds for termination of a case consideration as an agreement between the dispute parties and withdrawal of a claim have been added with cases involving (i) liquidation or decease of a party to the dispute, (ii) effective judicial act on subject-matter of the dispute, (iii) discrepancy between issues raised in the claim and the subject-matter of the disputes.

Effective – 7 days after the official publishing. The document has not been published.

### FINANCIAL MARKETS REGULATION

#### **The Regulation of the Government of the Russian Federation as of 24.10.2009 N 842 'On Improving the Procedure for Investing in the Funded Component of a Retirement Pension in the Russian Federation'**

Starting from July, 2009, there are two types of managing companies operating in pension assets investments – (i) the company winning the tender and (ii) state managing company authorized by the Government of the RF to invest pension assets which have been transferred in trust management to the Pension Fund of the RF by means of building an enhanced investment portfolio and that of government securities.

The investment declaration of the state managing company on the investment portfolio of government securities has been approved of. In definite cases, pension funds can be invested in corporate bonds on Russian issuers, except government securities of Russia and its regions.

Additional restrictions have been settled for (i) investing pension funds in particular types of assets and (ii) the procedure for determining a maximum share of those in the investment portfolio.

The revised version also includes the investment declaration of the Vnesheconombank.

The investment declaration of the enhanced investment portfolio says that up to 40 per cent of funds can be invested in bonds of Russian issuers, up to 80 per cent – in government securities nominated in foreign currencies, up to 20 per cent – in mortgage-backed securities, up to 10 per cent – in government securities of subjects to the Russian Federation and up to 20 per cent – in securities of international financial organizations.

Effective – 09.11.2009

### TAX LAW

#### **The Federal Law as of 30.10.2009 № 242-ФЗ 'On Amending Article 373 in Part 2 of the Tax Code of the Russian Federation'**

Clause 1 Article 373 Part 2 of the Tax Code of the Russian Federation (hereafter – the TC of the RF) has been amended. As revised, it says that the taxpayers are those who possess taxable property as provided with Article 374 of the TC of the RF. Thus, if an organization has no taxable property in its possession, it shall not provide the tax authority with any tax calculations or declaration on property tax.

Effective – 01.01.2010

#### **The Order of the Federal Tax Service of Russia as of 02.11.2009 № MM-7-6/534@ 'On Affirming Methodic Recommendations for Organization of Electronic Document Flow within Submission of Tax Declarations (Tax Returns) in Electronic Format via Telecommunication Channels'**

The affirmed methodic recommendations replace the provisional rules for exchange of electronic documentation with an electronic digital signature via telecommunication channels in a unified form of receipt, storage, primary processing of tax declarations and accounting reports provided by taxpayers through a special telecom provider affirmed by the Order of the Federal Tax Service as of 06.02.2008 № MM-3-6/50.

Forms of electronic documentation flow shall be worked out within a month term from the date of affirmation of the methodic recommendations.

Effective – come into effect from the date envisaged with the Order on introducing the software to be used by electronic information interaction participants into industrial operation (has not been adopted).

### CIVIL PROCEDURE

#### **The Federal Law as of 30.10.2009 № 240-ФЗ 'On Abrogation of Some District and Municipal Courts of the Republic of Daghestan'**

A dozen of courts of the Republic of Daghestan have been abrogated including Agoulskiy, Akhvakhskiy, Tsoumadinskiy, Goumbetovskiy, Dakhadaevskiy, Dokuzparinskiy, Kulinskiy, Kurakhskiy, Routoulskiy, Tsountinskiy, Charodinskiy district courts and Southern-Soukhokumskiy municipal court. Issues that used to be under their jurisdictions are transferred to nearest district courts.

Effective – 03.11.2009 (despite Clauses 1-12 Article 1 of the Federal Law that shall enter into force one year after the official publication of the Federal Law).

### CIVIL LAW

#### **The Federal Law as of 30.10.2009 N 239-ФЗ 'On Amending Article 23 of the Federal Law 'On Peasant (Farmer) Economies'**

A time-frame within which peasant (farmer) economies, that have been established as legal entities pursuant to the Law of the RSFSR as of 22.11.1990 № 348-1 'On Peasant (Farmer) Economies', have a right to keep their status of legal entities, has been prolonged up to 01.01.2013 (earlier the corresponding time-frame exhausted on 01.01.2010).

Effective – 14.11.2009

#### **The Order of the Ministry for Economic Development of the Russian Federation as of 26.10.2009 № 428 'On Affirming the Procedure for Selection of Electronic Trading Platforms for Open Electronic Auctions'**

The Order sets the procedure for selecting electronic trading platforms for open trading platforms in electronic format. The selection shall be executed by the Ministry for Economic Development of the RF in conjunction with the Federal Antimonopoly Service of the RF, for a five-year term. Announcement on the selection, terms of reference for the electronic platform operation, worked out jointly by the Ministry for Economic Development of the RF and the Federal Antimonopoly Service of the RF, as well as information on the selection results, shall be placed on the official web-site of the Ministry for Economic Development of the RF – [www.economy.gov.ru](http://www.economy.gov.ru). Applications to partake in the selection shall be filed within equals 30 days starting from the day an announcement on launch of the selection and terms of reference are placed on the official web-site.

Effective – 14.11.2009

### **The Federal Law as of 30.10.2009 № 243-ФЗ 'On Amending Article 32.1 of the Law of the Russian Federation "On Organization of Insurance in the Russian Federation"**

Special qualification requirements for chief executives and chief accountants of mutual insurance associations that comply with norms of the Federal Law of the RF as of 27.11.1992 № 4015-1 'On Organization of Insurance in the Russian Federation' have been set.

Referring to the revised Law chief executives and chief accountants of mutual insurance associations, unlike other insurance organizations, shall not obligatory have financial or economic education; higher education is declared sufficient. However, special and still more restrictive requirements for work experience of the persons engaged in corresponding spheres have been introduced.

Effective – 14.11.2009

The review was prepared by the lawyers of the Law Firm Liniya Prava  
For more information, please, contact Liniya Prava:  
123100, Moscow, Presnenskaya Naberezhnaya 8, Bldg. 1, 7th floor  
Capital City Complex, Moscow City International Business Center  
Phone: (495) 664-28-90 | Fax: (495) 664-28-91  
[review@lp.ru](mailto:review@lp.ru)

## BANKING REGULATION

### **The Regulation of the Government of the Russian Federation as of 29.10.2009 № 853 'On Affirming Rules for Banks Requesting to Participate in the Procedure for Capitalization Enhancement and Making Decisions on Satisfaction of (Refusal to Satisfy) Bank Requests to Participate in the Capitalization Enhancement Procedure'**

The Regulation stipulates the procedure for filing and considering requests from banks to participate in capitalization enhancement. Capitalization enhancement can be performed by a bank, if a joint stock company, by means of exchanging federal loan bonds for privileged shares of the bank. Additionally, the bank shall comply with a series of requirements as (i) it shall possess a definite long-term creditworthiness rating, (ii) its assets shall equal to RUR 30 bln., (iii) its capital adequacy shall equal or exceed 10 per cent, (iv) the bank shall not stand measures to prevent a bankruptcy, (v) it shall not suffer a ban for definite bank operations and/ or any restrictions for an interest rate implicit in a bank deposit agreement.

Effective – 7 days after the official publication. The document has not been published.