



C L I F F O R D  
C H A N C E

Russia Update: Legal and  
market developments in Russia  
Summer/Autumn 2014 Issue





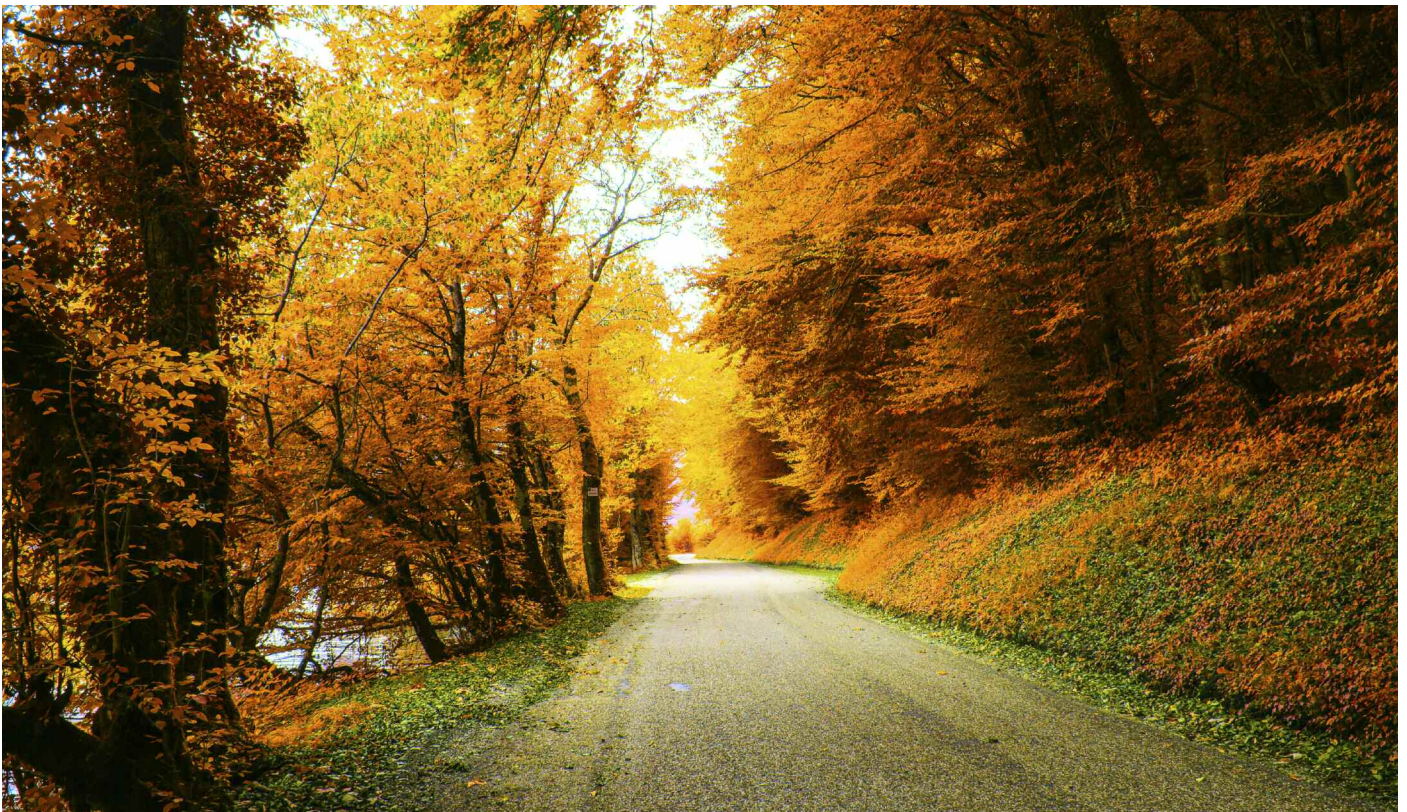
The **Russia Update** is a periodic publication of Clifford Chance Moscow which provides updates on the Russian legal and business environment. You can access our key client briefings, alerters and other recent publications from the electronic version of this publication.

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# Russia Update: Legal and market developments in Russia

Summer / Autumn 2014



## Macro Updates

### Sanctions

The events in Eastern Ukraine have prompted a number of governments, including the EU, US, Canada, Switzerland, Lichtenstein, Australia, Japan and Norway, to publish sanctions in relation to certain Russian and Ukrainian entities, individuals, sectors and territories under Russia's control.

The most significant of these was the initial round of coordinated measures implemented by the EU and the US in June and August 2014 and tightened over the following months. Broadly, the measures include restrictions on the provision of financing and certain goods

and services to entities in the financial, oil and defence sectors.

#### *Access to capital markets*

One of the most significant restrictions imposed by the EU is the prohibition against purchasing, selling, providing brokering services or assistance in the issuance of transferable securities and money-market instruments with a maturity exceeding 30 days to key Russian financial institutions, as well as large entities in the military and oil sectors.

EU sanctions contain prohibitions on making or being part of any arrangement to make new loans or

credit after 12 September 2014. As with the capital markets restrictions, these sanctions apply to loans with maturity exceeding 30 days and affect a range of companies in the financial, military and oil sectors.

US sanctions prohibit the provision of new debt (including bonds, loans, extensions of credit, loan guarantees, letters of credit and other debt instruments) with a maturity exceeding 30 days and equity (including stocks, share issuances and other evidence of title to shares) to certain companies in the financial and military sectors. There is also a similar restriction on providing debt



with a maturity exceeding 90 days to certain entities in the energy sector.

#### *Oil industry export restrictions*

Both EU and US sanctions prohibit, respectively, European and American entities and individuals from providing, among others, drilling, well testing, logging and completion technology and services used for deepwater oil exploration, arctic oil exploration and shale oil projects in Russia.

#### *Military and dual-use technology*

EU sanctions impose significant restrictions on Russia's access to key military and dual-use technologies (those that have both civilian and military uses). They prevent the sale, supply, transfer or export of dual-use goods and technology to Russia or to anyone who is likely to use these items in Russia.

For more details please refer to our client briefings:

- **Expanded EU Sectoral Sanctions Targeting Russia** (12 September 2014).
- **Ban on food imports: Russia introduces counter-sanctions** (18 August 2014).
- **Ukrainian statutory framework for imposing sanctions on companies, individuals and foreign states** (15 August 2014).
- **Broad new sanctions targeting Russia** (31 July 2014).
- **New Sanctions against Russia: significant but targeted** (22 July 2014); and
- **Impact of new US sanctions against Russia** (21 March 2014).

#### **Russian bans on food imports**

Following a series of food import restrictions imposed on the basis of

sanitation regulations, the Russian authorities have introduced a blanket ban on the import of certain food products from the US, EU, Canada, Australia and Norway. The year-long ban came into effect on 7 August 2014 and affects, with several exceptions, the following products:

- fresh, chilled or frozen meat and meat products;
- milk and dairy products;
- fish and shellfish;
- vegetables, edible roots and tuber crops;
- fruits and nuts; and
- products (such as cheese and milk) based on vegetable fats.

From 22 October 2014, Russia also banned all high-pest-risk products originating from or passing through Ukraine. The stated reason for this was to prevent the circumvention of the import restrictions targeted at the EU by using Ukraine as a proxy for European exports.

For more details please refer to our client briefing "**Ban on food imports: Russia introduces counter-sanctions**".

#### **Restrictions on the state procurement of foreign goods and services**

On 1 September 2014, a decree<sup>1</sup> prohibiting the state procurement of foreign textiles, shoes, furs, fur goods and leather came into force. The decree provides exceptions for goods of Kazakh and Belarusian origin, and for goods procured in connection with defence.

The State Duma of the Russian Federation (the "**Duma**") is currently considering further proposals<sup>2</sup> to implement a wholesale ban on the state

<sup>1</sup> Decree of the Government of the Russian Federation No. 791 dated 11 August 2014.

<sup>2</sup> See draft law No. 579602-6.



procurement of any goods or services of foreign origin, in particular goods and services from “aggressor states and states that introduced economic sanctions or that have otherwise pursued unfriendly foreign policies towards the Russian Federation.”<sup>3</sup>

The proposal would allow the Russian government to make exceptions by official decree, either to comply with international treaty obligations or to allow for the purchase of goods that do not have an adequate Russian substitute.

#### **Restrictions for foreign pharmaceutical companies**

On 8 October 2014, the Russian Ministry of Industry and Trade published a revised draft decree clarifying a number of provisions relating to the proposed restrictions for foreign pharmaceuticals in Russian public procurement which had raised concerns. The decree has retained a key provision stipulating that foreign-made products must be excluded from the tender process if sufficient local products are offered.

For more details please refer to our client briefing “[Update on Proposed Restrictions for Foreign Pharmaceuticals in Russian Public Procurement](#)”.

#### **The ‘Rotenberg Law’**

The Duma passed a bill allowing Russian courts to recognise as patently unjust foreign judgments that, according to Russian law and international treaties to which the Russian Federation is a signatory, ought to have been heard by a Russian court.

This will enable Russian companies whose assets are subject to levy of execution under such judgments or against which other restrictions have been imposed by a foreign court to seek compensation in Russian courts for the losses they incurred (including the value of the assets lost, fines paid, lost profit and other losses).

#### **Plans to transfer the storage of personal data to the Russian Federation**

At the end of September, the Duma considered legislative amendments proposing that the deadline by which companies must transfer their data to Russian servers be moved forward from 2016 to 1 January 2015.

The law on the storage of personal data on Russian servers prohibits the use of duplicate databases abroad. Among other sectors, this might impact airline operations, which use servers outside of Russia to exchange client data with foreign counterparties.

However, due to the considerable technical difficulties companies across a wide range of industry sectors would face in implementing these changes in such a short period of time, the final decision to change the enactment date of the bill has yet to be taken.

#### **Ministry of North Caucasus Affairs**

The Ministry of North Caucasus Affairs was established in May 2014 to prepare and implement government policy concerning socioeconomic development in the North Caucasus Federal District.

## Legal and Regulatory Update

### **General**

#### **Farewell decrees of the Supreme Arbitrazh Court**

The Supreme Arbitrazh Court of the Russian Federation, formerly the highest instance court responsible for hearing economic disputes, issued a number of noteworthy decrees in the months before its abolition. Among other things, the decrees clarified certain statutory provisions on challenging major and interested-party transactions, freedom of contract, the consequences of contract termination, the collective management of copyrights and related rights, current payments in bankruptcy and hire-purchase leasing.

#### **Draft laws from the Ministry for Economic Development**

The Ministry for Economic Development has drawn up and is preparing to introduce to the Duma a number of draft laws aimed at furthering the development of Russian legislation. The draft laws envisage, among other things:

- bringing the Law on Joint Stock Companies and the Law on Limited Liability Companies in line with the new provisions of the Civil Code on legal entities which came into force on 1 September 2014 (for more details please refer to “*Russian Law Focus: Amendments to the Russian Civil Code on legal entities*”, below);
- prohibiting Vnesheconombank from participating in the performance of contracts if a beneficiary of such contracts is a legal entity incorporated in an off-shore jurisdiction;

<sup>3</sup> Article 1(2) of draft law No. 579602-6.

- granting members of a board of directors of a joint stock company the right to access information and documents of the joint stock company's subsidiaries;
- strengthening the requirements for the execution of interested-party transactions; and
- the merger of the State Real Estate Cadastre ("GKN"), which contains information on real estate items, and the Unified State Register of Rights to Real Estate and Transactions Therewith ("EGRP"), which contains information on registered rights to real estate items.

## Corporate

### Restrictions on foreign ownership of Russian mass media

Building on restrictions on the foreign ownership of Russian media businesses introduced in 2001, new amendments to the Federal Law "On Mass Media"<sup>4</sup> will come into force on 1 January 2016. Foreigners and foreign entities will now be prohibited from:

- founding or serving on the editorial board of a mass media entity, and from broadcasting;
- owning, managing or controlling (directly or indirectly) more than 20% of the participatory interests/shares in the charter capital of
  - an entity acting as a founder of mass media,
  - an entity acting as the editorial board of mass media, or
  - an entity carrying out broadcasting; and
- otherwise controlling a founder of mass media, an entity that carries out broadcasting or the editorial board of mass media.

The term "foreigner" is defined broadly and includes foreign states, international organisations and entities under their control; foreign legal entities; foreign citizens and stateless persons; Russian citizens who also hold foreign citizenship and Russian legal entities with foreign participation (for restriction (b) above – a Russian legal entity with foreign participation of more than 20%).

These amendments will affect a large number of media companies, including television channel CTC Media; publishing houses Sanoma Independent Media, Conde Nast, Hearst Shkulev Media, and Burda; Forbes Magazine, radio station Echo of Moscow and Vedomosti and Metro newspapers, which are partially foreign-owned.

For more details please refer to our client briefing "[Russia Media Ownership: A Changing Landscape](#)".

### Joint stock companies – maintenance of share registers

On 1 October 2014, the one-year period within which joint stock companies were required to transfer maintenance of their share register to a professional licensed registrar expired. Joint stock companies were prohibited from maintaining their share registers by an amendment to the Civil Code passed in 2013.

## Real Estate

### Amendments to the Russian Land Code

In June 2014, extensive amendments were made to the Russian Land Code, which applies in particular to the Russian real estate and construction sector. The most significant of these will enter into force on 1 March 2015 and

relate largely, but not exclusively, to issues of land allocation.

In Russia, the state remains the largest owner of land. This means that in most cases a construction project requires the formalisation of rights to a publicly-owned land plot.

The amendment will introduce, firstly, new regulations on the procedures for land allocation. In particular, it establishes:

- a ban on granting land plots for construction purposes on the basis of ownership title;
- a general rule that land must be allocated by auction;
- an exhaustive list of grounds on which land can be provided under lease without an auction;
- a list of cases where public land can be granted for use based on a permit from the state authority (i.e. without formalising rights over the land). This option will be particularly relevant for outdoor advertising structures and performance of engineering survey works on publicly owned land.

Notably, the amendment clarifies that for concession projects land must be allocated to the winner of the tender for the concession agreement and that no separate land auction is needed.

Secondly, the amendment introduces new rules for cases when a land lease expires before construction has completed. In such cases the public land owner may either:

- initiate the sale of the unfinished real estate through a public tender; or

<sup>4</sup> No. 2124-1 dated 27 December 1991.

- opt to renew the land lease for the owner of the unfinished real estate on a one-time basis. In this case the land lease will be granted to the owner of the unfinished real estate without a tender. Such leases may be extended for a maximum of three years.

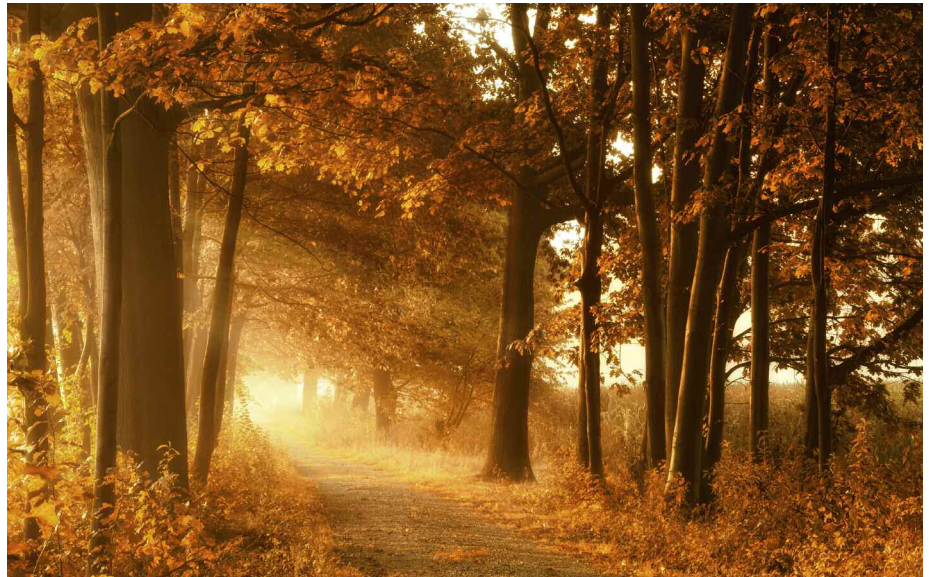
## Regulatory

### Amendments to antitrust regulation

The so-called “fourth antitrust package” was approved in the first reading by the Duma on 22 October 2014. It includes a number of amendments to the current antitrust law of Russia. The most significant changes include:

- the warning system is to be expanded – in some circumstances, proceedings related to the abuse of dominance or unfair competition cannot be initiated against a company if the Federal Antimonopoly Service (“FAS”) has not first sent a note of warning to the company, requesting that it eliminate signs of the antitrust violation (or if the company has eliminated signs of the violation pursuant to such a note);
- the Presidium of the FAS is to become an internal appeal authority. The decision of the Presidium of the FAS can be then appealed in court;
- as a general rule, a company with a market share of less than 35% is not to be deemed dominant except in cases involving collective dominance; and
- joint venture agreements are to be recognised by Russian antitrust regulation – restrictions applicable to “horizontal” agreements will not be applicable to JVs if parties have cleared the draft with the FAS. Although JVs can become subject to separate merger control notifications.

A number of FAS initiatives has not been included in the current draft. The “fourth antitrust package” has been criticized by



the business community from the very beginning and the discussions about the draft amendments are still ongoing. It is expected that the draft will undergo significant changes by the second hearing.

It is not possible at the moment to predict when the draft will be approved and it is unlikely that this would happen by the end of 2014.

### Control over foreign investments in strategic sectors: further developments

The Russian foreign investment regime has been a hot topic for investors since its introduction in 2008. It was first revised in 2011, and the legislature is currently making additional changes, which come into force on 6 December 2014. Many of the proposed changes formalise the existing practices of the Strategic Investment Committee headed by Russian Prime Minister Dmitry Medvedev.

As with the changes to the merger control rules, the key change here is that the amended foreign investment regime will now apply to acquisitions of

production assets from the so-called ‘strategic’ entities (as defined in the Strategic Investments Law), where such assets are worth over 25% of the assets held by the seller.

The new regime confirms that, when assessing applications, the Strategic Investment Committee will treat rights held by multiple foreign investors (that is, investors not part of the same corporate group) as a single stake held by foreigners in the Russian strategic entity.

The amendments will also introduce the long-expected carve-out for food producers holding licenses for dealing with infectious diseases. Pharmaceutical companies remain on the radar of the Strategic Investment Committee as strategic entities, and their acquisition by foreign investors remains subject to clearance. Also, in addition to the recently-introduced restrictions on the foreign ownership of mass media, discussed above, the law will further tighten the thresholds for the acquisitions of printed media businesses in Russia.



Finally, the document clarifies that acquisitions made by companies controlled by Russian citizens and intra-group transactions are excluded from the strategic clearance requirements.

### **National Payment System**

In May 2014, amendments were introduced to the Law on the National Payment System. Among other changes, the amendments introduced new rules affecting payment card systems. Their main purpose is to reduce dependence on settlements and payments in Russia on foreign payment infrastructure.

The Russian Central Bank has already established an operator for the national system of payment cards. Efforts are now being channelled toward creating the technological basis of the system.

### **Liberalisation of currency control legislation**

In early August 2014, amendments to the Russian currency-control law entered into force. These amendments increase the range of cases where Russian residents may receive funds

directly into bank accounts held outside Russia.

The amendments permit the foreign accounts of Russian entities and individuals to be credited in the following circumstances:

- upon payment of interest on the balance in their deposit account;
- upon payment of the minimum balance required to open the deposit account; or
- upon depositing cash into the account and crediting the proceeds of foreign exchange transactions performed using funds in the deposit account.

In addition, residents who are individuals can also receive funds to their foreign bank accounts in a number of other cases, e.g. upon receipt of remuneration for work done abroad, insurance or pension payments, as well as accumulated interest and other payments on foreign securities. Russian currency control residents who are individuals will need to submit reports on transfers of funds to or from their foreign accounts starting from 1 January 2015.

For more details please refer to our client briefing "[Russian Currency Control: More Freedom Under State Control](#)".

### **Regulation on Bankers' Remuneration is rolled-out**

From 2015, a Basel III/CRD IV-style regulation on bankers' remuneration will be introduced in Russia. The regulation creates a distinction between variable and fixed remuneration. This is a novelty in Russian law.

In the case of bonuses paid to CEOs, other senior executives and "material risk-takers", the variable element should not fall below 40% of their aggregate remuneration and at least 40% of this variable element should be deferred for the period of three years with a possibility of further reduction or cancellation. At the same time for employees of internal control and risk management units the variable element should not be more than 50% of their aggregate remuneration.

The aim of the regulation is to link the level of compensation to the financial results of and risks assumed by a Russian credit institution. A bank's internal documentation should link the variable element to qualitative and quantitative factors and risks and specify all types and forms of remuneration paid by the bank, including those not considered a part of the salary.

Banks' remuneration policies should include both monetary and non-monetary forms of remuneration dependent upon the results of operations and the level of risk taken by a bank. This may include linking remuneration to the share price.

The Russian Central Bank will have the right to audit and evaluate banks' remuneration structures.





For more details please refer to our client briefing "[Russia Rolls Out Regulation of Bankers' Remuneration from 2015](#)".

### **New rules on the opening and closing of bank accounts**

On 1 July 2014, a new instruction of the Central Bank regulating the opening and closing of bank accounts came into force.

Among other things, the new instruction deals with pledge accounts, nominee accounts and escrow accounts, reflecting the recent amendments to the Civil Code (which also came into force on 1 July 2014). These types of bank accounts have been designated as special bank accounts.

A person seeking to open a nominee or escrow account must now give the bank notice of any beneficiaries of such accounts, while a person seeking to open a pledged account must provide details of the pledgee. The new instruction contains no special procedure for debiting a pledged account in the course of the enforcement of the pledge.

## **Capital Markets and Securities**

### **ABS Laws entered into effect**

Several laws intended to boost the domestic issuance of asset-backed securities (the "**ABS Laws**") came into force on 1 July 2014.

The ABS Laws have introduced two new types of Russian special purpose vehicles ("**SPVs**"). The first is a "special purpose finance company" for the securitisation of a wide range of asset classes such as consumer loans, auto loans, credit cards, and lease and trade receivables. The second is a "special purpose project finance company" for long-term investment projects, primarily in infrastructure.

The ABS Laws have also addressed certain key legal issues applicable to SPVs, such as limitation of capacity and restrictions on reorganisation, voluntary liquidation and certain other corporate actions (except, where applicable, with the prior consent of noteholders). In addition, for the first time in Russia, the ABS Laws have validated the concepts of limited recourse and non-petition in relation to an SPV.

Also, the ABS Laws have validated the concepts of a noteholders' representative and a noteholders meeting, thus introducing an appropriate form of cooperation among holders of Russian domestic notes. The general role of a noteholders' representative is to represent the noteholders before the issuer and third parties and to take measures to protect their rights. The noteholders' representative holds the benefit of security for the notes in the interests of the noteholders and is entitled to enforce such security in accordance with the instructions given to it by a noteholders' meeting.

In addition, the ABS Laws have permitted securing domestic asset-backed notes by pledge of receivables (previously, only a pledge of securities or real estate was available), introduced escrow accounts and nominee accounts, expressly permitted taking security over Russian bank accounts, and established the requirement of risk retention of at least 20% by originators of domestic securitisation transactions and at least 10% by originators of long term investment projects. Under the regulations issued by the Central Bank, originators may retain the relevant share of risk by, among other things, guaranteeing asset-backed notes issued by an SPV or investing in the junior class of those notes.

Encouraged by the desire to bolster domestic securitisation pronounced by the Russian Government, the ABS Laws are expected to provide opportunities for new types of structured finance transactions and to shape the domestic ABS market in Russia.

### **Amendments to the Law on Securities Market**

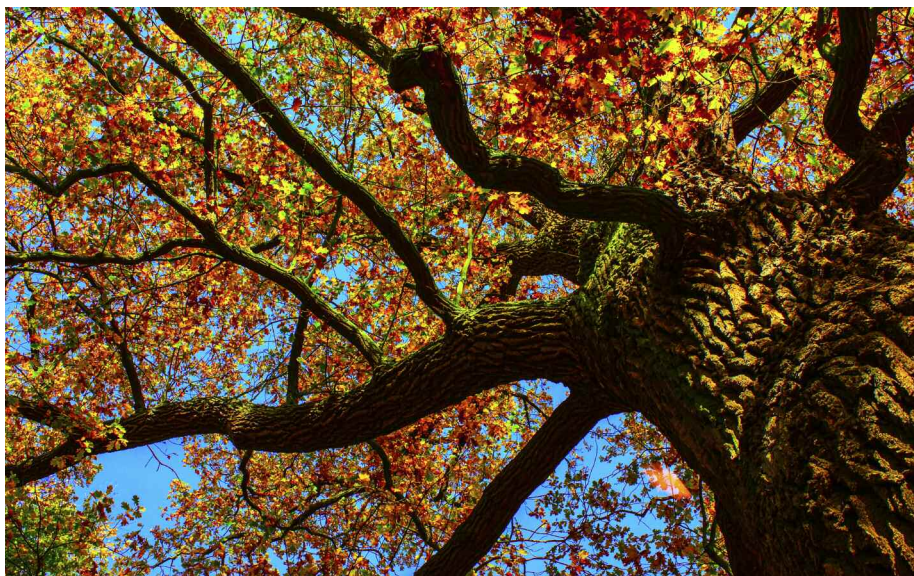
On 2 August 2014, a major part of amendments to the Law on Securities Market which were adopted in July 2014 came into force.

Among other things, the amendments affected the rules on the trading of securities of foreign issuers. Such securities can now be traded in Russia not only if they are already traded on a foreign stock exchange, but also if an issuer has only initiated listing procedures in relation to them on a foreign stock exchange. Subject to certain disclosure and other requirements, securities of foreign issuers may be traded in Russia without signing an agreement between a trade organiser and a relevant foreign issuer.

### **Trade reporting**

The Russian trade reporting regime, which was introduced in December 2011 and regulates trades in financial products, has been significantly modified with effect from 1 October 2014. One of the changes is that individuals, non-Russian market participants and Russian corporates no longer have an obligation to report to a Russian trade repository, and only certain types of Russian regulated financial entities (such as banks, brokers-dealers, insurance companies, etc.) are required to do so.

Furthermore, a list of reportable transactions has been reduced and now includes only over-the-counter repos, FX swaps and transactions classified as derivatives by the Russian financial



market regulator, provided that they are entered into under a master agreement.

The final principal change is the further extension of the commencement date for reporting transactions other than repos and FX swaps from 1 January to 1 April 2015.

For more details please refer to our client briefing "[Changes to the Russian Reporting Regime: Real Improvement or Wishful Thinking?](#)".

### **New Listing Rules of the Moscow Exchange**

On 9 June 2014, a new version of the listing rules of the Moscow Exchange, Russia's main equities, bonds, derivatives, currencies and commodities market, came into force. Soon after, on 15 September 2014, a set of amendments to the new listing rules was enacted. The new listing rules provide a two-year transition period within which issuers must ensure compliance.

To simplify the structure of trading activities, the number of trading lists has

been reduced from six to three: Level 1 and Level 2, which contain quoted securities, and Level 3, which contain unquoted securities.

The requirements for qualifying for inclusion on a particular list relate to, among other things, the composition of the issuer's board of directors, its internal audit and financial reporting (issuers are required to produce financials under IFRS or other internationally recognised accounting standards for three and one full financial years to qualify for the Level 1 and Level 2 lists respectively). With certain exemptions, the allocation of securities to particular lists under the New Listing Rules took place on the basis of their former listing.

The former limitation on the amount of shares that can be held by one shareholder (or a group of affiliates) as an eligibility criterion for the top two list levels is now replaced by a free float requirement (i.e. the criterion is the value and percentage of the issuer's shares in free float).

The new listing rules contain neither the three month minimum liquidity requirement, nor the requirement to have sufficient trading history. Thus, newly issued shares may now be included into the top lists from the beginning of their trading history.

Further, the new listing rules entitle the Moscow Exchange to allocate securities of foreign issuers to the Level 3 trading list at its own discretion.

Finally, the Moscow Exchange is now entitled to monitor compliance by the issuers with their statutory disclosure obligations and determine a cut-off date by which non-compliance should be rectified. In cases of non-compliance that are not rectified, the Moscow Exchange may exclude the issuer's securities from the relevant trading list and notify the Central Bank, which may initiate further investigations and impose additional sanctions on the issuer.

For more details please refer to our client briefing "[New Listing Rules of the Moscow Exchange come into force](#)".

### **New Issue Standards**

New standards for the issuance of securities and the registration of prospectuses, which constitute an important normative act supplementing the Law on Securities Market, approved by the Central Bank came into force on 17 October 2014. The new standards reflects recent changes to the Russian legislation introducing special rules for, in particular, the issuance of subordinated bonds and bonds secured by pledge over monetary claims. Provisions of the old issue standards approved by the Federal Service for Financial Markets have been incorporated in the new standards without significant amendments.



### **The Central Bank clarified rules for the disclosure of information by securities registrars**

On 29 May 2014, the Central Bank issued a letter clarifying certain provisions of the Law on Securities Market regarding the disclosure of information by securities registrars to issuers and pledgees.

According to the letter, a registrar may disclose to a pledgee the following information regarding to pledged securities: the number of the pledged securities; the name of the pledgor; the pledgor's account number; any identifying characteristics of the securities and the details of the pledge agreement.

Information on shareholders and their shareholdings may be disclosed to the issuer upon the issuer's request if the request provides a legal reason explaining why the issuer needs certain information. The letter contains a non-exhaustive list of such reasons provided for by Russian legislation. However, a registrar is not obliged to take any measures to verify whether relevant facts underlying the issuer's justification actually exist.

The Central Bank's letter points out that there is no prohibition against a registrar disclosing statistical information to issuers on a contractual basis.

### **Litigation and Dispute Resolution**

#### **Merger of the two top judicial bodies completed**

As reported in the previous issue of Russia Update, the Supreme Arbitrazh Court of the Russian Federation has been abolished.

With effect from 6 August 2014, its functions have been transferred to the Supreme Court of the Russian

Federation. The latter now enjoys combined powers as the highest instance of both the arbitrazh (commercial) courts and the courts of general jurisdiction.

As a result of the reform (and related amendments to the Russian procedural legislation), the system of appealing judicial acts of arbitrazh (commercial) courts was revised and an additional level of appeal (the so-called "second cassation") was introduced. Second cassation appeals are to be heard by the Commercial Disputes Bench, a new structure created within the Supreme Court.

The main aim of second cassation proceedings is to consider challenges to decrees rendered by the District Arbitrazh Courts. Second cassation appeals must be filed with the Supreme Court no later than two months after the date when the relevant decree of the District Arbitrazh Court came into force.

The decision whether to accept a second cassation appeal against a decree of a District Arbitrazh Court is first considered *ex parte* by a judge of the Supreme Court. If the second cassation appeal is found to be admissible, the case is referred to the Commercial Disputes Bench for consideration.

Judicial acts of the Commercial Disputes Bench may be subject to supervisory review by the Presidium of the Supreme Court. An application for supervisory review must be filed within three months after the date when the respective judicial act enters into force. Similar to the second cassation appeal, applications for supervisory review are first considered *ex parte* by a judge of the Supreme Court and then passed on to the Presidium of the Supreme Court only if found acceptable.

Importantly, in their judicial acts the lower courts can still refer to decrees of the Plenum and Presidium of the Supreme Arbitrazh Court until these are replaced by the respective judicial acts of the Supreme Court.

### **Employment**

#### **Regulation of secondment agreements**

On 1 January 2016, amendments to the Labour Code and other legislative acts will come into force. It has been widely reported that these amendments will prohibit secondments, but this position is inaccurate. Instead, the amendments introduce regulations on secondment arrangements.

Following the amendments, secondments will be possible only on a temporary basis and will be subject to the seconded employee's consent. Seconded employees will carry out their duties according to the terms of their employment contracts and will act in the interests and under the supervision of the "recipient" of such employees (the host company). The host company will have secondary liability (i.e. a claim must first be brought against the primary employer of the seconded employee) with respect to any obligations under employment contracts with the seconded personnel.

The amendments set out certain cases where secondment is prohibited. These include cases where the host company is subject to bankruptcy proceedings or replacing of employee who are participating in a strike. Further, a secondment will only be deemed valid where it is granted by:

- a Russian recruitment agency that has obtained specific accreditation; or

- a company that is otherwise designated by Russian legislation as one that is entitled to provide employees to third parties.

A draft law has been drawn up by the Ministry for Economic Development according to which legal entities (including foreign legal entities) will be entitled to provide their personnel only to:

- their affiliates;<sup>5</sup>
- a joint-stock company in connection with shareholding in which the seconding party has entered into a shareholders' agreement providing for the exercise of rights certified by the joint stock company's shares; or
- a legal entity with which the seconding party has entered into a shareholders' agreement.

It is envisaged that there will be certain changes to Russian migration legislation in connection with cross-border secondments.

## Tax

### Russia increases taxes and combats offshore structures

There has been considerable legislative activity in the area of taxation this autumn, with new initiatives appearing almost every week.

The most-discussed of these initiatives relates to "deoffshorization", the Russian Government's campaign to bring Russian business back to Russia. The key developments in this area include new controlled foreign corporation ("**CFC**") rules, introduction of the concept of "beneficial ownership" for the purposes of application of benefits under double tax treaties, the concept of tax residency for

legal entities in Russia and extension of the concept of "real-estate rich" companies to cover foreign entities. Despite numerous discussions and lobbying initiatives by the Russian business community, a stringent new deoffshorization law was recently adopted by the State Duma (the lower chamber of Russian Parliament) and approved by the Federation Council (the upper chamber of the Russian Parliament). The deoffshorisation bill was signed into law in November 2014 and will take effect from 1 January 2015.

A concept of CFC will be introduced pursuant to which a Russian resident (individual or corporate) who holds, directly or indirectly, a significant stake in a foreign company, or "arrangement that does not have legal personality" (which is a concept intended to capture various types of unincorporated trusts and funds) will be obliged to pay taxes in Russia on undistributed profits of such foreign company or "arrangement". In addition, Russian residents will be obliged to notify Russian tax authorities of any shareholdings in foreign companies in excess of 10% of the foreign company's share capital.

The concept of "tax residency" will be extended to foreign organisations such that, if it is determined that a foreign legal entity is effectively managed and controlled from Russia, it will become subject to Russian corporate income tax as if it were a Russian legal entity.

A concept of "beneficial ownership" will be introduced for the purpose of curtailing the abusive use of conduit structures and back-to-back arrangements aimed at circumventing

Russian withholding tax by channelling income from Russia through an intermediary structure located in a jurisdiction that has a double tax treaty with Russia. This may, in certain cases, lead to double tax treaty provisions being inapplicable in respect of payments from Russian entities to offshore companies (that otherwise were subject to double tax treaty exemptions).

Extension of the concept of "real-estate rich" companies will lead to application of withholding tax to capital gains realised upon the sale of Russian companies that have significant assets in real-estate to the disposal of shares in foreign companies if more than half of the value of such shares is attributed to real-estate in Russia.

For more details please refer to our client briefing "[Russian 'deoffshorisation law': bring the boys back home!](#)".

The new CFC legislation will be supported by the ratification in the beginning of November of the OECD and EC Convention on Mutual Administrative Assistance in Tax Matters signed by the Russian Government back in November 2011.

At present, the Russian Government decided not to increase VAT from the current rate of 18%, introduce regional sales taxes (VAT is the federal tax) or amend personal income tax regime by increasing the tax rate or introducing progressive taxation. The current 13% flat rate for residents is seen as very attractive. Despite lengthy discussions in the legislature to increase this rate, particularly in light of the increased budgetary strains, such changes have ultimately not been made. At the same

<sup>5</sup> The term "affiliate" is defined as a person who (i) has influence on the seconding party, (ii) is under influence of the seconding party, or (iii) is under common influence with the seconding party.



time, a number of alternative initiatives aimed at increasing the state's income have good chances of being introduced from 1 January 2015. In particular:

- special levies for certain types of activities in the sphere of retail (to be applied only in three regions, including Moscow and St Petersburg, starting from 1 January 2015 as a first step);
- the dividend tax rate applicable to both resident individuals and legal entities will be increased from 9% to 13%; and
- the property tax on apartment buildings and land plots for individuals will be substantially increased. The tax base will be calculated based broadly on market prices. This represents a change from the current position in which prices are artificially calculated and fall below the properties' market value.

#### Addressing FATCA requirements

Similarly to other jurisdictions, Russian financial institutions faced a potential

conflict between the data sharing requirements imposed by US FATCA and Russian data protection and confidentiality laws. While other jurisdictions have resolved this tension by signing IGAs with the United States, this is not currently an option open to Russia.

As an emergency measure, Russia has adopted the so-called Law on Financial Transactions with Foreign Taxpayers (the "FTFP Law"). Under the FTFP Law Russian financial institutions were generally allowed to share customer information with foreign tax authorities under supervision of Russian regulators. At the same time Russian regulators received a possibility to prohibit disclosure in specific instances. Failure to notify Russian regulators or comply with their instructions may result in monetary fines for financial institution and its officers.

The FTFP Law also establishes its own FATCA-style requirements on foreign

financial institutions. In particular, foreign financial institutions are obliged to notify the Russian tax authorities of the accounts (deposits) opened by them for Russian citizens and legal entities controlled by Russian citizens. The notifications have to be made by 30 September of the following year. The FTFP Law, however, does not provide for any specific sanctions for non-compliance of foreign financial institutions with the above requirement save for a general reference to Russian legislation and it is also not entirely clear, which type of entities will be regarded as foreign financial institutions, and which types of accounts will be in scope of reporting (i.e., only bank accounts or also any other types of financial accounts).

For more details please refer to our client briefing "[FATCA: Russian Response](#)".

## Russian Law Focus

The Russian Law Focus column in this issue of our Russia Update focuses on two blocks of important changes to the Civil Code, namely rules on pledges and regulation of legal entities.

### Amendments to the Russian Civil Code on pledges

On 1 July 2014, changes to the chapters of the Civil Code on pledges and to the transfer of rights and obligations came into force. The majority of the amendments reinforced the approaches developed by the courts and, in particular, by the former Supreme Arbitrazh Court of the Russian Federation as at the day of adoption. The amendments also introduce several novel concepts into Russian law.

#### Key changes

##### General Provisions

The amendments make numerous changes to the general provisions on pledges aimed at eliminating certain unnecessary formalities that need to be observed in order to create and ensure the validity of pledges. These changes provide better protection of the rights of *bona fide* pledgees and address certain deficiencies in the existing regime on pledges.

#### *Types of pledge and rules on ranking*

The amendments introduce two new types of pledges. The first is a pledge arising by operation of law in favour of a creditor in whose interests the court issues an injunction restricting the disposal of assets by the creditor's debtor.

The second is a pledge of rights over bank accounts setting out special rules for the regime of a secured account. The rules provide a special mechanism for the enforcement of a pledge over bank accounts.

The amendments also introduce a prohibition against contractual restrictions of the creation of a subsequent ranking pledge. The rules allow, instead, a prior ranking pledge to stipulate the terms and conditions on which subsequent pledges may be entered into.

The concept of equal (*pari passu*) ranking of pledges over a single asset in favour of multiple creditors to secure different debts owed to such creditors has been introduced into Russian law by the amendments. This concept is aimed at securing obligations owed to joint and several creditors as well as several creditors.

#### *Registration of pledges*

The regime for the registration of pledges over property other than immovable property, and property for which the law prescribes another form of perfection,<sup>6</sup> is now incorporated into the Civil Code. This regime was previously implemented with deferred effect by a series of amendments to other laws.

A registration of this nature can be made only through a notary in the register of notices. Absence of registration of the pledge does not affect the enforceability of the pledge between the parties or against unsecured creditors of the pledgor. However, in the absence of registration the pledge will not be enforceable (i) against a person acquiring the pledged property from the pledgor in the absence of the knowledge of the existing pledge, or (ii) against another secured creditor with a registered pledge over the same property. As a result, the registration determines the priority of securities (pledges): a registered pledge will have priority over a pledge that was registered subsequently or one that was not registered at all.

#### *Security agent*

The amendments introduce into Russian law the concept of the security manager, a term broadly equivalent to "security agent". A security manager deals with security that is created in favour of multiple creditors, and would primarily be used in syndicated financing.

A security manager can hold and enforce security on behalf of several lenders. In practice, this means that security will be created on a *pari passu* basis in favour of the lenders, but can be enforced only through a security manager. In practice, this would mean for the registered security that for the purposes of priority and enforceability each co-pledgee would need to appear as a registered co-pledgee upon creation of the security and upon transfer of any part of the secured debt, although such registration can be effected by the security manager. As this new concept does not address the practical risks related to the registration of security and other risks inherent in the new concept, its use may be limited to Russian law governed financings;

#### *Other changes*

The amendments introduce a number of rules regulating the pledge of participants' and shareholders' rights in a limited liability company and a joint stock company, make several changes to the enforcement rules and introduce detailed regulation of the

<sup>6</sup> In particular, for a pledge over property subject to state registration, a pledge of shares, a pledge of participatory interests and a pledge of rights to bank accounts the law specifies other perfection requirements.



pledge of contractual claims (including receivables). Before the changes, this type of pledge was subject to the same regime as the pledge of property.

For more details please refer to our client briefing "[Amendments to Russian Civil Code on pledge – Wind of change](#)".

## Amendments to the Russian Civil Code on legal entities

On 1 September 2014, amendments to the provisions of the Civil Code on legal entities entered into force.

### Key changes

#### *Classification of companies into public and private*

Public joint-stock companies ("**JSCs**") now include joint-stock companies whose (i) shares are publicly placed or publicly traded, and/or (ii) charter expressly states that the company is public. More stringent requirements for corporate governance and disclosure apply in relation to public JSCs.

At the same time, private companies are given more freedom to decide matters of internal corporate governance, in particular the allocation of authority among management bodies and convening of shareholders', participants' and/or board of directors meetings.

#### *Abolition of the CJSC as a corporate form*

The closed joint-stock company ("**CJSC**") as a corporate form has been abolished. However, existing CJSCs do not have to be reorganised and their legal form does not have to be changed. New provisions of the Civil Code on joint-stock companies apply to all CJSCs from 1 September 2014. At the same time, the relevant provisions of the Law on Joint Stock Companies will apply to companies until they first amend their corporate charter (for more detail please refer to "*- Transitional provisions*" below).

#### *Transitional provisions*

The Law on Joint Stock Companies and the Law on Limited Liability Companies has are yet to be conformed with the latest amendments. Provisions of the Law on Joint Stock Companies will apply to public JSCs to the extent these do not contradict the new provisions of the Civil Code.

Similarly, a company's charter will also remain valid until its first amendment, or if it is found to breach a provision of the Civil Code. If the corporate charter is amended, both charter provisions and company's name have to be brought in line with current legislation (in addition to the other changes contemplated by the relevant company). The registration of any amendments to a company's charter in order to bring it in line with the new provisions is not subject to payment of stamp duty.

#### *Multiple CEOs*

A charter of an LLC or a JSC may now provide for several CEOs to act on behalf of the company either jointly or individually.

#### *New formalities for corporate resolutions*

From 1 September 2014, a resolution passed at the general shareholders' meeting of a public JSC is valid only if it is certified by the JSC's registrar. Resolutions passed at the general shareholders' meeting of a private JSC have to be certified either by the JSC's registrar or a notary. Resolutions passed at the general participants' meeting of an LLC should be certified by a notary, unless a different certification procedure is envisaged in the LLC's charter or is approved by unanimous decision of the LLC's participants meeting.

#### *Shareholder agreements*

Among other things, the Civil Code provides that shareholders (or participants in the case of an LLC) of the company may enter into an SHA not only with each other but also with third parties (e.g., the company's creditors or potential acquirers of shares/participatory interest in the company) to protect the latter's interests.

A breach of an SHA may be a ground for invalidation of:

- a decision of a corporate body – if all shareholders/participants are a party to such agreement; or
- a transaction – if the counterparty has been aware or should have been aware of the restrictions imposed by the SHA.

#### *Liability of management and shareholders (or participants)*

When acting for and on behalf of the company, CEO, members of the executive corporate body and board of directors of a company must act reasonably and in good faith and in the best interests of the company. These persons may be held liable for damages to the company if he/she does not act reasonably and in good faith, including if he/she acts outside of “reasonable commercial risk” or “ordinary course of business”.

If a member of the executive corporate body or board of directors voted against the resolutions, which resulted in damages to the company or, acting in good faith, did not participate in voting, such member would not be held liable for damages.

If several persons are held liable for damages to the company, they bear joint liability. A claim for damages against such persons may be filed by either the company itself or the shareholder(s).

It is now possible, to a certain extent, to exclude the liability of corporate bodies of the company. Such exclusions are prohibited in the case of public companies.

#### *Right of restoration of corporate control*

Building on existing court practice, the new amendments entitle shareholders (participants) of a company who have lost their interest in the company to bring an action for the restoration of their participation interest or shares that have been passed to other persons with payment of fair compensation for such participation or shares. This applies where a shareholder (participant) lost their interest in the company against their will as a result of illegal actions of other shareholders (participants) or a third party.

#### *New rules on reorganisation*

A corporate reorganisation contemplating various merger structures (e.g. spin-off with simultaneous merger) and participation of legal entities having various corporate forms has now been allowed.

The new amendments now provide for extended regulation of grounds and consequences of challenging a reorganisation.

#### *Liquidation*

New grounds for liquidation have been introduced. These include, in particular:

- a company's shareholder/participant may bring a claim for liquidation of the company in case if it appears impossible to achieve company's goals, including if there is a material difficulty in conducting company's activities; and
- a non-operating entity, i.e. an entity that during 12 months has neither submitted tax reports nor made any payments through its bank account, may be excluded from the Unified State Register of Legal Entities.



## Sector Update

### Energy, Metals and Mining

#### Shares of Bashneft privatized in 1990s are recovered in favour of the state

At the end of October the Moscow Arbitration Court decided on a matter related to the reclamation of a controlling stake in Bashneft, a vertically integrated listed oil company, from AFK Sistema and Sistema-Invest, AFK Sistema's subsidiary, in favour of the state in connection with an illegal privatisation of six entities in Bashkir Fuel and Energy Sector in 1990-2000 with assets forming part of Bashneft. Under the claim of the Prosecutor General's Office, 81.7% of shares in the oil company have been recovered in favour of the state. The proceedings continued for a little bit more than a month, with no claims filed in relation to the recovery of shareholders' dividends in the amount of 190 billion roubles received since 2009.

#### Gazprom and South Stream

On 1 December, Gazprom's chairman Alexey Miller announced that the South Stream project is aborted. Instead, the Russian gas monopoly will focus on its new project with Turkey's Botas Petroleum Pipeline Corporation which contemplates construction of a new pipeline over the Black Sea. The announcement was made after a respective memorandum of understanding was signed in Ankara.

#### Lukoil acquires stake in Etinde Permit

Lukoil OAO and New Age (African Global Energy) Limited have signed a definitive agreement to acquire, respectively, a 37.5% and a 12.5% stake in Etinde Permit, from Bowleven plc.



According to Bowleven's press release, on completion Lukoil will have a 37.5% interest in Etinde, New Age (including its affiliate and the Group's current Etinde joint venture partner, Camop) will have a 37.5% interest and EurOil will hold 25%, with all entitlements under the PSC being shared accordingly, subject only to Lukoil and New Age being entitled to cost recovery in respect of the two-well carry. Bowleven will receive aggregate consideration of approximately USD 250 million comprising: USD 170 million cash payment at completion; USD 40 million staged deferred cash payment due at Etinde development project FID and on completion of appraisal drilling; and USD 40 million carry for two appraisal wells.

#### Rosneft gets shares in NADL for drilling rigs

North Atlantic Drilling Limited (NADL) has signed a definitive agreement to acquire 150 drilling rigs from Rosneft Oil Company OAO along with an award of new 5 year contracts with Rosneft for these units. According to NADL's press

release Rosneft will receive as consideration an approximate 30% stake in NADL by receiving primary shares at the price agreed upon in May of USD 9.25 per share, with the balance being paid to NADL in cash. Following the transaction Seadrill Limited will continue to own more than 50% of NADL. The transaction is expected to close during the fourth quarter of this year. According to the agreement, any break rights expire after 77 days. Upon closing Rosneft will be entitled to appoint two of seven Board seats on NADL's Board of Directors.

#### Rosneft acquires 100% in Vankorneft

Rosneft Oil Company has acquired a 6.04% stake in Vankorneft CJSC, the company that explores and develops oil and gas properties and owns a license for the Vankor deposit in the Krasnoyarsk Krai, from Gennady Timchenko, a private individual having interests in transportation and companies engaged in insurance related services and oil and gas exploration, for an undisclosed



consideration. The deal is estimated to be valued at USD 500 million.

Vankorneft owns 31 cluster sites in Vankor fields, with 499 metric tonnes of oil and condensate and about 175 billion cubic metres of gas, that produce an average of more than 59,000 tons of oil per day. Vankorneft produced approximately 153.1 million barrels of oil and 6.55 billion cubic meters of gas in 2013.

#### **Rosneft acquires Orenburg Drilling Company from VTB**

Rosneft Oil Company OAO has acquired Orenburg Drilling Company, the Russia based drilling company, from VTB Leasing, the Russia based leasing company and a subsidiary of VTB Bank, for an estimated consideration of USD 250 million.

The deal is in line with Rosneft's strategy aimed to modernize their drilling equipment fleet and improve and optimize operating efficiency. Post-acquisition, Orenburg Drilling Company will provide drilling services to both inter-group and external clients.

The deal was approved by the Federal Antimonopoly Service of Russia in March 2014.

#### **TGK-6 merges into Volzhskaya TGK**

OAO Volzhskaya TGK has agreed to acquire OAO TGK-6. As a result of the transaction, Volzhskaya TGK will issue approximately 1,796,675,774 shares to TGK-6 shareholders and every 1,037.080254 shares of TGK-6 will be converted into 1 share of Volzhskaya TGK. The implied equity value of the transaction is RUB 3,228.446 million (USD 63.59 million). As a part of this goal, Volzhskaya TGK will also consolidate TGK-5 (equity value of the transaction is RUB 2,275.592 million (USD 44.821 million)) and TGK-9 (equity value of the transaction is RUB 24,114.131 million (USD 475 million)).

#### **Alisher Usmanov decreases his stake in USM Holdings Limited**

The management of USM Holdings Limited has acquired 10% stake in USM Holdings Limited, the Russia-based diversified company with interests across

the metals and mining, telecoms, internet and media sectors, from Alisher Usmanov for an undisclosed consideration. The deal is estimated to be valued at USD 1.8 billion.

Ivan Streshinsky, the Chairman of Metalloinvest, and Ivan Tavrin, the CEO of MegaFon, will each acquire 3% stake while 2% will be bought by other directors, and the remaining 2% will be kept for future distribution among managers. Mr Usmanov will remain the largest USM shareholder with a total voting power of 48%. Mr Usmanov intends to put the proceeds into a new fund and continue focusing on the development and growth of the international portfolio of investments.

#### **Russian Railways sales a majority stake in Pervaya Nerudnaya Kompaniya**

Nerudnaya Kompaniya Berdyaush, the Russia-based company engaged in extraction and processing of building stone for producing high-cube-shaped rubble, has won the auction to acquire 75% minus two shares stake in Pervaya Nerudnaya Kompaniya OJSC, the Russia-based company engaged in producing and processing non-metallic minerals including production of gravel and crushed rock and the screening of crushed and quarry stone, from Russian Railways for an undisclosed consideration.

Pervaya Nerudnaya Kompaniya consists of 18 crushed stone plants. The company reported a turnover of RUB 4.66 billion (USD 91.786 million) and earnings of RUB 12.4 million (USD 244.238 million) for the year 2012.

#### **Alliance Group and IPC establish a new JV in oil&gas sector**

Alliance Group, a holding company owned by the Bazhaev family, and



Independent Petroleum Company (IPC), an oil and gas company owned by Eduard Khudainatov, have agreed to form a 60:40 joint venture for the exploration and production of oil and natural gas.

Alliance Group will contribute Alliance Oil, the Russia-based oil and gas company with operations in Russia and Kazakhstan, while IPC will contribute its oil and gas assets in the Saratov Region and the Taymyr Peninsula. Upon completion (which is subject to receipt of Russian antitrust clearance), Eduard Khudainatov will be the Director General of the JV, while Musa Bazhaev will be its President.

#### **Lukoil and Total join forces in Western Siberia**

Total S.A., the France-based integrated oil and gas company, engaged in upstream and refining activities, and selling of petrochemicals along with Lukoil, the Russia-based oil and gas exploration and production company, have agreed to form a 49:51 joint venture to explore and develop the tight oil potential of the Bazhenov play in Western Siberia.

Under the terms of the agreement, Total will contribute its Lyaminskiy 3, Vostochno-Kovenskiy and Tashinskiy licence, while Lukoil will contribute its Galyanovsky license. The transaction is expected to strengthen Total's position in non-conventional hydrocarbons and will evaluate the potential of the Western Siberian play.

#### **Gazprom Neft is increasing its stake in Northgas**

Gazprom Neft JSC has acquired a 9.1% stake in Northgas ZAO from Gazprombank OAO for a consideration of RUB 8.5 billion (USD 167.421 million).

As per the terms, Gazprom Neft acquired 18.2% stake in Gazprom Resurs Northgas LLC, the Russia-based holding company having interest in natural gas exploration and production companies. Gazprom Resurs in turn holds 50% stake in Northgas ZAO. Gazprom Neft is seeking to gradually increase its ownership in Northgas to 50%.

Northgas holds a license for the exploration of North Urengoy field in Yamalo-Nenets Autonomous Okrug. The proven reserves of the field contain 157.3 billion cubic meters of gas and 21.1 million tons of liquid hydrocarbons. The other 50% stake in Northgas is held by Novatek, a listed Russian gas producer.

#### **RusHydro acquired its own shares for stake in Krasnoyarskaya GES**

RusHydro has acquired 3.39% of its own shares from EuroSibEnergO Plc. According to the RusHydro's press-release the stake was obtained by JSC Hydroinvest, 100% subsidiary of RusHydro, via a swap for 25% stake in JSC Krasnoyarskaya GES, a hydro power plant in the Krasnoyarsk region, with JSC Eurosibenergo. No cash was involved in the transaction from either side.

RusHydro OAO, a state-owned company, is engaged in the generation, transmission and distribution of electric energy. EuroSibEnergO Plc is engaged in hydropower generation, heat production, electricity transmission, power trading and supply.

#### **Bashneft expands its refueling stations network**

Bashneft has agreed to acquire AZS-Saransk LLC, AZS-Ufa LLC, Helios CJSC, Optan-AZS CJSC and Ural CJSC, Russian companies that own and operate a chain of refueling

stations, for RUB 8.8 billion (USD 174.33 million).

Under the terms of agreement, Bashneft will acquire a 100% stake in AZS-Saransk LLC, AZS-Ufa LLC, and Helios CJSC, and a 95% stake in Optan-AZS CJSC and Ural CJSC. The remaining 5% stake will be acquired by Bashneft Udmurtia OOO, a subsidiary of Bashneft. Together, the acquired companies operate a chain of 92 OPTAN-branded filling stations and 11 land plots in 12 regions. This acquisition is in line with Bashneft's strategy of expanding its network of refueling stations and it boosts the company's sales of motor fuels considerably. Bashneft will rebrand the acquired refueling stations, upgrade and refurbish some of their facilities and construct new stations on the acquired land.

The acquisition of AZS-Ufa LLC is subject to approval from Federal Antimonopoly Service and is expected to complete before the end of 2014.

In December 2014, Bashneft also completed acquisition of LLC AZS Aktan operating 17 refueling stations in the Samara region.

## **Financial Services**

#### **Rotenberg brothers are to rehabilitate the Russian banks**

SMP Bank, a Russian commercial bank, co-owned by Arkady Rotenberg and Boris Rotenberg, has acquired 99.38% stake in Finance Business Bank, 97.4% stake in JSCB MOSOBLBANK OJSC and 100% stake in Investment Republican Bank LLC as a part of financial rehabilitation of the three mentioned Russian banks. The acquisition price is unavailable. Following the transaction, the banks will operate as usual, all

customers, depositors will continue to utilize their services.

### **Bank of Khanty-Mansiysk grows its business**

JSC Bank of Khanty-Mansiysk has agreed to acquire and merge Otkritie Bank OAO and JSC Novosibirsk Municipal Bank for an undisclosed consideration.

Upon completion of the merger, the combined entity will be named as Bank Otkritie of Khanty-Mansiysk and will have its office at Moscow. Dmitry Mizgulin, the President and Chairman at the Bank of Khanty-Mansiysk, will become President and Chairman of the combined bank. Evgeny Dankevich, the Chairman of Otkritie Bank, will retain his role at Bank Otkritie of Khanty-Mansiysk. Otkritie Bank of Khanty-Mansiysk will operate under two brands. Bank of Khanty-Mansiysk will continue to operate under the same name in Western Siberia, while in European part of the Russian Federation, the bank will use the Otkritie brand.

Earlier in July 2010, JSC Khanty-Mansiysk Bank had acquired a 49.76% stake in Novosibirsk Municipal Bank. Prior to this transaction JSC Khanty-Mansiysk Bank held 75.13% stake in Novosibirsk Municipal Bank.

### **OLMA acquires Russian business of Zurich Insurance Group**

OLMA Investment Group, an investment company that provides financial services in the Russian securities and derivatives market, has agreed to acquire the Russian general insurance retail business of Zurich Insurance Group Ltd, a multi-line insurer company that provides wide range of general insurance and life insurance products and services, for a total consideration of RUB 1,000 million (about USD 19.696

million). The transaction is subject to regulatory approvals.

Since the Russian retail business of Zurich has not developed as it was expected, Zurich has agreed to divest it, and rather strengthen its corporate business in Russia, which is focused on underwriting large Russian and multi-national commercial customers, energy business and financial lines. The transaction is also in line with OLMA's strategy to develop its retail business in Russia, and to build its corporate business by leveraging its existing customer base.

## **Transport & Logistics**

### **Russian Railways disposes of JSC Vagonremmash**

On 6 June 2014 the acquisition of JSC Vagonremmash, a company manufacturing passenger cars, by CJSC Train Service Alliance, a company engaged in repair and technical servicing of rolling stock, was completed. Train Service Alliance acquired a 75% stake in JSC Vagonremmash from Russian Railways OAO for an undisclosed consideration. The deal is estimated to be valued at RUB 2.5 billion (USD 49.241 million). Russian Railways' equity stake in Vagonremmash decreased to 25% from 99.99%.

### **Consortium led by Gazprombank gains control over Marine terminal in Ust-Luga**

A consortium led by Russian Direct Investment Fund and Gazprombank OAO has agreed to acquire Marine terminal in Ust-Luga from OJSC SIBUR Holding, the Russia-based vertically integrated company engaged in gas processing and production of petrochemicals, for a consideration of USD 700 million.

The Marine terminal consist liquefied petroleum gas (LPG) and light oil products transshipment terminal. As part of the transaction, the consortium will gain complete control over the terminal and on the pre-agreed terms SIBUR Holding will continue to have exclusive rights to utilize 100% of the LPG transshipment capacity, which currently ships 1.5 million tons of LPG and 2.5 million tons of light oil annually. The transaction will provide essential step in the future development of Russian infrastructure and provides prospective for value appreciation in future.

The acquisition has provided an effective transportation route to Northern and North-Western European markets for Russian LPG and light oil products. Operational management consists of joint venture between the investment consortium and SIBUR. All current staff of terminal will be retained by management. The transaction is subject to regulatory approvals.

### **Perm International Airport changes its majority shareholder**

OJSC Development Corporation of the Perm Region, a company that offers airport redevelopment services, has agreed to acquire a 75% stake in Perm International Airport Bolshoye Savino for an undisclosed consideration. The deal is estimate to be valued at RUB 770 million (EUR 12.183 million).

## **TM&T**

### **MegaFon acquires stake in Euroset**

MegaFon OAO, a Russian telecommunication service operator, has acquired 25% stake in Euroset Group, a leading wireless equipment retailer in the Russian Federation, from Alisher Usmanov controlled Garsdale Services Investment Limited.



### **Vimpelcom disposes of assets in the Central Africa**

Vimpelcom Ltd. has sold its telecoms companies in Burundi and the Central African Republic for USD 65 million to the Econet Wireless Global group, which works predominantly in Africa. Taking into account the advance paid earlier by a buyer that did not follow through with the deal, the holding has received USD 115 million.

### **SCANEX ownership structure is amended**

Igor Rotenberg (the shareholder of Mostotrest along with Sergey Nedoroslev, the Chairman of Kaskol), Konstantin Nikolayev (the shareholder of N-Trans transport group) and Vasily Barshakov (the Chairman of SCANEX) have acquired 90% stake in SCANEX Research and Development Center (SCANEX), the Russia-based remote sensing marketing company engaged in offering services from acquisition to thematic processing of Earth observation images from space. The acquisition price is not announced; however, it is estimated to be about USD 30 million.

Under the terms, the entrepreneurs became shareholders of the Cypriot company Brenno Enterprises Limited, which controls 90% of SCANEX. The acquisition will enable SCANEX to utilize the proceeds for the purchase of Earth's remote sensing data from foreign satellite companies.

Post acquisition, Mr. Sergey Nedoroslev, Mr. Konstantin Nikolayev and Vasily Barshakov will jointly hold 65% stake in SCANEX while Mr. Igor Rotenberg along with founders Vladimir and Olga Gershenson will own 25% and 10% stakes respectively in the company.

## **Real Estate**

### **ICT Group acquires stake in O1**

Alexander Nesis' ICT Group, a company engaged in developing and managing assets in a wide range of industries, has acquired a 26% stake in O1 Properties Plc, an investment company which owns, acquires, develops and manages a portfolio of office properties, from O1 Group Limited, an investment holding company having interest in real estate and financial sector owned by Boris Mints, for an undisclosed amount.

O1 Properties has a workforce of 185 employees and currently owns and manages 13 business centers in Moscow and runs three development projects. O1 Properties manages assets worth USD 4.5 billion. The proceeds from the sale will be used by O1 Group to invest in the development of its pension business.

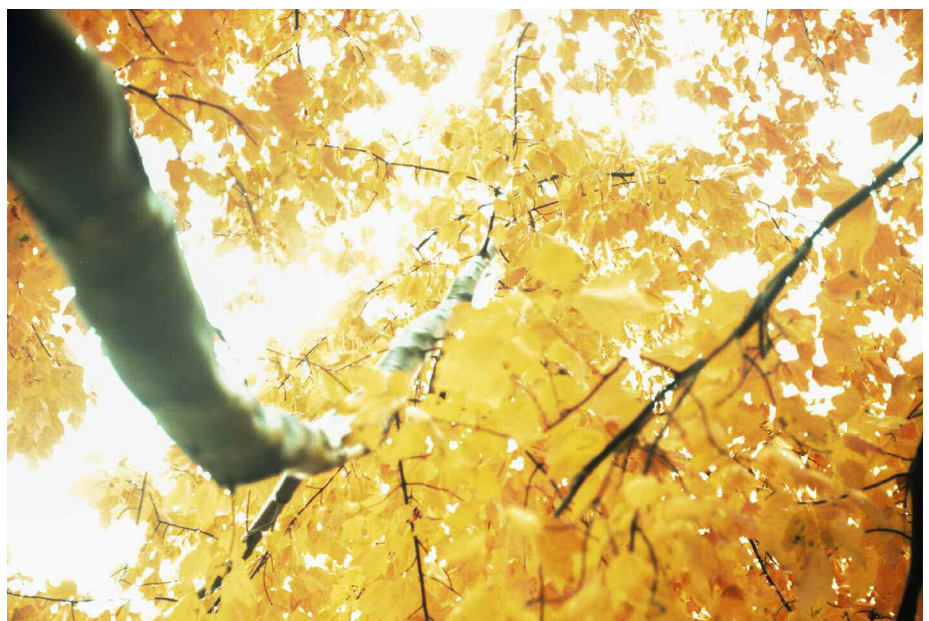
Post acquisition, Boris Mints will own a 73% stake in O1 Properties via O1

Group, and the management will own 1% stake in the company. Konstantin Yanakov, the CFO of ICT Group, will join the Board along with Norbert Kickum, who will serve as independent non-executive director of O1 Properties.

### **Ruslan Baysarov becomes a majority shareholder in Stroygazconsulting**

Ruslan Baysarov has agreed to acquire a 44.11% stake in Stroygazconsulting Limited Liability Company, the Russia-based company developing large-scale construction projects, renovation of gas pipelines, building roads, railroads and social infrastructure facilities, from Ziyad Manasir for an undisclosed consideration.

Post acquisition, Ziyad will leave the post of President at Stroygazconsulting to his Deputy Mikhail Yakibchuk. Ruslan will hold a total of 74.1081% stake in Stroygazconsulting.



The transaction is subject to the Federal Antimonopoly Service approval. In December 2013 Ruslan had acquired a 30% stake in Stroygazconsulting from Ziyad for USD 4.8 billion.

#### **AFK Sistema acquires real estate assets from MGTS and plans to redevelop them into residential property**

AFK Sistema, the listed Russian conglomerate involved in the development and management of businesses across different sectors, has acquired a 49% stake in Business Real Estate CJSC, the Russian company owning and managing real estate sites used for hosting a telecom equipment, from Moscow City Telephone Network OJSC (MGTS), the listed Russia based telecommunication company and a subsidiary of MTS, for a total consideration of RUB 3,100 million (USD 61.059 million).

The deal is in line with Sistema's strategy and will enable to increase its ownership in Business Real Estate to 100%. In December 2013 Sistema has acquired a 51% stake in the company for RUB 3,200 million (USD 63.029 million). Business Real Estate owns and manages 76 sites with a total area of approximately 178,000 square metres, which were primarily used by MGTS for housing of technical equipment, including switches. AFK Sistema plans to redevelop 15 sites into residential property.

#### **Consumer Goods and Retail MTS acquires a stake in OZON**

Mobile TeleSystems OJSC (MTS), a mobile phone operator, and AFK Sistema OAO, a conglomerate, have acquired a 21.64% stake in OZON Holdings Limited. OZON Holdings Limited owns a number of e-commerce websites including OZON Solutions, Ozon.ru, Sapato.ru, Travel.ru and O-Courier.

## **Forthcoming Events**

- Ukrainian Pharmaceutical Forum – Adam Smith Conferences (10 – 11 December 2014, InterContinental Hotel, Kyiv, Ukraine)
- Securitisation in Russia – C5 Conferences (29 – 30 January 2015, Baltschug Kempinski, Moscow, Russia)
- Pharmaceutical Regulatory & Legal Affairs in Russia – Adam Smith Conferences (10 - 11 February 2015, Marriott Grand Hotel, Moscow, Russia)
- CIS Pharmaceutical Forum – Adam Smith Conferences (10 – 13 February 2015, Marriott Grand Hotel, Moscow, Russia)
- Russian & CIS Metals & Mining Week – Adam Smith Conferences (10 – 13 February 2015, InterContinental Tverskaya Hotel, Moscow, Russia)
- Russian Insurance Forum – Adam Smith Conferences (16 – 17 February 2015, InterContinental Tverskaya Hotel, Moscow, Russia)
- MRO Russia & CIS – ATO Events (26 – 27 February 2015, WTC, Moscow, Russia)
- Bonds & Loans Russia & CIS – Global Financial Conferences (3 March 2015, Ritz Carlton, Moscow, Russia)
- Russia Offshore – The Energy Exchange (3 – 4 March 2015, tbc, Moscow, Russia)
- MIPIM – Europaproperty (10 – 13 March 2015, Palais des Festivals, Cannes, France)
- Russia – Asia Energy Summit – Adam Smith Conferences (17 – 18 March 2015, Grand Hyatt, Singapore)
- Russian Automotive Forum – Adam Smith Conferences (17 – 19 March 2015, Renaissance Moscow Monarch Centre Hotel, Moscow, Russia)
- Aircraft Finance and Lease Russia & CIS – ATO Events (20 March 2015, tbc, Moscow, Russia)
- Russian Retail Forum – Adam Smith Conferences (23 – 25 March 2015, InterContinental Tverskaya Hotel, Moscow, Russia)
- Wealth Management and Private Banking: Russia and CIS – Adam Smith Conferences (24 – 26 March 2015, Baltschug Kempinski, Moscow, Russia)
- Maritime Cargo Transportation in Russia – ATO Events (26 – 27 March 2015, tbc, Saint-Petersburg, Russia)
- HSE in Oil & Gas Russia & CIS – Adam Smith Conferences (30 – 31 March 2015, Baltschug Kempinski, Moscow, Russia)

## **CC Moscow Update: News and People**

### **Clifford Chance named Central & Eastern Europe-wide Law Firm of the Year**

At the Chambers Europe Awards 2014 held on 24 April 2014 at London's Grosvenor House Hotel, Clifford Chance received the 'Central & Eastern Europe-wide Law Firm of the Year' award.

It was noted that Clifford Chance "demonstrates tremendous depth and expertise across the CEE region, with standout banking and finance, corporate/M&A and projects and energy work. The firm can handle the most complex cross-border transactions".

### **Clifford Chance advises on three out of five transactions nominated for 'Deal of the Year: Sale/Purchase' at CRE Awards 2014**

For the third year running, a transaction

completed with legal support from Clifford Chance was recognised as the 'Deal of the Year' – the sale-purchase of the Metropolis shopping centre. Completed in February 2013, it is acknowledged as the largest single commercial property transaction in Russian corporate history.

**Marc Bartholomy recognized as the most influential lawyer in the Russian real estate market for the second year running**

In 2014, for the second year running, Marc Bartholomy has taken 1<sup>st</sup> place in the Legal Services section of the Top 100 Market Makers rating. The rating is issued by CRE magazine and covers real estate market leaders in development, investment, property management, leasing as well as legal and financial advisory.

Among the projects led by Marc in 2013-2014 were the acquisition of the Metropolis shopping centre in Moscow by Morgan Stanley Real Estate Fund and the consecutive sale of a significant minority stake in that project to California Public Employees' Retirement System (CalPERS), as well as the sale of the Aura Shopping Centre in Novosibirsk (a 160,000 square metre retail and leisure complex) by Renaissance Development and the international investment fund Amstar Global Property Fund (the largest deal on the regional real estate market).

During this time, Marc also advised O1 Properties on the acquisition of over 40,000 square metres of office space in the Legenda Tsvetnogo multifunctional complex in central Moscow, which was the second-largest office investment transaction in 2013, as well as the acquisition of the White Square Office Centre, a Class A office complex ('Deal of the Year – Purchase-Sale' at the CRE Awards 2013).

**Timur Aitkulov wins 'Lawyer of the Year: Russia' by Euromoney LMG Global Commercial Arbitration Awards 2014**

Timur Aitkulov, Head of Litigation and Dispute Resolution Practice of the Clifford Chance Moscow office, has been acknowledged 'Lawyer of the Year: Russia' by Euromoney Legal Media Group Global Commercial Arbitration Awards 2014.

**Perspectives: Expecting the unexpected – lessons on sanctions and addressing legal uncertainties**

The CC Autumn Perspectives talks on Sanctions were held on 30 September and 1 October, by George Kleinfeld, Rae Lindsay, Michael Lyons and Logan Wright in London.

The session "Expecting the unexpected – lessons on sanctions and addressing legal uncertainties", which was aimed at those who already have a basic understanding of the EU and US

sanctions, explored some of the difficulties that arise in commercial and financial transactions as a result of the imposition of unexpected sanctions.

Drawing on their market experiences, the session participants examined some of the different contractual clauses and other mechanisms that have been developed and used in the market and consider some of the legal uncertainties that remain unresolved in the context of increasingly intensive enforcement activity.

**Participation in United Chari Games**

This summer, Clifford Chance's Moscow team participated in the United Chari Games organized by United Way Russia. The annual fundraising event included a charitable run which took place in Sokolniki, a popular park in Moscow. As in the past, this event was sponsored by Clifford Chance.

The funds raised were applied to provide psychological support to the patients of the Children's Burn Center, their parents and elderly people.



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J201412030046316