



**28<sup>th</sup> PLENARY SESSION  
OF THE FOREIGN INVESTMENT  
ADVISORY COUNCIL IN RUSSIA**

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**Foreign Investment Advisory Council in Russia  
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# 1. OVERVIEW OF LEGISLATIVE CHANGES FOLLOWING THE 27<sup>th</sup> SESSION

Topic	Description	Status in October 2013	Status in October 2014
1. Tax administration	1. Fundamentals of tax legislation	<p>The introduction of amendments to the legislation of the Russian Federation on taxes and levies, as well as the suspension, abolition or annulment of the provisions of the legislative acts of the Russian Federation on taxes and levies <b>require separate federal laws and may not be included in the texts of federal laws that amend (suspend, abolish or annul) other legislative acts of the Russian Federation or have their own subject of legal regulation.</b></p> <p>Article 1.7 of the Code was introduced by Federal Law No. 104-FZ of 7 May 2013</p>	
	2. Additional powers have been given to the legislative (representative) bodies of the constituent entities of the Russian Federation	Legislative (representative) bodies of the constituent entities of the Russian Federation may establish tax exemptions, and the grounds and procedure for their application through tax laws according to the procedure and within the limits provided for by the Code (paragraph 4 of Article 12.3 of the Code)	Legislative (representative) bodies of the constituent entities of the Russian Federation may establish <b>special requirements for the determination of the tax base</b> , tax exemptions, and the grounds and procedure for their application through tax laws according to the procedure and within the limits provided for by the Code (paragraph 4 of Article 12.3 of the Code as amended by Federal Law No. 307-FZ of 2 November 2013)
	3. Religious organizations are exempted from the obligation to submit financial statements to the tax authorities if no obligation to pay taxes arose for the tax (reporting) periods of a calendar year	Taxpayers are obliged to present a ledger of income and expenses and business operations to the tax authority at the place of residence of an individual entrepreneur, a privately practicing notary or a lawyer who has founded a legal office upon the tax authority's request; to present annual financial statements to the tax authority at the place of registration of an organization not later than three months after the end of a reporting year, except where, in accordance with Federal Law No. 402-FZ "On Accounting" of 6 December 2011, an organization is not obliged to maintain accounting records (Article 23.1.5 of the Code).	Taxpayers are obliged to present a ledger of income and expenses and business operations to the tax authority at the place of residence of an individual entrepreneur, a privately practicing notary or a lawyer who has founded a legal office upon the tax authority's request; to present annual financial statements to the tax authority at the place of registration of an organization not later than three months after the end of a reporting year, except where, in accordance with Federal Law No. 402-FZ "On

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			Accounting” of 6 December 2011, an organization is not obliged to maintain accounting records <b>or is a religious organization which had no obligation to pay taxes and levies for the reporting (tax) periods of a calendar year</b> (Article 23.1.5 of the Code as amended by Federal Law No. 52-FZ of 2 April 2014)
	<b>4. The rule on the retention period for documents has been broadened</b>	Taxpayers are obliged to safeguard for a period of four years the accounting and tax records and other documents required for the calculation and payment of taxes, including documents confirming the receipt of income, the incurring of expenses (for organizations and individual entrepreneurs), and the payment (withholding) of taxes (Article 23.1.8 of the Code)	Taxpayers are obliged to safeguard during four years accounting and tax records and other documents required for the calculation and payment of taxes, including documents confirming the receipt of income, the incurring of expenses (for organizations and individual entrepreneurs), and the payment (withholding) of taxes, unless otherwise provided for by the Code (Article 23.1.8 of the Code as amended by Federal Law No. 267-FZ of 30 September 2013).  The provision was introduced for the tax authorities to be able to conduct the field tax audits of participants in regional investment projects, which must retain their tax returns and financial statements for a period of six years, and taxpayers that carry forward losses.
	<b>5. Taxpayers are no longer required to notify the tax authorities of the opening (closing) of accounts and the creation (termination) of the right to use corporate electronic payment instruments</b>	Article 23.2 of the Code  2. In addition to the obligations stipulated by Article 23.1 of the Code, corporate taxpayers and individual entrepreneurs are obliged to notify the tax authority at the place of registration of an organization and at the place of residence of an individual entrepreneur, respectively:  <b>1) Of the opening or closing of accounts (personal accounts) within seven days from the date of the</b>	The requirements of the Code ceased to be in force in accordance with Federal Law No. 52-FZ of 2 April 2014.

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	<p>Also, taxpayers are no longer subject to the fine for the failure to present a notice within the established period</p>	<p>opening (closing) of such accounts. Individual entrepreneurs notify the tax authority of the accounts they use in entrepreneurial activities;</p> <p>1.1) Of the creation or termination of the right to use corporate electronic payment instruments to make electronic money transfers within seven days from the date of the creation (termination) of such a right;</p> <p>The failure of a taxpayer to present information about the opening or closing of an account with a bank to the tax authority within the period established by the Code entails a fine of RUB5,000.</p>	
	<p><b>6. No need to notify the tax authority of interests in Russian business partnerships and limited liability companies</b></p>	<p>Corporate taxpayers and individual entrepreneurs are obliged to notify the tax authority at the place of registration of an organization and at the place of residence of an individual entrepreneur, respectively:</p> <p>Of all interests in Russian and foreign organizations not later than one month from the date on which such an interest arose (Article 23.2.2 of the Code).</p>	<p>Corporate taxpayers and individual entrepreneurs are obliged to notify the tax authority at the place of registration of an organization and at the place of residence of an individual entrepreneur, respectively:</p> <p>Of all interests in Russian <b>organizations (except for interests in business partnerships and limited liability companies)</b> and foreign organizations not later than one month from the date on which such an interest arose (Article 23.2.2 of the Code as amended by Federal Law No. 248-FZ of 23 July 2013)</p>
	<p><b>7. No need to notify the tax authority of reorganization or liquidation</b></p>	<p>Corporate taxpayers and individual entrepreneurs are obliged to notify the tax authority at the place of registration of an organization and at the place of residence of an individual entrepreneur, respectively: <b>Of the reorganization or liquidation of the organization within three days from the date when such a decision was made</b> (Article 23.2.4 of the Code).</p>	<p>The requirements of the Code ceased to be in force in accordance with Federal Law No. 248-FZ of 23 July 2013</p>

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	<p><b>8. Notaries and lawyers are not obliged to notify the tax authorities of the opening (closing) of accounts used in their activities</b></p>	<p><b>Privately practicing notaries and lawyers who have founded legal offices are obliged to notify the tax authority at the place of their residence of the opening (closing) of accounts used for carrying out their professional activities within seven days from the date of the opening (closing) of such accounts</b> (Article 23.3 of the Code)</p>	<p>The requirements of the Code ceased to be in force in accordance with Federal Law No. 52-FZ of 2 April 2014</p>
	<p><b>9. The managing partner under an investment partnership agreement is not obliged to notify the tax authority of the opening (closing) of accounts of the investment partnership</b></p> <p><b>Accordingly, such a partner is no longer subject to the fine for the failure to present a notice within the established period</b></p>	<p>The managing partner responsible for tax accounting is obliged:</p> <p><b>To notify the tax authority at the place of his/her registration of the opening or closing of the accounts of the investment partnership within seven days from the date of the opening or closing of such accounts</b> (clause 4.4 of Article 24.1 of the Code).</p> <p><b>The failure to present information about the opening or closing of an account with a bank to the tax authority within the period established by the Code entails a fine of RUB5,000.</b></p>	<p>The requirements of the Code ceased to be in force in accordance with Federal Law No. 52-FZ of 2 April 2014</p>
	<p><b>10. Taxpayers will have to send to the tax authority an acknowledgement of the receipt of documents which were transferred to them in electronic form</b></p>		<p>Persons obligated by the Code to submit a tax declaration (calculation) in electronic form <b>must receive documents used by the tax authorities in exercising their powers</b> in relations governed by legislation on taxes and levies <b>from a tax authority in electronic form</b> via telecommunications channels through an electronic document interchange operator. <b>The persons are obliged to transmit an acknowledgement of the receipt of such documents to the tax authority</b> in electronic form via telecommunications channels through an electronic document interchange operator within six days from the date on which they were sent by the tax authority (new clause 5.1 of Article 23 of the Code). Takes effect on 1 January 2015.</p>

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	<p><b>11. Rules for consolidated taxpayer groups - additional restrictions for participation in consolidated taxpayer groups</b></p>		<p>Article 25.2 of the Code:</p> <p>6. The following organizations may not be members of a consolidated taxpayer group:</p> <p><b>12) Credit consumer co-operatives;</b></p> <p><b>13) Microfinance organizations</b></p> <p>The restriction was introduced by Federal Law No. 301-FZ of 2 November 2013</p>
	<p><b>12. Formalization of documents sent by the tax authorities when debiting and transferring funds from taxpayers' accounts</b></p>	<p>Federal Law No. 248-FZ of 23 July 2013 added the following paragraph to Article 46.2 of the Code:</p> <p>The form and procedure for sending a tax authority's instruction to a bank for the debiting and transfer of funds from the accounts of a corporate taxpayer (tax agent) or individual entrepreneur, as well as a tax authority's instruction for the transfer of electronic funds of a corporate taxpayer (tax agent) or individual entrepreneur to the budget system of the Russian Federation in hard copy are established by the federal executive body in charge of control and oversight in the area of taxes and levies. The formats of the instructions are approved by the federal executive body in charge of control and oversight in the area of taxes and levies, as agreed upon with the Central Bank of the Russian Federation.</p>	<p>Order No. MMV-7-8/330@ of the Russian Federal Tax Service (took effect on 21 September 2014) approved:</p> <p>1) <b>Form</b> of the instruction for the debiting and transfer of funds from the accounts of a taxpayer (payer of a levy, tax agent) to the budget system of the Russian Federation;</p> <p>2) <b>Form</b> of the instruction for the transfer of the electronic funds of a taxpayer (payer of a levy, tax agent) to the budget system of the Russian Federation;</p> <p>3) <b>Form</b> of the instruction for the sale of a foreign currency from a foreign currency account of a taxpayer (payer of a levy, tax agent);</p> <p>4) <b>Form</b> of the decision to suspend instructions for the debiting and transfer of funds from the accounts of a taxpayer (payer of a levy, tax agent), as well as for the transfer of electronic funds of a taxpayer (payer of a levy, tax agent) to the budget system of the Russian Federation;</p> <p>5) <b>Form</b> of the decision to revoke unexecuted instructions for the debiting and transfer of</p>

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			<p>funds from the accounts of a taxpayer (payer of a levy, tax agent), as well as for the transfer of electronic funds of a taxpayer (payer of a levy, tax agent) to the budget system of the Russian Federation;</p> <p>6) <b>Form</b> of the decision to cancel the suspension of instructions for the debiting and transfer of funds from the accounts of a taxpayer (payer of a levy, tax agent), as well as for the transfer of electronic funds of a taxpayer (payer of a levy, tax agent) to the budget system of the Russian Federation.</p>
	<p><b>13. Introduction of a procedure for individuals to inform the tax authorities if they have items that are subject to property taxes but receive no tax notices</b></p> <p><b>And a fine for the failure of individuals to report such information</b></p>		<p><b>From 1 January 2015:</b></p> <p>Individuals subject to property taxes that are paid based on tax notices <b>are obliged to submit a communication that they have</b> items of immovable property and (or) vehicles to a tax authority at the place of residence or at the location of items of immovable property and (or) vehicles <b>if they received no tax notices and paid no taxes in respect of the objects of</b> taxation for the period of ownership.</p> <p>A communication accompanied by the copies of documents of title (documents certifying rights) for items of immovable property and (or) documents confirming the state registration of vehicles is presented to a tax authority in respect of each object of taxation on a one-off basis by 31 December of the year following the expired tax period.</p> <p>No communication is submitted if an individual received a tax notice regarding the payment of tax in respect of the asset, or if he/she did not</p>

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			<p>receive a tax notice due to the provision of a tax exemption.</p> <p>The form of such a communication in accordance with established procedure has not yet been approved</p> <p><b>Article 129.1 of the Code</b></p> <p><b>“3. The unlawful non-submission (delay in submission) by an individual taxpayer of a communication to a tax authority, provided for by clause 2.1 of Article 23 of the Code, entails a fine of 20% of the unpaid amount of tax in respect of an item of immovable property and (or) vehicle, for which the communication was not submitted (was delayed)”</b></p>
	<p><b>14. Information about individuals' bank deposits must be reported to the tax authorities</b></p>		<p>Article 132.2 of the Code establishes a fine for banks for delays in notifying a tax authority of the opening or closing of an account, and changes in the details of an account for an organization, individual entrepreneur, privately practicing notary or lawyer who has founded a legal office. The fine for the violation amounts to RUB40,000.</p> <p><b>From 1 July 2014</b>, banks will pay a fine for delaying notification of the opening or closing of deposit accounts for individuals who are not individual entrepreneurs.</p> <p>In addition, amendments took effect on <b>2 May 2014</b> stating that banks will pay a fine of RUB20,000 for the failure to submit confirmations of individuals' deposits or confirmations of balances in deposits, as well as statements of deposits to the tax authorities.</p>

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	<p><b>15. Formalization of documents sent by banks to taxpayers and the tax authorities on the non-execution (partial execution) of instructions</b></p>		<p>Federal Law No. 306-FZ of 2 November 2013 adds a new paragraph to clause 3.1 of Article 60 of the Code:</p> <p><b>The form and formats of a bank's notice of the non-execution (partial execution) of a taxpayer's instruction or a tax authority's instruction, and the procedure for its transmission in electronic form are established by the Central Bank of the Russian Federation as agreed with the federal executive body in charge of control and oversight in the area of taxes and levies.</b></p> <p>The documents have not taken effect yet.</p>
	<p><b>16. Bank guarantee</b></p>	<p>Article 74.1 of the Code, "Bank Guarantee," took effect on 1 October 2013 and, in particular, provides for the following:</p> <ol style="list-style-type: none"> <li>1. Where the time periods for the fulfilment of tax payment obligations are altered and in other instances provided for by the Code, the obligation to pay tax may be secured by a <b>bank guarantee</b>.</li> <li>2. Under a bank guarantee, a bank (guarantor) makes an undertaking to the tax authorities to fulfil a taxpayer's tax payment obligation in full should the latter fail to pay the amounts of tax due within the established time period and the respective penalties in accordance with the conditions of the undertaking given by the guarantor to pay an amount of money on the basis of a demand for the payment of the amount presented by the tax authority in writing or in electronic form via telecommunications channels.</li> <li>3. A bank guarantee must be provided by a bank included in the list of banks which meet the established requirements for the acceptance of bank guarantees for</li> </ol>	<p>As of 1 April 2014, the list included 345 banks. <a href="http://minfin.ru/common/upload/library/2014/05/main/Perechen_Bankov_01.04.14.pdf">http://minfin.ru/common/upload/library/2014/05/main/Perechen_Bankov_01.04.14.pdf</a></p>

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		<p>taxation purposes (hereinafter referred to as the "list"). <b>The list shall be maintained by the Ministry of Finance of the Russian Federation on the basis of information received from the Central Bank of the Russian Federation, and must be placed on the official site of the Ministry of Finance of the Russian Federation on the internet.</b> In order to be included in the list, a bank must meet the following requirements:</p> <ol style="list-style-type: none"> <li>1) A license to carry out banking operations, and at least five years of banking activities;</li> <li>2) Equity (capital) amounting to at least RUB1 billion;</li> <li>3) Compliance with mandatory ratios as of all reporting dates during the last six months;</li> <li>4) No demand of the Central Bank of the Russian Federation for financial rehabilitation.</li> </ol> <p>4. In the event that any circumstances are identified which indicate that a bank which was not included in the list meets the established requirements or that a bank which was included in the list does not meet the established requirements, such information shall be sent by the Central Bank of the Russian Federation to the Ministry of Finance of the Russian Federation within five days from the date of the identification of the circumstances in order for appropriate amendments to be made to the list.</p> <p>5. A bank guarantee must meet the following requirements:</p> <ol style="list-style-type: none"> <li>1) A bank guarantee must be irrevocable and non-transferable;</li> <li>2) A bank guarantee may not contain a reference to the presentation of documents which are not provided for by Article 74.1 of the Code by the tax authority to the</li> </ol>	

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		<p>guarantor;</p> <p>3) A bank guarantee must expire not earlier than six months after the date of the expiry of the established time period for the fulfilment by a taxpayer of the tax payment obligation secured by the bank guarantee;</p> <p>4) The amount of a bank guarantee must be such as to ensure that the guarantor can fulfil a taxpayer's obligations to pay tax and the respective penalties in full;</p> <p>5) A bank guarantee must provide for the application by the tax authority of measures for the recovery of the amounts the payment of which is secured by the bank guarantee from the guarantor.</p> <p>6. In the event that tax is not paid or is not paid in full within the established time period by a taxpayer whose tax payment obligation is secured by a bank guarantee, the tax authority shall send to the guarantor a demand for the payment of an amount under the bank guarantee.</p> <p>7. The obligation under a bank guarantee must be fulfilled by the guarantor within five days from the date on which it receives a demand for the payment of an amount under the bank guarantee.</p> <p>8. A guarantor shall not have the right to refuse to satisfy a tax authority's demand (unless the demand has been presented to the guarantor after the expiry of the time period for which the bank guarantee was issued).</p>	
	<p><b>17. Introduction of a new basis for suspending operations on taxpayers' accounts</b></p>		<p>Article 76.3 of the Code has been revised as follows:</p> <p>A decision to suspend the operations of a corporate taxpayer on its bank accounts and the transfers of its electronic funds may also be made by the director (deputy director) of a tax</p>

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			<p>authority in the following cases:</p> <p>1) In the event that the corporate taxpayer does not submit a tax declaration to the tax authority within 10 days after the expiry of the established time period for the submission of such a declaration - within three years from the date of the expiry of the time period established by this subclause;</p> <p><b>2) In the event that the corporate taxpayer fails to fulfil the obligation to submit to the tax authority an acknowledgement of the receipt of a demand for the presentation of documents, a demand for the presentation of clarifications and (or) a notice of the summons to the tax authority - within 10 days from the date of the expiry of the time period established for the submission by a corporate taxpayer of an acknowledgement of the receipt of documents sent by the tax authority.</b></p> <p><b>The provision will take effect on 1 January 2015</b> together with the obligation to submit the respective documents to a tax authority.</p>
	<p><b>18. Expansion of the list of cases in which documents may be requested during the in-house tax audit of a VAT declaration</b></p>		<p>The list of cases in which a tax authority will be able to request documents from a taxpayer during an in-house tax audit will be expanded from <b>1 January 2015</b>.</p> <p>According to the amended clause 8.1 of Article 88 of the Code, a tax authority has the right to request from a taxpayer the invoices, primary and other documents relating to operations, the information about which is included in a VAT declaration in the following</p>

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			<p>cases:</p> <ul style="list-style-type: none"> <li>• If discrepancies are identified in the information about operations which is contained in a VAT declaration;</li> <li>• If the information about operations which is contained in a VAT declaration submitted by a taxpayer is found to be inconsistent with the information about the operations which is contained in a VAT declaration submitted to the tax inspectorate by another taxpayer or another person who is obliged to submit VAT declarations;</li> <li>• If the information about operations which is contained in a VAT declaration submitted by a taxpayer is found to be inconsistent with the information about the operations which is contained in a journal of invoices received and issued, and which was submitted to the tax authority by a person who has the respective obligation.</li> </ul> <p>A tax authority may request the documents only if the discrepancies and inconsistencies identified indicate that the amount of VAT payable is understated or that the amount of tax refundable is overstated.</p>
	<p><b>19. A tax authority may carry out inspections during the in-house tax audit of a VAT declaration</b></p>		<p><b>The amended</b> clause 1 of Article 92 of the Russian Tax Code <b>will take effect on 1 January 2015</b>. It establishes the right of the tax authorities to inspect the sites and premises of the person being audited, documents and items.</p> <p>According to the new provisions, a tax authority will be able to carry out inspections during both the field and in-house audits of</p>

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			<p>VAT declarations in the following cases:</p> <ul style="list-style-type: none"> <li>• If a declaration has been submitted with an amount of tax refundable;</li> <li>• If certain discrepancies and inconsistencies have been identified which indicate that tax payable is understated or that the amount of tax refundable is overstated.</li> </ul> <p>Inspections will be carried out based on the well-grounded resolution of an official of the tax authority that carries out an audit. The resolution must be approved by the head of a tax authority or his/her deputy.</p>
	<p><b>20. The creation of favorable conditions for investments in the Far East</b></p>		<p>The amendments introduced to the Russian Tax Code <b>to create a favorable tax regime in order to carry out investment activities and support the establishment of new industrial enterprises and high-tech projects, including those in the Far Eastern Federal District</b>, took effect on 1 January 2014 (Federal Law No. 267-FZ of 30 September 2013).</p> <p><b><i>Definition of a regional investment project</i></b></p> <p>A regional investment project ("project") means an investment project whose purpose is the manufacture of goods and which simultaneously meets the following requirements:</p> <p>1) The manufacture of goods as a result of the implementation of such a project is exclusively in the territory of one of the following constituent entities of the Russian Federation: the Republic of Buryatia, the Sakha Republic (Yakutia), the Tyva Republic, Zabaykalsky</p>

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			<p>Territory, Kamchatka Territory, Primorsky Territory, Khabarovsk Territory, Amur Region, Irkutsk Region, Magadan Region, Sakhalin Region, Jewish Autonomous Region and Chukotka Autonomous District. Starting 4 June 2014, the Republic of Khakassia and Krasnoyarsk Territory were also included in the list. Exceptions from the rule;</p> <p>2) A project may not have the following goals:</p> <ul style="list-style-type: none"> <li>• The extraction and (or) refining of oil, the extraction of natural gas and (or) gas condensate or the rendering of services for the transportation of oil and (or) oil products, and gas and (or) gas condensate;</li> <li>• The manufacture of excisable goods (except for cars and motorcycles);</li> <li>• The carrying out of activities to which the zero rate of profits tax is applied;</li> </ul> <p>3) There are no buildings or structures owned by individuals or by an organization which is not a participant in a project on the land plots to be used for the implementation of such a project. Exceptions include approach roads, utilities, pipelines, power cables, drainage and other infrastructure facilities;</p> <p>4) Capital investments in accordance with an investment declaration may not be less than:</p> <ul style="list-style-type: none"> <li>• RUB50 million. In this case, capital investments must be made within a period not exceeding three years from the date when the organization was included in the register of participants in regional investment projects;</li> <li>• RUB500 million. Capital investments must</li> </ul>

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			<p>be made within a period not exceeding five years from the date when the organization was included in the register;</p> <p>5) Each project is implemented by a sole participant.</p> <p>It should be noted that a law of a constituent entity of the Russian Federation may increase the minimum amount of capital investments and establish additional requirements for projects.</p> <p><b><i>A new category of taxpayers: participants in regional investment projects</i></b></p> <p>A taxpayer which is a participant in a project means a Russian organization which obtained the status of participant in a project. A company obtains this status on the date on which it is included in a special register.</p> <p>In order for a company to be recognized as a taxpayer which is a participant in a project, in addition to having the status, it must simultaneously meet the following requirements:</p> <ol style="list-style-type: none"> <li>1) State registration of the legal entity in the constituent entity of the Russian Federation in which a project is implemented;</li> <li>2) The organization does not have autonomous subdivisions located outside the constituent entity of the Russian Federation in which a project is implemented;</li> <li>3) The organization does not apply special tax regimes;</li> <li>4) The organization is not a member of</li> </ol>

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			<p>a consolidated taxpayer group;</p> <p>5) The organization is not a non-profit organization, bank, insurance organization (insurer), non-state pension fund, professional participant of the securities market or clearing organization;</p> <p>6) The organization has not previously been the participant in a project and is not the participant (the legal successor of the participant) in another project under implementation;</p> <p>7) The organization owns (leases until at least 1 January 2024) a land plot intended to be used for the implementation of a project;</p> <p>8) The organization has a construction permit if such a permit is mandatory for the implementation of a project;</p> <p>9) The organization is not a resident of a special economic zone of any type.</p> <p>It should be noted that these requirements must be met continuously during the period established for the application of the zero rate for profits tax payable to the federal budget.</p> <p><b><i>The tax audits of participants in regional investment projects</i></b></p> <p>Special provisions for in-house and field audits were introduced.</p> <p>When performing the in-house audit of a draft declaration submitted by the participant in a project for taxes calculated using the tax exemptions provided to the participants, the</p>

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			<p>tax inspectorate may request the information and documents confirming that the project implementation indicators meet the requirements for such projects and (or) their participants.</p> <p>One specific feature of the field audit of the participant in a project is as follows: along with checking whether taxes were correctly calculated and paid in a timely manner, the purpose of such an audit is to check whether the project implementation indicators meet the requirements for such projects and (or) their participants.</p> <p>Note that when auditing a participant that makes capital investments within a period not exceeding five years from the date on which the participant was included in the register, the tax inspectorate may review a period of not more than five calendar years preceding the year in which the decision to perform the audit was made. The participant in the project must retain for a period of six years the accounting and tax records and other documents required for the calculation and payment of taxes which were calculated using the tax exemptions provided for participants in projects. In addition, it is necessary to retain documents confirming that the project implementation indicators meet the requirements for such projects and (or) their participants.</p> <p><b><i>Determining when transactions entered into by participants in regional investment projects are deemed to be controlled</i></b></p> <p>Starting 1 January 2014, a transaction is deemed to be controlled if at least one of the</p>

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			<p>parties is the participant in a regional investment project applying the zero rate for profits tax payable to the federal budget and (or) a reduced rate for profits tax payable to the budget of a constituent entity of the Russian Federation. This rule can be applied if the amount of income from such transactions for the respective calendar year exceeds RUB60 million.</p> <p><b>Profits tax</b></p> <p>Participants in projects apply the zero rate for profits tax payable to the federal budget. The laws of the constituent entities of the Russian Federation may provide for a reduced rate of profits tax payable to the regional budget.</p> <p>The participant in a project may apply a reduced rate if income from the sale of goods manufactured as a result of the implementation of the project accounts for at least 90% of all income taken into account.</p> <p>The application of the zero rate for profits tax payable to the federal budget: the general rule is that the rate is applied during 10 tax periods beginning from the period in which the first income was recognized from the sale of goods manufactured as a result of the implementation of a regional investment project.</p> <p>The rate of profits tax payable to the budgets of the constituent entities of the Russian Federation: the rate may not exceed 10% during five tax periods beginning from the period in which the first income was recognized from the sale of goods manufactured as a result of the implementation</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>of a project. During the next five tax periods, the rate may not be less than 10%.</p> <p>If a taxpayer which must make capital investments within a period not exceeding three years from the date on which it was included in the register does not receive income from the sale of goods manufactured as a result of the implementation of the project during three tax periods beginning from the period in which the organization was included in the register, the periods for the application of reduced rates begin to be calculated from the fourth period beginning from the period in which the participant was included in the register. The periods for the application of reduced rates for taxpayers which make capital investments within a period not exceeding five years and which do not receive income from the sale of the goods during five tax periods beginning from the period in which the organization was included in the register begin to be calculated from the sixth period beginning from the period in which the participant was included in the register.</p> <p><b>MET</b></p> <p>When calculating MET, participants in projects apply a special coefficient reflecting the territory in which a commercial mineral is extracted. This coefficient is applied for the rates specified in subclauses 1 to 6, 8, and 12 to 15 of clause 2 of Article 342 of the Russian Tax Code. Exceptions include the rates for common mineral resources and underground industrial and thermal waters. The coefficient is applied beginning from the tax period in which</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>the organization was included in the respective register. The coefficient is taken to be equal to zero before the application of the zero rate for profits tax payable to the federal budget. It is also equal to zero after the commencement of the application of the zero rate during the first 24 periods for MET, and then it will be gradually increased to one over several years.</p>
	<p><b>21. Banks oversight</b></p>		<p>Starting 2 May 2014, the tax authorities have the right to:</p> <p><b>Oversee the compliance of banks with the requirements set forth in this Code. The oversight procedure over banks' compliance with the requirements set forth in this Code shall be established by a federal executive authority responsible for the oversight and monitoring of compliance with tax regulations as approved by the Central Bank of the Russian Federation.</b></p> <p>The procedure has not yet been established.</p> <p>At the same time, Article 7.15 of Law No. 943-1 that empowered the tax authorities to oversee the compliance of credit organizations with the requirements set forth in the Russian Tax Code ceased to be in force at this date. The removed provision entitled the tax authorities to access information designated as a bank secret to the extent necessary to perform such oversight.</p>

Topic	Description	Status in October 2013	Status in October 2014
	<p><b>22. Reporting to the tax authorities (guardianship authorities, diplomatic missions and consulates)</b></p>		<p><b>Starting 1 January 2015, the guardianship authorities</b> are obliged to report guardian appointment and removal cases to the tax authorities while <b>civil registry offices</b> are obliged to report not only births and deaths but also marriages and divorces as well as paternity establishment cases to the tax authorities (in accordance with amendments to Article 85 of the Code).</p> <p>Starting <b>1 January 2015, diplomatic missions and consulates</b> are obliged to report not only the births and deaths of Russian nationals temporarily staying abroad but also marriages, divorces, paternity establishment cases as well as guardian appointment and removal cases (in accordance with amendments to Article 85 of the Code).</p>
	<p><b>23. Transfer pricing</b></p>		<p>1. Transactions entered into by the Russian Federation and foreign states as part of their <b>military and technical cooperation</b> as provided for by Federal Law No. 114-FZ “On Military and Technical Cooperation between the Russian Federation and Foreign States” of 19 July 1998 <b>shall not be deemed to be controlled.</b></p> <p>(the provision was introduced by Federal Law No. 52-FZ of 2 April 2014 and applies to transactions for which income and (or) expenses must be recognized for tax purposes in accordance with Chapter 25 of the Russian Tax Code starting 1 January 2012).</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p><b>Interbank loans (deposits) with maturities of less than seven calendar days (inclusive) shall not be deemed to be controlled</b>, as amended by Federal Law No. 420-FZ of 28 December 2013.</p> <p>Transactions entered into by taxpayers (new deposit operators or license holders) in the course of hydrocarbon extraction activities at a new offshore hydrocarbon deposit in respect of the same deposit shall be deemed to be uncontrolled irrespective of whether they satisfy the criteria.</p> <p><b>2. A transaction shall be deemed to be controlled</b> if it simultaneously satisfies the following conditions:</p> <p>One of the parties is a taxpayer (new deposit operator or license holder) which recognizes income (expenses) relating to this transaction when determining the profits tax base;</p> <p>Any other party to the transaction is not a taxpayer (new deposit operator or license holder) or is a taxpayer (new deposit operator or license holder) but does not recognize income (expenses) relating to this transaction when determining the profits tax base.</p> <p><b>3. Reporting controlled transactions.</b></p> <p>Taxpayers must annually report the controlled transactions of the previous year to the tax authorities. The reporting deadline is not later than the 20th of May of the year following the reporting year. If the taxpayer fails to file such a report to the tax authorities, the taxpayer will face a fine of RUB5,000. The same fine will be imposed on the taxpayer for reporting incorrect data.</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>At the same time, the Code says that the taxpayer may file adjustments where the initial report has contained incomplete, inaccurate or incorrect data. By doing so, the taxpayer would give the tax authorities grounds for holding the taxpayer liable. Therefore, filing such adjustments would be to the detriment of the taxpayer.</p> <p>This loophole has been filled by exempting taxpayers starting 2 May 2014 from the fine for reporting incorrect data on controlled transactions if the relevant adjustments are submitted before the tax authorities establish any irregularities.</p>
	<p><b>24. Changes to the taxation of extraction operations at offshore hydrocarbon deposits</b></p>		<p>On 1 January 2014, amendments introduced to the Tax Code by Federal Law No. 268-FZ of 30 September 2013 took effect, designed to <b>improve the climate for investments in the development of new gas production areas.</b></p> <p><b><i>Operators of new offshore hydrocarbon deposits have been given the status of taxpayer.</i></b></p> <p>An organization is recognized as an operator of a new offshore hydrocarbon deposit if it simultaneously satisfies the following conditions:</p> <p>1) A direct or indirect interest in the charter capital of the organization is held by an organization which possesses a license to use the subsurface site within whose boundaries the prospecting for, appraisal, exploration and (or) exploitation of a new offshore hydrocarbon deposit is intended to be carried out;</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>2) It carries out at least one of the types of hydrocarbon extraction activities at the new offshore hydrocarbon deposit independently and (or) through the use of contractors;</p> <p>3) It carries out these activities on the basis of an operator agreement concluded with the license holder in respect of the new offshore hydrocarbon deposit and (or) the subsurface site, and that agreement provides for the payment to the operator of a fee.</p> <p>The organization shall be deemed to be an operator starting on the date of the operator agreement, provided that the tax authorities have been notified of this agreement.</p> <p>The notification shall be sent to the tax authorities within 10 business days of the operator agreement.</p> <p>It is not permissible for two or more operators to extract hydrocarbons from the same new offshore hydrocarbon deposit.</p> <p>An organization ceases to be an operator of a new offshore hydrocarbon deposit at the earlier of the following dates:</p> <ol style="list-style-type: none"> <li>1) The termination date of the operator agreement;</li> <li>2) The expiry date of the subsurface site license or the suspension of the right to use this site on other legal grounds;</li> <li>3) The date of liquidation of the organization.</li> </ol>

Topic	Description	Status in October 2013	Status in October 2014
			<p><b>VAT</b></p> <p>1) Since the amendments in question concern deposits on the continental shelf and the exclusive zone of Russia and the Russian part of the Caspian Sea bed, rules for determining the place of sale were also amended so that Russia shall be deemed to be the place of sale of goods dispatched from these territories.</p> <p>2) Article 148 of the Code was likewise amended as follows:</p> <p>The place of sale of work (services) performed (rendered) <b>within the boundaries of the continental shelf of the Russian Federation and (or) in the exclusive economic zone of the Russian Federation or within the boundaries of the Russian part (Russian sector) of the bed of the Caspian Sea</b> involving regional geological study, geological study and exploration of offshore hydrocarbon deposits (including services associated with the geological study of the subsurface and the replacement of the mineral resource base, geophysical well-logging services, geological exploration and seismic surveying operations, exploratory drilling operations, subsurface monitoring services and aerial photography services), the creation, readying for use (operation), technical maintenance, repair, reconstruction, modernization, retooling, suspension of operation, dismantling and abandonment (other work of a capital nature) of artificial islands, installations and structures and other assets situated on the continental shelf of the Russian Federation and (or) in the</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>exclusive economic zone of the Russian Federation or in the Russian part (Russian sector) of the bed of the Caspian Sea which are used (created for use) in hydrocarbon extraction activities at an offshore hydrocarbon deposit <b>shall be deemed to be the territory of the Russian Federation.</b></p> <p>3) A zero-rate of VAT shall apply to :</p> <ul style="list-style-type: none"> <li>• The carriage and (or) transportation of raw hydrocarbons from departure points situated on the continental shelf and (or) in the exclusive economic zone of the Russian Federation or the Russian part (Russian sector) of the Caspian Sea to destination points situated outside the territory of the Russian Federation and other territories under the jurisdiction of the Russian Federation;</li> <li>• The sale of hydrocarbons extracted at an offshore hydrocarbon deposit and processed products thereof (stable condensate, liquefied natural gas and natural gas liquids) which have been exported from a departure point situated on the continental shelf of the Russian Federation and (or) in the exclusive economic zone of the Russian Federation or in the Russian part (Russian sector) of the bed of the Caspian Sea to a destination point situated outside the territory of the Russian Federation and other territories under the jurisdiction of the Russian Federation.</li> </ul>

Topic	Description	Status in October 2013	Status in October 2014
			<p><b>Personal income tax</b></p> <p>Since the territories in question are deemed to be the territory of Russia, the period of an individual's presence in Russia shall not be interrupted by the period of his or her working on the continental shelf, in the exclusive economic zone of Russia or in the Russian part of the Caspian Sea.</p> <p><b>Corporate profits tax</b></p> <p>1) Irrespective of the depreciation method selected by the taxpayer as provided for by its accounting policies, the <b>straight line method applies to the depreciation</b> of fixed assets used exclusively in connection with hydrocarbon extraction activities at a new offshore hydrocarbon deposit.</p> <p>2) Taxpayers may apply a <b>special ratio (of not more than three)</b> to the base depreciation rate for fixed assets used exclusively in connection with hydrocarbon extraction activities at a new offshore hydrocarbon deposit.</p> <p>3) <b>The list of deposit development expenses</b> incurred by taxpayers that carry out activities at new deposits has been expanded to include:</p> <ul style="list-style-type: none"> <li>• Development expenses incurred in the course of activities related to prospecting for and appraisal of and (or) exploration of a new offshore hydrocarbon deposit;</li> <li>• -If a taxpayer has decided to suspend activities at a subsurface site due to commercial invariability, little production prospects or otherwise, the taxpayer may</li> </ul>

Topic	Description	Status in October 2013	Status in October 2014
			<p>take exploration expenses fully or partially to expenses for hydrocarbon extraction activities at a new offshore hydrocarbon deposit located within the boundaries of this site.</p> <p>Taxpayers shall annually report to the tax authorities the following information:</p> <p>The amount of development expenses incurred in the previous tax period by subsurface site;</p> <p>New offshore hydrocarbon deposits discovered at a subsurface site in the previous tax period;</p> <p>All decisions made in the previous tax period to take development expenses to expenses for hydrocarbon extraction activities;</p> <p>All decisions made in the previous tax period to suspend operations at the mentioned subsurface site.</p> <p>4) <b>Expenses for compulsory and voluntary property insurance shall include</b> voluntary insurance maintained in accordance with the legislation of the Russian Federation to secure financing for the prevention of and response to spills of oil and oil products;</p> <p>5) <b>Non-sale expenses</b> shall include the subsurface site license holder's <b>provisions for future expenses associated with the suspension of hydrocarbon extraction activities</b> at a new offshore deposit;</p> <p>6) The determination of the tax base.</p> <p>If a taxpayer has decided to suspend activities at a subsurface site due to commercial inviability, little production prospects or</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>otherwise with no new offshore hydrocarbon deposits discovered within the boundaries of this site, the taxpayer's activities related to prospecting for and appraisal of and (or) exploration at this site shall be deemed to be hydrocarbon extraction activities at a new offshore hydrocarbon deposit for corporate tax purposes.</p> <p>Taxpayers incurring losses from hydrocarbon extraction activities at a new offshore hydrocarbon deposit may carry such losses forward. The 10-year limit shall not apply to them.</p> <p>7) <b>The tax rate is set at 20%</b> and tax is payable to the federal treasury.</p> <p>8) <b>Income from hydrocarbon extraction activities</b> at a new offshore hydrocarbon deposit for the purpose of calculating the tax base is determined as prescribed by special Article 299.3 of the Code. <b>Expenses</b> are determined likewise, <b>as prescribed by special Article 299.4</b> of the Code.</p> <p>9) Hydrocarbon extraction activities carried out by <b>a foreign operator at a new offshore hydrocarbon deposit</b> shall be deemed to be a foreign organization's operations on the territory of the Russian Federation.</p> <p>10) Tax accounting rules have also been amended.</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p><b><i>MET</i></b></p> <p>1) The tax base for hydrocarbons extracted from a new offshore hydrocarbon deposit shall be determined depending on the geographical location of the subsurface site and the period elapsed since the beginning of its commercial development;</p> <p>2) The value of hydrocarbons extracted from a new offshore hydrocarbon deposit is calculated as prescribed by new Article 340.1 of the Code;</p> <p>3) Zero-rate tax shall apply to hydrocarbons extracted from a hydrocarbon reservoir within a subsurface site which lies wholly within the boundaries of the inland sea waters or the territorial sea, on the continental shelf of the Russian Federation or in the Russian part (Russian sector) of the bed of the Caspian Sea, provided that at least one of the following conditions is met:</p> <p>The level of depletion of reserves of each type of hydrocarbon (excluding associated gas) extracted from the hydrocarbon reservoir in question as of 1 January 2016 is less than 0.1%;</p> <p>Reserves of hydrocarbons extracted from the hydrocarbon reservoir in question as of 1 January 2016 have not been placed on the state balance sheet of reserves of commercial minerals.</p> <p>Special tax rates shall apply to certain deposits.</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p><b>Assets tax</b></p> <p>1) Tax-exempt property shall include fixed and floating offshore platforms, mobile offshore drilling rigs and vessels.</p> <p>2) Organizations shall be exempt from tax in respect of property (including property handed over under lease agreements) that simultaneously satisfies the following conditions in the tax period:</p> <p>Property located in the inland sea waters or the territorial sea, on the continental shelf of the Russian Federation, in the exclusive economic zone of the Russian Federation or in the Russian part (Russian sector) of the bed of the Caspian Sea;</p> <p>Property used in exploration activities at offshore hydrocarbon deposits, including prospecting, exploration and preparatory activities.</p> <p><b>Customs duty</b></p> <p>The following goods shall be exempt from customs duty: crude oil (including an oil and gas condensate mixture obtained as a result of factors inherent in the process of the transportation of crude oil and stable gas condensate by pipeline), natural gas condensate, liquefied and gaseous natural gas and natural gas liquids. Special duty rates shall apply depending on the dates and the location of the subsurface site.</p>

Topic	Description	Status in October 2013	Status in October 2014
2. VAT	1. FIFA and the World Cup	<p><b>1. Tax-exempt status shall be given to FIFA (Federation Internationale de Football Association) and FIFA's subsidiaries</b> specified in the Federal Law "On Preparing to and Hosting the FIFA 2018 World Cup and FIFA 2017 Confederations Cup in the Russian Federation and on Amending Certain Legislative Acts of the Russian Federation."</p> <p><b>Tax-exempt status shall be given to confederations, national football associations, FIFA producers of media content and FIFA suppliers of goods (work, services),</b> as specified in the mentioned law, which are foreign organizations that carry out activities specified in the same law.</p> <p>(Article 143 of the Code as amended by Federal Law No. 108-FZ of 7 June 2013)</p> <p><b>2. VAT-exempt status shall be given to activities</b> relating to those specified in the Federal Law "On Preparing to and Hosting the FIFA 2018 World Cup and FIFA 2017 Confederations Cup in the Russian Federation and on Amending Certain Legislative Acts of the Russian Federation" and <b>the sale of goods (work, services) and property rights by the Russia 2018 Organizing Committee, FIFA's subsidiaries, the Russian Football Union, FIFA producers of media content and FIFA suppliers of goods (work, services),</b> as specified in the mentioned law, which are Russian organizations;</p> <p><b>3. Zero-rate tax shall apply to goods (work, services) and property rights sold to FIFA (Federation Internationale de Football Association) and FIFA's subsidiaries</b> as well as confederations, the Russia 2018 Organizing Committee, subsidiaries of the Russia 2018 Organizing Committee, national football associations, the Russian Football Union, FIFA producers of media content and FIFA suppliers of goods (work, services), as specified in the Federal Law "On Preparing to and Hosting the FIFA</p>	

Topic	Description	Status in October 2013	Status in October 2014
		<p>2018 World Cup and FIFA 2017 Confederations Cup in the Russian Federation and on Amending Certain Legislative Acts of the Russian Federation.” The enactment procedure for the provisions set forth in this subclause shall be determined by the Government of the Russian Federation.</p>	
	<p><b>2. Tax benefits</b></p>	<p><b>Health care-related goods (work, services)</b></p> <p>Before the amendments, taxpayers claiming a tax benefit were <b>required to submit registration certificates to the tax authorities</b> indicating the codes of items as per a list approved by the Government of the Russian Federation. However, under clause 2.b of Decree No. 1416 of the Government of the Russian Federation of 27 December 2012, previously issued open-ended registration certificates shall be effective only until 1 January 2017 and must be replaced with a new version afterward. The relevant amendments were made to Chapter 21 of the Code.</p> <p><b>Services in the sphere of culture and art</b></p> <p><b>VAT applied under the general rule</b> to services involving the provision of museum objects and museum collections, the organization of exhibitions of displays and the presentation of shows, concerts and concert programs and other entertainment programs at a location other than the location of an organization which carries out activities in the area of culture and art.</p>	<p>Sellers of critical and vital medical devices claiming a tax benefit are required to present to the tax authorities <b>a registration certificate for a medical device or, until 1 January 2017, a registration certificate for a device for medical use (medical equipment).</b></p> <p>Since Federal Law No. 215-FZ of 23 July 2013 took effect, <b>tax exemption shall apply to services involving the provision of museum objects and museum collections, the organization of exhibitions of displays and the presentation of shows, concerts and concert programs and other entertainment programs at a location other than the location of an organization which carries out activities in the area of culture and art.</b></p>

Topic	Description	Status in October 2013	Status in October 2014
		<p><b>Gambling services</b></p> <p>Before Federal Law No. 215-FZ of 23 July 2013 took effect, services related to the <b>organization of pari-mutuel betting</b> and other risk-based games supplied by legal entities and individual entrepreneurs in the <b>gambling industry</b> were exempt from VAT.</p> <p><b>Operations involving pension assets</b></p> <p>Russia's Tax Policy Guidelines for 2014 and the planning period of 2015 and 2016, approved by the Government of the Russian Federation on 30 May 2013, provided for the development of measures to improve the tax regime for long-term life insurance policy holders and insurers and non-state pension funds, as well as to boost long-term investments made by individuals.</p>	<p>Since Federal Law No. 215-FZ of 23 July 2013 took effect, tax exemption shall not apply to <b>services related to the organization and conduct of gambling</b> (the wording is a duplicate of an updated version of Federal Law No. 244-FZ, "On State Regulation of Gambling Organization and Conduct and Amending Certain Legislative Acts of the Russian Federation" of 29 December 2006). However, the new wording is broader than the old provision that ceased to be in force: "tax exemption applied to the organization of pari-mutuel betting and other risk-based games, including games involving gambling machines, by legal entities and individual entrepreneurs in the gambling industry."</p> <p><b>Federal Law No. 420-FZ of 28 December 2003 amended Article 149.2 of the Code to include the following two provisions:</b></p> <p><b>29) VAT shall not apply to services involving the fiduciary management of pension assets, payment reserve resources and pension assets</b> of insured persons who have been awarded a fixed-term pension payment which are rendered in accordance with the legislation of the Russian Federation relating to the formation and investment of pension assets;</p> <p><b>30) VAT shall not apply to the cession (assignment) of rights (claims) in respect of obligations</b> arising on the basis of term transaction financial instruments, the sale of which is exempt from taxation according to Article 149.2.12 of the Code.</p>

Topic	Description	Status in October 2013	Status in October 2014
		<p><b>Research and Development</b>  <b>Changes to tax-exemption rules</b></p>	<p>Starting 1 January 2014, tax also shall not apply to work financed from certain sources. According to a new version of Article 149.3.16 of the Code, <b>VAT shall not apply to research and development activities financed by foundations for the support of scientific, scientific and technical, and innovation activities.</b> Such foundations shall be established in accordance with Federal Law No. 127-FZ, "On Science and State Scientific and Technical Policy" of 23 August 1996.</p> <p>In addition, the legislation was amended to specify that VAT shall not apply to research and development activities financed out of treasuries that comprise Russia's budgetary system, not research and development activities financed with public funds, as stated previously. <b>No question should now arise as to whether VAT exemption should apply to research and development activities financed out of the treasuries of foreign states – such activities would be taxed.</b></p> <p>Starting 1 October 2014, VAT shall not apply to the import of consumables into Russia for scientific research purposes where such consumables are not manufactured in the country. The list of such materials and the exemption procedure shall be established by the Government of the Russian Federation.</p>

Topic	Description	Status in October 2013	Status in October 2014
	<p><b>3. Moment of the determination of the tax base</b></p>	<p>The transfer of rights to immovable property.</p> <p>The general rule applied before 1 October 2014: For the purposes of this Chapter, goods which are not shipped or transported but undergo a change of ownership shall be <b>deemed to have been shipped at the moment of transfer of ownership</b> (subject to registration procedures in respect of this property reviewed by the tax authorities).</p>	<p>The general rule is that goods which are not shipped or transported but undergo a change of ownership shall be deemed to have been shipped at the moment of transfer of ownership.</p> <p><b>The only exclusion is the sale</b> of immovable property for which the VAT base shall be determined starting 1 October 2014 at the date of transfer of immovable property to the buyer thereof under <b>a certificate of transfer or another immovable property transfer document.</b></p>
	<p><b>4. VAT invoices, journals, purchase ledgers and sale ledgers</b></p>	<p>VAT invoices</p> <p>Before amendments to Article 168.5 of the Code, both taxpayers that have tax-exempt status under <b>Article 145 of the Code</b> and taxpayers that perform non-taxable operations under <b>Article 149 of the Code</b> were required to issue VAT invoices.</p>	<p>According to the amendments, the VAT invoice issuance requirement shall remain in force only for persons exempted from fulfilling taxpayer obligations under Article 145 of the Code.</p> <p>Where goods (work, services) are sold by taxpayers that are exempted from fulfilling taxpayer obligations under Article 145 of the Code, <b>VAT invoices shall be issued with no tax actually charged.</b></p> <p>Starting 1 January 2014, <b>neither VAT invoices nor journals of VAT invoices nor purchase/sale ledgers shall be required for VAT-exempt operations</b> specified in <b>Article 149 of the Code.</b> According to the Russian Ministry of Finance, <b>this exemption should also apply to tax agents in respect of such operations.</b></p> <p>In addition, starting 1 October 2014, the VAT invoice issuance requirement shall not apply to the <b>sale of goods (work, services, property rights) to persons with VAT-exempt status</b> or taxpayers that are exempted from fulfilling taxpayer obligations subject to mutual agreement.</p>

Topic	Description	Status in October 2013	Status in October 2014
		<p>Before amendments to Article 169.6 of the Code, <b>individual entrepreneurs were not eligible to delegate the authority to sign VAT invoices</b>. Referring to this provision, the tax authorities rejected VAT invoices signed by other persons as issued in violation of the established procedure and assessed additional tax on counterparties even in cases when the individual entrepreneur was sick (on vacation or was not able to sign the VAT invoice personally on other legal grounds).</p> <p>Before amendments to Chapter 21 of the Code, <b>all taxpayers were obliged to keep journals</b> of VAT invoices received and issued.</p>	<p>Federal Law No. 81-FZ of 20 April 2014 introduced amendments stipulating that <b>VAT invoices issued by an individual entrepreneur shall be signed by this individual entrepreneur or another person authorized to do so on behalf of the individual entrepreneur by the power of attorney that carries the state registration details of this individual entrepreneur</b>.</p> <p><b>The general requirement for keeping journals of VAT invoices shall be abolished on 1 January 2015.</b></p> <p>Starting on this date, such journals shall only be kept for VAT invoices received and (or) issued as part of entrepreneurial activities carried out in the interests of another person either by a developer or on the basis of the following:</p> <ul style="list-style-type: none"> <li>• Commission agreement;</li> <li>• Agency agreement that provides for the sale and (or) purchase of goods (work, services, property rights on behalf of the agent);</li> <li>• Freight forwarding agreement.</li> </ul> <p>The registration requirements for VAT invoices issued (received) as part of the mentioned activities shall apply both to taxpayers, irrespective of whether they are exempted from fulfilling taxpayer obligations, and to persons with VAT-exempt status.</p> <p>VAT invoices issued by intermediaries (freight forwarders, developers) in an amount equal to their fee under the respective agreements shall not be entered into journals of VAT invoices received and issued after 31 December 2014.</p>

Topic	Description	Status in October 2013	Status in October 2014
		<p>Taxpayers were <b>not required to submit journals of VAT invoices received and issued with their tax returns</b> until 1 January 2015.</p>	<p>On <b>1 January 2015</b>, clause 5.2 of Article 174 of the Code <b>requiring taxpayers to present electronic journals of VAT invoices received and issued to the tax authorities</b> will take effect. <b>This rule shall apply to:</b></p> <ul style="list-style-type: none"> <li>• -Persons with VAT-exempt status (e.g., persons applying the simplified taxation system);</li> <li>• Taxpayers exempted from assessing and paying VAT.</li> </ul> <p>These persons shall present journals <b>only when they are not agents and issue (receive) VAT invoices when carrying out activities in the interests of another person on the basis of an intermediary agreement (agency agreement, commission agreement) or on the basis of a freight forwarding agreement or when performing the function of developer.</b> The requirement shall apply to freight forwarders provided that they take fees received to their income when determining the base of personal income tax, profits tax or taxes paid under the simplified taxation system and unified agricultural tax.</p> <p><b>Journals of VAT invoices received and issued shall be presented no later than the 20th day of the month following the previous tax period.</b></p>

Topic	Description	Status in October 2013	Status in October 2014
	<p><b>5. Tax deductions and restoration</b></p>	<p>Prior to 1 October 2014, a taxpayer had an obligation to restore VAT, but an issue arose in determining the amount of tax to be restored in cases when the cost of shipped goods was less than the amount of prepayment.</p>	<p>Starting 1 October 2014, the following amendment was introduced to paragraph 3 of Article 170.3.3 of the Code. The purchaser shall restore the amounts of VAT to the extent of the amount claimed as a deduction for the acquired goods (work performed, services rendered and property rights) with respect to payment or partial payment made in respect of the future supply of goods pursuant to the contractual terms, provided such terms are included. <b>The rule makes it clear that in cases when the cost of the goods shipped equals or exceeds the amount of payment made in respect of the future supply of goods, the amount of VAT shall be restored in the full amount previously claimed as a deduction. Where the cost of goods shipped is less than the amount of payment made in respect of the future supply of goods, the amount invoiced shall be restored.</b></p> <p><b>Where shipping is in stages, and where the terms of the contract prescribe to offset only a part of prepayment against the amount of goods shipped (and the rest of the amount, for example, shall be paid additionally by the purchaser), the amount of VAT shall be restored in this part.</b></p> <p>Article 172.6 of the Russian Tax Code amended on 1 October 2014 stipulates that <b>the purchaser shall have the right to allow VAT as deduction in the amount calculated on cost of the goods shipped (work performed, services rendered, transferred property rights) where the amount of the previous prepayment or partial prepayment</b></p>

Topic	Description	Status in October 2013	Status in October 2014
			<p><b>are offset against the payment of such goods pursuant to the contractual terms, provided such terms are included.</b></p> <p>The clarified provision corresponds to amended paragraph 3 of Article 170.3.3 of the Russian Tax Code.</p>
	<p><b>6. Tax declaration</b></p>	<p>Until 1 January 2014, only taxpayers with an average number of over 100 employees for the previous year, or newly established organizations (including under restructuring) with an average number of over 100 employees were obliged to submit tax declarations in electronic form to the tax authorities.</p>	<p><b>1) Starting 1 January 2014, taxpayers (including those which are tax agents) shall be obliged to submit VAT declarations in electronic form only via telecommunications channels (paragraph 1 of Article 174.5 of the Russian Tax Code).</b></p> <p>The appropriate amendments were introduced as well to Article 80 of this Code. Under the amended Article effective from 1 January 2014, the list now includes taxpayers which shall be obliged to submit a declaration in electronic form as stipulated by Part II of the Code, i.e. VAT payers.</p> <p>It should be noted that tax agents which are not VAT payers or tax agents which are exempt from the performance of taxpayer obligations associated with the calculation and payment of tax have the right to submit VAT declarations in paper.</p> <p><b>2) The revised Article 174.5 of the Code became effective on 1 January 2014 and requires the submission of VAT declarations by taxpayers which are not VAT payers as well, when the invoice is issued with the amount of tax indicated in it. The declaration shall be submitted in electronic form via telecommunications channels.</b></p>

Topic	Description	Status in October 2013	Status in October 2014
			<p><b>3) Starting 1 January 2015, Article 174 will provide sources containing information to be included in the VAT declaration.</b> There must be included in a tax declaration information which is contained in the following documents:</p> <ul style="list-style-type: none"> <li>• The taxpayer's purchase ledger and sales ledger;</li> <li>• The record journal of received and issued invoices. This is related to cases when the invoices are issued and (or) received in the course of entrepreneurial activities carried out by a taxpayer (tax agent) in the interests of another individual on the basis of contracts of delegation. The information in relation to such activities shall also be provided;</li> <li>• In the invoices issued. This rule covers individuals which are referred to in Article 173.5 of this Code. Such individuals particularly include those which are exempt from VAT when they issue invoices with the amount of tax indicated in it.</li> </ul> <p>The Federal Tax Service of Russia regulates the scope of information which shall be included in the tax declaration and which is contained in the purchase and sales ledger, the record journal of received and issued invoices and in the invoices issued. The appropriate regulatory legal act has not yet been adopted.</p>

Topic	Description	Status in October 2013	Status in October 2014
<b>3. Excise duties</b>	<b>1. Increased rates</b>	From 1 January 2014 to 31 December 2016, new increased rates are established as provided by Federal Law No. 269-FZ of 30 September 2013.	<b>The additional indexing affected the rate of excise duty for classes 4 and 5 of petrol.</b> The rate of excise duty on class 4 petrol shall be RUB9,916 thousand (instead of RUB9,416 thousand ) and the rate of excise duty on class 5 petrol shall be RUB6,450 thousand instead of the planned RUB5,750.
	<b>2. Report on the use of denatured ethyl alcohol</b>	An organization which possesses a certificate of registration from an organization which carries out operations involving denatured ethyl alcohol was obliged to report to the tax authorities who issued such a certificate as approved by the Ministry of Finance of the Russian Federation (clause 8 of Article 179.2 of this Code).  The report was submitted monthly on the 25th day of the month following the reporting. The report contained information on the balance, volume of production, sales, used amount, losses, etc.	Starting 1 January 2014, this regulation <b>ceased to be in force.</b>
	<b>3. Exemption from paying excise duty</b>	This operation used to be subject to taxation in accordance with generally established procedures.  A taxpayer had the right to present a bank guarantee to the tax authority (the period of validity of a bank guarantee must be not less than 9 months) <b>or bank security.</b>	Starting 1 January 2014, an exemption from taxation is granted <b>in the case of transfer of excisable goods, produced using raw materials, to the owner or to other parties under the instructions of the owner, when excisable goods are shipped out of the territory of the Russian Federation under the export customs procedure (within natural wastage norms).</b>  Starting 1 January 2014, when performing operations which are exempt from paying excise duty, a taxpayer shall present <b>only a bank guarantee to the tax authority.</b> Content requirements of the bank guarantee, requirements to banks which may choose the guarantee and the list of such banks are established similar to the requirements

Topic	Description	Status in October 2013	Status in October 2014
			stipulated by Article 74.1 of the Part I of the Code subject to certain specifics established by Article 184.2 of the Code. The bank guarantee shall stipulate a requirement for the bank to pay excise duty. The period of validity of a bank guarantee must not be less than 10 months.
	<b>4. Advance payments of excise duty</b>	Before 1 June 2014 the economic effect from the use of crude ethyl alcohol which is produced in the Russian Federation and imported from the territories of member states of the Customs Union differed significantly, as the manufacturer was obliged to make advance payments of excise duty in the first case while in the second case the manufacturer did not have such an obligation.	Starting 1 July 2014, where the manufacturers of alcoholic and (or) excisable alcohol-containing products use <b>crude ethyl alcohol imported from the territories of member states of the Customs Union, they shall make an advance payment</b> of excise duty under Article 194.8 of this Code.
	<b>5. Refund of the excise duty</b>		<p>The <b>technical updates</b> were made with the goal of eliminating difficulties that taxpayers face when applying for a refund.</p> <p>1) The crediting or refund shall be executed in accordance with the procedure envisaged by Article 78 of the Code (the arrears shall be settled and the overpayments shall be refunded);</p> <p>2) Export confirming <b>documents</b> shall be presented <b>with the submission of a tax declaration</b>, which contains the right to a refund;</p> <p>3) <b>The procedure of decision making</b> is aligned with the general rules established by Article 101 of the Code;</p> <p>4) The declaration shall contain export information (contract date and number, tax period, amount of shipped excisable goods, the amount claimed for refund). <b>The new form of the tax declaration has not been adopted yet.</b></p>

Topic	Description	Status in October 2013	Status in October 2014
<p><b>4. Personal income tax</b></p>	<p><b>1. Property-related tax deductions</b></p>	<p>A taxpayer had the right to claim a property-related tax deduction once, i.e. tax deduction for one purchase during the life despite the fact that the deduction could have been used partially.</p> <p>A property-related tax deduction was allocated among the co-owners in the event that the purchase of property was under common equity ownership or common joint ownership.</p> <p>In order to receive the property-related tax deduction, an application shall be presented with the tax declaration.</p> <p>The conclusion of the Constitutional Court of the Russian Federation (Decree No. 6-P of 1 March 2012) regarding the appropriateness of the application of tax deductions by parents (guardians) of minor children was confirmed on a regulatory basis.</p>	<p>Starting from 1 January 2014, a taxpayer which has not used the amount of tax deduction in full when purchasing an item of property may use the rest of the amount of deduction in the event of an acquisition (construction) of another item of property.</p> <p>Starting 1 January 2014, a property-related tax deduction shall be attributed to an individual and not an item of property. Consequently, each of the co-owners shall have the right to claim the property-related tax deduction for the items of property they find appropriate.</p> <p>In this respect, it should be noted that the deductions related to the repayment of interests on special-purpose borrowings (loans) can be claimed only for one item of property in an amount not exceeding RUB3 million.</p> <p>Starting 1 January 2014, an application doesn't have to be presented.</p> <p>Starting 1 January 2014, parents (guardians, trustees, adoptive and foster parents) are granted the right to apply property-related tax deductions on expenses for the acquisition of an apartment and for the repayment of interests associated with items of property purchased by such individuals for the possession of their minor children (wards).</p>

Topic	Description	Status in October 2013	Status in October 2014
		<p>A property-related tax deduction could be received only from one tax agent.</p>	<p>A taxpayer shall have the right to claim the property-related tax deductions from <b>one or several tax agents</b> at his own discretion.</p> <p>The right to a property-related tax deduction received from tax agents shall be approved by a tax authority over the period not exceeding 30 calendar days from the date of submission of a taxpayer's application and the documents confirming the right to receive property-related tax deductions.</p> <p>Where the taxpayer's income received from all the tax agents during the tax period is less than the amount of property-related tax-deductions, a taxpayer shall have the right to receive property-related tax deductions as envisaged by Article 220.7 of the Code.</p> <p>Where the taxpayer submits an application to receive the property-related tax deductions to the tax agent in due course and the tax agent withholds tax without taking this property-related deduction into account, the excess tax withheld after the application is received is to be refunded to the taxpayer.</p>

Topic	Description	Status in October 2013	Status in October 2014
	<p><b>2. Tax agents when performing securities transactions and transactions involving term transaction financial instruments</b></p>		<p>A list of individuals regarded as tax agents is updated, and the procedure for calculating and withholding tax by tax agents is unified.</p> <p><b>Starting 1 January 2014, the new Article 226.1 took effect, “Special Considerations Relating to the Calculation and Payment of Tax by Tax Agents in the Context of Securities Transactions and Transactions Involving Term Transaction Financial Instruments and with Respect to Payments on Securities of Russian Issuers.”</b> The Article provides special considerations relating to the calculation and payment of personal income tax within securities transactions, transactions involving term transactions financial instruments, repo transactions involving securities, and securities lending operations.</p> <p><b>The tax agent in the context of securities transactions and transactions involving term transaction financial instruments and with respect to payments on securities shall be:</b></p> <p>1) A fiduciary or broker which carries out securities transactions and (or) transactions involving term transaction financial instruments in the interests of the taxpayer;</p> <p>2) A fiduciary in relation to income which is paid to the taxpayer on securities issued by Russian organizations for which related rights are recorded in the ledger account or depositary account of that fiduciary as at the date specified in the decision to pay (declare) income on the securities if the fiduciary is a professional participant in the securities market</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>as at the date of acquisition of the securities referred to in this subsection;</p> <p>3) A Russian organization which pays income to the taxpayer on securities issued by that organization for which related rights are recorded in the register of securities;</p> <p>4) A Russian organization which pays income to the taxpayer on securities issued by that Russian organization which, at the date specified in the decision to pay (declare) income, are recorded in an unidentified individuals' account opened by the register keeper, for individuals identified as having the right to receive the income in question;</p> <p>5) A depositary which pays income to the taxpayer on securities issued;</p> <p>6) A depositary which pays income to the taxpayer on securities issued by a Russian organization which, at the date specified in the decision to pay (declare) income on the securities, are recorded in an unidentified individuals' account opened by that depositary, for persons identified as having the right to receive the income in question;</p> <p>7) A depositary which pays (transfers) income in monetary form to the taxpayer on the following types of securities which are recorded in a depositary account of a foreign nominee holder, a depositary account of a foreign authorized holder and (or) a depositary program depositary account.</p> <p>An individual who pays income to a taxpayer on securities issued by Russian organizations shall not be deemed to be a tax agent in</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>relation to those payments if they are made in favor of a management company acting in the interests of a mutual investment fund.</p> <p>Where a tax agent determines the tax base for securities transactions, on the basis of an application from the taxpayer the tax agent may take into account actually incurred and documented expenses which are connected with the acquisition and storage of the securities in question and which the taxpayer incurred without the involvement of the tax agent, including prior to the conclusion of the agreement with the tax agent by reason of which the tax agent determines the tax base of the taxpayer.</p> <p>A tax agent shall also be obliged to calculate and withhold amounts of tax which were not withheld in full by an issuer of securities which is deemed to be a tax agent in relation to the payments in question.</p> <p><b>The amount of tax shall be calculated and paid by a tax agent in the context of securities transactions and transactions involving term transaction financial instruments at the following times:</b></p> <p>After the end of a tax period;</p> <p>Before the expiry of a tax period;</p> <p>Before the expiry of a contract in favor of an individual.</p> <p>The amount of tax in respect of income on securities shall be calculated and paid by a tax agent with respect to payments of such income in favor of an individual.</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p><b>A tax agent shall be obliged to withhold the calculated amount of tax from the RUB-denominated cash of the taxpayer which is at the disposal of the tax agent</b> in brokerage accounts, special brokerage accounts, special client accounts or special depository accounts or in the bank accounts of a tax agent/fiduciary which are used by that fiduciary for the separate holding of monetary resources of principals, on the basis of the balance of the RUB-denominated cash of a client which has accrued in the accounts concerned at the date on which tax is withheld.</p>
	<p><b>3. Payment of profits tax on income from securities which is paid to foreign organizations acting in the interests of third parties</b></p>	<p>A foreign nominee holder shall present information not later than three working days from the date as at which the depository which carries out the mandatory centralized custody of securities discloses information on the transfer to its depositors of payments due to them in respect of securities (clause 7 of Article 214.6 of the Code).</p>	<p>Where information is available, the tax shall be withheld at the rate set for this type of income. Where no information is available, the 30% tax rate shall be applied.</p> <p>Starting 1 January 2014, an additional exception was introduced to clause 8 of Article 214.6 of the Code according to which: where income is received <b>in the form of dividends on shares in Russian organizations which are taxable at a tax rate which is lower than</b> the tax rate established by the Code or an international treaty of the Russian Federation, and the application of that reduced rate depends on compliance with conditions laid down in the Code or the above-mentioned international treaty, the <b>tax agent shall calculate and pay tax on that income at the rate which is established by this Code or the above-mentioned international treaty without applying the concessions in question.</b></p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>Summarized information shall be presented to a tax agent by a foreign nominee holder, a foreign authorized holder or a person for whom a depository opened a depository program depository account within the following time periods:</p> <ol style="list-style-type: none"> <li>1) In the case of securities with mandatory centralized custody – <b>not later than five days</b> from the date as at which the depository which carries out the mandatory centralized custody of the securities discloses information on the transfer to its depositors of payments due to them in respect of securities;</li> <li>2) In the case of shares in Russian organizations – <b>not later than seven days</b> from the date as at which persons who have a right to receive dividends are determined in accordance with a decision of an organization.</li> </ol> <p>Tax audits</p> <p>Starting 1 January 2014, a special Article 214.8 was introduced to the Code, stipulating the types of documents that tax authorities shall have the right to request when performing in-house and on-site tax audits, as well the procedure for making the request and presenting the requested documents.</p> <p>Tax authorities shall have the right to request the following:</p> <ol style="list-style-type: none"> <li>1) Copies of identification documents for an individual who exercised rights in respect of securities;</li> <li>2) Copies of identification documents for an individual in whose interests a fiduciary exercised rights in respect of securities;</li> <li>3) Copies and originals of documents</li> </ol>

Topic	Description	Status in October 2013	Status in October 2014
			<p>confirming that an individual exercised rights in respect of securities;</p> <p>4) Copies and originals of documents confirming that a fiduciary exercised rights in respect of securities in the interests of an individual, and documents confirming the tax residence of the individual;</p> <p>5) Other documents confirming the correct calculation and payment of tax, including documents supporting information presented by foreign organizations acting in the interests of third parties.</p> <p>The request to present documents shall be made to the tax agent in accordance with the procedure envisaged by Article 93 of the Code. Where the requested information and (or) documents are not available, the tax agent shall send to the foreign organizations acting in the interests of third parties to which the income on securities of Russian organizations was paid a request to present the documents in question.</p> <p>Documents shall be presented to the tax authority not later than three months from the day on which the tax agent receives the relevant request.</p> <p>The time period for the presentation of documents requested in accordance with this Article may be extended by the decision of a tax authority, but not by more than three months.</p> <p>Documents may also be requested by tax authorities from a competent authority of a foreign state in cases provided for in international agreements of the Russian Federation.</p>

Topic	Description	Status in October 2013	Status in October 2014
	<p><b>4. Individual investment accounts</b></p>		<p>Special considerations relating to the determination of the tax base.</p> <p>Starting 1 January 2015, Federal Law No. 39-FZ, "On Securities Market," was amended by Article 10.3 determining <b>an individual investment account as the account of internal balance used to maintain separate records for cash, securities of an individual customer and obligations under agreements concluded at the customer's expense</b>. This account shall be opened and maintained by a broker or fiduciary under the brokerage services agreement or the agreement of trust management of securities which stipulates the procedure for opening and maintain an individual investment account.</p> <p>Starting 1 January 2015, <b>the tax base</b> on transactions recorded in an individual investment account shall be determined by a tax agent generally after the end of a tax period. Article 214.1 or Article 226.1 may introduce a different procedure.</p> <p>Particularly, according to the new clause 9.1 of Article 226.1 of the Code, the amount of tax on securities transactions recorded in an individual investment account shall be calculated, withheld and paid by a tax agent at the date of termination on an agreement to maintain the account.</p> <p>According to the new clause 15 of Article 226.1 of the Russian Tax Code, a tax agent generating income on transactions recorded in an individual investment account shall inform the tax authority on the opening or closing of such account at its location via</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>telecommunications channels within three days from the date of the relevant event.</p> <p>Investment tax deductions</p> <p>Starting 1 January 2015, the Code is amended with Article 219.1, "Investment Tax Deductions," according to which a taxpayer shall have the right to receive the following investment tax deductions:</p> <ol style="list-style-type: none"> <li>1) In the amount of the positive financial result obtained by the taxpayer in the tax period from the sale (redemption) of securities circulated on the organized securities market which the taxpayer has owned for more than three years;</li> <li>2) In the amount of cash which the taxpayer deposited in an individual investment account in the tax period;</li> <li>3) In the amount of income received on operations which are recorded in an individual investment account.</li> </ol> <p>An investment tax deduction such as is provided for in clause 1.1 of Article 219.1 of the Code shall be granted with respect to income received from the sale (redemption) of securities acquired after 1 January 2014. Deductions provided by clauses 1.2 and 1.3 of Article 219.1 of the Code shall be granted upon the transfer of funds and (or) receipt of income on individual investment accounts for which the agreements were concluded after 1 January 2014.</p>

Topic	Description	Status in October 2013	Status in October 2014
	<p><b>5. Depository receipts</b></p>	<p>For the purpose of Chapter 23 of the Tax Code, income received from sources outside of the Russian Federation comprise, inter alia, dividends and interest, received from a foreign organization with the exception of interest stipulated in Article 208.1.1 of the Code.</p>	<p>Starting 1 January 2015, Article 208.3.1 of the Code will also include <b>payments from an issuer of Russian depository receipts in respect of underlying securities.</b></p> <p>Under Article 214.1.6.1 of the Code (amendments will take effect starting 1 January 2015), <b>depository receipts shall be understood to mean Russian depository receipts and the securities of foreign issuers certifying rights in securities of Russian and (or) foreign issuers, and underlying securities shall be understood to mean securities with respect to which rights therein are certified by depository receipts.</b> The following shall not constitute a sale or other disposal of securities for the purposes of this Chapter:</p> <ol style="list-style-type: none"> <li>1) The redemption of depository receipts when underlying securities are received;</li> <li>2) The transfer of underlying securities upon the placement of depository receipts certifying rights in underlying securities.</li> </ol> <p>Special considerations relating to the determination of the tax base</p> <p><b>Expenses incurred by a taxpayer in connection with the sale or other disposal of underlying securities received upon the redemption of depository receipts</b> shall be determined on the basis of the acquisition price of the depository receipts (including expenses associated with the acquisition thereof) and expenses associated with the sale (disposal) of</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>the underlying securities. In this respect, where a taxpayer acquired depositary receipts when they were placed subject to the transfer of the underlying securities, the acquisition price of those depositary receipts shall be determined on the basis of the acquisition price of the underlying securities (including expenses associated with the acquisition thereof) and expenses associated with the transfer of the underlying securities.</p> <p><b>Expenses incurred by a taxpayer in connection with the sale or other disposal of depositary receipts received as a result of their placement</b> shall be determined on the basis of the acquisition price of underlying securities transferred upon the placement of the depositary receipts (including expenses associated with the acquisition thereof), expenses associated with that transfer and expenses associated with the sale (disposal) of the depositary receipts. In this respect, where a taxpayer acquired underlying securities upon the redemption of depositary receipts, the acquisition price of those underlying securities shall be determined on the basis of the acquisition price of the depositary receipts, expenses associated with that acquisition and expenses associated with the redemption of the depositary receipts.</p>

Topic	Description	Status in October 2013	Status in October 2014
<b>5. Mineral extraction tax (MET)</b>	<b>1. Zero tax rate</b>		<p><b>Oil extraction on subsurface sites which lie wholly or partially within the borders of the Republic of Sakha (Yakutia), the Irkutsk Region and Krasnoyarsk Territory is subject to taxation at a zero rate until the accumulated volume of oil extraction reaches 25 million tons</b> on a subsurface site and provided that <b>the period of development of the reserves of a subsurface site does not exceed 10 years</b> or is equal to 10 years in the case of a license to use subsurface resources for the purposes of prospecting for and the extraction of mineral resources, and <b>does not exceed 15 years</b> or is equal to 15 years in the case of a license to use subsurface resources simultaneously for geological survey (exploration, prospecting) and extraction of mineral resources from the date of state registration of the respective license to use subsurface resources.</p> <p>In the case of subsurface sites the development of which is to be completed by <b>1 January 2022 and the level of its reserve depletion (Ld) as of 1 January 2015 is less than or equal to 0.05</b>, a zero tax rate shall apply to the quantity of mineral resources extracted on a particular subsurface site until the accumulated volume of oil extraction reaches 25 million tons on subsurface sites which lie wholly or partially within the borders of the Republic of Sakha (Yakutia), the Irkutsk Region and Krasnoyarsk Territory, and provided that the development term for the subsurface site does not exceed seven years or is equal to seven years beginning on 1 January 2015.</p>

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			<p>Subsurface sites which lie to the north of the Arctic Circle wholly or partially within the borders of Russia's inland sea waters, territorial waters, and on the continental shelf.</p> <p>In the case of subsurface sites for which a license to use subsurface resources was issued prior to 1 January 2009 and the level of its reserve depletion (Ld) according to the state's balance sheet of mineral resource reserves as of 1 January 2015 is less than or equal to 0.05, a zero rate shall apply to the quantity of mineral resources extracted at a particular subsurface site until the accumulated volume of oil extraction reaches 35 million tons at subsurface sites which lie to the north of the Arctic Circle wholly or partially within the borders of inland sea waters, territorial waters and on the continental shelf of the Russian Federation, and provided that the development term for the subsurface site does not exceed seven years or is equal to seven years beginning on 1 January 2015.</p> <p>Subsurface sites which lie wholly or partially in the territory of the Nenets Autonomous District and the Yamal peninsular in the Yamal-Nenets Autonomous District</p> <p>In the case of subsurface sites <b>the development of which is to be completed by 1 January 2022 and the level of its reserve depletion (Ld) as of 1 January 2015 is less than or equal to 0.05</b>, a zero rate shall apply to the quantity of mineral resources extracted at a particular subsurface site <b>until the accumulated volume of oil extraction reaches 15 million tons</b> at subsurface sites</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>which lie wholly or partially in the territory of the Nenets Autonomous District and the Yamal peninsular in the Yamal-Nenets Autonomous District, and <b>provided that the development term for the subsurface site does not exceed seven years or is equal to seven years beginning on 1 January 2015.</b></p> <p>Subsurface sites which lie wholly within the borders of Russia's inland sea waters, territorial waters and on the continental shelf of the Russian Federation or in the Russian part (Russian sector) of the bed of the Caspian Sea</p> <p>Tax shall be levied at a zero rate in the case of the extraction of hydrocarbons from a hydrocarbon reservoir at a subsurface site which lies wholly within the borders of inland sea waters, territorial waters and on the continental shelf of the Russian Federation or in the Russian part (Russian sector) of the bed of the Caspian Sea, provided that at least one of the following conditions is met:</p> <p>The level of depletion of reserves of each type of hydrocarbon (excluding associated gas) extracted from the hydrocarbon reservoir in question as of 1 January 2016 is less than 0.1%;</p> <p>Reserves of hydrocarbons extracted from the hydrocarbon reservoir in question as of 1 January 2016 have not been placed on the state balance sheet of reserves of commercial minerals.</p> <p><b>These provisions shall apply</b> until the end of the tax period in which falls the date on which the process design for the development of the</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>offshore hydrocarbon deposit within whose boundaries the relevant reservoir (reservoirs) is situated was first approved in accordance with the established procedure, but not for more than sixty calendar months beginning on the 1st of the month following the month in which any type of hydrocarbon from the relevant hydrocarbon reservoir which is subject to tax is first placed on the state balance sheet of commercial minerals.</p>
	<p><b>2. Change in rates, including the application of adjustment coefficients</b></p>	<p>Standard ores of ferrous metals Until 1 January 2014 the tax rate was 4.8%.</p>	<p>An adjustment coefficient reflecting the method of extraction of standard ores of ferrous metals (Cund) and determined in accordance with Article 342.1 of the Code will be effective from 1 January 2014 till 31 December 2023.</p> <p>The coefficient reflecting the method of extraction of standard ores of ferrous metals (Cund) shall be taken to be equal to:</p> <ol style="list-style-type: none"> <li>1) 0.1 in the case of the extraction of standard ores of ferrous metals at a subsurface site at which balance sheet reserves of ferrous metals to be worked by underground methods account for more than 90% of balance sheet reserves of ores of ferrous metals at that subsurface site;</li> <li>2) 1 in the case of the extraction of standard ores of ferrous metals at a subsurface site which does not meet the criterion specified in subsection 1 of this clause.</li> </ol> <p>The value of the coefficient Cund shall be applied in relation to a subsurface site at which the extraction of standard ores of ferrous metals is expected to be completed in full not</p>

Topic	Description	Status in October 2013	Status in October 2014
		<p>As for dewatered, desalted and stabilized oil:</p> <p>RUB493 per ton of extracted dewatered, desalted and stabilized oil (during the period from 1 January through 31 December 2014)</p>	<p>later than 1 January 2024.</p> <p>The procedure for confirming the completion of the extraction of standard ores of ferrous metals at a subsurface site as of a particular date shall be determined by the Government of the Russian Federation.</p> <p>RUB530 (during the period from 1 January through 31 December 2015)</p> <p>RUB559 per ton of extracted dewatered, desalted and stabilized oil (during the period from 1 January 2016)</p> <p>Additional adjustment coefficients for new offshore deposits are to be introduced.</p> <p>Tax shall be levied at the tax rate of:</p> <ol style="list-style-type: none"> <li>1) 30% in the case of the extraction of commercial minerals until the expiry of the time periods and at the deposits which are referred to in Article 338.6.1 of the Code (the deposits which lie wholly in the Sea of Azov or have 50% or more of their area in the Baltic Sea);</li> <li>2) 15% in the case of the extraction of commercial minerals until the expiry of the time periods and at the deposits which are referred to in Article 338.6.2 of the Code (the deposits which have 50% or more of their area in the Black Sea (up to 100 meters deep inclusively), the Pechora Sea, the White Sea or the Sea of Japan, the southern part of the Sea of Okhotsk (south of 55 degrees north latitude) or the</li> </ol>

Topic	Description	Status in October 2013	Status in October 2014
			<p>Russian part (Russian sector) of the bed of the Caspian Sea);</p> <p>3) 10% in the case of the extraction of commercial minerals (with the exception of natural fuel gas) until the expiry of the time periods and at the deposits which are referred to in Article 338.6.3 of the Code (the deposits which have 50% or more of their area in the Black Sea (more than 100 meters deep), the northern part of the Sea of Okhotsk (at or north of 55 degrees north latitude) or the southern part of the Barents Sea (south of 72 degrees north latitude));</p> <p>4) 5% in the case of the extraction of commercial minerals (with the exception of natural fuel gas) until the expiry of the time periods and at the deposits which are referred to in Article 338.6.4 of the Code (the deposits which have 50% or more of their area in the Kara Sea, the northern part of the Barents Sea (at or north of 72 degrees north latitude) and the eastern Arctic (the Laptev Sea, the East Siberian Sea, the Chukchi Sea and the Bering Sea). In this respect, tax shall be levied at the tax rate of 4.5% in the case of the extraction of commercial minerals (with the exception of natural fuel gas) by organizations which do not have the right to export liquefied natural gas produced from natural fuel gas extracted at new offshore hydrocarbon deposits to world markets, until the expiry of the time periods and at the deposits which are referred to in Article 338.6.4 of the Code;</p> <p>5) 1.3% in the case of the extraction of natural fuel gas until the expiry of the time periods and</p>

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			<p>at the deposits which are referred to in Article 338.6.3 of the Code (the deposits which have 50% or more of their area in the Black Sea (more than 100 meters deep), the northern part of the Sea of Okhotsk (at or north of 55 degrees north latitude) or the southern part of the Barents Sea (south of 72 degrees north latitude);</p> <p>6) 1% in the case of the extraction of natural fuel gas until the expiry of the time periods and at the deposits which are referred to in Article 338.6.4 of the Code (the deposits which have 50% or more of their area in the Kara Sea, the northern part of the Barents Sea (at or north of 72 degrees north latitude) and the eastern Arctic (the Laptev Sea, the East Siberian Sea, the Chukchi Sea and the Bering Sea).</p> <p>An additional adjustment coefficient reflecting the territory in which a commercial mineral is extracted (Cte) is to be introduced (with the exception of tax rates which are applied in relation to common commercial minerals and underground industrial and thermal waters).</p> <p>Article 342.3 of the Code.</p> <p>The coefficient reflecting the territory in which a commercial mineral is extracted (Cte) shall be applied by a participant in a regional investment project aimed at the extraction of commercial minerals commencing from the tax period in which the organization was included in the register of participants in regional investment projects.</p>

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			<p>The coefficient (Cte) shall be applied by a taxpayer provided that the conditions of the license to use subsurface resources are met and the requirements of the duly agreed and approved technical plan for the exploration and (or) development of a subsurface site are fulfilled.</p> <p>The coefficient (Cte) shall be taken to be equal to zero until the application of the zero tax rate of tax on the profit of organizations.</p> <p>During the one hundred and twenty tax periods from the commencement of the application of the zero rate of tax on the profit of organizations the coefficient (Cte) shall be taken to be equal to:</p> <ol style="list-style-type: none"> <li>1) 0 – during the first twenty-four tax periods;</li> <li>2) 0.2 – from the twenty-fifth to the forty-eighth tax period inclusively;</li> <li>3) 0.4 – from the forty-ninth to the seventy-second tax period inclusively;</li> <li>4) 0.6 – from the seventy-third to the ninety-sixth tax period inclusively;</li> <li>5) 0.8 – from the ninety-seventh to the one hundred and twentieth tax period inclusively;</li> <li>6) 1 – in subsequent tax periods.</li> </ol> <p>Formulas for calculating the MET rate for natural fuel gas and gas condensate</p> <p>Starting 1 July 2014, new formulas for calculating the MET rate for natural fuel gas and gas condensate will become effective.</p>

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			<p>According to Article 342.2.10 of the Code, new MET rate will be RUB42 per ton of the gas condensate. This amount shall be multiplied by the base value of a unit of standard fuel (U<sub>sf</sub>) and by a coefficient reflecting the degree of difficulty of the extraction of natural fuel gas and (or) gas condensate from a hydrocarbon reservoir (C<sub>df</sub>). Starting 1 July 2014, the tax rate for natural fuel gas is set at RUB35 per 1,000 cubic meters of gas. It shall be multiplied by U<sub>sf</sub> and C<sub>df</sub>, and the product obtained shall be added to the value of the indicator reflecting expenses for the transportation of natural fuel gas (T<sub>g</sub>). The tax rate calculated in accordance with the above principle shall be rounded to a whole rouble.</p> <p>The procedure for determining the coefficient C<sub>df</sub> as well as indicators U<sub>sf</sub> and C<sub>df</sub> is given in Article 342.4 of the Code.</p> <p>Starting 1 January 2014, the tax rate for gas condensate extracted from all types of hydrocarbon deposits will be RUB647 per ton (Article 342.2.10 of the Code).</p> <p>The tax rate for natural fuel gas extracted from all types of hydrocarbon deposits will be RUB700 per 1,000 cubic meters of gas (Article 342.2.11 of the Code). The tax rate shall be multiplied by 0.673 by the following taxpayers:</p> <ul style="list-style-type: none"> <li>- Taxpayers which are not during the entire tax period organizations which are owners of facilities of the Unified Gas Supply System;</li> </ul>

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			<p>- Taxpayers which are not during the entire tax period organizations in which the owners of facilities of the Unified Gas Supply System have a direct and (or) indirect participating interest with the aggregate of such participating interests amounting to more than 50%.</p> <p>The coefficient reflecting the degree of difficulty of oil extraction (Cde) used to calculate the tax rate for dewatered, desalted and stabilized oil</p> <p>Clause 1 of Article 342.2 of the Code determines five values of the coefficient reflecting the degree of difficulty of oil extraction (Cde): 0, 0.2, 0.4, 0.8 and 1.</p> <p>In order to apply the first four coefficient values the following conditions should be met: the extraction of oil from the deposits which are classed as occurring within certain productive formations or compliance with established permeability and net pay of the reservoir.</p> <p>As a general rule, a reduced coefficient Cde may be applied for a period of 10 to 15 years (depending on the grounds for the application of this exemption), beginning on 1 January of the year in which the depletion of a hydrocarbon deposit's reserves first exceeded 1%. However, starting 1 January 2015, there will be exceptions to this rule for:</p> <p>- All reservoirs that are subject to any reduced coefficient Cde. In the case when the level of depletion of reserves as of 1 January 2013 exceeds 1% and at the same time is less than 13% or 3% (depending on the grounds for the application of this exemption) for reserves</p>

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			<p>recorded in the state balance sheet as of 1 January 2012, the 10- or 15-year period required to determine the end date of the period of use of the reduced coefficient Cde is calculated starting 1 January 2014;</p> <p>- The reservoirs which are classified as occurring within the Bazhenov, Abalak, Khadum and Domanik productive formations. The Cde zero tax rate is applied for oil extracted from these reservoirs before 1 January 2030 provided that the level of depletion as of 1 January 2012 exceeds 3%, but is less than 13% for reserves entered on the state balance sheet.</p> <p>The provisions listed above are aimed to encourage the development of hard-to-recover reserves.</p> <p>Refined procedure for calculating coefficient Cd for reserves which are not entered on the state balance sheet.</p> <p>In order to calculate the coefficient reflecting the level of depletion of reserves of a particular subsurface site (Cd) the initial recoverable oil reserves indicator as of 1 January 2006 is required. The amended clause specifies how to determine the value of Cd in the event that oil reserves as of the specific date were not entered on the state balance sheet of commercial minerals. According to Article 342.4.5 of the Code, in this case the initial recoverable oil reserves shall be determined on the basis of the indicator as of 1 January of the year following the year in which oil reserves were first entered on the state balance sheet of reserves of commercial minerals.</p>

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			According to clause 2 of Article 342.2 of the Code (amendments will take effect starting 1 January 2015), the date of the entry of oil reserves on the state balance sheet of reserves of commercial minerals shall be deemed to be the date when the federal executive body that maintains it approves the report on the state expert appraisal of reserves of commercial minerals.
6. Corporate profits tax	1. Procedure for the calculation of amortization	<p>An <b>increase coefficient</b> can be applied to the <b>basic amortization norm only for those fixed assets operating in an aggressive environment that were recorded prior to 1 January 2014.</b></p> <p><b>Assets acquired (created) using budgetary resources:</b></p> <p>1) Are not subject to amortization. However, in practice there may be a need to <b>determine the cost</b> of the assets in question, e.g., in case they are reconstructed at the entity's own expense.</p>	<p>Starting 1 January 2014, it <b>shall not be permitted</b> (clause 5 of Article 259.3 of the Russian Tax Code (the "Code") <b>for more than one special coefficient to be applied to the basic amortization norm at the same time.</b></p> <p>Starting 1 January 2019, Federal Law No. 219-FZ of 21 July 2014 introduces the right to apply a special coefficient of 2 to the amortizable fixed assets related to <b>basic technological equipment operating in cases where the best available technologies are used. The list of basic technological equipment shall be approved</b> by the Government of the Russian Federation.</p> <p>According to the newly introduced paragraph of Article 257.1 of the Code, the historical cost of assets created using budgetary special-purpose financing resources shall be determined as the amount of expenses incurred for the acquisition, erection, manufacture and delivery of the assets and in</p>

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		<p>2) Are subject to amortization if they were acquired <b>partially using budgetary resources and partially using the entity's own funds.</b></p>	<p>rendering them fit for use, excluding value-added tax and excise duties except in cases provided for in this Code, <b>minus the amount of expenses incurred out of budgetary special-purpose financing resources.</b></p> <p>Thus, based on the above, only <b>the portion of the cost of fixed assets paid by the taxpayer using its own funds is subject to amortization.</b></p>
	<p><b>2. Interest on debt obligations</b></p>	<p>According to Article 269.1.1 of the Code, if there were no debt obligations to Russian organizations issued in the same quarter under comparable conditions, or at the taxpayer's choice, the maximum amount of interest which may be recognized as an expense shall be taken to be <b>from 1 January 2011 to 31 December 2013 inclusively</b> equal to the rate of interest established by agreement between the parties but not greater than the refinancing rate of the Central Bank of the Russian Federation multiplied by 1.8 in the case of a debt obligation arranged in rubles or a coefficient of 0.8 in the case of debt obligations in foreign currency.</p>	<p><b>The validity of the limits was extended for 2014.</b></p>
	<p><b>3. Recognizing interest as income and expenses if they are paid on the contractual date</b></p>	<p>In the case of loan agreements or other similar agreements (other debt obligations, including securities) whose period of validity spans more than one reporting period, income shall be deemed to have been received and shall be included in relevant income <b>at the end of the month of the relevant reporting period</b> (Article 271.6 of the Code before amendments).</p>	<p>According to Article 271.6 of the Code as amended by Federal Law No. 420-FZ of 28 December 2013, in the case of loan agreements or other similar agreements (including debt obligations executed in the form of securities) whose period of validity spans more than one reporting (tax) period, income shall be deemed to have been received and shall be included in relevant income <b>at the end of each month of the relevant reporting (tax) period, irrespective of the date of payment (time limits for payment) thereof which is stipulated in the agreement.</b></p>

Topic	Description	Status in October 2013	Status in October 2014
		<p>In the case of loan agreements or other similar agreements (other debt obligations, including securities) whose period of validity spans more than one reporting period, an expense shall be deemed to have been incurred and shall be included in relevant expenses <b>at the end of the month of the relevant reporting period</b> (Article 271 of the Code before amendments).</p>	<p>Similar amendments have been made to Article 272 of the Code: in the case of loan agreements or other similar agreements (including debt obligations executed in the form of securities) whose period of validity spans more than one reporting (tax) period, an expense shall be deemed to have been incurred and shall be included in relevant expenses <b>at the end of each month of the relevant reporting (tax) period, irrespective of the date of (time limits for) such payments which is stipulated in the agreement.</b></p>
	<p><b>4. Loss carry-forward to the current reporting period</b></p>	<p>Taxpayers had the right to reduce the tax base for the <b>current tax</b> period, but the Russian Ministry of Finance permitted this with respect to the <b>reporting period</b>.</p>	<p>According to Article 283.1 of the Code as amended by Federal Law No. 420-FZ of 28 December 2013, taxpayers which made a loss (losses) in the preceding tax period or in preceding tax periods shall have the right to reduce the tax base for the <b>current reporting (tax) period</b> by the entire amount of the loss made by them or by a part of that amount.</p>
	<p><b>5. Gains from the decrease in the charter capital</b></p>		<p>According to Article 251.1.4 of the Code as amended by Federal Law No. 420-FZ of 28 December 2013, the following types of <b>income shall not be taken</b> into account when determining the tax base: income in the form of assets and property rights which have been received <b>within the limits of the investment (contribution)</b> by a participant in a company or partnership (a legal successor or heir of such participant) <b>when the charter capital is reduced</b> in accordance with the legislation of the Russian Federation, <b>when it withdraws (departs)</b> from the company or partnership or <b>when the assets</b> of a company or partnership which is undergoing liquidation <b>are divided</b> among the participants therein.</p>

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	<p><b>6. Determining the acquisition price of property rights for the purpose of reducing income from their sale</b></p>		<p>Starting 1 January 2014, Article 268.1.2.1 of the Code <b>introduces a special rule for the case in question:</b></p> <p>In the case of the sale of shares and interests <b>where the sale was preceded by a decrease in the charter capital of a company (partnership) through a decrease in the nominal value</b> of shares and interests within the limits of the investment (contribution) to the charter capital of a company (partnership), <b>the acquisition price of these shares and interests shall be reduced by the value of assets (property rights) previously received by the participant</b> in a company (partnership) <b>as a result of the decrease in the charter capital</b> of the company (partnership) in accordance with the legislation of the Russian Federation within the limits of the investment (contribution).</p>
	<p><b>7. A depository is a tax agent for both a foreign and Russian organization with respect to payments of dividends on shares issued by a Russian organization</b></p>	<p>Prior to January 2014, a depository with respect to the transactions in question was deemed to be a tax agent <b>for foreign organizations only.</b></p>	<p>Starting June 2014, the new wording of Article 275.7.4-6 of the Code took effect, according to which a depository paying dividends on shares issued by a Russian organization shall be a tax agent for both <b>foreign and Russian organizations.</b></p> <p>Depositories which transferred dividends to Russian organizations in 2014 without tax having been withheld on those dividends <b>shall be obliged to provide information on such payments to the tax authorities by 31 January 2015</b> (Article 3.3 of Federal Law No. 167-FZ of 23 June 2014).</p>

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			The tax agent which failed to withhold and pay to the budget profits tax on dividends paid in 2014 <b>shall be exempt from the liability</b> (Article 3.1 of Federal Law No. 167-FZ of 23 June 2014).
	<b>8. Expenses</b>	<p>1) According to paragraph 5 of Article 264.4 of the Code, expenses <b>for other types of advertising not referred</b> to in paragraphs 2-4 of this clause which were incurred by the taxpayer during the reporting (tax) period <b>shall be recognized</b> for taxation purposes <b>in an amount not exceeding 1% of sales receipts</b>.</p> <p>2) Expenses on the performance of work involving the sidetracking of development wells. Prior to January 2014, the issue was <b>controversial and considered part of the position reflected in Ruling No. 11495/10 of the Presidium of the Supreme Arbitration Court of the Russian Federation of 1 February 2011</b>. Such expenses were treated as either expenses for reconstruction or expenses for capital repairs.</p>	<p>1) The list of advertising expenses which are unrestricted for profits tax purposes was expanded <b>to include expenses for promotions in the context of film and video services</b>.</p> <p>2) Starting 1 January 2014, the list of expenses recognized for profits tax purposes as expenses for the development of natural resources <b>was expanded to include expenses on the performance of work involving the sidetracking of development wells</b> (Article 261.1 of the Code).</p> <p>3) Starting 1 January 2014, taxpayers shall be entitled to deduct for profits tax purposes:</p> <ul style="list-style-type: none"> <li>- <b>Expenses on voluntary insurance</b> which is undertaken in accordance with the legislation of the Russian Federation in order to guarantee the financing of measures <b>provided for in a plan for the prevention of and response to spills of oil and oil products</b> (Article 263.1.9.3 of the Code).</li> <li>- <b>Expenses</b> incurred by a taxpayer to which the right to use a subsurface site passes in accordance with the procedure established by the legislation of the Russian Federation <b>in the form of compensation for expenses for the development of natural resources</b></li> </ul>

Topic	Description	Status in October 2013	Status in October 2014
			<p><b>which were incurred by the previous holder of the license to use that subsurface site for the purpose of acquiring that license, in the amount of the taxpayer's actual expenditures.</b></p>
	<p><b>9. Taxation of credit consumer co-operatives and microfinance organizations</b></p>		<p>Starting 1 January 2014, the Code introduces a specific procedure for calculating the income and expenses of credit consumer co-operatives and microfinance organizations.</p> <p><b>The income</b> of consumer co-operatives and microfinance organizations includes, in particular, the following items of income:</p> <ol style="list-style-type: none"> <li>1) Income in the form of interest on loans provided in accordance with the legislation of the Russian Federation;</li> <li>2) Income in the form of amounts received in respect of loans repaid where losses associated with the write-off of those loans were previously included in expenses in determining the tax base;</li> <li>3) Income in the form of amounts received by credit consumer co-operatives and microfinance organizations in respect of loans repaid which were charged to reserves.</li> </ol> <p>The following are <b>not included in the income</b> of credit consumer co-operatives and microfinance organizations: income in the form of insurance payments received under agreements on insurance against the death or disability of a borrower and insurance payments received under agreements on the insurance of assets which serve as security for a borrower's obligations (collateral) within the</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>limits of the amount of the borrower's outstanding indebtedness in respect of loan (credit) resources, interest charges, fines and penalties recognized by a court that is to be settled out of those insurance payments.</p> <p><b>The expenses</b> of credit consumer co-operatives and microfinance organizations shall include, in particular, the following expenses:</p> <ol style="list-style-type: none"> <li>1) Expenses in the form of interest on loans, credits and other debt obligations associated with the attraction of monetary resources in accordance with the legislation concerning credit co-operation and microfinance activities;</li> <li>2) Expenses associated with guarantees and surety bonds provided to credit consumer co-operatives and microfinance organizations by other organizations and by individuals;</li> <li>3) Expenses in the form of allocations to a reserve for possible losses on loans where expenses for the formation of such a reserve are included in expenses by credit consumer co-operatives and microfinance organizations;</li> <li>4) Expenses in the form of amounts of insurance contributions under agreements on insurance against the death or disability of a borrower of a credit consumer co-operative or a microfinance organization in which the credit consumer co-operative or microfinance organization is the beneficiary, where the expenses in question are compensated by borrowers.</li> </ol>

Topic	Description	Status in October 2013	Status in October 2014
			<p><b>Amounts of allocations to reserves for possible losses on loans shall be included in non-sale expenses</b> during a reporting (tax) period.</p> <p><b>Amounts of reserves for possible losses on loans shall be used</b> by credit consumer co-operatives and microfinance organizations in writing off bad debt in respect of loans from the balance sheet in accordance with the procedure established by the Central Bank of the Russian Federation.</p>
	<p><b>10. Payment of profits tax on income from certain types of securities which is paid to foreign organizations acting in the interests of third parties</b></p>	<p>Where information is available, the tax shall be withheld at the rate set for this type of income. Where no information is available, the <b>30% tax rate</b> shall be applied.</p> <p><b>A foreign nominee holder shall present information</b> not later than three working days from the date on which the depository which carries out mandatory centralized custody of securities discloses information on the transfer to its depositors of payments due to them in respect of securities (clause 8 of Article 310.1 of the Code).</p>	<p>Starting 1 January 2014, an exception was introduced to clause 9 of Article 310.1 of the Code. The 30% tax rate does not apply to income received in the form of dividends on shares in Russian organizations which are taxable at a tax rate which is lower than the tax rate established by this Code or an international agreement of the Russian Federation, and the application of that reduced rate depends on compliance with conditions laid down in this Code or the above-mentioned international agreement. The tax agent shall calculate and pay the amount of tax at the rate which is established by this Code or the above-mentioned international agreement for income in the form of dividends on shares in Russian organizations without applying the appropriate exemptions.</p> <p>Summarized information shall be presented to a tax agent by a foreign nominee holder, a foreign authorized holder or a person for whom a depository opened a depository program depository account within the following time periods:</p>

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			<p>1) In the case of securities with mandatory centralized custody – <b>not later than five days</b> from the date on which the depository which carries out mandatory centralized custody of the securities discloses information on the transfer to its depositors of payments due to them in respect of securities;</p> <p>2) In the case of shares in Russian organizations – <b>not later than seven days</b> from the date on which persons who have a right to receive dividends are determined in accordance with a decision of an organization.</p> <p><b>Special tax audits</b></p> <p>Starting 1 January 2014, a separate Article 310.2 was introduced to the Code stipulating the types documents that tax authorities shall have the right to request when performing in-house and on-site tax audits, as well as the procedure for making the request and presenting the requested documents.</p> <p><b>Tax authorities shall have the right to request the following:</b></p> <p>1) Copies of documents confirming the state registration and full name of an organization which, at the date specified in the decision of a Russian organization to pay income on securities, exercised rights in respect of securities of the Russian organization (securities of a foreign organization certifying rights in respect of shares in the Russian organization);</p> <p>2) Copies of documents confirming the state registration and full name of an organization in whose interests, at the date</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>specified in a decision of a Russian organization to pay income on securities, a fiduciary exercised rights in respect of securities of that Russian organization (securities of a foreign organization certifying rights in respect of shares in the Russian organization);</p> <p>3) Copies and originals of documents confirming that, at the date specified in a decision of a Russian organization to pay income on securities, an organization exercised rights in respect of securities of that Russian organization (securities of a foreign organization certifying rights in respect of shares in the Russian organization), and documents confirming the tax residence of that organization;</p> <p>4) Copies and originals of documents confirming that, at the date specified in a decision of a Russian organization to pay income on securities, a fiduciary exercised rights in respect of securities of that Russian organization (securities of a foreign organization certifying rights in respect of shares in the Russian organization) in the interests of an organization, and documents confirming the tax residence of that organization;</p> <p>5) Other documents confirming the correct calculation and payment of tax, including documents supporting information presented by foreign organizations acting in the interests of third parties.</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p><b>The request to present documents shall be made in accordance with the procedure envisaged by Article 93 of the Code.</b> Where the requested information and (or) documents are not available, the tax agent shall send to the foreign organizations acting in the interests of third parties to which income on securities of Russian organizations was paid a request to present the documents in question.</p> <p>Documents <b>must be presented to the tax authority not later than three months</b> from the day on which the tax agent receives the relevant request.</p> <p>The time period for the presentation of documents requested in accordance with this Article <b>may be extended by a decision of a tax authority, but not by more than three months.</b></p> <p>Documents <b>may also be requested by tax authorities from a competent authority</b> of a foreign state in cases provided for in international agreements of the Russian Federation.</p>

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	<p><b>11. Recognition of interest on debt obligations</b></p>	<p>The version of the Code effective prior to 1 January 2015 (Article 269) provides for the following:</p> <p>Interest charged on any kind of debt obligation shall be deemed an expense <b>provided that the amount</b> of interest incurred by the taxpayer in respect of the debt obligation <b>does not deviate significantly from the average level of interest</b> charged on debt obligations issued in the same quarter (month - for taxpayers which have transferred to the calculation of monthly advance payments on the basis of profit actually earned) <b>under comparable conditions.</b></p> <p><b>Debt obligations issued under comparable conditions shall be understood to mean</b> debt obligations issued in the same currency for the same periods in comparable amounts against similar collateral. <b>For the purposes of determining the average level of interest for interbank credits,</b> only information on interbank credits shall be taken into consideration.</p> <p><b>A significant deviation of the amount</b> of interest charged on a debt obligation shall be understood to mean an upward or downward deviation of more than 20% against the average level of interest charged on similar debt obligations issued in the same quarter under comparable conditions.</p> <p><b>If there were no debt obligations issued in the same quarter under comparable conditions, or at the taxpayer's choice,</b> the maximum amount of interest which may be recognized as an expense (including interest and value differences in respect of obligations expressed in notional monetary units on the basis of the exchange rate of notional monetary units established by an agreement between the parties) shall be taken to be equal to the refinancing rate of the Central Bank of the Russian Federation increased by a factor of 1.1 in the case of a debt obligation arranged in rubles and equal to 15% in the case of debt obligations in foreign currency.</p>	<p>According to paragraph 3 of Article 269.1 of the Code (the version effective from 1 January 2015), <b>with regard to any kind of debt obligation arising from transactions regarded as controlled transactions under the Code, interest charged based on the actual rate subject to provisions of Section V.1 of the Code shall be deemed an income (expense), unless provided otherwise.</b></p> <p>With regard to a debt obligation arising from a transaction regarded as a controlled transaction under the Code, where any of the parties involved is a bank, the taxpayer has a right to:</p> <p>Deem as an income the interest charged based on the actual rate on such debt obligations, where such a rate does not exceed the minimum value of the range of limiting values.</p> <p>Deem as an expense the interest charged based on the actual rate on such debt obligations, where such a rate is less than the maximum value of the range of limiting values.</p> <p>If the above conditions are not met, with regard to debt obligations arising from transactions regarded as controlled transactions under the Code, where any of the parties involved is a bank, the interest charged based on the actual rate shall be deemed an income (expense).</p> <p>Article 269.1.2 of the Code defines the appropriate <b>ranges of limiting values of interest rates on debt obligations.</b></p> <p><b>Thin capitalization rules (Article 269.2 of the Code) remain unchanged.</b></p>

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	<p><b>12. Exchange rate and value differences</b></p>	<p>According to Article 250 of the Code (the version effective prior to 1 January 2015), the non-sale income of a taxpayer shall include, in particular, income in the form of a value difference which arises for a taxpayer where the amount of obligations and claims that have arisen as calculated on the basis of the exchange rate of nominal monetary units which has been established by agreement between the parties as of the date of the sale (entry in accounting records) of goods (work and services) and property rights does not correspond to the amount actually received (paid) in rubles.</p> <p>According to Article 265 of the Code (the version effective prior to 1 January 2015), non-sale expenses not associated with production and sales shall include justified expenditures on carrying out activities which are not directly associated with production and (or) sales. Such expenses shall include, in particular, expenses in the form of a value difference which arises for a taxpayer where the amount of obligations and claims that have arisen as calculated on the basis of the exchange rate of nominal monetary units which has been established by agreement between the parties as of the date of the sale (entry in accounting records) of goods (work and services) and property rights does not correspond to the amount actually received (paid) in rubles.</p>	<p>Starting 1 January 2015, the Code no longer contains the concept of “value differences” and the special procedure for their recognition. Value differences as they are currently understood will become a part of exchange rate differences and will be treated according to the same accounting principles. This also applies to the regular revaluation of obligations and claims.</p> <p>According to Article 3.3 of Federal Law No. 81-FZ of 20 April 2014, value differences which arise for a taxpayer from transactions entered into before 1 January 2015 are taken into account for corporate profits tax purposes in line with the procedure established before the date this law becomes effective.</p>

Topic	Description	Status in October 2013	Status in October 2014
	<p><b>13. Income from the sale of assets received free of charge</b></p>	<p>According to paragraph 2 of Article 254.2 of the Code (the version effective prior to 1 January 2015), the value of inventories and other assets in the form of surpluses discovered as a result of an inventory count and (or) assets obtained as a result of the dismantling or disassembly of fixed assets which are removed from service and upon carrying out the repair, modernization, reconstruction, retooling and partial dismantling of fixed assets shall be determined as the amount of income which was recognized by the taxpayer in the manner prescribed by clauses 13 and 20 of part 2 of Article 250 of the Code.</p>	<p>According to paragraph 2 of Article 254.2 of the Code (the version effective after 1 January 2015), the value of inventories and other assets in the form of surpluses discovered as a result of an inventory count, <b>and (or) assets obtained free of charge</b>, and (or) assets obtained as a result of the dismantling or disassembly of fixed assets which are removed from service and upon carrying out the repair, modernization, reconstruction, retooling and partial dismantling of fixed assets shall be determined as the amount of income which was recognized by the taxpayer in the manner prescribed by <b>clauses 8, 13 and 20 of part 2 of Article 250 of the Code (clause 8 of Article 250 of the Code – based on market prices)</b>.</p>
	<p><b>14. LIFO method</b></p>	<p>According to Article 254.8 of the Code (the version effective prior to 1 January 2015), for the purpose of determining the amount of material expenses when writing off raw materials and other materials which are used in the production (manufacture) of goods (performance of work, rendering of services), in accordance with the accounting policies adopted by an organization for taxation purposes</p> <p>Furthermore, the respective provisions are excluded from Articles 268 and 329 of the Code.</p>	<p><b>Starting from 1 January 2015, the LIFO method shall not be applied.</b></p>

Topic	Description	Status in October 2013	Status in October 2014
	<p><b>15. New rules for determining the loss arising from the cession of the claim before and after the payment deadline envisaged by the agreement</b></p>	<p>1) Before the payment deadline:</p> <p>According to Article 279.1 of the Code, where a taxpayer which sells goods (work and services) and calculates income (expenses) according to the accrual-basis method cedes a debt claim to a third party before the payment deadline envisaged by the agreement on the sale of goods (work and services) is reached, any negative difference between income from the sale of the debt claim and the value of the goods (work and services) sold shall be deemed to be a loss of the taxpayer.</p> <p>In this respect, the amount of the loss for taxation purposes may not exceed the amount of interest which the taxpayer would have paid, <b>taking into account the requirements of Article 269 of the Code, in respect of a debt obligation equal to income from the cession of the claim for the period from the date of cession up to the date of payment which is envisaged by the agreement on the sale of goods (work and services).</b></p>	<p>1) Before the payment deadline:</p> <p>According to the new version of Article 279.1 of the Code, where a taxpayer which sells goods (work and services) and calculates income (expenses) according to the accrual-basis method cedes a debt claim to a third party before the payment deadline envisaged by the agreement on the sale of goods (work and services) is reached, any negative difference between income from the sale of the debt claim and the value of the goods (work and services) sold shall be deemed to be a loss of the taxpayer.</p> <p>In this respect, the amount of the loss for taxation purposes may not exceed the amount of interest which the taxpayer would have paid <b>based on the maximum interest rate set for the respective type of currency by Article 269.1.2 of the Code, or at the taxpayer's choice, based on the interest rate confirmed according to the methods set by Section V.1 of the Code in respect of a debt obligation equal to income from the cession of the claim for the period from the date of cession up to the date of payment which is envisaged by the agreement on the sale of goods (work and services).</b></p> <p><b>The procedure for loss recognition in accordance with this clause shall be documented in the taxpayer's accounting policy.</b></p> <p>Starting 1 January 2015, Article 279 of the Code shall be expanded to include a new clause 4, according to which where a debt claim is ceded before the payment deadline</p>

Topic	Description	Status in October 2013	Status in October 2014
		<p>2) After the payment deadline:</p> <p>According to Article 279.2 of the Code (the version effective prior to 1 January 2015), the loss shall be recognized for taxation purposes according to the following procedure:</p> <p><b>50% of the amount of the loss shall be included in the composition of non-sale expenses as of the date of cession of the claim;</b></p> <p><b>50% of the amount of the loss shall be included in the composition of non-sale expenses after the expiry of a period of 45 calendar days from the date of cession of the claim.</b></p>	<p>envisaged by the agreement on the sale of goods (work and services) is reached and the cession transaction is deemed a controlled transaction under Section V.1 of the Code, <b>the actual price of the transaction shall be deemed a market price subject to the provisions of Article 279.1 of the Code.</b></p> <p><b>If the cession of the debt claim is deemed a controlled transaction under Section V.1 of the Code, the price of the transaction shall be defined subject to the provisions of Section V.1 of the Code.</b></p> <p>2) After the payment deadline:</p> <p>According to the amended Article 279.2 of the Code, where a taxpayer which sells goods (work and services) and calculates income (expenses) according to the accrual-basis method cedes a debt claim to a third party after the payment deadline envisaged by the agreement on the sale of goods (work and services) is reached, <b>any negative difference between income from the sale of the debt claim and the value of the goods (work and services) sold shall be deemed to be a loss from the cession of the claim as of the date of cession.</b></p>

Topic	Description	Status in October 2013	Status in October 2014
	<p><b>16. Depositary receipts</b></p>		<p>Starting 1 January 2015, Chapter 25 of the Code shall be expanded to include Article 299.5, establishing the specific procedure for determining the income and expenses of issuers of Russian depositary receipts.</p> <p><b>The income of taxpayers that are issuers of Russian depositary receipts</b> shall include the types of income envisaged in Articles 249 and 250 of the Code, determined taking into account the following special considerations.</p> <p><b>The following items of income shall not be taken into account:</b></p> <p>1) Monetary resources, other assets and property rights received by the issuer of Russian depositary receipts as a result of the placement of these receipts, except for monetary resources, assets and property rights received by the issuer of Russian depositary receipts as a consideration for its services.</p> <p>2) Monetary resources, other assets and property rights received by the issuer of Russian depositary receipts as a result of its exercising rights secured by underlying securities.</p> <p><b>The expenses of taxpayers that are issuers of Russian depositary receipts</b> shall include the types of expenses envisaged in Articles 254-269 of the Code, determined taking into account the following special considerations.</p> <p><b>The following items of expenses shall not be taken into account:</b></p> <p>1) Monetary resources, other assets and property rights transferred (paid) by the issuer of Russian depositary receipts to the</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>issuer or holders of underlying securities as a result of the placement of Russian depositary receipts.</p> <p>2) Monetary resources, other assets and property rights transferred by the issuer of Russian depositary receipts to the holders of Russian depositary receipts as a result of the exercise of rights attached to Russian depositary receipts.</p> <p>At the same time, amendments have been made to Article 280.8 of the Code, according to which <b>expenses incurred by a taxpayer in connection with the sale or other disposal of depositary receipts</b> received as a result of their placement shall be determined on the basis of the acquisition price of underlying securities transferred upon the placement of the depositary receipts (including expenses associated with the acquisition thereof), expenses associated with the transfer and expenses associated with the sale (disposal) of the depositary receipts. Where a taxpayer acquired underlying securities upon the redemption of depositary receipts, the acquisition price of those underlying securities shall be determined on the basis of the acquisition price of the depositary receipts, expenses associated with the acquisition and expenses associated with the redemption of the depositary receipts.</p> <p>The following shall not constitute a sale or other disposal of securities:</p> <p>The redemption of depositary receipts where underlying securities are received;</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>The transfer of underlying securities upon the placement of depositary receipts certifying rights in underlying securities.</p> <p><b>Payments from an issuer of Russian depositary receipts in respect of underlying securities shall not be deemed to be income from sources in the Russian Federation</b> (Article 309.2.2 of the Code) for foreign organizations which do not carry out activities through a permanent establishment in the Russian Federation.</p> <p>For income received in the form of dividends from Russian and foreign organizations by Russian organizations, and for income in the form of dividends received on shares, the rights to which are certified by depositary receipts, the <b>9% tax rate shall be used</b>.</p>
	<p><b>17. Securities</b></p>	<p>Article 280 of the Code in the previous version provided for the following:</p>	<p>Article 280 of the Code, "Special Considerations Relating to the Determination of the Tax Base Arising from Securities Transactions" is stated in a new version. Amendments pertain to the following:</p> <p>1. The procedure for classifying the objects of civil rights as securities, and the procedure for classifying securities as issuance securities shall be established by the civil legislation of the Russian Federation and the applicable legislation of foreign states.</p> <p>Securities issued in accordance with the applicable legislation of foreign states are classified as issuance securities if they meet the criteria established by the Federal Law "Concerning the Securities Market."</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>2) Where securities are recognized as circulating on the Russian organized securities market, the applicable legislation shall be understood to be the legislation of the Russian Federation.</p> <p>3) The general procedure for determining expenses is also applied in the following cases:</p> <p>The liquidation of an organization which is the issuer of securities;</p> <p>The liquidation of a borrower organization for the financing of whose loan (credit) debentures were issued;</p> <p>The absence of obligations on the part of the organization which is the issuer of the securities to make payments in respect of those securities upon their redemption on any other grounds specified in the conditions of issue of the securities.</p> <p>4) Amounts paid by a taxpayer upon the acquisition of securities in relation to which the conditions of issue provide for partial redemption of the nominal value of a security while it is in circulation shall be recognized as expenses as of the date on which the taxpayer actually receives partial redemption of the nominal value in amounts corresponding to the proportion of payments actually received upon partial redemption of the nominal value to the total amount of nominal value payments which are redeemable under the conditions of issue of the security after the date on which the taxpayer acquired the security.</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>Part 6 of Article 5 of Federal Law No. 420-FZ of 28 December 2013 provides for transitional provisions under which during the period until the full sale (disposal) of such securities a taxpayer shall apply the procedure for determining the tax base, which has been applied before the effective date of the Federal Law.</p> <p>5) Securities (except for those provided earlier for offsetting homogeneous counter-claims) shall be considered to have been sold (acquired) in the following cases:</p> <ol style="list-style-type: none"> <li>1) The offsetting of counter-claims arising from contracts concluded on the basis of a general agreement (unified contract), which conforms to the model conditions of contracts which are laid down in the Federal Law "Concerning the Securities Market," where such offsetting has taken place for the purpose of determining the amount of a net obligation;</li> <li>2) The offsetting of counter-claims arising from contracts concluded on the basis of organized trading rules or clearing rules, where such offsetting took place for the purpose of determining the amount of a net obligation.</li> </ol> <p>6) Expenses incurred by a taxpayer in connection with the sale or other disposal of underlying securities received upon the redemption of depositary receipts shall be determined on the basis of the acquisition price of the depositary receipts (including expenses associated with the acquisition thereof) and expenses associated with the sale (disposal) of</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>the underlying securities. In this respect, where a taxpayer acquired depositary receipts when they were placed subject to the transfer of the underlying securities, the acquisition price of those depositary receipts shall be determined on the basis of the acquisition price of the underlying securities (including expenses associated with the acquisition thereof) and expenses associated with the transfer of the underlying securities.</p> <p>Expenses incurred by a taxpayer in connection with the sale or other disposal of depositary receipts received as a result of their placement shall be determined on the basis of the acquisition price of underlying securities transferred upon the placement of the depositary receipts (including expenses associated with the acquisition thereof), expenses associated with that transfer and expenses associated with the sale (disposal) of the depositary receipts. In this respect, where a taxpayer acquired underlying securities upon the redemption of depositary receipts, the acquisition price of those underlying securities shall be determined on the basis of the acquisition price of the depositary receipts, expenses associated with that acquisition and expenses associated with the redemption of the depositary receipts.</p> <p>The following shall not constitute a sale or other disposal of securities for the purposes of this Chapter:</p> <p>The redemption of depositary receipts where underlying securities are received;</p>

Topic	Description	Status in October 2013	Status in October 2014
		<p>Pursuant to Article 280.5 of the Code (in the version prior to Federal Law No. 420-FZ of 28 December 2013), the market price of securities shall be deemed to be the actual price of sale or other disposal of the securities if that price is in the interval between the minimum and maximum prices of transactions (the price interval) involving that security which was registered by an organizer of trade on the securities market on the date on which the transaction in question was concluded.</p>	<p>The transfer of underlying securities upon the placement of depositary receipts certifying rights in underlying securities.</p> <p>7) In the case of a transaction with circulated securities through a Russian or foreign trade organizer, the actual price of sale (acquisition) or other disposal of securities shall be recognized for tax purposes.</p> <p>8) A taxpayer is entitled to accept for tax purposes an estimated transaction price determined using the methods stipulated in Chapter 14.3 of the Code when determining the financial result on transactions (including those not recognized as controlled transactions) with circulated securities and not apply the rules for determining a security price for tax purposes, set up by Article 280 of the Code, provided that at least one of the following conditions is met:</p> <ol style="list-style-type: none"> <li>1) A buyer of securities (together with affiliates) becomes an owner of more than 5% of the relevant issue of securities;</li> <li>2) The number of securities exceeds 1% of the relevant issue of securities;</li> <li>3) The price of securities is established by decision of the state or local authorities;</li> <li>4) A buyer (seller) of securities is an issuer of these securities, including under offer.</li> </ol> <p>9) Losses record:</p> <p>Losses determined in accordance with Article 274 of the Code including all income (expenses) comprising the overall tax base may be deducted from the tax base (profit)</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>arising from transactions involving non-circulated securities and non-circulated term transaction financial instruments.</p> <p>Loss in the form of expenditures actually incurred for the acquisition of issuance securities (shares and debentures) whose issuing organization has been liquidated (including as a result of the application of bankruptcy proceedings) shall be wholly included in the appropriate tax base, depending on the category of the securities in question, as of the date of liquidation of the issuing organization.</p> <p>The above-mentioned loss shall be increased by the amount of accumulated interest (coupon) income on the securities in question which was previously taken into account in determining the tax base in accordance with Articles 271 and 328 of the Code but was not actually received by the taxpayer as a result of the liquidation of the issuing organization, unless a doubtful debt reserve was created for it, and shall be taken into account in determining the tax base in which the accumulated interest (coupon) in question was included as of the date of liquidation of the issuing organization.</p> <p>The rules established for the treatment of losses in the event of the liquidation of an organization shall also apply in relation to a loss made upon the liquidation of:</p> <p>A borrower organization in the event of the termination of obligations in respect of securities issued for the purpose of financing a loan (credit);</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>An organization which is an issuer of underlying securities where, under the conditions of issue of securities, the performance of obligations in respect of the securities is made dependent on the performance of obligations in respect of the underlying securities.</p> <p>10) Professional participants in the securities market, trade organizers, stock exchanges, management companies and clearing organizations acting as a central counteragent, shall establish the tax base arising from securities transactions and term transaction financial instruments taking into account the provisions of Article 280.21 of the Code subject to the special conditions below and Article 304 of the Code.</p> <p>For the purposes of the Code management companies shall be understood to mean management companies which carry out activities in accordance with Federal Law No. 156-FZ of 29 November 2001 "Concerning Investment Funds."</p> <p>For the purposes of the Code, clearing organizations which perform the functions of a central counterparty shall be understood to mean clearing organizations which carry out activities in accordance with Federal Law No. 7-FZ of 7 February 2011 "Concerning Clearing and Clearing Activities."</p> <p>Credit organizations which possess the appropriate license of a professional participant in the securities market issued by the Central Bank of the Russian Federation shall be equated with professional participants in the securities market for the purposes of this Chapter.</p>

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			<p>Taxpayers such as those referred to in paragraph 1 of this clause shall reduce the total tax base by the amount of losses made on transactions involving non-circulated securities and non-circulated term transaction financial instruments. During a tax period, losses made by taxpayers such as those referred to in paragraph 1 thereof, in a particular reporting period of the current tax period, may be carried forward only within the limits of the amount of profit earned by those taxpayers.</p>
	<p><b>18. Term transaction financial instruments</b></p>	<p>The tax base for operations involving term transaction financial instruments shall be calculated separately for those which are circulated and those which are not circulated on the organized market.</p> <p>The tax base for operations involving term transaction financial instruments which are circulated on the organized market shall be determined as the difference between amounts of income from such transactions with all underlying assets which are receivable for the reporting</p>	<p>Income (expenses) on operations involving term transaction financial operations in circulation shall be taken into account in determining the tax base for profit taxable at the rate specified in clause 1 of Article 284 of the Code, in relation to which no treatment other than the standard treatment of profit and losses is prescribed in accordance with Chapter 25 of the Code.</p> <p>Clause 22 of Article 280 of the Code (in the version effective from 1 January 2015) provides for the following: the tax base arising from transactions involving non-circulated securities and non-circulated term transaction financial instruments shall be determined on an aggregate basis in accordance with the procedure established by Article 304 of the Code and separately from the total tax base.</p> <p>It ceased to be in force in accordance with Federal Law No. 420-FZ of 28 December 2013.</p>

Topic	Description	Status in October 2013	Status in October 2014
		<p>(tax) period and the amounts of expenses relating to those transactions with all underlying assets for the reporting (tax) period. Any negative difference shall, accordingly, be regarded as losses from such operations.</p> <p>A loss from operations involving term transaction financial instruments which are circulated on the organized market shall reduce the tax base as determined in accordance with Article 274 of this Code.</p>	
<b>7. Corporate assets tax</b>	<b>1. Tax base - cadastral value</b>		<p>General provisions</p> <p>In accordance with clause 2 of Article 375 (as reworded by Federal Law No. 307-FZ of 2 November 2013) starting from 1 January 2014, the tax base for <a href="#">certain items</a> of immovable property shall be determined as their cadastral value as of 1 January of the year of the tax period in accordance with <a href="#">Article 378.2</a> of this Code.</p> <p>Special considerations relating to the determination of the tax base (cadastral value), the calculation and payment of property tax in relation to certain items of immovable property are established by the provisions of the new Article 378.2 of the Code, in particular with relation to:</p> <ol style="list-style-type: none"> <li>1) Administrative and business centers, shopping centers (complexes), and the premises therein;</li> <li>2) Non-residential premises whose designated use in accordance with <a href="#">the cadastral certificates</a> of items of immovable property or technical record-keeping (inventory) documents for items of immovable property provides for the siting of offices, trade</li> </ol>

Topic	Description	Status in October 2013	Status in October 2014
			<p>establishments and public catering and consumer service establishments, or which are actually used for the siting of offices, trade establishments and public catering and consumer service establishments;</p> <p>3) Items of immovable property of foreign organizations which do not carry on activities in the Russian Federation through <a href="#">permanent establishments</a>, and items of immovable property of foreign organizations which are not connected with activities carried on by those organizations in the Russian Federation through permanent establishments.</p> <p>A law of a constituent entity of the Russian Federation establishing special considerations relating to the determination of the tax base on the basis of the cadastral value of items of immovable property may be adopted only after the results of the determination of the cadastral value of the items of immovable property have been approved by the constituent entity of the Russian Federation in accordance with the established procedure. A return to tax calculation based on the average annual value shall not be permissible.</p> <p>Clauses 3-5 of the new Article provide for the definitions of an “administrative and business center”, “shopping center”, and the “actual use of a non-residential premise.”</p> <p>The authorized executive body of a constituent entity of the Russian Federation shall, not later than the first day of a tax period for tax:</p> <p>1) Determine for that tax period a list of items of immovable property in relation to which the</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>tax base is to be determined as the cadastral value;</p> <p>2) Send the list in electronic form to the tax authority for the location of the relevant items of immovable property;</p> <p>3) Post the list on its official site or on the official site of the constituent entity of the Russian Federation on the Internet.</p> <p>The amount of tax and amounts of advance tax payments payable in respect of assets for which the tax base is determined as their cadastral value shall be calculated with account taken of the following special considerations:</p> <p>1) The amount of an advance tax payment shall be calculated after a reporting period has ended as one quarter of the cadastral value of an item of immovable property as of 1 January of the year constituting the tax period, multiplied by the appropriate tax rate;</p> <p>2) Where the cadastral value of an item of immovable property was determined in accordance with the legislation of the Russian Federation during a tax (reporting) period and (or) that item of immovable property has not been included in the list as of 1 January of the tax period, the determination of the tax base and the calculation of the amount of tax (the amount of the advance tax payment) for the current period in relation to that item of immovable property shall take place without taking into account the provisions of the new Article;</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>3) An item of immovable property shall be taxable for the owner of that property, except as otherwise provided in the Chapter.</p> <p>Where the cadastral value has not been determined for items of immovable property, the tax base for those items of immovable property shall be taken to be equal to zero.</p> <p>The following clause will be introduced from 1 January 2015: Where an item of immovable property was formed during the current tax period as a result of the division of an item of immovable property or another action conforming to the legislation of the Russian Federation involving items of immovable property which were included in the list as of 1 January of the year of the relevant tax period, the newly formed item of immovable property, provided that it meets the criteria laid down in the Article, shall be taxable on the basis of the cadastral value determined as of the date of the state cadastral registration of the item in question prior to its inclusion in the list.</p> <p>Special considerations for items of immovable property where ownership right has arisen (ceased) during a tax period</p> <p>Based on the provisions of clause 5 of Article 382 of the Code (as reworded by Federal Law No. 52-FZ of 2 April 2014) starting from 1 January 2015, where ownership rights in items of immovable property such as those referred to in Article 378.2 of the Code, arise (cease) for a taxpayer during a tax (reporting) period, the amount of tax (amounts of advance tax payments) payable in relation to those items of immovable property shall be calculated with</p>

Topic	Description	Status in October 2013	Status in October 2014
			adjustment for a coefficient determined as the ratio of the number of full months for which the items of immovable property were owned by the taxpayer to the number of months in the tax (reporting) period, except as otherwise provided by the Article.
	<b>2. Special considerations for determining the net book value</b>	In accordance with the current rules - where the tax base is determined as the average annual value of assets which are deemed to be an object of taxation, those assets shall be recognized at their net book value as determined in accordance with the established accounting procedure approved in the organization's accounting policies (clause 3 of Article 375 of the Code).	Starting from 1 January 2015, where the tax base is determined as the average annual value of assets which are deemed to be an object of taxation, those assets shall be recognized at their net book value as determined in accordance with the established accounting procedure approved in the organization's accounting policies. Where the net book value of assets includes the monetary value of future expenditures associated with those assets, the net book value of those assets for the purposes of the Chapter shall be determined exclusive of such expenditures.
<b>8. Land tax</b>	<b>The change of time limits for the payment of land tax by individuals</b>	Currently, in accordance with clause 1 of Article 397 of the Code, the time limit for taxpayers who are individuals that are not individual entrepreneurs, cannot be established before 1 November of the year subsequent to the past tax period.	Taking into account the changes effective from 1 January 2015, the tax is payable by taxpayers who are individuals not later than 1 October of the year subsequent to the past tax period.
<b>9. Personal property tax</b>	<b>1. Due date for paying personal property tax has been changed</b>	Currently the due date for paying tax for individual taxpayers is <b>not later than 1 November of the year following the year the tax was calculated.</b>	Taking into account the changes effective from 1 January 2015, the tax is payable by individual taxpayers <b>not later than 1 October of the year.</b>

Topic	Description	Status in October 2013	Status in October 2014
	<p><b>2. Introduction of the deflator coefficient</b></p>		<p>Under the amended Article 3.1 of Law No. 2003-1 "On Personal Property Tax" of 9 December 1991, beginning 1 January 2014 tax rates are set through legislative acts by the elected representative bodies of municipalities (laws of the cities of federal significance, Moscow and Saint Petersburg) subject to the overall inventory value of tax items multiplied by the deflator coefficient.</p> <p>In addition, <b>the tax will be calculated based on the latest inventory value presented in due order to the tax authorities prior to 1 March 2013 using the deflator coefficient.</b></p> <p>In addition, Article 5 amended to include clause 2.1 which states that for tax items, where rights associated with such tax items arose prior to the date when Federal Law No. 122-FZ "On State Registration of Immovable Property and Transactions Therewith" of 21 July 1997 became effective, <b>the tax is calculated based on the data about right holders presented in due order to the tax authorities prior to 1 March 2013.</b></p>
<p><b>10. Insurance contributions to the Pension Fund of the Russian Federation, Social Security Fund of the Russian Federation, Federal Compulsory Medical Insurance Fund of the Russian Federation and regional compulsory medical</b></p>	<p><b>1. Insurance contribution base threshold</b></p>	<p>Under Article 8.5 of Federal Law No. 212-FZ of 24 July 2009, the insurance contribution base threshold is indexed annually, taking into account salary growth in the Russian Federation.</p> <p>Under Decree No. 1276 of the Government of the Russian Federation of 10 December 2012, <b>the index for 2013 amounted to 1.1.</b></p>	<p>Under Decree No. 1101 of the Government of the Russian Federation of 30 November 2013, <b>the index for 2014 amounted to 1.098.</b></p> <p>Beginning 1 January 2015, payers of insurance contributions that make payments and provide other benefits to individuals accrue compulsory pension insurance contributions to be paid to the Pension Fund of the Russian Federation during the period of 2015-2021 using the insurance contribution base threshold that is set annually by the Government of the Russian</p>

Topic	Description	Status in October 2013	Status in October 2014
insurance funds			<p>Federation with account of the average wage in Russia determined for the given year and multiplied by 12, and the following multipliers for the respective financial year: 2015 – 1.7; 2016 – 1.8.</p> <p>The threshold for the base of compulsory pension insurance contributions to be paid to the Pension Fund of the Russian Federation is subject to annual indexation starting in 2022 (from 1 January of the given year).</p>
	<p><b>2. Information about opening or closing accounts, autonomous subdivisions, reorganization and liquidation</b></p>	<p><b>Under Article 28.3 of Federal Law No. 212-FZ of 24 July 2009, the payers of insurance contributions, i.e. organizations and individual entrepreneurs, are required to provide the following information in written form to the regulatory body overseeing payments of insurance contributions at the location of an organization or the place of residence of an individual entrepreneur:</b></p> <p>1) Data concerning the opening (closing) of bank accounts within seven days of opening (closing) such accounts. Individual entrepreneurs report data on bank accounts used in their entrepreneurial activities to the regulatory body overseeing the payments of insurance contributions;</p> <p>2) Data concerning the establishment or closing of autonomous subdivisions of the organization within one month from the date of establishment of the autonomous subdivision or its closing (terminating the activities of the organization via an autonomous subdivision);</p> <p>3) Data concerning the reorganization or liquidation of the organization, the termination by an individual of the activity as an individual entrepreneur – within three days from the date of the relevant decision.</p>	<p><b>Clause 3.1 ceased to be in force on 1 May 2014 based on Federal Law No. 59-FZ of 2 April 2014.</b></p> <p><b>Clauses 3.2 and 3.3 will cease to be in force on 1 January 2015 based on Federal Law No. 188-FZ of 28 June 2014.</b></p>

Topic	Description	Status in October 2013	Status in October 2014
	<p><b>3. Extension of some preferential rates</b></p>		<p>During 2012-<b>2018</b>, a 20% rate set by the Russian Pension Fund and the “zero” rate set by the Russian Social Security Fund and the Russian Compulsory Medical Insurance Fund will apply to the following types of payers of insurance contributions:</p> <ul style="list-style-type: none"> <li>- Organizations and individual entrepreneurs using the simplified taxation system, with regard to certain types of activities;</li> <li>- Payers of insurance contributions that pay the unified tax on imputed income with regard to certain types of activities, pharmacies and individual entrepreneurs holding a license to engage in pharmaceutical activities;</li> <li>- Non-profit organizations (except for public and municipal institutions) that apply the simplified taxation system and are engaged, in accordance with the foundation documents, in social services, scientific research and development, education, health care, culture and art (activities of theaters, libraries, museums and archives) and mass sports (except for professional sports), subject to specific features;</li> <li>- Charitable organizations that apply the simplified taxation system;</li> <li>- Individual entrepreneurs that apply the license-based taxation system, with regard to payments and compensations accrued for individuals engaged in the economic activity that is specified in the license, except for individual entrepreneurs engaged in the established types of entrepreneurial activities.</li> </ul>

Topic	Description	Status in October 2013	Status in October 2014
	<p><b>4. Preferential rates for insurance contributions for organizations and individual entrepreneurs which are engaged in mass media production and distribution</b></p>	<p><b>2013 (total – 28%)</b>  Pension Fund of the Russian Federation – 21.6%  Social Security Fund of the Russian Federation – 2.9%  Federal Compulsory Medical Insurance Fund – 3.5%  Regional compulsory medical insurance funds – 0%</p>	<p><b>2014 (total – 30%)</b>  Pension Fund of the Russian Federation – 23.2%  Social Security Fund of the Russian Federation – 2.9%  Federal Compulsory Medical Insurance Fund – 3.9%  Regional compulsory medical insurance funds – 0%</p>
	<p><b>5. Organizations rendering engineering services are transferred to the overall tax rate level</b></p>	<p><b>2013 (total – 30%)</b>  Russian Pension Fund – 22%  Social Security Fund of the Russian Federation – 2.9%  Russian Compulsory Medical Insurance Fund – 5.1%  Regional compulsory medical insurance funds – 0%</p>	<p><b>2014 (30% – not exceeding the maximum base, exceeding the maximum base – 10% to the Pension Fund of the Russian Federation)</b>  Russian Pension Fund – 22%  Social Security Fund of the Russian Federation – 2.9%  Russian Compulsory Medical Insurance Fund – 5.1%  Regional compulsory medical insurance funds – 0%</p>
	<p><b>6. Application of preferential rates for insurance contributions by IT companies</b></p>	<p>The average number of employees for operating organizations (average number for newly established organizations) is <b>30 employees</b>.</p>	<p>Starting 1 January 2014, the average number of employees for operating organizations (average number for newly established organizations) has been reduced to <b>7 employees</b>.</p>

Topic	Description	Status in October 2013	Status in October 2014
	<p><b>7. Amount of pension contributions paid by entrepreneurs, lawyers and notaries for themselves</b></p>	<p>The fixed amount of an insurance contribution to the compulsory pension insurance system is determined as the product of twice the minimum salary and the rate of insurance contributions to the Pension Fund of the Russian Federation, multiplied by 12.</p>	<p>Under Article 14.1.1 of the current version of the Law effective from 1 January 2014, the amount of an insurance contribution to the compulsory pension insurance system is determined as follows:</p> <p>1) <b>In the event that the income of the payer of insurance contributions for the settlement period does not exceed RUB300,000</b> – as the fixed amount determined as the product of the minimum salary and the rate of insurance contributions to the Pension Fund of the Russian Federation, multiplied by 12;</p> <p>2) <b>In the event that the income of the payer of insurance contributions for the settlement period exceeds RUB300,000</b> – as the fixed amount determined as the product of the minimum salary and the rate of insurance contributions to the Pension Fund of the Russian Federation, multiplied by 12, plus 1.0% of the income of the payer of insurance contributions exceeding RUB300,000 for the settlement period. The total amount of insurance contributions should not exceed the amount determined as the product of eightfold the minimum salary established by the federal law at the beginning of the financial year and the rate of insurance contributions to the Pension Fund of the Russian Federation, multiplied by 12.</p>

Topic	Description	Status in October 2013	Status in October 2014
	<b>8. Single settlement document</b>		<b>Starting in the 2014 settlement period</b> , insurance contributions to the compulsory pension insurance system for the given and the following periods are transferred to the Pension Fund of the Russian Federation using one payment order without allocating the contributions to the insurance and funded parts of the labor pension.
	<b>9. Reduction of liability for failing to provide (or providing inaccurate) personal records</b>	10% of the amount of payments	5% of the amount of payments
	<b>10. Electronic reporting</b>	Where the average number of employees in the preceding period is <b>50 employees</b> , payers <b>provide electronic reporting</b> .	Where the average number of employees in the preceding period is <b>25 employees</b> , payers <b>provide electronic reporting</b> .
	<b>11. Deferral</b>	Under Article 29.1.11, regulatory bodies overseeing the payments of insurance contributions may grant a deferral (installment plan) for insurance contributions, penalties and fines <b>due</b> in accordance with the procedure and in the instances established by the Federal Law.	Starting 1 January 2015, regulatory bodies overseeing the payments of insurance contributions may grant a <b>deferral (installment plan) for insurance contributions, penalties and fines</b> to payers in accordance with the procedure and in the instances established by the Federal Law.
	<b>12. Field audit period</b>	Pursuant to Article 35.11, a field audit may not last longer than <b>two months</b> .	Starting 1 January 2015, the general rule on the duration of field audits (2 months) includes an exception, whereby this period may be <b>extended to four or six months</b> , provided there are proper grounds for it. <b>The grounds may be as follows:</b>  1) During the field (follow-up field) audit, information has been received from law enforcement or supervisory bodies or other

Topic	Description	Status in October 2013	Status in October 2014
			<p>sources that indicates that the payer of insurance contributions has violated the legislation of the Russian Federation on insurance contributions, and such information needs additional verification;</p> <p>2) The occurrence of force majeure circumstances on the territory where the field (follow-up field) audit is being conducted.</p>
	<p><b>13. Time frame for instruction to pay insurance contributions</b></p>	<p>Under the current version of Article 19.7, the regulatory body overseeing the payments of insurance contributions to the treasuries of the relevant state non-budgetary funds sends the instruction <b>to the bank within one month from the date of the recovery decision</b>; the instruction is subject to unconditional fulfillment by the bank in accordance with the civil legislation of the Russian Federation.</p>	<p>Under the current version of Article 19.7, effective from 1 January 2015, the regulatory body overseeing the payments of insurance contributions to the treasuries of the relevant state non-budgetary funds sends the instruction to the bank; the instruction is subject to unconditional fulfillment by the bank in accordance with the civil legislation of the Russian Federation.</p>
	<p><b>14. The obligation of banks to provide statements of accounts and cash balances on accounts</b></p>		<p><b>Starting 1 January 2015, an additional obligation will be imposed on banks:</b></p> <p>Banks are obliged to provide to regulatory bodies overseeing the payments of insurance contributions statements of bank accounts and (or) cash balances on accounts, statements of operations on bank accounts of organizations and individual entrepreneurs. The documents should be provided within three days after the receipt of a substantiated request from the regulatory body overseeing the payments of insurance contributions.</p> <p>Regulatory bodies overseeing the payments of insurance contributions may request statements of bank accounts and (or) cash balances on accounts, statements of</p>

Topic	Description	Status in October 2013	Status in October 2014
			<p>operations on bank accounts of organizations and individual entrepreneurs in the following circumstances:</p> <p>1) Conducting field or in-house audits of payers of insurance contributions;</p> <p>2) Rendering a decision to recover insurance contributions, penalties and fines using cash in the bank accounts of organizations and individual entrepreneurs.</p>
<b>Compulsory pension insurance</b>		<p>Currently, insurance contributions charged on payments to foreign citizens and stateless persons who temporarily reside in Russia (except for highly skilled professionals) <b>are only paid providing the provisions are complied with specified in Article 7.1 and clause 2 of Article 22.1 of Federal Law No. 167-FZ, "On Compulsory Pension Insurance in the Russian Federation" of 15 December 2001.</b> Under these provisions, an employer should conclude labor contracts with such persons for a total period of at least six months during the calendar year or for an indefinite period. <b>These provisions will cease to be in force on 1 January 2015.</b></p>	<p>Starting 1 January 2015, payments to persons who temporarily reside in Russia (except for highly-skilled professionals), <b>irrespective of the duration of labor relations with such persons, are subject to insurance contributions charged at the applicable rates of 22% (where the payments do not exceed the insurance contribution base threshold) or 10% (where the payments exceed the threshold).</b></p>
<b>11. Special tax regimes UTII</b>	<b>1. Deflator coefficient</b>	In 2013, the deflator coefficient equaled 1.	Order No. 652 of the Russian Ministry of Economic Development of 7 November 2013 established the deflator coefficients for 2014 at 1.067.
	<b>2. UTII and assets tax</b>	In accordance with clause 4 of Article 346.11 of the Code, the payment of the unified tax by organizations shall entail the exemption of those organizations from the obligation to pay corporate profits tax (with respect to profit earned from entrepreneurial activities which are subject to the unified tax) and <b>corporate assets tax (with respect to assets used in carrying out entrepreneurial activities which are subject to the unified tax).</b>	Starting 1 January 2015, the payment of the UTII shall entail the exemption from the obligation to pay corporate profits tax (with respect to profit earned from entrepreneurial activities which are subject to the unified tax), <b>corporate assets tax (with respect to assets used in carrying out entrepreneurial activities which are subject to the unified</b>

Topic	Description	Status in October 2013	Status in October 2014
			<b>tax, with the exception of items of immovable property for which the tax base is determined as their cadastral value in accordance with the Code).</b>
<b>Unified agricultural tax (UAT)</b>	<b>Removal of limitations on expense recognition</b>	Expenses for food rations for crews of sea and river vessels were recorded <b>within the limits set by the Government of the Russian Federation.</b>	Starting 1 January 2014, expenses for food rations for crews of sea and river vessels are <b>subject to no limits and recorded in full.</b>
<b>Simplified taxation system (STS)</b>	<b>1. Deflator coefficient</b>	In 2013, the deflator coefficient equaled 1.	Order No. 652 of the Russian Ministry of Economic Development of 7 November 2013 established the deflator coefficients for 2014 at 1.067.
	<b>2. STS and assets tax</b>	In accordance with clause 2 of Article 346.11 of the Code, <b>the application of the simplified taxation system by organizations shall entail the exemption of those organizations from the obligation to pay corporate profits tax and corporate assets tax.</b>	Starting 1 January 2015, the application of the simplified taxation system by organizations shall entail the exemption of those organizations from the obligation to pay corporate profits tax, <b>corporate assets tax (with the exception of the tax paid on items of immovable property for which the tax base is determined as their cadastral value in accordance with the Code).</b>
	<b>3. LIFO method</b>		Starting 1 January 2015, the provisions of the Code envisaging the usage of the LIFO method <b>cease to be in force.</b>
<b>License-based taxation system</b>	<b>1. Increasing the level of the maximum potentially receivable income</b>	The minimum amount of annual income potentially receivable by an individual entrepreneur <b>may not be less than RUB100,000</b> , and its maximum amount may not exceed RUB1,000,000.	The maximum amount of annual income potentially receivable by an individual entrepreneur <b>may not exceed RUB1,000,000.</b>

Topic	Description	Status in October 2013	Status in October 2014
	<p><b>2. Extension of the authorities of constituent entities of the Russian Federation</b></p>		<p>In accordance with Federal Law No. 244-FZ of 21 July 2014, <b>constituent entities of the Russian Federation shall have the right:</b></p> <p>For the purpose of establishing the amounts of annual income potentially receivable by an individual entrepreneur for types of activities in relation to which the license-based taxation system is applied, to differentiate the territory of the constituent entity of the Russian Federation by territories of the licenses within municipalities (groups of municipalities).</p> <p>In addition, constituent entities of the Russian Federation shall have the right to determine the amount of annual income potentially receivable by an individual entrepreneur depending on the territory of the license.</p>
	<p><b>3. Registration and deregistration</b></p>	<p>Under clause 1 of Article 346.46 of the Code, the registration of an individual entrepreneur as a taxpayer applying the license-based taxation system shall be carried out by the tax authority <b>to which the entrepreneur submitted the application for a license.</b></p>	<p>Pursuant to the amended provision effective from 2 January 2014, the submission by an individual entrepreneur of an application for another license to the same tax authority shall not cause the entrepreneur to be registered again as a taxpayer applying the license-based taxation system.</p> <p>Provisions on the deregistration of an individual entrepreneur applying the license-based taxation system have been clarified. As a general rule, the deregistration of the taxpayer shall be carried out within five days from the expiry date of the license. According to the clarifications, where the tax authority simultaneously issued several licenses to an individual entrepreneur, the deregistration shall take place after all the licenses have expired.</p>

Topic	Description	Status in October 2013	Status in October 2014
			Also, the deregistration of an individual entrepreneur shall be carried out within five days based on the statement of a tax authority that has received a taxpayer's notice to the effect that the taxpayer has lost the right to apply the license-based taxation system and has transferred to the general taxation regime. In the event that the individual entrepreneur has failed to pay the tax, the deregistration shall be carried out within five days from the date of expiry of the time limit for the payment of tax.
	<b>4. Submission of an application for a license</b>		Starting 1 January 2015, the form of an application for a license shall be determined by the Russian Federal Tax Service.
<b>12. Transport tax</b>	<b>1. Time limits for payment</b>	In accordance with paragraph 3 of Clause 1 of Article 363 of the Code, the time limits for the payment of transport tax by individuals <b>cannot be established before 1 November of the year following a tax period which has ended.</b>	Starting from 1 January 2015, transport tax is payable by individuals not later than 1 October of the <b>year following a tax period which has ended.</b>
	<b>2. Multiplying coefficients</b>		Starting from 1 January 2014, clause 2 of Article 362 of the Code was amended with the provisions which establish, in particular, the following: the amount of tax shall be calculated with the multiplying coefficient applied in relation to certain categories of motor cars. This coefficient shall be determined depending on the average value of a motor car and age from the year of manufacture. Thus, the amount of transport tax shall be multiplied by: 1.5, 1.3 or 1.1 – in relation to motor cars of an average value of from RUB3 million to 5 million inclusively and aged no more than 1, 2 or 3 years from the year of manufacture, respectively;

Topic	Description	Status in October 2013	Status in October 2014
			<p>2 – in relation to motor cars of an average value of from RUB5 million to 10 million inclusively and aged no more than 5 years from the year of manufacture;</p> <p>3 – in relation to motor cars of an average value of from RUB10 million to 15 million inclusively and aged no more than 10 years from the year of manufacture. This coefficient is also applied in cases where a motor car is aged no more than 20 years from the year of manufacture and its average value exceeds RUB15 million.</p>
	<b>3. Exclusions from an object of taxation</b>		In accordance with clause 2.10 of Article 358 of the Code, offshore fixed and floating platforms, offshore mobile drilling rigs and drilling vessels shall not be an object of taxation.
<b>13. Refinancing rate</b>		Starting from 14 September 2012, the refinancing rate was set at 8.25%.	Starting from 14 September 2012, the refinancing rate was set at 8.25%.
<b>14. State duty</b>	<b>1. Introduction of a new state duty</b>		Starting from 1 September 2014, a new state duty for the acts of authorized bodies related to licensing entrepreneurship activity involving multi-family residential blocks shall be applied in the amount of RUB30,000 (RUB5,000 for the re-issuance and issue of a duplicate).
	<b>2. Increase in the amounts of state duty</b>		<p>In accordance with Federal Law No. 221-FZ of 21 July 2014, the state duty rates increased by 1.5 both for individuals and organizations.</p> <p>No changes were made for filing a property-related statement of claim subject to evaluation.</p>

Topic	Description	Status in October 2013	Status in October 2014
	<p><b>3. Decrease in the amounts of state duty</b></p>		<p>1) Starting from 1 January 2015, a reduced rate of a state duty shall be applied for the state registration of changes in the foundation documents of all-Russian social organizations of disabled persons (their branches).</p> <p>2) A reduction factor shall be applied to calculate the amount of state duty to be paid by individuals when performing legally significant acts with the use of portals of state (municipal) services and other portals integrated with a unified system of identification and authentication, and receiving a result in an electronic form.</p>
	<p><b>4. Differentiation of the amount of state duty depending on the level of acceptance of the contesting decision (action, inaction)</b></p>	<p>Starting from 6 August 2014, state duty for contesting the decisions or actions (inactions) of state bodies, local government bodies, and officials holding government or municipal positions shall be differentiated depending on the category of a state duty payer and body (official) which has accepted the contesting non-normative legal act, in accordance with the civil procedure legislation.</p> <p>The amount of state duty was RUB200 before.</p>	<p>Starting from 1 January 2015, an organization shall pay RUB4,500 for filling a petition concerning the contesting of non-normative legal acts of the President of the Russian Federation, the Federation Council, the State Duma, the Government of the Russian Federation and the Government Commission for the Monitoring of Foreign Investments in the Russian Federation in accordance with the civil procedure legislation. State duty for the contesting of the acts of other authorities (officials) in accordance with the civil procedure legislation still amounts to RUB2,000.</p> <p>Where an organization files a petition concerning the contesting of non-normative legal acts, or the decision and actions (inactions) of the authorities (officials) in accordance with the arbitration procedure legislation, starting from 1 January 2015, an organization shall pay RUB3,000 (earlier, RUB2,000) for the consideration of such a dispute.</p>

## 2. ISSUES AND RECOMMENDATIONS OF FIAC WORKING GROUPS

### Foreign Investment Advisory Council

#### 2.1. Improvement of Customs Law

##### **Issue 1. Development of processing for internal consumption, as established by Chapter 36 of the Customs Code of the Customs Union of the Eurasian Economic Community**

Currently, the Russian market traditionally has a large share of many types of imported goods due to the poorly developed domestic supply and the continued growth of domestic demand, showing that the local industry can sharply develop in respect of consumer demand as well as import replacement.

However, the development of production is blocked by several factors, such as the structural imbalance of import customs duty rates, when the rates for raw and other materials are higher than those for finished products made from the same raw and other materials. That imbalance objectively hinders the development of national production, since it is unprofitable to make additional investments because the costs involving the payment of customs duties for raw and other materials are higher than those involving the import of finished products, as a result of which national products become less competitive. This problem primarily involves raw materials as well as materials which are not produced in countries of the Customs Union (CU) and which cannot be replaced by any others without the final products substantially losing their consumption features.

The prevailing situation

1. Does not stimulate the creation and development of domestic production in Russia.
2. Prevents foreign investments from being made in developing high-tech and innovatory production of highly processed goods.
3. Prevents companies from implementing their plans to increase investments and enlarge production capacities in Russia.

A revision of the customs duty rates for definite items of the Unified Customs Tariff (UCT) is a difficult process which requires much time and effort; in this respect, a comprehensive analysis of all the economic implications should be made and the risks of dishonest declaration may arise; consequently, it cannot be always effectively applied to resolve the aforesaid problem.

In our view, a solution can be found by actively applying a special customs processing procedure for domestic consumption proposed by Article 264 of the Customs Code of the Customs Union (CU Customs Code) of the Eurasian Economic Community.

Under this procedure, raw materials and the materials used for processing operations for domestic consumption are fully exempt from import customs duties, taxes and non-tariff regulation measures. In this respect, the processed products are placed under the customs procedure of release for domestic consumption with payment of import customs duties at the rates applied to the processed products.

At the same time, Chapter 36 of the CU Customs Code makes unambiguous and exhaustive demands on the foreign trade participants to guarantee the purposeful use of the processing procedure for domestic consumption and prevent dishonest declaration intended to avoid paying import customs duties. That procedure can be used only on the basis of a special document which is issued by an authorized body of the member-state of the Customs Union and which contains information on the consignee and on the terms and conditions of using the procedure. Moreover, Chapter 36 of the CU Customs Code contains far-reaching requirements for the procedure, terms, time limits and volumes of processing and for the identification of goods and processed products, and also the requirement to avoid the restoration of processed products to the original state by an economically advantageous method.

Hence, Chapter 36 of the CU Customs Code determines and allows for the effective use of the customs procedure which is specially intended to attract, support and develop high-tech production on the territory of the Customs Union with no regard to the possible imbalance of the customs duty rates for raw materials and finished products, and at the same time ensures reliable control to guarantee the correct use of the procedure.

Pursuant to Article 265, however, this procedure can be applied only to a limited list of goods determined by national legislation of the CU member-countries. As regards the Russian Federation, this list is determined by Article 265 of Federal Law No. 311-FZ of 27 November 2010 *On Customs Regulation in the Russian Federation* and Government Decree No. 565 dated 12 July 2011. The list contains only about 50 goods, which are evidently intended for certain specific production. Consequently, the processing procedure for domestic consumption is actually not used, thereby blocking the real development potential of the local high-tech industry with a high added value and, accordingly, the attraction of new investments into such an industry.

An important fact is that the customs regime of processing for domestic consumption is widely used throughout the world and is an effective lever of both the development of the local industry and the attraction of investments. The poor implementation of the regime in Russia is obviously an administrative barrier whereby the country's investment appeal is sharply reduced.

## Recommendations

With regard to the aforesaid, we suggest removing the restrictions on the processing procedure for domestic consumption, which are established by Article 265 of Federal Law No. 311-FZ of the Russian Federation of 27 November 2010 *On Customs Regulation in the Russian Federation* and Decree No. 565 of the Government of the Russian Federation of 12 July 2011 *On the Approval of the List of Goods Which Can Be Processed for Domestic Consumption*.

## Issue 2. Adjustment of declarations after the release of goods (introduction of amendments to Article 16.2 of the Administrative Offenses Code)

In relation to the results of the FIAC Executive Committee session in Svetlogorsk on 24 May 2013, First Deputy Prime Minister Igor Shuvalov issued Instructions No. ISh-P13-4381 on 25 June 2013 to the effect that proposals should be developed for amendments to Chapter 16 of the Administrative Offenses Code to provide for the adjustment of declarations after goods are released without administrative liability when inaccuracies are discovered independently upon declaring goods at the customs.

As instructed by the Federal Customs Service, the Federal Law *On Amendments to the Administrative Offenses Code of the Russian Federation* was drafted and put forward for public discussion. The law is to amend Article 16.2 as regards exemption from administrative liability when adjustments are made in a declaration after goods are released. The working group expresses its fundamental approval and, on the whole, supports those amendments, which are designed to develop Russian legislation on the issue that is important for the business community. The possibility of adjusting a customs declaration after goods are released has been successfully added to the legislation of several countries and has revealed its pertinence. At the same time, we believe that the Federal Customs Service's formulation limiting the application of the amendments proposed only to the composition of offenses set forth in part 2 of Article 16.2 of the Administrative Offenses Code does not meet the requirement and, unfortunately, does not fully satisfy foreign trade participants who act in good faith.

One of the most common reasons for the need to make amendments and additions to the customs declaration after the release of goods is so-called re-assorting, i.e. when one type of goods supplied has been replaced by another type. The amendments proposed by the Federal Customs Service do not resolve the re-assorting issue. Pursuant to clause 30 of Resolution No. 18 of the Plenary Session of the Supreme Court of the Russian Federation of 24 October 2006, re-assorting will be classified under part 1 of Article 16.2 of the Administrative Offenses Code.

According to that Resolution, *"part 1 of Article 16.2 of the Administrative Offenses Code establishes liability for undeclared goods and/or vehicles, when an entity actually does not meet the requirements of customs legislation for declaring goods and clearing them at the customs, i.e. all the goods or some of them are not declared to the customs authority (part of the homogeneous goods is not declared or, when declaring a consignment consisting of several goods, information on only one good is entered in the customs declaration, or goods which differ from those entered in the customs declaration are provided for customs clearance)*.

*If goods have been fully declared in relation to their quantity parameters, but the declarer or the customs broker (representative) entered information, needed for customs purposes, on the quality parameters of goods in the customs declaration that did not conform to reality (inaccurate information), such actions constitute corpus delicti of an administrative offense set forth in part 2 of Article 16.2 of the Administrative Offenses Code if that information served as grounds for exemption from paying customs duties and taxes or for a reduction of their amount."*

With regard to that clarification, all the instances of revelation of the excess of the goods supplied are classified by the customs authorities under part 1 of Article 16.2 of the Administrative Offenses Code. Therefore, an exemption cannot be applied to excess goods in accordance with the draft law of the Federal Customs Service of Russia.

As for *re-assorting*, which consists in the fact that the item name and quantity of the goods were declared correctly in the customs declaration, but their description was incorrect (as regards, for instance, the material from which a good is made), thereby entailing the reclassification of goods, the customs authorities regard such an offense as failure to make the declaration and classify it under part 1 of Article 16.2 of the Administrative Offenses Code. If re-assorting is expressed in the fact that when various goods were declared, the quantity of a certain good was erroneously understated, while that of another good was overstated, the customs authorities regard such an offense as failure to make the declaration and classify it under part 1 of Article 16.2 of the Administrative Offenses Code.

Hence, the Federal Customs Service's amendments to Article 16.2 of the Administrative Offenses Code do not resolve the issue of exemption from administrative liability when amendments and/or additions are made to a goods declaration after the release of goods.

We request that our response be taken into consideration when the document is prepared for another examination concerning regulatory impact analysis (RIA) and that clause 2 of the comments on Article 16.2 be worded as follows:

*"2. In the event of the voluntary submission by the declarer and/or the customs representative of an application to the customs authority, who releases goods, for entry of amendments and/or additions into the customs declaration after*

*the release of goods with an appendage of the documents set forth by the customs legislation of the Customs Union, the entity who committed an administrative offense established by **parts 1 and 2** of this article shall be exempt from administrative liability for that offense if the following requirements had been met as a whole when the application for entry of amendments and/or additions into the customs declaration was received:*

*the customs authority did not discover an administrative offense Under the administrative offenses legislation;*

*the customs authority did not notify the declarer, the customs representative or the person who is vested with authority for goods after their release, or his representative about the exercise of customs control after the goods were released if such a notification is envisaged by customs legislation of the Customs Union and/or Russian customs legislation, or it did not begin to exercise customs control without notification when such notification is not required;*

*the amount of unpaid customs duties and taxes for goods, on which the information has been entered inaccurately in the customs declaration, constituted not more than 1% of the amount of customs duties and taxes paid by the declarer and/or customs representative for 12 months preceding the day of receipt of the application to enter amendments and/or additions into the customs declaration;*

*the declarer or the customs representative who committed an administrative offense, established by part 2 of this Article, has no arrears concerning customs duties, taxes and penalties after the expiry of the deadlines set by the requirement to make customs payments."*

### **Issue 3. Service charges of the permanent customs control zone (PCCZ)**

The working group is concerned about the current practice of cooperation among the owners of bonded warehouses (BW), the customs checkpoints and foreign trade participants as regards possible monopolization and the imposition of a service determined as a "state service".

Pursuant to current legislation of the Customs Union, when a vehicle with goods subject to customs clearance enters the territory of the Customs Union, it shall be placed under the procedure of transit to the place of delivery, which is the customs control zone (CCZ) at the location of the customs body of destination (Article 220 of the CU Customs Code). Moreover, customs operations involving the placement of goods under a customs procedure is performed in CCZ. For instance, in order to place goods under the customs procedure of "release for domestic consumption", the vehicle with goods should be placed in the permanent customs control zone (PCCZ) where the transit procedure is completed, and then goods may be put (unloaded) into BW or within three hours placed under a selected procedure (Article 225 of the CU Customs Code).

As a rule, however, such zones as well as the customs bodies of the point of destination are on the territory of commercial BW. This actually means that when goods are transported by a motor vehicle and in order to perform customs procedures at the customs point of destination, a foreign trade participant should enter into a service agreement with BW, which cannot prevent a vehicle from entering the territory of PCCZ if the bill of lading indicates the code of the customs authority to which that BW is "assigned". At the same time, the Carrier is also deprived of the right not to enter the PCCZ assigned to it by the customs authority of departure.

Under Article 71 of Federal Law No. 311-FZ of 27 November 2010 *On Customs Regulation in the Russian Federation* (hereinafter, the "Law"), a fee is not charged for entering into and remaining in the transit zone. However, the BW owners who lease out PCCZ easily bypass that regulation, e.g. they charge a fee for exit or for 2-3 hours of a vehicle's stay in PCCZ that are needed after completing the transit procedure in order to complete the placement of goods under the selected procedure and actually officially draw up the papers for the vehicle's exit. Or even for a vehicle's stay in PCCZ for 15-30 minutes after the goods are actually unloaded into BW. Since such instances are not directly mentioned in the Law or bylaws, BW owners equate them to the "use of BW services" and release motor cars from the transit territory only after certain fees are paid according to the existing BW Price List.

The cost of stay of a vehicle during customs procedures at BW of the Moscow, Smolensk, Bryansk and Tula regions ranges from 4,500 rubles to 12,000 rubles for each full or incomplete day. That amount excludes the cost of possible additional operations, such as loading and unloading, the storage of goods at BW, etc. In this respect, the participant in foreign economic activity pays customs fees for customs procedures to the state.

According to the members of the working group, in this situation the foreign trade participant receives an imposed service which is not envisaged by current legislation; its essence is not determined, and there is no reasonable methodology to establish its cost. Frequently, BW owners, believing that there are no others like them in some regions, unintentionally raise the prices for their services without being prompted to do that, thereby violating anti-monopoly legislation.

Since PCCZ is essentially an asphalted and protected area, the cost of one vehicle's stay in it can be compared to that of a payable protected parking area which is not related to customs procedures.

## Recommendations

1. Analyze the aforesaid situation and make an expert examination to see whether services have been imposed and anti-monopoly legislation violated.

2. Reword Article 71.3 of Federal Law *On Customs Regulation in the Russian Federation* as follows:

"3. A fee is not charged for the entry of a vehicle with goods which are under customs control into the area indicated in part 2 of this article and its stay there until the date following the date of completion of the customs transit procedure and its **exit from the area**. A fee can be charged on a contractual basis by the owner of the customs control zone if a vehicle stays there afterwards."

### Issue 4. Simplification of customs procedures when exporting goods

The simplification of customs procedures when exporting goods is one of the most important steps in stimulating the development of production in the Russian Federation and attracting investments.

Currently, the Federal Customs Service is already implementing the plan for simplifying customs procedures and optimizing the customs clearance of goods electronically with minimum human effort. In accordance with Order No.1761 of the Federal Customs Service of Russia of 17 September 2013, a decision was made to eliminate the requirement for customs notes on paper copies of declarations upon departure and confirmation of the actual export of goods.

That may substantially simplify export customs formalities and will help exporters and customs authorities to optimize their work; consequently, vehicles can leave the loading place and go on their route immediately after the goods declaration is actually issued electronically by the customs authority.

Unfortunately, that Order is insufficient for no longer using paper documents with customs notes, since the requirement to use them remains in current legislation and in the regulations of other bodies.

The most complex procedure is to submit export confirmation to the tax authorities so that 0% VAT can be approved. For instance, in the event of export from the Customs Union (CU), it is still necessary to provide paper documents with customs notes on them when goods are exported across the Russian and Belarusian areas of the CU customs border. In general, it takes up to a month to have those customs notes stamped on the documents and requires much human effort. When goods are exported across the Kazakhstani area of the CU customs border, export is confirmed electronically by the customs authorities of Kazakhstan, the Federal Customs Service and the Federal Tax Service without the exporter's participation and the use of paper documents.

There are complications also when goods are exported to the CU countries. In this respect, an exporter should provide the original of the Application for importing goods and of the complete payment of indirect taxes with notes by the tax authority of the importer's country, and also copies of shipping documents stamped with seals of the counterparties in the CU countries. Evidently, this requirement practically cannot be met when there is no permanent reliable counterparty in the CU countries who is ready to execute all the said formalities in favor of its Russian partner. Consequently, many Russian enterprises simply turn down deals with the Belarus and Kazakhstani companies.

Another problem is that it takes a long time to draw up permissive paper documents of the Federal Service for Veterinary and Phytosanitary Oversight (veterinary and phytosanitary certificates), and to meet the requirement to stamp the seal of the veterinary body of the constituent entity of the Russian Federation on veterinary certificates and to stamp customs notes on the shipping documents.

Therefore, a foreign trade participant who has submitted an export declaration and obtained a release approval in most cases additionally must come to the clearing authority or to the customs authority specified in cl. 7 (for remote declarations) in order to have paper copies of shipping documents stamped with notes. Frequently, the time required for such stamping, including the waiting periods, is much longer than that required to check and release the declaration (statistically, release takes on average 40 minutes). This has a negative impact on foreign trade, whose participants bear additional costs (inefficient use of working hours by employees, transportation expenses, downtime, BW costs, etc.). In addition, remote declaring is not subject to any standard time limits within which the customs authority who stamped a note on the shipping documents is obliged to issue the documents to the declarer. As a result, after receiving an electronic notification of issue of the declaration in 40 minutes, the declarer may wait several hours to have the shipping documents stamped.

## Recommendations

To resolve the aforesaid problems and simplify the export customs procedure, the working group for the improvement of customs law proposes the following steps:

1. To confirm export, establish full electronic relations between the Federal Customs Service, the customs authorities of Belarus and Kazakhstan and the Federal Tax Service without the exporter's participation and the use of paper documents according to the principle of cargo via Kazakhstan.
2. Organize electronic relations between the tax authorities of the CU countries. Abolish the requirement to provide references on the payment of VAT in the CU countries and copies of shipping documents bearing seals stamped by counterparties in the CU countries.

3. Make the transition to the electronic forms of phytosanitary and veterinary certificates. Organize an electronic exchange of information on those certificates between the bodies of the Federal Service for Veterinary and Phytosanitary Oversight and the Federal Customs Service.
4. Abolish the requirement to stamp seals of a veterinary body of a constituent entity of the Russian Federation on veterinary certificates.
5. Abolish the requirement for vehicles to be in CCZ when exporting goods not under control so that a metallic seal can be put on them for transportation by a motor vehicle under cover of TIR Carnet.
6. Abolish the requirement to stamp customs seals on shipping documents.

#### **Issue 5. Development of electronic declaration**

The current procedure for relations between a customs post and a bonded warehouse (BW), when goods are released from the warehouse after customs clearance, applies only to goods that are actually in temporary storage at BW and not to those in a vehicle in a permanent customs control zone (PCCZ).

Pursuant to clause 26 of Order No. 2688 of the Federal Customs Service of 29 December 2012, the customs post shall within one hour inform the BW owner about the official completion of documents indicated in clause 25 of this Procedure (customs declaration) by using regular software (if it cannot be used, by communicating information by e-mail and/or fax). When goods are actually placed in BW (their existence in the RSA system and an indication of the BW registration certificate number in column 30 of GD), such "information on official completion" goes to the BW owner's computer automatically upon the customs inspector's decision to make the release in AIST-M software. If information on PCCZ (its address) is given in column 30, the program of verification of GD has no option for automatically forming "information on official completion". Actually, the customs does not use e-mail and/or fax for this operation.

However, according to clause 25 of Order No. 2688 of 29 December 2012, goods are released and removed from BW on the basis of a customs declaration or other documents which were officially drawn up in line with the aims of the declared customs procedure. Hence, the BW owner demands paper documents marked by a customs authority in all the cases, i.e., when goods are actually placed in a warehouse and when they are on a vehicle in PCCZ.

Due to the aforesaid reasons, a foreign trade participant must be present at the customs office to receive documents from the inspector after the release of goods, must request a GD printout (clause 22 of Order No. 395 of the Federal Customs Service of 30 March 2004) and for the words "release permitted" to be stamped on GD as well as two copies of shipping documents (clause 70 of Section 8 of Order No. 1356 of the Federal Customs Service of 28 November 2009) with their further submission to the BW/PCCZ owner for officially drawing up a gate pass to allow vehicles to leave the respective territory.

Such documentation practice has proved to be inefficient, since vehicles and goods are held up longer in a customs control area, vehicles reach the point of delivery with a delay, and manpower of a foreign trade participant and BW is not used rationally.

When cargo arrives at the point of destination, the shipper submits all the supporting documents to the delivery department, which conducts the delivery completion procedure. Taking account of the requirements of clause 2 of section 1 of the appendix to Order No. 2688 of the Federal Customs Service of 29 December 2012, "after completing the customs transit procedure, the goods should be placed in the customs control zone. The shipper or other interested entity, who is vested with powers over the goods, or the shipper's or the entity's representative (hereinafter, "authorized person") must place the goods for temporary storage, if they did not completely undergo customs clearance in compliance with the customs procedure, within three hours after completion of the customs transit procedure (12 hours for goods transported by rail or water)." Article 16.12 of the Administrative Offenses Code sets forth liability amounting to 10,000-50,000 rubles for failing to handle the goods which arrived.

However, the software of the customs delivery department is in no way connected with the software of the foreign trade participant and/or its customs representative (hereinafter, the "Declarer"), thereby preventing the participant and/or customs representative from seeing the actual confirmation of the completion of delivery.

Therefore, in order to avoid an administrative offense or a delay of goods in a vehicle with an unclear status in PCCZ and their late arrival at the place of final consumption, the Declarer is obliged to see to it that its representative is physically present at the location of the customs authority throughout the period when the goods are there since their arrival at the customs body of destination, or is always connected by phone to the delivery department. None of those variants is desirable for any party, because they are burdensome and cannot be actually fulfilled.

Pursuant to clause 9 of Section II of the appendix to Order No. 2688 of 29 December 2012, "an authorized person must, within three hours (twelve hours for goods transported by rail or water) after a customs transit procedure is completed (after goods are presented to the customs authority at the place of arrival), submit transport (shipping), commercial and/or customs documents containing information on the goods, the shipper (consignee) and the country of consignment (destination) to the customs post that oversees the operation of a bonded warehouse (or other place of temporary storage)."

Moreover, it is indicated that "such documents may be submitted to the customs authority electronically and bear an electronic signature in compliance with Russian law."

As a result, the customs inspector issues a "confirmation of registration of the documents" (see the Appendix), which a person authorized by the foreign trade participant submits together with those documents to a bonded warehouse. Only then will the bonded warehouse accept the goods for warehousing and release the vehicle.

When the possibility of automating these processes was considered, it turned out that the initiator – the Federal Customs Service – did not formulate the terms of reference, and that the current programs do not support this option.

Actually, this means that an authorized representative must be physically present during the completion of delivery and the placement of goods in a bonded warehouse. We believe this is quite ineffective and is at odds with the concept of electronic declaration. This problem is crucial for the declaring parties located far from a customs post.

### **Recommendations**

1. Look through and adapt the composition of the "information report on formal completion", which is created automatically by customs software, so that it would contain enough information for a BW owner to formalize all the documents whereby goods and vehicles can leave BW/PCCZ.
2. Add a module to the software for checking GD that would allow "information on formal completion" to be formed and sent when goods are on a vehicle in PCCZ (without drawing up RSA), which belongs to the BW owner.
3. Introduce the following wording to clause 25 of Order No. 2688 of 29 December 2012: "goods shall be released and taken from BW on the basis of customs information on the formal completion of a customs declaration as well as a copy of the customs declaration with the QR code or other documents drawn up according to the aims indicated in clause 24 of this Procedure and provided by the Declarer or its customs representative by e-mail or fax."
4. Provide the software of the customs authority and the Declarer with an electronic report which is formed upon completion of delivery and is automatically (or manually) sent to the Declarer's electronic system.
5. The terms of reference should be formed to develop the program module allowing the Declarer to send electronic documents to the customs post section responsible for work with a bonded warehouse before an electronic declaration is actually submitted.
6. There should be an option for preparing an electronic "confirmation of document registration" and sending the confirmation to a bonded warehouse together with the electronic documents received from a foreign trade participant also electronically.

### **Issue 6. Report on expenditures**

FIAC member companies in Russia are requesting the optimization of the form and procedure of obtaining information about the balance of funds on the customs houses' accounts and about the reports on the utilization of funds/confirmation of payment of customs duties and taxes. Foreign trade participants need this information for their operations as well as for financial and tax accounting.

Importers are experiencing serious difficulties in obtaining, processing and understanding information contained in reports on funds used as prepayments as well as in obtaining data on the balances of the customs houses' accounts. Written requests are made for information, which are often lost or go unanswered. Customs authorities provide hard-copy reports which often exceed 100 pages. It takes considerable time to transform such reports into electronic form and reconcile them with the accounting data.

According to FIAC members engaged in foreign trade, it is difficult to understand and interpret information in the approved form of the report on expenditures of funds used as prepayments. The approved report form contains no information on cash balances at the beginning and end of the reporting period, which is a major drawback. The absence of data on balances for payment documents in the report creates inconveniences when working with the report and makes it necessary to perform the calculations manually.

### **Recommendations**

1. To simplify and accelerate the process of receiving reports on the utilization of funds and payment confirmations for customs duties and taxes, consider enabling foreign trade participants to request and receive such documents electronically, as is currently the case for some government services.

For example, such reports and confirmations may be sent and received via the electronic declaration portal on the website of the Federal Customs Service of Russia. Most foreign trade participants can register on this portal, which will enable their authorized representatives to contact the customs authorities when necessary and request reports on the expenditures of funds and payment confirmations for customs duties and taxes. In turn, customs authorities will be able to respond promptly to such requests by generating understandable and easy-to-use documents in Excel and sending them electronically, thus saving time and avoiding the additional expense of mailing hard copies via the Russian post office.

We request that you consider our proposals and instruct the General Directorate for Federal Customs Revenues and Tariff Regulation to change the report format and instruct the General IT Department and the Central Information and Technical Customs Department of the Federal Customs Service to promptly upgrade software supporting the integrated automated information system of the customs authorities and the electronic declaration portal on the website of the Federal Customs Service in line with the business community's proposals. These measures will simplify

and greatly facilitate the electronic exchange of information and electronic document flow between business entities and customs authorities.

2. To make the information in the approved form of prepayment utilization reports more understandable, we request

1) that columns be added/modified to indicate the amount in the payment document; the amount spent under this document in the previous periods; the balance of funds at the start of the reporting period; expenses during the reporting period, and the balance of funds at the end of the reporting period in accordance with the attached draft form of the prepayment utilization report.

2) Please note that the report should include all payment documents with any balance of funds, regardless of the date of transfer (even if prior to the reporting period) and regardless of whether there were any expenditures in the reporting period.

3) To obtain information on the balances of the customs houses' accounts, we ask that the form of the report on the balances of funds used as prepayments as of the date indicated in a foreign trade participant's request (in the form shown in the appendix) be approved. For the new report forms to be used as soon as possible, that process should be completed in two stages:

1. Make amendments to Order No. 2554 of the Federal Customs Service of 23 December 2010 concerning report forms;

2. Develop and implement a system for providing new report forms electronically.

**REPORT ON THE BALANCE OF PREPAYMENTS**  
**as of 25 February 2013**

Date on which report was generated: 4/2/2013

At the request of Cross-border operator  
 TIN 7705000000 CRR 509900001  
 ADDRESS ul. Vavilova 1, Moscow 107000

we advise that the balance of funds in Russian currency entered in the Federal Treasury account for Novorossiysk Customs House

as of the reporting date is:

No.	Payment document			Balance as per the payment document as of the reporting date
	Number	Date	Amount in the payment document	
1	170	3/1/2011	1,500,000.00	10,000.00
2	887	11/2/2011	2,100,000.00	7,000.00
3	185	2/15/2012	700,000.00	31,000.00
4	197	4/1/2012	900,000.00	29,500.00
5	550	12/1/2012	500,000.00	500,000.00
6	212	2/15/2013	650,000.00	650,000.00
<b>Total</b>				<b>1,227,500.00</b>

The balance as of 25 February 2013 was **1,227,500.00 rubles**

Acting Head \_\_\_\_\_  
 of the Customs House (customs authority) (full name) (signature)

Date 2 April 2013

**PREPAYMENT UTILIZATION REPORT**  
as of *date on which the report was generated*

Date on which report was generated **4/2/2013**  
Report for the period of 1 January 2013 through 31 March 2013

At the request of **Cross-border operator**  
TIN **7705000000** CRR **509900001**

ADDRESS **ul. Vavilova 1, Moscow 107000**  
we advise that funds in Russian currency entered in the Federal Treasury account

for **Novorossiysk Customs House**

were expended in the reporting period on the basis of the following documents:

No.	Payment document							Basis for the expenditure of funds		
	Number	Date	Amount in the payment document	Previously expended	Balance at the beginning of the period	Expenses in the reporting period	Balance at the end of the period	Document number	Payment type	Amount
1	170	3/1/2011	1,500,000.00	1,490,000.00	10,000.00	0.00	10,000.00			
2	887	11/2/2011	2,100,000.00	2,093,000.00	7,000.00	0.00	7,000.00			
3	185	2/15/2012	700,000.00	633,000.00	67,000.00	43,000.00	24,000.00	1000000/010113/0001111	1010	5,000.00
								1000000/010113/0001111	2010	1,000.00
								1000000/010113/0001111	5010	25,000.00
								TP 10000000/010113/TP-6150899	9090	7,000.00
								Refund as per the unnumbered application of 31 January 2013 Decision No.... on the Refund of Overpayments		5,000.00
4	197	4/1/2012	900,000.00	842,000.00	58,000.00	28,500.00	29,500.00	1000000/010213/0001112	1010	5,500.00
								1000000/010213/0001112	5010	20,000.00
								1000000/010213/0001112	2010	1,000.00
								1000000/010213/0001113	1010	2,000.00
5	550	12/1/2012	500,000.00	0.00	500,000.00	115,000.00	385,000.00	1000000/010213/0001113	5010	30,000.00
								1000000/010213/0001113	2010	2,000.00
								1000000/010213/0001114	2010	2,000.00
								1000000/010213/0001114	5010	35,000.00
								1000000/010213/0001114	1010	5,500.00
								1000000/010313/0001115	1010	35,000.00
								1000000/010313/0001116	1010	5,500.00
6	212	2/15/2013	650,000.00	0.00	0.00	0.00	650,000.00			
<b>Total</b>					<b>642,000.00</b>	<b>186,500.00</b>	<b>1,105,500.00</b>			<b>186,500.00</b>

The balance at the beginning of the reporting period was **642,000.00** rubles  
Turnover in the reporting period **186,500.00** rubles  
The balance at the end of the reporting period was **1,105,500.00** rubles

Acting Head \_\_\_\_\_  
of the Customs House (customs authority) (full name) (signature)

date: 2 April 2013

Note:

**The report includes all payment documents with any balance of funds, regardless of the date of transfer (even if prior to the reporting period) and regardless of whether there were any expenditures in the reporting period.**

## 2.2. Technical Regulations and Elimination of Administrative Barriers

### **Issue 1. Extending manufacturer responsibility by creating a legal framework for an effective system of recycling consumption waste (packaging waste) in Russia (jointly with the working group for trade and the consumer sector)**

The creation of a sustainable system for managing consumption waste is a key issue for FIAC member companies, which for a number of years have been developing market incentives for collecting and recycling waste in Russia (using packaging waste as a model), based on international experience and the most effective approaches. Current EU legislation in this area provides for target indicators – standards for waste collection and recycling over a given period of time, allowing the waste collection system to be aligned with the development of waste recycling capacity.

In 2011, in the process of Russia's accession to the OECD, Russia's Ministry of Natural Resources drafted Federal Law No. 584399-5 "On Amendments to the Federal Law 'On Production and Consumption Waste' and Other Legislative Acts of the Russian Federation (as Regards Economic Incentives for Waste Management)" and submitted it to the State Duma. The draft law was adopted by the State Duma in the first reading on 7 October 2011.

One of the Draft's stated goals is to create economic incentives for waste recycling and to increase manufacturers' responsibility for the entire life cycle of their output. Above all, this is a matter of legislating mechanisms to reduce the generation of consumer waste, promote its recycling and return it to the economic cycle.

The draft adopted in the first reading offered virtually no such mechanisms.

During its preparation for the second reading, the draft has been changed several times.

In August 2014 a new version of the government amendments was posted on the website of the Russian Ministry of Construction and Housing. In this version, the main provisions on the introduction of "extended manufacturer responsibility" take the business community's suggestions into account and are generally in line with world practice in recycling consumer goods and packaging:

- a manufacturer/importer is required to meet a recycling quota determined as a percentage of recyclable products (packaging) released onto the market;
- a regulated entity may select the method of recycling – by means of manufacturers' and importers' own infrastructure, by contracting with specialized waste management companies, by forming associations of producers and importers for recycling purposes or by making environmental payments;
- a procedure, to be elaborated by the government, was established for reporting and monitoring compliance with recycling quotas;
- a procedure was established for calculating and making environmental payments in cases where a manufacturer/importer selects this form of extended responsibility;
- a transition period was introduced.

#### **There are also a number of important comments on the draft.**

1. The submitted version of the draft law grants a regional operator what is essentially a monopoly right to all household waste on its territory. Regulated tariffs are set for the management of such waste, including transportation, decontamination and recycling (utilization). Waste management performed by any operator on a regional operator's territory and not covered by an agreement with the regional operator is prohibited.

Such a structure is inconsistent with extended manufacturer responsibility, as it lacks an economic component and rationale. The economic sense of extended manufacturer responsibility consists in creating guaranteed effective demand (within set limits) on the part of regulated entities for services involving the recycling (utilization) of certain types of consumption waste. Such demand drives investment appeal and development of the industry of secondary process of consumption waste, as confirmed by broad international experience in this area. Effective demand for recycling (utilization) services, in the framework of expanded manufacturer responsibility, should be realized in conditions of free competition in which manufacturers/importers and waste management operators acting on their behalf have direct access to the sources of consumption waste. This will allow responsibility to be more effectively fulfilled and companies' additional expenses in connection with a wide range of consumer goods, including those of social significance, to be minimized. Similarly, households should have the ability, including in order to reduce utility expenses for consumption-waste disposal, to sort waste and transfer (sell) certain types of waste to manufacturers or waste management operators in the framework of extended manufacturer responsibility.

#### **Recommendations**

To resolve this problem and create a competitive recycling market, the draft law **must allow contracts to be concluded at free market prices between the owners of waste and any other waste management operators for purposes of "expanded manufacturer responsibility"** – fulfillment of recycling quotas for certain types of product (consumer packaging) waste.

In view of what has been said, we recommend that clauses 2, 6 and 7 of Article 9.1 of the draft law be worded as follows:

*"2. The Collection, transportation, recycling (use), decontamination, transportation and disposal of waste in a constituent entity of the Russian Federation shall be handled by regional waste management operators ("regional operators") in accordance with the regional waste management program and the consumption waste management scheme, except where the collection, transportation, recycling (use), decontamination, transportation and disposal of waste are handled in accordance with Article 24.2."*

*"6. Regional operators shall enter into waste management agreements with the owners of production and consumption waste. A regional operator may not decline to enter into a consumption waste management agreement with a party that makes such a request in its area of operations."*

*Consumption waste owners shall enter into waste management agreements with the regional operator in whose territory waste is generated (waste collection sites are located). **Consumption waste owners may also enter into service agreements with other waste management operators for the management of certain types of product waste to be utilized (recycled) after they lose their consumer properties in accordance with Article 24.2.***

*"7. Waste management operators may not manage consumption waste in a regional operator's area of operations without having an agreement with the regional operator, **except where service agreements are entered into with consumption waste owners for the management of certain types of product waste to be subsequently utilized (recycled).**"*

To ensure competitive pricing for waste management operators' services involved in meeting manufacturers' (importers') recycling responsibility in the framework of extended manufacturer responsibility, we suggest wording paragraph 1 of Article 24.5.2 as follows:

*"2. Unregulated waste management services include waste collection and transportation as well as the collection, transportation and recycling (use) of certain types of product waste to be used (recycled) after they lose their consumer properties in accordance with Article 24.2 of the law. Unregulated waste management activities are performed at prices determined in agreements for the performance of such activities."*

2. Article 24.3<sup>3</sup>, if amended as proposed in the draft, would allow unit costs for the creation of infrastructure to be included in the environmental fee rate: *"The environmental fee rate is based on average combined costs for the collection, transportation and recycling of a single item or a unit of weight of an item that has lost its consumer properties. The environmental fee rate may also include unit costs for the construction of infrastructure for these purposes"*.

#### **Recommendations**

Given the equivalence principle and the intended use of the environmental fee to compensate the recycling of goods that have lost their consumer properties, we suggest wording this clause as follows:

*"The environmental fee rate is based on average combined costs for the collection, transportation, processing and recycling of a single item or a unit of weight of an item that has lost its consumer properties."*

**We request that the above proposals be taken into account in finalizing the government's amendments.**

**We should also point out that the latest version of the amendments is substantially different from the previous version and should, in our opinion, be subject to regulatory impact assessment as were earlier versions of the draft law.**

**We would greatly appreciate being invited to discuss the draft law in government venues.**

**Issue 2. Developing the Customs Union's technical regulation system and eliminating administrative barriers to the release and circulation of products on the market**

#### **2.1. Conversion of product permission documents into electronic form**

Work is currently underway to make state services as well as control and oversight procedures electronic. The stated aims are to improve the government's work, reduce business costs, eliminate administrative barriers and make control and oversight more effective.

Under the pretext of implementing these aims, however, attempts are being made to retain the existing administrative barriers and redundant procedures by converting them to electronic form: instead of eliminating a redundant procedure, it is proposed that the procedure be made electronic.

#### **Recommendations**

When control and oversight functions as well as documents and procedures relating to the release and circulation of goods on the market are converted into electronic form, the need to maintain such function, document or procedure should be assessed in relation to the relevant commodity classification (e.g., the need for an expert sanitary and veterinary examination of processed animal products when the raw materials have already undergone the relevant expert examination).

## **2.2. Official clarifications of Customs Union technical regulations**

Within the scope of its powers, the Eurasian Economic Commission (EEC) clarifies Customs Union technical regulations, posting answers on its website to questions on their implementation. This is done in order to unify the interpretation of technical regulations and promptly notify concerned parties of such unified interpretation of Customs Union legislation.

However, the EEC website section "Answers to questions on implementing Customs Union technical regulations" is incomplete and provides disparate information that frequently differs from answers that the EEC gives to individual market players. The legal status of this section remains unclear for both concerned market players who use the information and controlling (oversight) bodies of Customs Union member states.

Moreover, after the Customs Union's technical regulations were adopted, controlling bodies as well as ministries and departments of member states of the Customs Union and Common Economic Space (CES) issued their own clarifications of these regulations, usually without any mutual agreement or agreement with the UES. This creates substantial problems in implementing Customs Union technical regulations.

### **Recommendations**

1. The body of contract law of the Customs Union and the Common Economic Space (EEC Council Decision No. 48) should include a provision on the EEC's competence in interpreting Customs Union technical regulations as well as a procedure for their official interpretation, including time limits and stages.
2. As one of the mandatory stages, ongoing consultations should be held with the EEC's Entrepreneurial Development Department so that the industry's position is taken into account when clarifications are initiated and when the EEC forms its position on a specific clarification.
3. Based on these consultations (in which the parties' authorized bodies also take part), drawn up in the form of a protocol, the EEC will prepare a clarification and send it to the parties and the entity concerned as well as posting it on the website. This clarification should be regarded as final.

## **2.3. Threats to the technical regulation system, including the "one product–one document" principle, in connection with the adoption of the Agreement on the Eurasian Economic Union as regards technical regulation principles and the application of sanitary, veterinary and phytosanitary requirements and measures**

Russia, Belarus and Kazakhstan signed the Agreement on the Eurasian Economic Union on 29 May 2014. The top leadership of all three Customs Union countries have frequently declared that the Agreement is designed to improve business conditions in the integrated space, eliminate administrative and technical barriers and protect honest, fair competition.

In fact, however, despite numerous appeals from the business community during the document's preparation and approval, provisions have been retained that differ conceptually from those in current Customs Union agreements, are inconsistent with international norms and make business conditions in Russia and the Customs Union substantially worse.

What is at issue here is, above all, the possibility of setting requirements for products and processes related to product requirements in Customs Union technical regulations and the Unified Sanitary and Epidemiological Requirements for Goods Subject to Sanitary and Epidemiological Oversight as well as in the Unified Veterinary (Veterinary and Sanitary) Requirements for Goods Subject to Veterinary Control (Oversight). This will inevitably lead to double and, for some products, triple regulation of businesses as well as the introduction of additional ways of assessing compliance, thus adversely affecting the business climate in Russia and the Customs Union.

### **Recommendations**

The current principles of technical regulation in the Customs Union and the Common Economic Space should be preserved:

1. Unified Sanitary Requirements should be effective only until the entry into force of Customs Union technical regulations for the respective controlled goods, as stipulated in the Customs Union Agreement on Sanitary Measures (signed in St. Petersburg on 11 December 2009 and amended on 21 May 2010). Unified Sanitary Requirements should be canceled after the entry into force of all technical regulations for the products affected by these requirements.
2. Unified Veterinary Requirements concerning products and processes related to product requirements as well as conformity assessment procedures should remain in effect only until the entry into force of Customs Union technical regulations for the respective controlled goods. Unified Veterinary Requirements may list only animal diseases that present the greatest danger to international trade, based on lists in the Terrestrial Animal Health Code of the Office International des Epizooties ("OIE") and the OIE's Aquatic Animal Health Code (fish, mollusks and crustaceans), since animals classified as products as well as other animals, including domestic animals, are susceptible to such diseases.

3. As regards products and processes related to product requirements as well as the forms and procedures of assessing conformity, the requirements of Customs Union technical regulations should be exhaustive, and such requirements should not be included in other EEC or national regulatory acts.
4. Issues with respect to sanitary, veterinary and phytosanitary measures concerning products and processes related to product requirements should be considered, not with a view to duplicating requirements, but based on international practice and only as prompt responses to protect against risks due to the spread of pests, diseases, disease carriers, etc. Such measures should be scientifically substantiated.
5. The standards' requirements should be applied only on a voluntary basis.

**Issue 3. Optimizing control and permission functions in connection with industrial investment and construction projects in order to facilitate design, construction and commissioning and ensure the safety of industrial facilities**

Inefficient and nontransparent state control procedures, both in the early stages of pre-project planning and acquisition of title to land for purposes unrelated to residential construction and in the stages of obtaining construction permits and of building and commissioning industrial facilities. Excessive state regulation in this area is a major administrative barrier to the creation of new production facilities in Russia. Current construction and industrial safety law must be thoroughly improved so that production and technology can develop rapidly in the Russian economy. Since the administrative barriers to the construction and commissioning of industrial facilities have a strongly negative impact on the Russian investment climate and are the main obstacles preventing Russia from improving its position in the World Bank's international "Doing Business" rating, FIAC makes the following recommendations:

**3.1. Sanitation and epidemiological expert examinations and sanitary protection zones**

Reduction in the number of procedures involved in assessing compliance with sanitation and epidemiological law during the construction/reconstruction of industrial facilities. The procedure for collecting initial industrial construction permits should be optimized, and the time limit for the collection and consideration of such permits by the Federal Consumer Rights and Human Welfare Service should be reduced to 30 days.

*Note: There are numerous redundant sanitation and epidemiological supervision procedures at virtually every stage of construction, i.e., during the expert examination of project documentation, the approval of a sanitary protection zone and the operation of an industrial facility. In each such case, a separate permit, i.e., a sanitation and epidemiological examination report, is required. Under the Urban Development Code of the Russian Federation, initial permits include a large number of preliminary permits issued by the Federal Consumer Rights and Human Welfare Service and the Federal Hygiene and Epidemiology Center. Each certificate or document must be prepared within 30 days.*

**Recommendations**

- Optimize the procedure for approving the sanitary protection zones of standalone production facilities as well as facilities in industrial parks (for instance, by eliminating the field-measurement requirement). The time limit for approving the boundaries of sanitary protection zones should be reduced, for instance, by drafting and implementing administrative regulations of the Federal Consumer Rights and Human Welfare Service on approving the boundaries of the industrial facilities' sanitary protection zones.
- Eliminate the requirement to prepare a sanitary protection zone project for low-hazard facilities (hazard classes 3-5) where hygiene is up to standard and environmental impact and emissions are within limits at the boundaries of an industrial site.

**3.2. Approving and adopting Eurocodes (European Technical Standards) for design work in Russia**

The use of outdated Construction Standards and Rules (CSR) and Sanitary Regulations and Standards (SANPiN) remains a problem even after the introduction of private independent expert examinations of documentation. This makes it impossible to base project decisions on best available technologies. The problem could be solved if Russia were to follow the EU's lead and approve unified Eurocodes in the form of national and even supranational codes of rules and regulations.

Two priority tasks came to the fore after the meeting of FIAC's Executive Committee, chaired by Igor Shuvalov, on 24 May 2013: harmonization of Russian and European construction standards and an institution for insuring construction risks. The first of these tasks was included in the list of instructions that came out of the meeting. The second task, which is more complex, systemic and involves many members of the federal executive bodies in various areas, is still being formulated.

The key achievement in terms of harmonization will be the adaptation and full implementation of Eurocodes (EN) for design and construction in the Customs Union. Belarus and Kazakhstan have already completed this process; design engineers in these countries are now free to use either CSR or EN for design purposes.

In Russia, the National Builders' Association has been translating and adapting Eurocodes since 2011 at its own expense and following its own timetable. The National Builders' Association has been supported by the National Association of Design Engineers. The Ministry for Regional Development (Federal Construction and Housing Agency) is charged with approving the completed documents. The procedure is similar to the approval of Special Technical Design Specifications, i.e. the rules can temporarily serve as a guide for design work. As of July 2013, the National Builders' Association maintains that 55 of 58 volumes of Eurocodes have been translated, 30 national parameters

have been developed. 98 standards have been developed in 28 months, and another 70 are under development. The Eurocodes and the national parameters have been submitted to the Ministry for Regional Development for further approval.

It should be noted that the Program of Measures to Harmonize Regulatory Documents of Belarus, Kazakhstan and the Russian Federation with EU Construction Standards for 2010-2014, approved in late 2010 but without a federal target program for financing, is approaching its completion deadline. Every effort should be made to complete this work so that the entire system of documents can be approved and in use by January 2015. Another important problem involved in introducing Eurocodes is the application of European standards to building materials as well as methods of testing and measurement and their implementation in the industry. The test base will have to be upgraded in order to apply these standards. This is a long and complex process, similar to the approval of Eurocodes.

### **Recommendations**

Translation is only the first step. The European system of regulatory documents in the construction area involves Nationally Determined Parameters (NDP) that describe each country's market specifics. As of today, countries that use Eurocodes have developed a total of 1,500 such national parameters. Russia still needs to do thorough technical upgrading, create national parameters and do comparative calculations. Otherwise, Eurocodes cannot be applied. Training must also be provided for instructors at industry-related educational institutions as well as for construction experts and professionals.

The working group succeeded in having this issue put on the agenda for discussion by the Collegium of the Ministry for Regional Development when it meets in St. Petersburg in August of this year. The minister designated these joint efforts of the ministry and national associations of builders and design engineers as priority tasks.

- The minimum progress that must be made in this direction is the translation and approval of Eurocodes; the maximum would be approval of all the related national parameters. The Ministry for Regional Development should be consulted on the status of this work on an at least quarterly basis.
- The first joint meeting with the ministry to consider this status and the working group's recommendations should be held in September of this year. Deputy Minister S. A. Vakhrukov has already given his approval for the meeting.

### **Issue 4. Enhancing the competitiveness of products and services as well as labor productivity in the Russian market by efficiently regulating labor resources**

#### **4.1. Regulating relations between employers, employment agencies and job seekers in the framework of staff leasing arrangements**

**Under Federal Law No. 116 of 5 May 2014 "On Amendments to Certain Legislative Acts of the Russian Federation," staff leasing in the form of secondment (intra-company transfer) will no longer be regulated by the adopted federal law, but by a separate federal law.**

**Since Federal Law 116-FZ enters into force on 1 January 2016, the main threat for business is the risk that the Federal Law on Secondment will not be enacted by this time and that secondment, a flexible working arrangement previously legal in the Russian Federation and recognized by the international business community, will fall outside the scope of the law.**

**On 18 July 2014, the Russian Ministry for Economic Development initiated the notification procedure for the draft Federal Law "On the Labor of Employees Temporarily Transferred by an Employer That Is Not a Private Employment Agency to Other Legal Entities under Staff Leasing Agreements" ("On Secondment").**

**FIAC is currently working with the Ministry for Economic Development to provide feedback on the draft law "On Secondment" which the ministry is developing. Among other things, FIAC is doing a survey of foreign investors to determine the impact that unbalanced regulation of "staff leasing" could have on the realization of investment projects in Russia.**

### **Recommendations**

- Elaborate the draft law "On the Labor of Employees Temporarily Transferred by an Employer That Is Not a Private Employment Agency to Other Legal Entities under Staff Leasing Agreements," taking into account FIAC's stance on the need to eliminate the risk of excessive regulation of staff leasing and secondment so that investors can react promptly and flexibly to changing economic conditions, so that human resources can be used effectively and so that highly qualified personnel can be hired promptly in full compliance with labor law.
- Submit the draft law to the Russian government by 1 November 2014.

#### **4.2. Enhancing the regulatory framework for compensation and payments to employees working in harmful and hazardous conditions**

**On 28 December 2013, the State Duma adopted Federal Laws No. 426-FZ "On the Special Assessment of Working Conditions" (hereinafter, the "Law") and No. 421-FZ "On Amendments to Certain Legislative Acts of the Russian Federation Following the Adoption of the Federal Law "On the Special Assessment of Working Conditions" (hereinafter, the "Accompanying Law") in the third reading.**

The working group analyzed the practical application of the Law and the Accompanying Law as well as related subordinate acts regulating working conditions.

The analysis revealed a number of systemic problems, such as the lack of subordinate acts required to implement the provisions of the Law and fundamental contradictions between the Law and draft subordinate acts and a number of other federal laws.

As a result, many important innovations and principles remain unrealized, and the Law has been unable to fully meet its stated goal of ensuring an optimum balance between the interests of employers and employees and enhancing labor productivity by managing human resources efficiently.

Key issues:

- Failure to implement the provisions in Article 14.6 of the Law as far as lowering the hazard subclass when personal protective equipment (PPE) is used. This is due to the lack of a methodology approved by a federal executive body and contradictions between the Federal Law and the Technical Regulations of the Customs Union "On the Safety of Personal Protective Equipment" (TR TS 019/2011).
- Contradictions between the Law and Federal Law No. 52-FZ "On Public Sanitary and Epidemiological Welfare" of 30 March 1999.
- Contradictions between the Law and Decree No. 298/3-1 of the Supreme Soviet of the RSFSR of 1 November 1990.
- Absence of a set procedure for cooperation between trade unions and employers in performing special assessments of working conditions.

FIAC member companies sent Letter No. KS-1108-az of 11 August 2014 to the Russian Ministry for Economic Development, including a detailed description of the issues and proposals for resolving them.

#### **Recommendations**

Develop draft amendments to Federal Law No. 426-FZ as well as subordinate acts, taking into account the opinion of FIAC members, including the proposals in Letter No. KS-1108-az of 11 August 2014.

#### **4.3. Enhancing the regulatory framework for hiring physically handicapped (disabled) employees and providing them with equipped work stations (including by means of budget allocations)**

Employment relations between an employer and disabled persons are currently regulated by Federal Law No. 181-FZ of 24 November 1995 "On the Social Protection of Disabled Persons in the Russian Federation."

Although many amendments have been made to this law (the latest on 2 July 2013), a number of key issues that directly impact foreign investors' operations in Russia remain unsettled. For example, although job quotas for disabled persons and funds allocated to employers to equip work stations for disabled persons differ from one federal constituent entity to another, they do not (and cannot) differentiate between disability categories. This makes it impossible to comply with the legislative requirement that "universal" work stations be provided; also, no account is taken of the technological and other operational and industry specifics of employers, which may include the remote employment of disabled persons, climatic conditions of federal constituent entities and other important factors.

On the whole, the requirement that international companies determine the number of work stations set aside for disabled persons and equip them accordingly before making a fair selection of candidates on the labor market based on the principles of equal rights and nondiscrimination seriously affects compliance with the business principles in the internal corporate codes of many FIAC member companies and, in our view, severely limits disabled persons' access to the full range of jobs and professions on the labor market. This in itself is contrary to the idea of the law.

#### **Recommendations**

- A working group should be formed jointly with the Ministry of Labor and representatives of FIAC member companies to develop proposals for revising current approaches (or introducing alternative approaches) to job quotas for physically handicapped (disabled) persons and to allocations for specially equipped work stations, taking into account disability groups, industry specifics (the mining industry, etc.) and regional climatic conditions (in the Far North, etc.). Target quotas should be tied to the number of work stations potentially suitable for physically handicapped (disabled) persons rather than to a company's total headcount;
- To avoid artificial requirements with respect to the employment of physically handicapped people, Federal Law 181 should be amended as follows:
  - a) Introduce an appropriate amount of material compensation to be paid if the regional quota level cannot be met for objective reasons (an amount X for each quota job);
  - b) In cases where it is impossible to create or allot work stations for disabled persons, provide the option of leasing such work stations on contractual terms in satisfaction of the quota.

## **Issue 5. New drainage requirements for industrial enterprises under Federal Law No. 416-FZ "On Water Supply and Drainage"**

*(Summarized for the government in a January 2014 report by the inter-agency working group, including representatives of industry and Vodokanal enterprises, that was formed by the Ministry of Natural Resources to develop proposals for implementing clause 4 of Dmitry Medvedev's instructions of 27 October 2013. Despite the acknowledgment of substantial problems with the adopted system of regulation and law-implementation practice, no amendments to regulatory documents have been initiated. Based on a meeting with Dmitry Kozak in June of this year, it was decided to draft amendments to Draft Law No. 386179. Thus, clause 4 of Dmitry Medvedev's instructions of 27 October 2013 based on the FIAC session has not been fulfilled.)*

Federal Law No. 416-FZ "On Water Supply and Drainage" changed the legal status of companies that use central drainage systems by categorizing them as natural resource users. Enterprises discharging over 200 m<sup>3</sup> of water daily into central drainage systems were placed under the direct control of the Federal Service for Supervision of Natural Resource Usage and are required to pay pollution charges and have the following documents available:

- discharge standards
- a discharge reduction plan
- discharge limits

The criterion of 200 m<sup>3</sup> of discharged wastewater lacks any objective basis. All large and most medium-sized enterprises as well as shopping centers and office buildings fall into this category.

As of 1 January 2014, thousands of enterprises using central water-supply systems effectively come under the current system of standards for wastewater discharged into bodies of water. This system is based on water quality standards for fishery purposes, which are much stricter than those for drinking water. These standards ignore the fact that enterprises do not discharge wastewater directly into bodies of water, but into central drainage systems.

The federal law requires such customers to build and operate their own local treatment facilities without considering the option of additional wastewater treatment by Vodokanal enterprises and third-party organizations or the use of other techniques, such as closed-cycle production and other conservation measures. The requirement to build local treatment facilities is financially unfeasible for many enterprises, even taking into account the construction time frame provided for by law. The construction of local water treatment facilities designed to meet fishery quality standards is unfeasible financially and technically.

In November 2013, at the initiative of Vodokanal, the 15-page Draft Law No. 386179-6 "On Amendments to the Federal Law 'On Water Supply and Drainage' and Certain Legislative Acts of the Russian Federation" was introduced by a group of Duma deputies (P. R. Kachkayev, E. L. Nikolayeva, M. L. Shakkum, R. F. Abubakirov, V. E. Bulavinov, B. K. Balashov, S. P. Kuzin, A. N. Tkachev). This draft law makes the disbalance in relations between subscribers and Vodokanal even greater and reinforces the artificial division of responsibility in the framework of a unified system of wastewater treatment via central drainage systems.

### **FIAC proposals made at the plenary session of 21 October 2013:**

1. *Postpone the implementation of the regulations in Chapter 5 of Federal Law No. 416-FZ for at least 18 months*
2. *Provide a 12-month transition period so that enterprises classified as natural resource users can obtain the necessary discharge standards, discharge reduction plan and discharge limits from the Federal Consumer Rights Service.*
3. *Introduce legislative amendments to rectify the imbalance in regulation and bring regulation into line with world practice.*

### **Instructions on this issue given by Dmitry Medvedev on 27 October 2013:**

3. *The Ministry of Natural Resources (S. E. Donskoy), the Ministry for Regional Development (I. N. Slyunaev), the Ministry for Economic Development (A. V. Ulyukaev), the Ministry of Health Care (V. I. Skvortsova) and the Federal Antimonopoly Service (I. Yu. Artemyev), in accordance with the established procedure, are to submit an agreed draft federal law to the Russian Government **amending Federal Law No. 416-FZ of 7 December 2011 "On Water Supply and Drainage" as regards the date on which the provisions of Chapter 5 of the law enter into force.***

### **Deadline: 15 November 2013**

4. *The Ministry of Natural Resources (S. E. Donskoy), the Ministry for Regional Development (I. N. Slyunaev), the Ministry for Economic Development (A. V. Ulyukaev), the Ministry of Health (V. I. Skvortsova) and the Federal Antimonopoly Service (I. Yu. Artemyev) are to develop, in collaboration with the concerned federal executive bodies and the business community, and submit to the Russian Government, in accordance with the established procedure, agreed proposals for legislative amendments **clearly segregating responsibilities for the treatment of industrial wastewater between central drainage systems and the users of those systems and establish realistic standards for discharges of pollutants into bodies of water and central drainage systems, based on the experience of OECD member countries.***

#### Status as of 25 September 2014

Federal Law No. 411-FZ, which was signed on 28 December and entered into force on 31 December, **grants central-drainage-system users a transition period until 1 January 2015, during which admissible discharge standards should be received and discharge reduction plans and discharge limits should be approved. Also, the requirement to build local wastewater treatment facilities has been postponed for one year.**

**In other respects, regulation remained unchanged and still requires substantial adjustments to clearly segregate responsibility for industrial wastewater treatment between central drainage systems and their users as well as the establishment of realistic standards for discharges of pollutants into bodies of water and central drainage systems, based on the experience of other countries.**

In January of this year, the Ministry of Natural Resources formed an inter-agency working group, including representatives of industry and Vodokanal enterprises, to develop agreed proposals for implementing clause 4 of Dmitry Medvedev's instructions of 27 October 2013. The working group held several meetings, the Ministry of Natural Resources prepared a report for the government, and the working group was dissolved. No amendments to regulatory acts were proposed or considered by the government.

In June 2014 the Ministry of Natural Resources, jointly with the Construction Ministry was charged with preparing government amendments to Draft Law No. 386179-6 "On Amendments to the Federal Law 'On Water Supply and Drainage' and Certain Legislative Acts of the Russian Federation." The status of this work is unknown.

**Companies' attempts to develop discharge standards and have them approved by 1 July 2014, as stipulated in Decree No. 317 of the Government of 10 April 2013, were unsuccessful. The order of the Ministry of Natural Resources that establishes the method of setting discharge standards for subscriber enterprises was published only on 9 September. A preliminary analysis of the method reveals its weaknesses:** certain important data used in determining the discharge targets for industrial enterprises are submitted by Vodokanal enterprises based on the subjective condition of their treatment facilities: the poorer the job done by Vodokanal, the higher the discharge standards for subscribers. This approach, by shifting responsibility to subscribers, means that Vodokanal enterprises have no incentive for further development. The method is conducive to data manipulation, since there is no mechanism for verifying the data provided.

**It also remains unclear what wastewater parameters should be used in designing local treatment facilities.** The construction of local treatment facilities by enterprises in the food industry, for example, is often redundant, since food enterprises discharge wastewater with the same characteristics as household wastewater, and Vodokanal enterprises had food enterprises in mind when they designed their treatment facilities

**Of particular concern are the "Rules for Cold Water Supply and Drainage," approved by Government Decree No. 644 of 29 July 2013 and implemented on 1 January 2014.** This document introduces expanded, redundant and unreasonably strict wastewater standards for a large number of substances that are said to "damage central drainage systems." The new rules essentially allow Vodokanal enterprises to charge subscribers for "damage" without verifying the extent of damage or expenses incurred in connection with discharged wastewater that exceeds the permissible levels for pollutants. **This has already resulted in a dramatic increase in such payments charged to industrial enterprises (in some cases by a factor of ten or more). No damage is done to drainage enterprises, and yet the proceeds go to Vodokanal.**

#### Recommendations

##### 1. To correct the imbalance in the regulation of relations between subscribers and central drainage systems:

Ensure prompt implementation of clause 4 of Dmitry Medvedev's instructions based on the results of the FIAC session by formulating amendments to Federal Law No. 14 "On Water Supply and Drainage" and related regulatory documents based on six principles (presented separately). The business community formulated such amendments and submitted them to the respective ministries.

##### 2. To provide for current legislation until amendments are made in accordance with point 1:

- a. Amend Government Decree No. 230 of 18 March 2013 by changing the criteria for classifying subscribers as regulated and making these criteria consistent with the initial purpose of identifying major polluters that discharge waste specific to drainage systems and not intended for treatment. Provide exceptions for enterprises in the food industry.
- b. Amend Government Decree No. 644 by revising the criteria so that compensation charged by Vodokanal enterprises is based on proven damage done to their networks by subscribers.
- c. Approve amendments to the "Regulation on the Plan for Reducing Emissions of Pollutants, Other Substances and Microorganisms into Surface and Subterranean Bodies of Water as Well as Collection Areas," approved by Government Decree No. 317 of 10 April 2013, to eliminate the requirement that such plans be approved by 1 July of the year preceding their implementation.
- d. Develop a methodology. Provide business entities with a reasonable transition period of at least one year after the methodology is approved, as required in order to calculate discharge standards, set limits, develop and approve plans for incremental discharge reductions, and design and begin construction of local treatment facilities.

##### 3. Representatives of industrial companies whose enterprises use central drainage systems should be directly involved as experts in working on the amendments.

## **Issue 6. Issues involved in legalizing parallel imports and protecting intellectual property rights**

The amendment of Russian intellectual property law to convert from the national trademark exhaustion principle to an international principle will have negative consequences. For instance, a more thorough expert study should be done of the diminution in Russia's appeal for investment and innovation projects and the sharp increase in risks that consumers will acquire low-quality and, very possibly, hazardous goods.

As of today, there is no objective evidence that the legalization of parallel imports has had a favorable effect on consumer prices anywhere in the world. On the contrary, a number of surveys conducted by such respected scientific and expert organizations as the London School of Economics, the Higher School of Economics and the NERA research center clearly show that the absence of restrictions on parallel imports has no impact on price competition and does not ultimately lead to lower prices in the importing country.

Leading world countries such as the US and Japan, use various mechanisms to protect their domestic markets from parallel imports. The European Union (EU), for instance, applies the regional principle of exhaustion of trademark rights, whereby officially imported goods can circulate freely in the EU. Products cannot be imported into the EU without the rights holder's consent. A principle of exhaustion of rights similar to that applied in the EU has been introduced in the Customs Union.

### **Recommendations**

- the current provisions regulating the national principle of exhaustion of trademark rights should be retained;
- a special working group should be formed under the Russian Ministry of Industry and Trade to involve economists and finance specialists in studying the issue and discussing it with the business community.

## **Issue 7. Problems involved in implementing the Federal Law "On Amending Certain Legislative Acts of the Russian Federation to Clarify the Procedure for Processing Personal Data in Information and Telecommunication Networks."**

Federal Law No. 242 of 21 July 2014 "On Amendments to Certain Legislative Acts of the Russian Federation to Clarify the Procedure for Processing Personal Data in Information and Telecommunication Networks" and Draft Law No. 596277-6 of 1 September 2014 "On Amendments to Certain Legislative Acts of the Russian Federation to Clarify the Procedure for Processing Personal Data in Information and Telecommunication Networks" make important changes affecting the storage of personal data.

Under this law, Article 16, part 4, of Federal Law No. 149 of 27 July 2006 "On Information, Information Technologies and the Protection of Information" is supplemented with a new clause 7 making operators responsible for ensuring that databases used in collecting, recording, systematizing, aggregating, storing, modifying (updating, revising) and retrieving personal data of Russian citizens are located in the Russian Federation, and Article 18 of Federal Law No. 152 of 27 July 2006 "On Personal Data" is supplemented with a new clause 5 requiring that operators collecting personal data, including via the Internet, ensure that the personal data of Russian citizens is recorded, systematized, aggregated, stored, modified (updated, revised) and retrieved using databases located in the Russian Federation.

Under Draft Law No. 596277-6 "On Amendments to Article 4 of the Federal Law 'On Amendments to Certain Legislative Acts of the Russian Federation to Clarify the Procedure for Processing Personal Data in Information and Telecommunication Networks'" (as regards the implementation data), these amendments are to enter into force on 1 January 2015.

Although the lawmakers apparently intended to protect Russian citizens' personal data in the Internet, the updated law applies to all personal data and all personal data operators, regardless of their lines of activity, and all companies that qualify as personal data operators under the law will thus have to reconfigure their personal data processing systems.

This requirement is inconsistent with contemporary world practices of data storage and processing, which involve the creation of data centers in regions with high-technology and a highly qualified and efficient workforce. This requirement runs counter to the goals of high business efficiency and access to advanced technologies and will entail sizable additional costs for reconfiguring data processing systems as well as restricting access to the latest technological solutions. It will thus prevent domestic companies and Russian divisions of foreign companies from taking advantage of leading technologies that are in use around the world.

### **Recommendations**

- This requirement should not apply to employers that process personal data in order to comply with the labor laws of the Russian Federation.
- The law should be revised to differentiate the approaches to personal data and personal data operators and to establish the right of operators (if approved by the personal data owner) to process personal data in a foreign country, provided that the law's requirements with respect to the recording, systematization, aggregation, storage, modification and retrieval of the personal data of Russian citizens using databases located in the Russian Federation are met.
- In furtherance of this law, Federal Law No. 242 of 21 July 2014 "On Amendments to Certain Legislative Acts of the Russian Federation to Clarify the Procedure for Processing Personal Data in Information and Telecommunication Networks" (as regards the law's implementation), which moves the law's implementation date from 1 September 2016 to 1 January 2015, should be repealed.

## 2.3. Financial institutions and Capital Markets

### Development of Moscow as an international financial center

#### Positioning of Moscow as a center of regional financial integration of CIS countries

##### Issue 1. Forming the infrastructure of the Russian financial market and carrying on legislative activity in regulating it

**Recommendations:** improvement of legislation (adoption of laws/amendments to laws):

- "On Stock Exchanges and Organized Trading"
- "On the Bankruptcy of Individuals"
- "On Economic Insolvency"
- Development of legislation to legitimize money transfers
- Preparation of a regulatory framework for the issue of foreign bonds in Russia / Russian depositary receipts
- Introduction of the "foreign nominal holder" concept into legislation

##### 1.1. Collateral legislation

The Russian Ministry for Economic Development, in close collaboration with the European Bank for Reconstruction and Development, is working to reform collateral legislation in accordance with clause 66 of the Anti-Crisis Plan. The reform is intended to address the most serious problems encountered by market participants in using collateral. An increase in the market participants' confidence in the reliability and effectiveness of collateral as a form of security should result in greater financing on more favorable terms and so make it possible to satisfy the economy's demand for capital in a more timely and adequate manner.

In the context of an extensive reform of civil legislation, the Presidential Council for Codification and Improvement of Civil Legislation drafted a revised Civil Code, which addresses, among other things, provisions on collateral (Chapter 23, paragraph 3).

It should be noted that the collateral provisions of the draft Civil Code, if adopted in their current form, would not allow Russia to fully meet its goals in reforming collateral legislation. It is therefore very important to ensure that the key areas of this reform are reflected in the Civil Code.

**Advantages:** The draft Civil Code (prepared for its second reading in the State Duma) is more advanced than current legislation with respect to the following:

- confirms the legitimacy and possibility of levying charges in relation to syndicated loans;
- recognizes the legitimacy of pledging bank accounts;
- envisages the registration of collateral and recognizes the validity of collateral in relation to third parties from the date of its registration. These provisions are supplemented by a recently adopted law under which the Federal Chamber of Notaries is to develop a unified register of notifications of pledges of immovable property and ensure its functioning; this is a revolutionary development in Russia.

**Disadvantages:** a more flexible and effective approach to pledge transactions is not introduced in the draft, e.g.,

- there are still many restrictions affecting extra-judicial claims;
- pledges of bank accounts will not be as flexible as in many other markets;
- transaction costs may remain high due to excessive requirements.

**Critically important:** the draft contains problematic provisions relating to:

- Description of assets that may be pledged: the parties must be allowed to describe pledged items as they deem appropriate for their transaction, provided that such a description allows them to identify a pledged item at the time of enforcement. That will expand the range of assets pledged by borrowers and will ensure lenders' confidence in the reliability of pledges offered to them (e.g., lessen the risk that a transaction will be declared "non-existent" on formal grounds that a pledge is described inadequately; currently, such a risk is quite high for lenders) and will also reduce transaction costs involved in secured financing (e.g., when a pledged item is changed, amendments to the pledge agreement need not be made if such a change is covered by the initial general description).
- Obligation to notarize an extra-judicial claim agreement in relation to pledged immovable property, regardless of who the pledger is. Such a requirement may be needed to protect individual pledgers, since individuals are usually in a more vulnerable position and would be better protected if they consulted a notary. But there would seem to be no reason for similarly protecting legal entities that pledge their immovable property; besides, such an obligation

would substantially increase the transaction costs. There are also provisions in the draft which actually oblige the parties to notarize all pledge agreements so as to have the option of making an extra-judicial claim, but this also increases transaction costs and negatively affects Russia's economic development in the long term.

- Obligation to notify a debtor about a pledge of the right of claim against him within five days after entering into a collateral agreement. In the contemporary financial world, it is quite common to pledge rights of claim. The debtor should be notified of such a pledge voluntarily, since there may be various reasons for the parties to consider it inexpedient to notify the debtor immediately. Such notifications also result in additional transaction costs. It is also important to allow the pledge holder to send notification himself without relying on the pledger, because relations with the pledger may worsen by the time such a notification is required by the pledge holder, and the pledger will not then cooperate with the pledge holder.

## Recommendations

According to FIAC, the above-mentioned shortcomings should be rectified in the pledge provisions to be considered in the second reading by the State Duma. The European Bank for Reconstruction and Development (EBRD) is ready to provide the text of the corrections which should be made.

In cooperating with FIAC, the EBRD is willing to provide full technical assistance to the Ministry of Justice and the Federal Chamber of Notaries in developing a unified register of notifications of pledges of immovable property so that the system will meet today's market requirements.

**Status:** the issue is resolved. The application of amendments should be monitored and additional recommendations should be introduced.

On 6 December 2013, amendments to the Civil Code concerning collateral were published and submitted to the Duma for the second reading. The working group proposed many of those amendments. The amendments concerned the free description of collateral, explicit registration rules, the priority of collateral, and the absence of the need to notify the debtor of the collateral rights. However, there are proposals which were made but not taken into account. The changes are scheduled to come into force on 1 July 2014.

- The requirements for a collateral agreement were sufficiently eased, and the parties could (were flexible enough) to determine the key parameters of the agreement (description of the collateral and the securing commitments) at their discretion; in this respect, account was taken of the interests of debtors, who may be less versed in financial issues. A favorable effect of these new provisions will largely depend on their interpretation by the courts;
- The introduction of the concept of collateral manager, who represents a group of lenders, and the recognition of agreements between lenders on the priority of their collaterals can be regarded as important achievements in Russian law. However, certain issues are not regulated quite clearly; therefore, the market may be wary of the new concepts until there is clarity.
- The new collateral register will be the most noticeable aspect of reform for the market players. It will provide clarity and certainty, which are so needed. Hopefully, the register (e.g. the registration process) will prove to be effective and economical.
- The recognition in the Civil Code of the general principle of determining the priority of lenders relating to the time of registration of collaterals is a very important change which, together with the transparent registration system, should make the lenders far more confident. However, there could be certain problems when the same asset serves as collateral several times.
- The reform has substantially consolidated the approaches to pledging claim rights and filing a charge against them. It also became legal to use bank accounts as security; they were used as such earlier, but it was not clear whether that had legal force, and the instruments were weak.
- As regards the claim to collateral, the reform seems to be more modest, although certain positive clarifications were made. Additional work may be required, especially after the new provisions are tested in practice.

The reform of the Russian pledge legislation, which has been discussed and called for, for so long, was aimed to reflect both the most serious problems encountered by market participants in using pledge to secure obligations - in terms of existing legislation and its application by Russian commercial courts, as well as best international practices. In December 2013, new provisions amending the Russian Civil Code and some other laws were adopted to enhance secured lending framework. Most of the changes became effective on 1 July 2014. The new provisions bring significant benefits to the legal framework and expectation is that the benefits will be felt by market players. However, close examination has also revealed a number of issues, which would be very beneficial to address in subsequent amendments.

## Recommendations

(1) The concept of a pledge manager introduced in the Civil Code has a special significance for syndicated lending. The Civil Code provides that that the pledge manager acts in the name of creditors who appointed him and not in his own name. Therefore, it is possible that the parties will interpret this provision as requiring the lenders and not the pledge manager to appear in the registers as pledgeholders (the register of notices of pledges, shareholders' registers, immovable register, etc.). It means, in turn, that upon assignment of the debt of one of the lenders in the syndicate the new lender will need to appear in the registers – hence the need to amend the registration record. In

other words, loan transfers, which are quite common in syndicated lending, would entail the need for updating records about the pledgeholder in all the registers where the pledge securing the loan is registered. This would be quite cumbersome and against the spirit of providing the concept of pledge manager in the first place.

This concern could be eliminated by changing a number of Russian laws (Law on Notariate, Mortgage Law, Securities Market Law, etc.) and sub-laws. It is necessary to expressly provide that it is the pledge manager who will appear in a register where the relevant pledge is recorded (register of notices of movable property, register of rights to immovable property, shareholders' registers, etc.) and not the lenders in whose interests he acts.

(2) It is also necessary to expressly confirm that the pledge manager will be able to fulfil his functions even in case of the pledgor's bankruptcy. Therefore, it is necessary to amend the Bankruptcy Law to specify, that it is the pledge manager who is to exercise rights and duties of secured creditors in the interests of which he acts in the course of the pledgor's bankruptcy proceedings.

(3) In addition, the progressive changes introducing a pledge manager concept may be impaired by certain provisions, as described further. The current Civil Code wording may be interpreted as allowing the termination of a pledge management at the initiative of one of lenders who appointed the pledge manager. In other words, one lender could defeat the will of all the others within the syndicate. If this interpretation prevails in practice, syndicated lenders may feel that appointing a pledge manager is too fraught with uncertainty to be worthwhile.

Further, it is not clear whether the powers of the pledge manager remain after assignment of claims by one of the lenders or whether these powers need to be further confirmed by entering into some additional agreement. If the practice settles so that some additional actions are required to ensure that the new lender can enjoy the "service" of the pledge manager, it would add unreliability to the instrument.

These concerns could be eliminated by amendments to the Civil Code. However, even without changing the Civil Code, the risk of the above interpretations could be mitigated if a Supreme Court clarifying opinion is issued to confirm that (1) the pledge management agreement cannot be terminated at the initiative of one of the creditors, it can be terminated only upon the decision of all the creditors (with such decision being adopted as per the procedures described in a pledge management agreement), and that (2) the loan transfer results in the automatic change of the relevant party in the agreement on management of pledge (i.e. the new lender becomes a party to the agreement without the need for undertaking some additional actions). These clarifications would greatly enhance the market participants' trust to the concept of the pledge manager.

(4) The concept of agreements on changing priorities of pledges introduced in the Civil Code is also very important for multi-lender lending deals. To strengthen this concept, it would be highly desirable to expressly recognize its effectiveness in case of bankruptcy of the pledgor. Therefore, it is necessary to amend the Bankruptcy Law and expressly provide that the priority for the satisfaction of pledgeholders' claims is to be determined with due regard to the agreements on changing priorities of pledges, if any. It would be also very useful to confirm that this concept is applicable to mortgages as well (the issue could be addressed by a Supreme Court clarifying opinion).

Overall, further legislative changes and court clarifications as described above would contribute to the correct application of the relevant Civil Code novelties on pledges and, respectively, to the achievement of the goals for which they were conceived.

## **1.2. Development of National system of payment cards**

The topic of the national payment card system is now an issue of extensive consideration at the Government level. Chaired by Elvira Nabiullina, Chairman of the Bank of Russia, a workgroup has been established which is composed of major players of the banking sector and the Association of Russian Banks and relevant Federal bodies. The efforts of the group should be aimed to or resulted by the working-out of two important issues, namely, the inclusion into the legislation of such matters as regulating national payment card system operators, i.e. the establishment of a separate legal entity. The relevant indication in the legislation of its authorities, status and legal structure. This issue is currently under consideration.

And the second issue - based on the workgroup's expert opinion, the group has developed a proposal on the application of technological solutions which would be used in the national card system. Here, the work is also in progress regarding the evaluation of feasibility to use the all-in-one smart card technology - this is PRO100 Technology, on the one part. On the other part, the group considers proposals regarding the "Zolotaya Korona" payment system which offers technological solutions compatible with IMVU standard. And thirdly - the group considers the use of new technological solutions not related to the first two. The top-priority objective of the Bank of Russia is to create a kind of a reserve environment, inter-host connections, and consolidation of processing centers of major players at the first stage, and to connect through them smaller players, so that such credit institutions may perform computation bilateral settlements on their mutual obligations.

And the next stage - this is the issue that the national payment card system operator should be established as both an operation center and a payment and clearing center with its own rates; it is expected to be an actual banking product which would not be directly connected with the international payment system, but it would be compatible technologically. I.e., it is expected that neither terminals no ABMs would be modified or replaced, and the infrastructure should remain the same, and the product should enter the market in an appropriate manner.

And all governmental structures are expected to be legally obliged to switch their salary projects for their employees and military personnel from international to Russian payment systems.

No resolutions have been made yet. The workgroup also consider the creation of a local switch, so that all internal Russian transactions would be processed through the national payment system operator and information thereon would remain within the Russian Federation. The issue regarding what should be done in the first place: to lock international payment system card transactions in the territory of the Russian Federation or to create our national product first and shift the first step to the second place – is also under consideration.

### **1.3. Final settlement**

On April 4, 2014, the Central Bank of Russia issued Letter 56-T - recommendations to credit organizations regarding the settlement finality concept.

The Letter of the Bank of Russia No. 56-T "On the Application of BIS CPSS Document "Principles for Financial Market Infrastructures" in the Part of Providing Final Settlement within Significant Payment Systems" dated April 4, 2014

Credit organizations and payment system operators receive methodological clarifications on implementation of principles stated in the document issued by the Committee on Payment and Settlement Systems of the Bank for International Settlements and the International Organization of Securities Commissions "Principles for Financial Market Infrastructures" in the part of determining the moment of the final settlement within significant payment systems.

In particular, the SPS operator is recommended to consider risks associated with the possibility to recognize cash transfer as invalid, enforcement against the transferred cash, including in the case of insolvency (bankruptcy) of the payment system participants, upon determining the cash transfer procedure within SPS, upon arranging the risk management system, and to inform the payment system participants including foreign banks on such risks. Also, in order to secure final settlement, it is recommended to use accounts of the guarantee fund of the payment system or trading bank and/or clearing bank, accounts.

Upon entering the agreement on interaction of payment systems as provided for by Part 37 Article 15 of the Federal Law No. 161-FZ "On the National Payment System" dated June 27, 2011, operators of interacted payment systems are recommended to determine in the payment system policies and the interaction agreement the moments when irrevocability, conclusiveness and finality of cash transfer and final settlement should come, when the payer is (serviced by) a member of one SPS, and the recipient is (serviced by) a member of another SPS.

If SPS functions in several countries, the responsible SPS operator is recommended to ensure final settlement in each country of operation. For this purpose, relevant SPS operator is recommended to receive a legal opinion of an appropriate organization (e.g., a competent regulator in the field of cash transfer and settlement, professional associations of the financial market participants, organizations providing consulting and legal services) on the possibility to secure final settlement in each country of operation.

### **1.4. Financial sector's recommendations for amendments to be made to the Russian Civil Code**

The amendments to the Civil Code were drafted and introduced to the State Duma, which is considering them and adopting the amendments in parts.

According to the business community, the amendments should be adopted so that the Civil Code would clearly and unambiguously regulate and resolve the following aspects:

- fee for a loan (this is standard market practice, but currently it is rarely adhered to because of some of the latest court rulings in Russia);
- syndicated lending;
- agreements between lenders;
- agreements on subordinated loans;
- securitization and sale of loan portfolios;
- easing the regulation of bank guarantees;
- escrow accounts;
- possibility of executing contracts and passing payment documents through electronic means of communication (e.g., SWIFT);
- greater flexibility in relation to loan agreements and bank accounts: the parties to an agreement should be entitled to include various terms and obligations, which differ from the standard minimum set in the Civil Code, in it.

The current draft amendments do not distinctly regulate the aforesaid lines and a few others. Hopefully, the draft amendments will be discussed with the business community and then sent to the State Duma.

#### **Status**

Presently stagewise amendments to the Civil Code are being implemented. Significant modifications and amendments has been already implemented to several Civil Code chapters such as general regulations of the Civil legislation, grounds for invalidity of legal transactions, powers of attorney and representation, regulatory activities for legal entities. A draft law with modifications to the Civil Code regulations on selected contract types will be prepared for the second reading. The most important for the banking sector will be amendments to the chapters on loan agreement, factoring agreement, bank deposit agreement and bank account agreement.

## **2. Attractiveness of the Russian financial market for foreign investors**

### **2.1. Reform of the pension system**

As compared with similar pension reforms in Central Europe, the pension reform in Russia which began in 2002 has had only limited success. Under the pension reforms in Slovakia, Poland and Hungary, for instance, private companies quickly managed to offer their pension services to most of the working population and create considerable investment assets under management. In Russia, despite recent government efforts, such as the co-financing initiative launched in 2009, cumulative pension insurance is still not very popular and is not actively used by the workforce. As a result, the investment assets built up in the cumulative part of the compulsory pension insurance system are insignificant in relation to Russia's GDP.

A comparison of the non-state pension funds of Central Europe and Russia shows, for instance, that Poland, where the pension reform was implemented in 1998, now has only two non-state pension funds, and they are among the top 100 European pension funds. That is largely because this sector of the country's economy is of great interest to investors. Russia has no private pension funds in the Top 100.

As of 31 December 2011, only 15.4 million Russians (20.7% of the total number of citizens who have pension accruals) agreed to join the private pension system and "privatized" the management of the cumulative part of their pension.

Pension accruals under the compulsory pension insurance system which have been placed in the hands of non-state pension funds as a result of the national pension reform, amount to RUB 340.4 billion (USD 11.4 billion). As a comparison, AVIVA OFE BPH, the largest pension fund in Poland, manages USD 17.2 billion in assets (as of Q3 2011)

In recent years, an on-going discussion has been held with the participation of the relevant ministries and departments on the need for a new pension reform. The cumulative part of the retirement pension and private pension funds are being strongly criticized for alleged mismanagement of pension accruals. The growing deficit of the Pension Fund of Russia and the need to close the gap in its budget are the main reason for concern. The Pension Fund's deficit arose not due to the introduction of the cumulative aspects, but to mechanisms put in place in the Soviet period.

The Russian participants in the private pension market and potential foreign investors have no clear idea about the state goals. Is the idea to privatize the cumulative part of the pension system and bring investments into the private pension system or to retain the existing system, where nearly all pension assets are managed by the Pension Fund of Russia and Vnesheconombank, which is a state management company? The importance of this issue for Russia in general and Moscow as a financial center in particular is obvious. The indecisive approach to pension reform keeps foreign long-term investments, so greatly needed by the Russian economy, from entering the Russian market.

If the Russian government is serious about its intentions to turn Moscow into a global financial center, it needs to clearly outline the prospects of the cumulative component of the compulsory pension insurance system and the future of the pension reform as an incentive for Russian and foreign companies to invest in the private pension system. This would result in more active involvement of private organizations in the Russian pension system and would help to create a "savings culture" in Russia.

There is also an objective reason for this, i.e., the mechanism of accepting an application for participation has not yet been developed.

### **Recommendations**

- Retain the cumulative part in the Russian pension system. Under the Draft Law "On Amendments to Certain Legislative Acts Concerning Compulsory Pension Insurance," as of 2014, the rates of contributions to the cumulative part of the retirement pension should be cut to 2% for insured persons whose pension accruals are formed in the Pension Fund of Russia and invested by Vnesheconombank, while 4% would be redistributed to the insurance part. The rate of contribution to the cumulative part of the retirement pension will remain at 6%, unless provided otherwise, for insured persons who submit an application to switch to a private pension fund or private management company by 31 December 2013.
- Insured persons are to be determined in 2013, and the retention of the cumulative part will be discussed further.
- We believe that the development of the pension system is held back by such frequent reforms.
- Develop the cumulative part in the Russian pension system, for instance, by using the pension co-financing program. Until recently, it was unclear whether the state pension co-financing program would be continued. In late November 2012, however, it was decided not to extend the program, since the Government believed that the program had not been successful enough. The program will still be valid for persons who joined it prior to October 2013.
- The logic to close the program in October 2013 is largely that Russians are not prepared to voluntarily pay old-age contributions out of their salaries and wages. We believe the campaign is unpopular because the program has not been widely promoted and because the curtailment of the cumulative part has been under discussion for so long.
- Revise the legal status of non-state pension funds, i.e. make them commercial entities. If necessary, consideration should be given to creating two separate classes of pension funds: 1) sector-specific/captive non-state pension

funds allowed to operate within the existing framework as non-commercial entities 2) open, independent non-state pension funds that will operate based on other principles as commercial entities.

- Some additional changes are also required. One significant problem is insufficient transparency due to the two-tier system used to determine management fees (charged both by private pension funds and asset management companies). Asset management companies must be established that would collect all fees based on clear guidelines introduced and monitored by the regulator on the disclosure of fee information to clients.
- Review the requirements for investing pension accruals. Offer convenient and transparent long-term investment instruments to the pension accruals market.
- Ensure that the security of pension accruals is guaranteed. We believe that it should be clearly established and articulated in the relevant legislation that investment risks lie with the owners of pension accruals, i.e. with insured persons. Investment risks lie with the ultimate beneficiary of the pension account, and returns are a function of the risk taken.
- Revise the current business model for operators of the pension market (NPF and MC). The fees that market players can charge for the management of assets in the compulsory pension insurance system should be changed. Fees should be calculated based on the amount of pension assets under management, rather than on return on investments, as is currently the case. The current fees do not allow for proper business planning, given the very volatile local financial market. Besides, the current approach to charging fees may prompt some market players to use riskier investment strategies which may conflict with clients' interests. Fees charged as a percentage of the amount of assets under management or as a percentage of contributions received ensure more stability for private pension funds and asset managers and are more attractive for investors.
- The institution of licensing pension agents should be introduced in order to eliminate fraud involving improper practices by agents. Currently, there is no nationwide system for monitoring/registering/licensing agents, and cases of fraud involving improper practices by agents are common. Private pension funds do their best to perform retrospective reviews of the activities of all agents they engage, but the lack of a nationwide system greatly complicates this task. The need for minimum standards/licensing requirements/guidelines/training for agents must be addressed. This issue may need to be considered in the future, and we hope that a comprehensive system will be created allowing the regulator to perform licensing/control/supervision.
- Expand the list of securities in which funds can invest pension accruals. Such expansion would benefit both pension funds and the securities and derivatives market. Improve the manner in which the regulator decides which securities should be added to the list, as it does not seem entirely consistent.
- Boost public interest in pension reform. The information available to the public is still insufficient, and thus pension processes are poorly understood, and there is little desire to participate. While appreciating the recent initiatives of the state and PFR in promoting the government co-financing program, we recommend investing more in educating the general public.

## **2.2. Legislation on the insurance business in Russia**

The insurance market is one of the backbones of both the capital market and the economy as a whole.

Some of the elements essential for its development are the following:

- Procurement of insurance services for public and municipal needs as well as the needs of certain legal entities (Federal Law No. 223-FZ)
- In reforming the system of procurement for state and municipal needs, for the needs of natural monopolies, state corporations, state and municipal unitary enterprises and other business entities whose charter capital is more than 50% state-owned as well as for the creation of a new two-level procurement system (the federal contract system and Federal Law 223-FZ), the procurement of insurance services must be made more transparent: electronic auctions should be prohibited for compulsory forms of insurance with fixed rates, since prices can't be lowered when all providers charge the same rates; minimum requirements should be established for insurance services provided to these customers, and restrictions should be eliminated on foreign companies providing goods and services to these customers, i.e.: when a license is required to work with state secrets, the customer should be required to clearly stipulate in the tender documentation that information constituting a state secret will be communicated to the provider of goods/services under a state contract and indicate the stage of contract performance at which such information will/may be communicated; the tender documentation should also stipulate that the provider of goods/services may use alternative means of protecting state secrets along with licenses of the Federal Security Service and the Foreign Intelligence Service for work with state secrets, if information classified as a state secret is to be communicated to the provider of goods/services in the process of fulfilling a state/municipal order.
- Improvement of insurance legislation in line with international practice in raising the professional level of all market participants and regulating their activities.
- Development of tools to ensure that the rights of consumers of insurance services are better protected, including the institution of insurance ombudsman.

### **2.3. Use awareness-building and marketing activities as additional tools in developing the International Financial Center (IFC) in the Russian Federation**

In recent years, the task of establishing an International Financial Center in Russia has been high on the Russian Government's agenda. The first and most important stage in this process is to improve the local financial infrastructure by passing essential legislative acts and regulation. Despite the work done, there is still a considerable outflow of capital (in excess of USD 80 billion in 2010), and foreign issuers float securities in Russia (three cases in recent years) much less often than Russian securities are floated abroad. This is a clear sign that the Russian financial market is far behind its international competitors, and, as a result, local financial companies receive less profit.

It is noteworthy that meetings with international portfolio investors and companies planning to make direct investments are held quite regularly.

That being said, it seems that the IFC organizers have overlooked a whole class of financial market players: foreign issuers. This group is responsible for generating considerable revenue in the financial sector. Such transactions are capable not only of enriching the experience of local market players and creating a basis for the professional development of IFC members, but also of laying the groundwork for reducing the dependence of the Russian financial system on external country risk factors.

One of the reasons for this is a lack of awareness on the part of potential issuers of the opportunities provided by the flotation of securities on the Russian market.

MICEX approved a development strategy according to which it plans to attract foreign issuers. The stock exchange focuses on providing Russian issuers with access to trading floors.

### **2.4. Initiative for developing the securities market in Russia**

Under the current laws for the debt financial markets of Russia, the FSCM and the CBR regulate and oversee the debt financial markets. A significant number of legislative acts, including those regulating certain organizations and areas, were adopted to ensure the system's efficiency. At the outset of the global financial crisis, the CBR relaxed the requirements for the debt instruments accepted by it as collateral when providing banks with financial resources. In addition, agreements on the replacement of debt instruments with shares were permitted, and the repo transaction concept was introduced. Legislative reform has thus made progress in this area, though there are still issues to be resolved.

Improved and transparent financial-market infrastructure. The existence of a central body for stock exchange operations; an approved instruction on the application of legislation on insiders; applied international practices of working with debt instruments.

In collaboration with the MIFC working group:

Clarify the existing instructions for creating a transparent infrastructure for the operation of financial markets. In addition, offering documents could be examined more efficiently. The rules for foreign placements could also be clarified.

Introduce international practices for debt instruments. To attract investments, Russian rules and instructions could be aligned with international market practices. It is recommended, for instance, to introduce credit ratings, express legal views, convene bondholder meetings, etc.

Improve the financial markets infrastructure (establish a central body for stock exchange operations, among other steps), develop and approve the instructions concerning the application of insider legislation.

## **Issue 3. Banking reform and the banking sector's development strategy**

### **3.1. Banking reform and the banking sector's development strategy**

In October 2013, Federal Law No. 146-FZ "On Amendment of Individual Legislative Acts of the Russian Federation" dated July 2, 2013 ("Federal Law No. 146-FZ") entered into force, which Law:

- includes transition from standard methods used for regulatory assessment of banking capital adequacy to an advanced approach (an approach based on internal ratings);
- clarifies the notion of a "banking group" in the context of its inclusion of all legal entities controlled or considerably influenced by a single lending institution, regardless of their line of business, and the notion of a "banking holding company" in the context of classification as such association of legal entities that involve a lending institution, provided that the share of banking activity within such association is at least 40 percent;
- extends the powers and authorities of the Bank of Russia in relation to banking holding companies by entitling the Bank of Russia to establish the forms, procedure and times for preparation and presentation to the Bank of Russia by the banking holding company's parent organization of statements and other information on the banking holding company's risks, and also to impose on lending institutions participating in a banking holding company a prohibition or restriction on transactions with the banking holding company's parent organization or members in case that such parent organization fails to comply with banking laws;

- refines requirements for the content of individual statements by lending institutions and consolidated statements of banking groups and banking holding companies, including the procedure for their disclosure to general public;
- extends the powers and authorities of the Bank of Russia to specify requirements for risk, capital, internal audit and internal control management systems of a lending institution, to assess their quality, and to specify requirements for rectification of violations identified;
- extends the powers and authorities of the Bank of Russia to assess the labor remuneration systems at lending institutions by entitling it to specify requirements for rectification of violations in labor remuneration systems of lending institutions;
- authorizes the Bank of Russia to establish qualification requirements for the head of risk management, head of internal audit, head of internal control at lending institutions and at the parent organization of a banking group;
- introduces a new standard for maximum risk per person related to the lending institution (per group of persons related to the lending institution);
- authorizes the Bank of Russia to make a professional (well-reasoned) judgment whether a lending institution is related to legal entities and individuals;
- extends the competencies, powers and authorities of a lending institution's Board of Directors (Supervisory Board), as relating to the lending institution's risk and capital management, and labor remuneration and personnel policies;
- harmonizes the list of corrective measures to be applied to lending institutions and their shareholders with international approaches; entitles the Bank of Russia to establish the procedure for application of corrective measures to lending institutions and their shareholders in case of identified violations in their operations;
- eliminates restrictions on information exchange between members of banking groups and banking holding companies and parent organizations, and between the Bank of Russia and banking supervision authorities of foreign countries (including details that constitute a bank secret), provided that the parties comply with the information confidentiality policy.

#### Plan for 2014

In 2014, the Bank of Russia will continue implementing provisions of the Supervisory Review Process of Basel II (Pillar 2) into Russia's banking practices.

In 2014, the Bank of Russia will continue implementing the "leverage ratio" into the regulatory practices in accordance with Basel III: it is planned that the start date will be established for disclosure of the ratio and its components by lending institutions in standard form, concurrently with communication of the procedure for preparation and disclosure of such information.

In order to implement the new approaches to regulating the banking sector's liquidity in accordance with Basel III, in 2014 the Bank of Russia plans to issue a regulation on the procedure for calculating the short-term liquidity ratio to establish the method for calculating the short-term liquidity ratio (the "STLR"), and introduce a reporting form for STLR calculation, including the procedure for its completion and submission to the Bank of Russia.

In 2014, the Bank of Russia will continue to implement into Russia's banking practices the approach to assess credit risks based on intrabank rating scores.

As part of its efforts to implement Federal Law No. 146-FZ, the Bank of Russia plans to publish:

- Regulation of the Bank of Russia "On Consolidated Statements" to establish the procedure for preparation by lending institutions of statements required for supervision of such lending institutions on a consolidated basis, and other information pertaining to operations by a banking group, its submission to the Bank of Russia and application of consolidated statement data in banking supervision.

### **3.2. Issues relating to amendments to the Federal Law on Banks and Banking Activity that were adopted in July 2013**

In July 2013, amendments were made to the Federal Law on Banks and Banking Activity. New regulations (including those on disclosures and reporting) were introduced for banking groups and banking holdings. As the amendments refer to "bank holdings located on the territory of foreign countries", there is uncertainty about the issues relating to the need to inform the CBR on the creation of a banking group if a bank holding is located outside the Russian Federation, and whether foreign bank holdings are subject to the new requirements on disclosures and reporting.

## **Issue 4. Taxation**

### **4.1. Russian taxation rules for cost and profit distribution in a multinational group of companies**

Currently, Russian law does not provide any guidance on distributing the costs incurred and/or profit made from separate activities of a group of companies. However, multinational groups of companies actively distribute profits/costs in proportion to the costs incurred and profits generated by each legal entity or its branch (hereinafter, "branch"). Cost/profit distribution arises where physical settlements, accounting and legal documentation of revenues and expenses are handled centrally by a single group entity and then distributed to all participants in the business.

The fact that there are no legal mechanisms and taxation rules in Russian law governing such distribution leads to a situation when such distribution is substituted by service contracts, etc. But this type of substitution (a) does not work as a universal solution, because insufficient account is taken of the costs and profits by Russian branches of multinational groups, and, as a result, there is an inadequate ratio between a tax burden and the economic effect, and (b) when there is no clarity about the calculation of the amounts due for Russian tax purposes, foreign group companies may find themselves at a risk of creating a taxable permanent establishment.

Today many Russian branches of multinational banks find the tax authorities extremely reluctant to allow the deduction of expenses that branches incur to cover costs distributed by the head office. The reasonableness and adequacy of such costs can only be proved in court. However, upon careful examination of the business structure and the documents and facts of the case, courts decide in favor of taxpayers.

Since 2012, distribution of profit has been one of the methods of tax control over prices in transactions between related parties. However, this method may be used only if it is proved that the other four control methods are not applicable, and lack of experience in providing such proof makes this a risky method to use. On the other hand, the availability of a method for controlling prices does not resolve the main issue of whether the distribution of profits and losses is appropriately documented and economically justified. The lack of statutory rules for the calculation and taxation of the share of profit distributed to a Russian branch is a permanent source of tax risks in Russia for the head office, even if such profit is actually distributed in amounts determined in accordance with the transfer pricing rules applicable throughout Europe, because Russian tax authorities may regard such amounts as insufficient.

### **Recommendations**

The Ministry of Finance should engage in dialogue with the drafters of the amendments to the Russian Tax Code submitted in July 2011 on the taxation of distributed costs/profits in order to find acceptable approaches, finalize the draft and ensure its subsequent approval.

#### **4.2. Problem of FATCA in Russia and its application models**

The Foreign Account Tax Compliance Act (FATCA) (<http://www.cticompliance.com/assets/pdf/FinalFATCAText.pdf>) was enacted by the United States Congress in 2010. The Act is designed to make significant changes in the current tax treatment of payments made by US residents through foreign financial institutions.

The mechanism for applying FATCA requires that Russian financial institutions enter into a special agreement with the U.S. Internal Revenue Service (IRS); keep track of any accounts opened by U.S. taxpayers with Russian financial institutions and report these to the IRS; withhold 30 percent of the revenues from sources in the United States, including revenues earned by entities that fail to disclose the information required under FATCA or by non-participating foreign financial institutions, and remit the amount to the IRS.

The Association of Russian Banks (ARB) and National Payment Council Non-Profit Partnership (NPC) have repeatedly asked the Russian Government, the Ministry of Finance, the Federal Tax Service, the Ministry of Foreign Affairs, the Federal Financial Markets Service, the Federal Financial Monitoring Service and the Bank of Russia to consider the conclusion of a special intergovernmental agreement between the Russian Federation and the United States on the procedure for implementing FATCA.

In addition, to expedite the decision-making process on a model for implementing FATCA in Russia, NPC assessed Russian banks' costs in the first year after the adoption of FATCA in Russia. The findings were presented to Presidential Aide Elvira S. Nabiullina, the Bank of Russia and the Russian Ministry of Finance.

Unfortunately, no official information detailing the status of the negotiation process between the concerned state agencies of the Russian Federation and the United States and the selected mechanism for implementing FATCA in Russia has been released so far.

Since no information is available on the Russian Federation's official position and the effective date of FATCA is approaching, a number of financial institutions controlled by a foreign parent have to consider entering into agreements directly with the IRS, since under FATCA an international banking group may be considered compliant only if all its members comply with FATCA.

It should be also noted that Russian credit institutions that have correspondent banking relationships with European and U.S. partners are already getting questions from their foreign partners on how the new regime works in Russia, since a foreign correspondent bank may withhold 30 percent of all payments made to a correspondent account of a non-participating Russian credit institution held with such bank or may suspend or close such correspondent account.

The position of the Russian Ministry of Finance is that any agreements between Russian banks and the U.S. IRS and any related disclosure of information constituting a bank secret will be regarded as a violation of Russian law (see the enclosed Letters No. 03-08-07 of 24 April 2012 and No. 03-08-05 of 20 August 2012).

At the same time, Russian financial institutions are seriously concerned about the possibility of partial withholding of payments made to them through the United States, should the Russian Federation decline to participate in FATCA.

Many countries are already actively negotiating with the United States to conclude bilateral agreements whereby any transfer of information under FATCA is made centrally through local government bodies, with the possible exchange of similar information in some cases by the United States (among countries planning to do this are Germany, France, the UK, Italy, Spain and the Netherlands). Switzerland and Japan intend to take a different approach to the

information exchange with the United States under FATCA: local banks will provide information directly to the IRS along with an ad hoc exchange of information between the state agencies of these countries.

In view of what has been said and in order to avoid negative implications for Russian credit institutions, the Association of Russian Banks (ARB), the non-profit partnership National Payment Council (NPC) and the Association of European Businesses (AEB) strongly recommend that the Russian Ministry of Finance and the Bank of Russia inform credit institutions of the official position on the means of implementing FATCA.

On 10 February 2014, FIAC addressed official inquiry No. KS-1002-ib to the Bank of Russia, the Ministry of Finance and the Ministry for Economic Development, offering assistance in carrying out the following initiatives:

Providing information and recommendations in ensuring the inclusion of Russia in the list of countries which are regarded by the U.S. side as countries which entered into an information exchange agreement with the United States (taking account of the fact that less than three months remain until 25 April 2014);

Working out legislative acts and bylaws which would allow Russian financial institutions to apply the provisions of the Agreement in Russia.

In its reply No. 41-2-3-3/564 dated 11 March 2014, the Bank of Russia said:

If an agreement on the implementation of FATCA is entered into by Russia and the United States, the Russian financial institutions will not be obliged to register on the website of the US Tax Service within the same time limits as those set for the financial institutions of the countries which did not enter into such agreements.

Pursuant to §1.1471-3 (d)(4)(iv) of FATCA concerning payments made prior to 1 January 2015, US tax agents are not obliged to check the Global Intermediary Identification Number (GIIN) of the payees if the financial institution which is receiving payment reports to the US tax agent that it belongs to a country which signed an inter-governmental agreement on the implementation of FATCA.

#### **Status 2014**

Requirements for Russian players on the financial market in connection with provisions of Law # 173-FZ dated June 28, 2014.

At the present time, no intergovernmental agreement exists which could be instrumental in regulating the application of FATCA requirements. Russian banks, including Russian subsidiaries of foreign-based banks, have the opportunity to individually register with the IRS (USA tax authorities), and, under certain conditions, provide information to the IRS. In this case, the information provision format and obtaining consent of Russian competent authorities has not been developed so far.

FIAC recommendation: Persistence of the situation calls for a quickest possible additional comparative analysis of provisions of Federal Law # 173-FZ dated June 28, 2014, as well as FATCA requirements, so as to amend Law # 173-FZ accordingly, with a view to removing inconsistencies and providing opportunities for Russian banks to abide by law.

Obligatory disclosure by foreign-based players on the financial market of information on Russian corporate and individual accounts

The provisions of Article 6 of the Law are purely declarative and failing to provide for detailed understanding of requirements applying to foreign-based players on the financial market. Among the numerous unclear questions are:

- what entity is behind the definition of " foreign-based players on the financial market" for the purposes of the Law;
- what criteria underlie the list of individuals and entities whose accounts are earmarked for monitoring;
- what accounts categories are subject to the requirements;
- what kind of information on such accounts should be provided;
- what supervisory authority is to receive and in what format it is to receive information regarding clients' accounts;
- what punitive measures are imposed under the Russian Federation law for non-compliance.

The tiresome experience of introduction of the USA FATCA provisions, in conjunction with elaborate designing and flexibility of introduction of the requirements in question, make European banking institutions concerned about the situation, caused by insufficient awareness in respect of provisions of Art. 6 of the Law, as well as the difficulties in the practical implementation thereof.

**Recommendation:** The situation calls for elaboration on the requirements and attitude of RF governmental authorities in respect of the application of Article 6 of Law # 173-FZ in so far as they relate to disclosure of information on Russian Federation citizens' accounts (deposits) with foreign-based players on the financial market.

## **Issue 5. Improving legislation and the practice of customs authorities to promote competitiveness when rendering services involving customs operations**

Use of ordinary bank cards for customs payments

FIAC members have a strong interest in maintaining a presence on the market of alternative methods of customs payment. Competition on the market of customs payment operators helps to improve the quality of services rendered to foreign trade participants, to create increasingly favorable service conditions and, ultimately, to improve their efficiency.

Shortcomings of the current arrangement:

- The procedure for the remote clearance of goods cannot be used to its full extent i.e., submit declarations to a customs office on the border if the importer does not have a customs broker with a customs card at a remote checkpoint (in accordance with the Procedure for the Use of Customs Cards in the Customs Clearance of Cargo Customs Declarations, Order No. 757 of 3 August 2001 "On Improving the System of Customs Payments") or if no advance payment was made using payment orders.
- As for the marking of excisable goods, customs payments are made in two portions: one portion is paid by purchasing excise stamps, and the remaining portion is paid by providing a pledge or bank guarantee or by making a deposit of the amounts due and is paid in accordance with the general procedure applicable to the customs clearance of goods. As a result, a foreign trade participant incurs additional expenses associated with the services of the customs broker in the first case (the customs broker has to travel to the border checkpoint where freight is being cleared) and with the freezing of cash on Federal Customs Service accounts in the second.
- It is impossible to debit customs cards to secure payment of customs duties.

### **Recommendations**

Make various options available for using ordinary bank cards to make customs payments, including online payments (via a member's personal password-protected page).

## **Issue 6. Arbitration clause**

Arbitration agreements are quite common in international practice. Under such an agreement, the parties agree to have potential disputes between them arbitrated, and one of the parties is entitled to appeal to a court of the appropriate jurisdiction to protect its rights. When entering into such an agreement, the parties take account of their mutual interests and assume all risks and expenses related to the conclusion of such an agreement. An arbitration agreement with such terms is an important means of protecting the legal rights and interests of both parties, especially the party which is financially more vulnerable.

Until recently, such an arbitration agreement was deemed valid and binding for parties in Russia. However, by Decision No. 1831/12 of 19 June 2012, the Presidium of the Supreme Arbitration Court of the Russian Federation changed the existing practice and ruled that "with regard to the general principles of protecting civil rights, a dispute settlement agreement cannot entitle only one party to a contract (the vendor) to file suit with a state court of the appropriate jurisdiction, while the other party (the purchaser) enjoys no such right. Such an agreement is to be deemed invalid if concluded, as it upsets the balance of rights of the parties. Hence, a party whose right is infringed by such a dispute settlement agreement is also entitled to file suit with a state court of the appropriate jurisdiction, thereby exercising its guaranteed right to judicial protection on a par with its contracting party." Unfortunately, this decision confirmed the opinion that the Russian judiciary is unpredictable by depriving civil litigants of this means of protecting their rights. This may adversely affect foreign investors' cooperation with Russian companies.

In this connection, we suggest considering the possibility of adding a provision to current Russian law to the effect that parties, guided by the principle of freedom of contract, are entitled to enter into arbitration agreements of this kind which are valid and binding.

## **Issue 7. Forming the infrastructure of the Russian financial market and carrying on legislative activity in regulating it**

Developing the refinancing instruments to facilitate access for small and medium-sized enterprises to loans.

The cost of loans for enterprises is quite high, especially for small and medium-sized enterprises. That is due to the high cost of loans for banks engaged in that segment. The cost of borrowings could be reduced for credit institutions and for the ultimate borrowers by developing the instruments of refinancing loans to small and medium-sized enterprises at the Bank of Russia and by introducing new programs, thereby promoting the development of the segment which is extremely important for economic stability.

### **Recommendations to resolve the problem**

Analyze the existing Instructions of the Bank of Russia which regulate that issue (work in progress). Work out and adopt the additions to them, thereby facilitating refinancing secured by instruments involving loans to small and medium-sized business enterprises.

Prepare a report and proposals at the Bank of Russia and the Ministry for Economic Development

Ministries and bodies concerned:

Ministry for Economic Development, Bank of Russia

Status:

In late December 2013, letters were sent to the Bank of Russia with proposals on that issue.

On 17 February 2014, a report was made on that issue at the Bank of Russia.

Starting from 01.07.2014 it has been possible to close securitization deals in this segment, SME Bank acting as the investor. Currently, the deals on hand are valued at RUR 10 bn, with a view to 20 bn by 2016. The Agency of Credit Guarantees is also active, although not a single deal has been registered so far. Standardization of a credit facility agreement with an enterprise operating in the SMB sector also remains in the limelight.

#### **Issue 8. Conversion**

We suggest including the conversion issue in the list of priority issues for FIAC in 2014.

Conversion problems are important for Russian market participants, since they have an impact on the possibilities of attracting debt financing as well as the financial resources to support authorized capital.

In 2012 – 2013 the Central Bank of the Russian Federation (the "CBR") has revamped the rules applicable to subordinated debt provided to Russian credit organisations in an effort to make them Basel III compliant. Basel III specifies the criteria for debt instruments issued by a bank to qualify as Additional Tier 1 Capital (i.e., additional to the Common Equity Tier 1) which include, inter alia, the requirement for such instruments to contain loss absorption features through (i) conversion to common shares at an objective pre-specified trigger point or (ii) a write-down mechanism which allocates losses to the instrument at a pre-specified trigger point on a 'going concern' basis.

CBR Regulation No. 395-P "On the Method for Calculation of the Amount and Assessment of Adequacy of the Net Worth (Capital) of Credit Organisations (Basel III)" dated 28 December 2012, as amended by CBR Directive No. 3096-U dated 25 October 2013, ("Regulation 395-P") is currently the principal act regulating the issuance of subordinated debt instruments for the purposes of their inclusion into calculation of capital of Russian credit organisations.

Regulation 395-P currently provides that a subordinated loan would be "transformed" into common equity through a prepayment of the subordinated loan by the borrowing bank and channelling of the proceeds of such prepayment for payment of the bank's capital increase.

Accordingly, the conversion of a subordinated loan into equity would currently require:

- (a) compliance with certain corporate procedures and regulatory approvals relating to the issuance of additional common stock into which the subordinated loan is to be converted and increase of the charter capital of the bank (please see below for more details); and
- (b) the actual prepayment of the subordinated loan which is, in turn, subject to a consent of the territorial department of the CBR to be issued after the state registration of the share issuance relating to such capital increase or, in the case of limited liability companies, the adoption of the decision on charter capital increase and amendments to the bank's charter.

The current conversion mechanics therefore lack automatism and may not be capable of being completed in full, with the result that the subordinated lender would be forced to accept a write-down of its loan in the absence of cooperation and required corporate action on behalf of the borrowing bank, its shareholders and governing bodies.

Such obstacles may restrict fundraising by banks, and EBRD has been researching this issue and identified particular legal inconsistencies, which it intends to present to MED and CBR in a detailed note, together with proposals for reform.

#### **Recommendations**

Among the obstacles under current regulations which will need to be resolved in order to allow conversion of subordinated loans to equity for loss absorption are the following:

- restriction on set-off debt (article 11 of the Banking law currently restricts setting off the liabilities of a Russian bank against the payment of its charter capital which precludes a direct debt to equity conversion);
- corporate law requirements (corporate approvals by shareholders needed are not enforceable, mandatory offers may be triggered, etc.)
- regulatory consents/clearances by CBR, FAS, Government Commission on Strategic Investments etc.
- the procedure for definition of conversion pricing needs to be clarified; etc.

Status:

The research is close to completion and will be shared with the relevant stakeholders in order to help develop a plan to rectify those issues. Apart from the analysis of the current law, suggested approach to reform and drafting of legislation, the research will provide information on convertibility legislation for loss absorption in selected countries.

## **Issue 9. Banking secrecy regulation**

Presently, banking secrecy issues are regulated by the provisions of Article 857 of the Civil Code of the Russian Federation and Article 26 of the Federal Law "On Banks and Banking Activities." Article 857 of the Civil Code provides for the following rule, "Information protected by banking secrecy may only be provided to customers themselves or to their representatives, as well as presented to a credit bureau on the grounds and in the manner prescribed by the law. Government authorities and their officers may only have such information provided in cases and according to the procedure prescribed by the law." Therefore, the current version does not enable transfer of banking secrecy data to other persons with the customer's consent or even at the customer's request.

This legal gap limits development of banking services in the Russian Federation due to the following reasons:

First of all, many customers (both foreign- and Russian-based) chose to centralize treasury functions within a group of companies. On the one hand, it enables greater cash flow manageability from the group's parent company, and, on the other hand, helps to cut corporate administrative costs to maintain individual treasuries for each company.

Secondly, for many structured bank products (for example, syndicated lending), it is necessary to transfer information protected by banking secrecy among entities participating in providing such products to the customer (for instance, between the bank servicing the borrower's account and the lender banks).

And, thirdly, in the current environment, many banks (both foreign- and Russian-based) strive to reduce their administrative costs to cut the cost of bank products for their customers, and they consider outsourcing some technical functions (for example, IT or archiving) to professional service companies.

We would like to draw your attention to the fact that the customer has information classified as banking secrecy in the meaning of the Federal Law "On Information, Information Technologies, and Information Protection", and that they should be entitled to dispose of that information at they think fit.

### **Recommendations**

With this in mind, we suggest that it should be made possible to transfer any information protected by banking secrecy to other persons with the customer's consent or at the customer's request in the laws of the Russian Federation the ability, namely, to revise Article 857, clause 2 of the Civil Code to read as follows:

"Information protected by banking secrecy may only be provided by customers themselves or by their representatives, as well as presented to a credit bureau on the grounds and in the manner prescribed by the law. **Information protected by banking secrecy may also be provided to other parties with the consent or at the request of the customer.** Government authorities and their officers may only have such information provided in cases and according to the procedure prescribed by the law."

## **Issue 10. Changes in the legislation on personal data (Law № 242-FZ dated 21.07.2014)**

Working Group expresses its concern with the adoption of the Federal Law "On Amendments to Selected Legislative Acts of the Russian Federation with Regard to Clarification of Data Processing of Personal Data across Information and Telecommunications Networks" # 242-FZ dt. 21.07.2014 (hereinafter, "the Law"), as well as the adoption by the State Duma in two readings of a draft law # 596277-6 «On Amendments to Article 4 of the Federal Law" On Amendments to Selected Legislative acts of the Russian Federation with Regard to Clarification of Processing of Personal Data across Information and Telecommunications Networks" (hereinafter, "the Draft Law"), promoting the enactment of the Law.

We believe that these initiatives may result in deterioration of the investment climate in Russia due to a conflict with the requirements of common world market practices, infringement of the rights and interests of end-users (citizens of the Russian Federation), and significant logistical costs that are expected burden corporate investors. Following a number of meetings and discussions regarding the above-mentioned Law and Draft Law, many companies have highlighted a number of legal, economic and technical issues that may arise if the application of the Law starts on September 1, 2016 (or January 1, 2015, should the Draft Law be passed).

We deem it necessary that expediting of the adoption of the Law be refused, whereas there is a need to clarify the procedure for and the scope of application thereof. If the legislator aims to introduce specific requirements regarding personal data processing across information and telecommunications networks, then the Law needs certain amendments so as confine its operation to the designated purview. Currently, the Law applies to absolutely all personal data operators, that is, all Russian- and foreign-based companies operating in the Russian Federation.

## 2.4. Improvement of Tax Law

### Issue 1. Application of thin capitalization rules

Literally, Article 269.2 of the Russian Tax Code says that thin capitalization rules should apply to Russian borrower subsidiaries of a Russian parent with more than 20% foreign ownership if such a parent raises loans from local banks against the pledge of its own assets and then transfers the loans to its Russian subsidiaries, even though no loans or guarantees are provided by foreign shareholders. However, if a Russian parent has no foreign shareholders, Article 269 would not be applicable to its borrower subsidiaries under the same circumstances. Hence, Article 269 of the Tax Code literally suggests that a borrower taxpayer is actually discriminated against due to foreign participation in the lender's capital.

#### Recommendations

Exclude the operations of Russian taxpayers taking loans on market terms at Russian authorized banks, which are guaranteed by foreign and Russian related parties, from thin capitalization rules. We request that the Ministry of Finance take the initiative to introduce the proposed amendments to the current wording of Article 269 of the Tax Code.

#### Status

The issue is currently under review by the Ministry of Finance and the Ministry for Economic Development.

### Issue 2. Centralized cost allocation for multinational corporations

The working group proposed a subclause to the Russian Tax Code allowing expenses transferred under a cost allocation agreement from a foreign company to a related Russian legal entity classified as a major taxpayer to be treated as costs for profits tax purposes. This will enhance Russia's investment appeal, improve its investment climate and also contribute to higher tax revenues due to an increasing number of subdivisions of major foreign companies in Russia.

#### Recommendations

The working group developed draft amendments to Article 265 "Non-sales expenses" of the Russian Tax Code.

#### Status

The issue is currently under review by the Ministry of Finance and the Ministry for Economic Development.

### Issue 3. Reduction of the rate of insurance fees for compulsory pension insurance from 10% to 5%

The high rate of insurance contributions to the Russian Pension Fund is a substantial burden also for the business community as a whole, especially for companies engaged in services whose key resources are their personnel and whose main item of costs is the expenses on payment for the work done by that personnel (banks, financial and investment companies, advisory and law firms, etc.). Hence, the high rate of insurance contributions to the Russian Pension Fund in the form of 10% of the amount which is higher than the established maximum limit for charging insurance fees negatively affects Russia's general investment climate, the volumes of production in the country and its social development because, when there is a greater burden on the payroll, employers are obliged to cut salary growth and reduce other incentive payments to their employees, thereby negatively affecting the personnel's drive and public purchasing power.

#### Recommendations

Reduce the maximum rate of insurance contributions for compulsory pension insurance from 10% to 5%.

#### Status

The proposal was not approved by the responsible agencies.

### Issue 4. Increase in insurance contributions for compulsory medical insurance to the Federal Compulsory Medical Insurance Fund as a result of removing the cap on the maximum base for contributions

Removing the cap on the maximum assessment base for mandatory medical insurance contributions will significantly increase the burden on the business community, especially on companies whose key resources are their personnel and whose main item of costs is the expenses on payment for the work done by the personnel. The high rate of insurance contributions negatively affects Russia's general investment climate, the volumes of production in the country and its social development because, when there is a greater burden on the payroll, employers are obliged to cut salary growth and reduce other incentive payments to their employees, thereby adversely affecting the personnel's drive and public purchasing power. The high rate of insurance contributions to the Medical Insurance Fund will thus have a significant impact on the labor market, because employers will have to consider staff reductions due to the heavy financial burden of the increased rates.

#### Recommendations

The current cap on the maximum assessment base for mandatory medical insurance contributions should be retained.

#### Status

The issue is being reviewed by the group.

## 2.5. Health care and pharmaceuticals

### Issue 1. Protection of intellectual property (IP) rights concerning original pharmaceuticals (P)

#### 1.1. Violation of intellectual property rights to original pharmaceuticals as a result of the premature release of reproduced pharmaceuticals into the market

Currently, the Russian Health Ministry and the Federal Intellectual Property Service have entered into a Cooperation Agreement on issues of legally safeguarding and protecting the results of intellectual activity and the means of individual identification which are equated to them and which relate to the circulation of medical drugs. The Ministry and the Service are not exchanging information on the reproduced medical drugs' registration which may violate the patents for original products.

The problem is largely that any actions taken by the manufacturer of the reproduced medical drugs to prepare entry into the market (not on an industrial scale), including the submission of documents to the Russian Health Ministry with a view to registering a reproduced medical drug prior to the expiry of the patent protection term, are not an infringement of the exclusive right. According to the stance taken by the Supreme Arbitration Court of the Russian Federation, preparations for state registration and the registration of a reproduced medical drug are currently not a violation of a patent (Resolution No. 2578/09 of the Presidium of the Supreme Arbitration Court of the Russian Federation of 16 June 2009).

Consequently, certain fraudulent manufacturers of reproduced medical drugs at first freely enter their drug in a state register, and then, if the drug is in the essential drug list (EDL), they register the maximum sale price (Article 61 of the Federal Law on the Circulation of Medical Drugs) and release the drug into the market "at their own risk" before the patent expires, taking advantage of the imperfection of the judiciary system concerning patent litigation.

Such operations by fraudulent medical drug manufacturers are connected, among other things, with the secrecy of the information on the state registration of medical drugs, thereby preventing the rights holders to receive the relevant information in time and initiate court hearings at an early stage if the registration of new medical drugs infringes their patent rights. At the same time, Article 37 of the Federal Law on the Circulation of Medical Drugs makes it obligatory for an authorized federal executive body to place, on its official website, information concerning the state registration of medical drugs, including their expert examination. Literally, it means that the information on the state registration of medical drugs should be accessible to all on the Internet, like the database on registered medical drugs. However, according to clause 7 of Order No. 747n of the Ministry of Health and Social Development of 26 August 2010 *On the Approval of the Procedure and Time Limits for Placement on the Official Website of the Ministry of Health and Social Development of the Russian Federation*, access to the database on the registration of medical drugs is granted only to the applicant, and we believe that this contradicts the law.

#### Recommendations

- Make the database on the state registration of medical drugs, including an expert analysis of medical drugs, accessible to the public. This will allow the manufacturers of original pharmaceuticals to institute proceedings against the infringement of patent rights before generics are registered (in the event of entry into the market prior to the expiry of the patent for an original drug).
- Include the consideration of the patent status in the procedure for registering medical drugs. There may be a few variants in this respect:
  - a) Do not issue a registration certificate for a reproduced medical drug until the patent for an original medical drug expires or is invalidated in a court hearing.
  - b) Issue a registration certificate; however, if a reproduced medical drug is given such a certificate before the patent for the original drug expires, the certificate should indicate the date of entry into the market, which coincides with the date of expiry of the patent, on a separate line;
  - c) Determine that the applicant's state registration of the maximum selling price of EDL is a violation of the patent holder's rights (e.g., by recognizing such operations as a proposal to sell a product, which is an infringement of the exclusive right to an invention in accordance with Article 1358.2.1 of the Civil Code). In this case, the Russian Health Ministry should be authorized to suspend price registration prior to the expiry of the patent for an original drug.

*The situation when only the registration of a medical drug is not a patent violation, while all the other operations, such as price registration, the entry of a drug in the preference list, etc., are a patent violation, is typical of many countries.*

Results of the working group's activity

Igor Shuvalov, First Deputy Prime Minister of Russia, issued instructions (Instructions No. ISh-P13-3863 dated 27 May 2014) with regard to the results of the FIAC session in Elabuga (Republic of Tatarstan) on 25 April 2014. According to clause 4 of that document, the Health Ministry, the Ministry for Economic Development, the Federal Service for Intellectual Property, Patents and Trademarks (Rospatent), the Ministry for Industry and Trade and the Federal Antimonopoly Service of Russia were requested to analyze, jointly with the relevant federal bodies and the

FIAC Health Care and Pharmaceuticals Working Group, the creation of a mechanism which would prevent the release of reproduced pharmaceuticals into the civil market for medical use until the expiry of the exclusive rights to the relevant original pharmaceuticals for medical use, including the exclusive rights to pharmaceutical substances and their compounds contained in the original pharmaceuticals. The deadline for introducing the approved proposals to the Russian Government has been set at 10 September 2014.

In relation to the results of the meeting between the representatives of the FIAC health care and pharmaceuticals working group and Ye.A. Maksimkina, Director of the Department for Pharmaceutical Provision and Regulation of Medical Drug Circulation of the Health Ministry, the working group sent its proposals to the Ministry on 3 July 2014. The proposals are on improving access to information on the registration of pharmaceuticals by introducing amendments to Order No. 747n of the Health Ministry dated 26 August 2010. It is suggested that all the entities concerned should be given access to the database on the registration of pharmaceuticals for medical use and to add draft instructions on the use of the pharmaceutical being registered to the list of the information revealed. The amendments proposed by the working group include the introduction of the mechanism for the Health Ministry's confirmation that patent rights have not been violated when the reproduced (generic) drug was registered, and also the annulment of registration if the patent rights are violated as well as the suspension of the registration procedure in the event of litigation initiated by the developer of the original drug.

## **1.2. Greater possibilities for courts to protect the rights of the developers of original medical drugs, including a change in the existing court practice of issuing injunctions to forbid a respondent to perform operations in introducing the disputed products into the business cycle**

### **1.2.1. Court injunctions**

Section 3 of part III of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), *Provisional Measures*, is on the powers with which the judicial authorities of the WTO members should be vested in relation to injunctions when considering cases against infringements of intellectual property rights.

Pursuant to Article 50 of the TRIPS Agreement, the judicial authorities shall have the right to call for prompt and effective measures with a view to preventing the infringement of any intellectual property rights and to safeguarding the relevant evidence concerning the presumed infringements.

It is now quite common for courts to refuse a plaintiff, who has exclusive rights to an original medical drug, an injunction by forbidding the respondent to perform operations involving the introduction of a reproduced medical drug, which infringes the plaintiff's rights, into the market. The procedure for issuing an injunction by arbitration courts is set forth in Chapter 8 of the Arbitration Procedural Code of the Russian Federation. For instance, Article 90 of the Arbitration Procedural Code sets forth the grounds for an injunction, which may be taken into account if the failure to issue an injunction could hamper the fulfillment of a court ruling or make it impossible to fulfill it, or in the event of preventing an applicant from suffering substantial damage.

Unfortunately, arbitration courts now actually always decline issuing an injunction, and therefore it is extremely difficult to fulfill a ruling in the event of satisfying a lawsuit, because counterfeit products will be supplied to hospitals and pharmacies (and patients) by the time a case is finally heard, and it will be extremely difficult to withdraw them from the market.

Moreover, when disputes on the infringement of exclusive rights are heard in court, there are delays whereby the rights holders have no timely and effective court protection of their infringed rights. Occasionally, there are cases when the respondents, i.e. the suppliers of counterfeit products to the Russian market, intentionally prolong the examination of a case by drawing a foreign holder of the registration certificate of a medical drug being supplied into litigation. Such actions require a lengthy procedure for notifying a foreign entity, and the examination of a case may therefore be put off for at least six months.

To develop the innovatory pharmaceutical industry, it is extremely important to take measures to prevent counterfeit medical drugs from being released into the public market. Organizations working on medical drugs make huge investments to develop and test them. Such investments can be made only due to the exclusive right to commercially use original medical drugs, which are provided to the developer under patent law and other laws on intellectual property. Innovative medical drugs could not have been created if there were no mechanisms of the exclusive right of use. In this respect, it should be taken into account that such an exclusive right is limited to the term of validity of a patent. Therefore, fast protection measures, including injunctions, should be applied in order to curtail the operations which infringe the plaintiff's exclusive rights to the results of intellectual activity.

### **Recommendations**

Change judicial practice so that injunctions could be issued in favor of the rights holders. Accordingly, the following principles should be applied:

- The court ruling on the issuance of an injunction should be transparent and consistent and capable of being implemented.
- Such a situation could be rectified by introducing amendments to Part 4 of the Civil Code and to the procedural law.
- Injunctions should be issued if the applicant provides evidence of the infringement of rights, e.g. a specialist's report on the infringement of the plaintiff's exclusive rights in relation to the respondent's products.

### **1.2.2. Uniform court practice**

Substantial headway has been made in protecting the rights of those entitled to them with the establishment of the specialized Intellectual Rights Court. As regards patent disputes, the specialized court considers only cases which invalidate patents (in relation to the trial court) and also cassation appeals (in relation to other categories of disputes). As previously, arbitration courts hear cases of patent rights violations. However, such litigation is extremely complicated and requires deep-going expert analysis, while their possibilities of examining patent disputes are limited. We believe that it is not enough for the specialized court to hear only cassation appeals, since the material issues (facts of the case, expert analysis, etc.) are considered in the trial and appellate courts.

#### **Recommendations**

To create uniform judicial practice for litigation concerning patent violations, the respective categories of disputes should be heard by one court (the Intellectual Rights Court, which should be vested with authority of a trial court to examine such cases, or, as established in the anti-piracy law, copyright infringement cases should be sent to the Moscow Municipal Court).

### **1.3. Improvement of the rules for protecting pre-clinical and clinical test data**

#### **Unlawful commercial use of information on the results of pre-clinical and clinical tests presented by the applicant when registering medical drugs**

In acceding to the WTO, Russia has assumed the obligation to prevent the registration of reproduced medical drugs for six years from the time when an original drug was first registered if the applicants for the registration of a reproduced medical drug do not provide either their own data, which meets the requirements for the registration of the original drug, or the consent of the holder of the registration certificate for the original drug. This obligation is reflected in Article 18.6 of Federal Law No. 61-FZ *On the Circulation of Medical Drugs*. However, the Russian Health Ministry's regulations, which set forth the procedure for the state registration of medical drugs, take no account of the requirements of Article 18.6 of the Federal Law.

#### **Recommendations**

#### **Include the examination of the status of exclusiveness of the data in the procedure for registering medical drugs**

Amendments should be made in the Russian Health Ministry's regulatory documents, particularly in the Administrative Regulation on Providing a State Service Relating to the State Registration of Medical Drugs for Medical Use, in order to ensure proper legal protection of the data on the results of pre-clinical and clinical tests for six years from the date on which an original medical drug underwent state registration for the first time.

- a) Make it necessary to analyze the data exclusivity status when registering generics and to suspend or terminate the registration procedure if data exclusivity is breached (in this respect, the Health Ministry should be vested with the relevant powers);
- b) Add a line with information on the data exclusivity status of the original medical drugs to the medical drug register;
- c) Make the information on the medical drugs being registered available to all so that the mechanism which legally protects the data would be transparent (make the database of the medical drugs being registered available to all).

Information that legislation on the limitation period of the provision relating to the protection of clinical test data may be amended is also a cause of certain concern.

### **Issue 2. Promote accessibility to innovative pharmaceuticals by Russian patients**

The system of state pharmaceutical benefits (SPB) at the clinical stage actually covers no more than 10% of the public, while children, adolescents and the able-bodied population of the country are obliged to acquire pharmaceuticals at their own expense. Hence, the system is designed to treat either illnesses at their late stages or their complications, and this is unjustified from the medical and economic standpoints. The expenses of the consolidated budgets of all levels and non-budgetary sources on health care constitute 3.4% of the GDP. Such financing is far too low as compared to that of the OECD countries and with regard to the demographic problems and the extremely high mortality rate attributed to controllable causes. Another serious obstacle to greater access to modern innovative pharmaceuticals for patients is that there is no regular renewal of the permission lists based on the objective system of assessment of medical techniques. The *Strategy of Providing the Public of the Russian Federation with Medical Drugs for the Period Ending in 2025*, adopted by Order No. 66 of the Ministry of Health Care of the Russian Federation dated 13 February 2013, has no definite plan for undertakings, supported by financial indicators, to resolve the aforesaid issues. Despite the principle of universality, designated as one of the key priorities of state policy in providing medical drugs, the Strategy contains no plans to cover Russia's entire population with pharmaceutical benefits. Unless those issues are resolved, the target indicators will not be attained in line with Russian Presidential Edict No. 598 of 7 May 2012; this is declared as the basis for working out the Strategy. Most of the suggestions made when the Strategy was publicly discussed were not taken into account in the final document. Resolution No. 871 of the Russian Government of 28 August 2014 *On the Approval of the Rules for Forming Medical Drug Lists for Medical Application and the Minimum Variety of the Pharmaceuticals Needed to Provide Medical Aid*

determines the deadlines and terms for revising the drug lists for SPB. However, the revision of EDL in a very short period of time indicated in the Rules and in a situation when there is no experience in their legal application by all the participants in the process may substantially affect the objectivity and transparency of the decisions adopted. The annual deadline of 30 December for the Russian Health Ministry's submission of the draft EDL to the Russian Government, determined by the plan for implementing Russia's state program *Development of Health Care* in accordance with Regulations No. 1727-r of the Government of the Russian Federation of 4 September 2014, may stop the release of medical drugs which have been newly entered in the EDL for the period required for the state registration of their maximum prices in 2015.

The Russian Health Ministry started its work in determining the SPB models, the requirements for selecting the constituent entities of the Russian Federation and in drafting the necessary amendments to the current legal base for implementing pilot projects in 2015-2016 concerning the introduction of new SPB schemes embracing a wider population, mainly people of working age, and providing for co-payments. The Russian Health Ministry held several workshops with the representatives of the federal executive bodies and the expert community. The proposals prepared by the FIAC working group have been taken into account and will be considered.

At the request of Deputy Prime Minister Olga Golodets on 30 June 2014 the Ministry for Economic Development was provided with proposals to further develop the state price regulation system. An inter-body working group is expected to be organized for working out the implementation of those proposals. The working group's proposals have been partially taken into account.

### **Recommendations**

1. Work out, together with the members of the FIAC working group, a certain model of the new pharmaceutical provision system based on the principles of compensation and universality and the legal and regulatory framework for its realization and with regard to international practice for trying it out in the pilot regions in 2015-2016.
2. Create an inter-body governmental working group to form new approaches to the state regulation of pharmaceutical prices and pricing based on the principles of compensation concerning the implementation of the new system of universal pharmaceutical provision in the mid-term. Make changes in the rules for registering the maximum selling prices of pharmaceuticals that are designed in the short term to make it easier to access innovative pharmaceuticals.
3. Establish the time limits for the state registration of the maximum selling prices of EDL to avoid the temporary suspension of release of the newly included pharmaceuticals in 2015.

### **Issue 3. Development of public-private partnership (PPP) in health care**

The Draft Law on the Principles of PPP in the Russian Federation is being discussed in the State Duma, and its adoption is expected soon. The construction and organization of private clinics are described clearly in the draft law without taking account of the other possible types of PPP in health care. Enormous international experience has been gained in PPP, which is far more diverse than that suggested in the draft law, and it could also be applied in Russia. Certain current projects of pharmaceutical companies can be transformed into PPP with regard to the state's interests and requirements at the federal and regional levels. This will help pool the public and private sectors' efforts, which are frequently made to resolve the same issues but are not coordinated.

### **Recommendations**

1. Hold an open discussion with the participation of the business community on the need and possibility to realize PPP projects in health care involving pharmaceutical and health-care companies.
2. Agree on the projects, which were presented by the member-companies of the working group, with the Coordination Council of the Ministry of Health of the Russian Federation concerning PPP.
3. The working group should work out proposals which are to be included in the draft law on PPP.

### **Issue 4. Improvement of the regulatory environment for OTC drugs**

There is no legislative definition of an "OTC" drug, and this occasionally causes difficulties in introducing such medical drugs into the market because it is necessary to undergo the same procedures as those for innovatory prescription drugs. Moreover, Russia has no clear-cut mechanism to formally change the status of drugs from that of "prescription" drugs to that of "OTC" drugs.

### **Recommendations**

1. Draft the working group's detailed proposals to amend and/or improve the regulatory legislative base in that respect;
2. Introduce the necessary amendments to Federal Law No. 61-FZ *On the Circulation of Medical Drugs* and other documents.

## Issue 5. Improvement of the regulatory environment for medical items

### 1.1. Restriction of access to the state procurement system for foreign-made medical items

In the last few years, the Russian Government made increased attempts to put stimulating or restricting measures into effect so as to promote the localization of medical items in Russia (Customs Union). The basic documents which reflect government efforts in this respect are *Strategy of Development of the Medical Industry of the Russian Federation for the Period Ending in 2020*<sup>1</sup> (hereinafter, the "Strategy") and the Russian State Program *Development of the Pharmaceutical and Medical Industry for 2013 - 2020*<sup>2</sup>, the key indicators of effectiveness of which have been determined:

1. an increase in the share of domestic medical items for domestic consumption to 40%;
2. the pharmaceutical production index in terms of cash will be 120% by 2020;
3. the pharmaceutical export volume should reach RUB 38 bln by 2020.

Those targets are expected to be attained by **wide-scale stimulation of the demand for local products**. As of late, the Russian medical industry has been characterized by high priority given by the state to the improved quality of and easier access to medical aid, and to the development of new medical know-how and the enhanced level of R&D. However, the total number of local manufacturers of medical items is gradually decreasing on the domestic market, the competitiveness of local products is low, and Russian companies are incapable of ensuring a demand for health care innovations.

1. As for Strategy, it envisages, apart from everything else, the following support for local medical item manufacturers:
2. preparation and implementation of measures which ensure priority of those items in the event of purchases from the budgets of all levels and mandatory medical insurance;
3. targeted support of Russian companies which offer niche solutions;
4. development of the practice of placing contracts *with prohibitions and limitations of access of goods originating in a foreign state or a group of foreign states*, and work or services performed or provided by foreign individuals, for the purpose of placing orders for the supply of goods, performance of work, and provision of services for the country's defense and state security in line with part 4 of Article 13 of Federal Law No. 94-FZ of 21 July 2005 *On the Placement of Orders for the Supply of Goods, Performance of Work and Provision of Services for State and Municipal Needs*, including those not associated with the subject of the contract, when executing major state contracts for the acquisition of equipment for federal needs, as well as the needs of the constituent entities of the Russian Federation or municipal needs under long-term contracts with the terms of a switch to using Russian components within a few years.

To promote those aims and goals, the Ministry of Industry and Trade of Russia drafted several government decrees (in relation to them, the Ministry for Economic Development of Russia issued on 26 August 2013 a negative report on regulatory impact analysis, in which a summary was made of the detailed comments by business concerning the documents proposed), the last of which was the Russian Government's draft decree *On the Establishment of Restrictions on the Access to Certain Medical Items Originating in Foreign States When Making Purchases to Meet State and Municipal Requirements* (hereinafter, the "Draft Decree") in accordance with Russian Presidential Instructions No. Pr-3308 of 6 December 2012 and in compliance with clause 8 of Protocol No. 36 of the Meeting of the Presidium of the Russian Presidential Council for Implementing Priority National Projects and the Demographic Policy of 20 December 2013.

The regulation of state and municipal purchases of medical items, introduced by the draft decree, is based on the principle of limiting the participation of foreign medical products by forming a list in compliance with which the participation of foreign products is prohibited if there are two Russian analogs of them, but they can participate if there are less analogs.

For such regulation, the Draft Decree sets forth conditions whereby a medical item is regarded as local:

- a) the country of origin of goods is the Russian Federation, the Republic of Belarus or the Republic of Kazakhstan;

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<sup>1</sup> Approved by Order No. 118 of the Ministry of Industry and Trade of 31 January 2013 *On the Approval of the Strategy of Development of the Medical Industry of the Russian Federation for the Period Ending in 2020*.

<sup>2</sup> Approved by Decree No. 305 of the Government of the Russian Federation of 15 April 2014 *On the Approval of the Russian State Program Development of the Pharmaceutical and Medical Industry for 2013 - 2020*

- 6) medical items are produced in compliance with the state standard ISO 13485-2011 "Medical items. Quality management system. Systemic requirements for regulation purposes";
- B) *conformity to the percentage of the cost of the materials (foreign goods) used when manufacturing medical items in an amount of no more than 50% of the price of the final product (medical items)* in compliance with the requirement for sufficiently processing goods set forth in clause 6.2 of the Rules for Determining the Country of Origin of Goods, adopted by the Agreement between the Government of the Russian Federation, the Government of the Republic of Belarus and the Government of the Republic of Kazakhstan dated 25 January 2008 *On the Unified Rules for Determining the Country of Origin of Goods* (the Agreement was ratified by Federal Law No. 257-FZ of 22 December 2008).

It should also be observed that the list of categories of medical items, on the basis of which a "restrictive" list was drawn up, has not been published as yet.

On the whole, while supporting the need to stimulate the processes of localizing medical items and transferring high tech to Russia, account should be taken of the **simplification of the restrictive approach presented** as well as the existing price preference of 15% for local medical products in the event of state purchases. At this stage, the requirements of Russian health care cannot be fully met by the existing level of know-how (Russian and, in some cases, foreign) on the Russian market, and a more accurate adjustment is required for the system of access, circulation and transfer of know-how and high-tech solutions. They include tax stimulation methods, price preferences, greater transparency of the procedures when arranging state purchases, the creation of a clear-cut and all-embracing classification of medical items, tariff incentives, etc.

## Recommendations

Set up a unified working body composed of representatives of the Ministry for Economic Development, the Ministry of Industry and Trade, the Ministry of Health Care, the Social Department of the Russian Government, and FIAC for comprehensively working out the conditions to stimulate the localization of production of medical items so as to meet the requirements of Russian health care and social security.

### 1.2. Simplified procedure for registering medical items

The new procedure for state registration (Decree No. 1416 of the Government of the Russian Federation of 27 December 2012), which came into force on 1 January 2013, introduces additional measures to assess the quality, safety and effectiveness of medical items when issuing permits for medical items. However, the legal regulatory acts regulating the measures for assessing the conformity of safety and clinical effectiveness of medical items have not been approved yet. The last drafts of these documents, which are available to the public, help draw the following conclusions:

- The key instrument for assessing the effectiveness and safety of medical items and their modifications on the Russian market is still the system of assessing the results of the tests (technical, toxicological, clinical) made under the state registration procedure. However, such tests often cannot be fully made technically in Russia because of the lack of the necessary equipment and specialists, and they are of a formal nature, since they have no practical or clinical value. There is no practice of total tests for access to the market in any developed country. If account is taken of the short life cycle of medical items and the quick appearance of improved modifications, the requirement for assessing the clinical effectiveness by making clinical tests is redundant for most items, which do not relate to fundamentally new technology.
- Responsibility for such an assessment is assumed by experts from the federal expert institutions (in all, there are two expert institutions with a small staff size and inconsiderable experience in such large-scale expert analysis), which have no funds, knowledge and experience in conducting such work.
- Real "bottlenecks" are created because:

experts and applicants are unable to directly communicate with each other. When documents are submitted by the Applicant without the experts having an opportunity to talk to him (in real time), experts lose more time in clarifying certain issues with the Applicant and receiving additional documents from him.

Additional materials cannot be provided at the request of expert organizations during an expert analysis. Therefore, when issues arise or materials are lacking, the Applicant is denied registration on the grounds that the file does not have the necessary documents, thereby making it necessary for him to form the file again and submit it to the Federal Service for Oversight of Health Care and Social Development.

Since there is still no required base for bylaws in developing the Government Decree, many extremely important issues of efficiently conducting that procedure remain an open question. For instance, the compositions of the "regulatory" and "technical" documents, which should be submitted by the Applicants to the Federal Service for Oversight of Health Care and Social Development for state registration purposes, have not been determined, thereby allowing various experts to arbitrarily determine the requirements for their composition. There are no methodological recommendations and/or clarifications concerning the procedure and requirements for Applicants. Certain technical requirements, presented by experts from the Federal Service for Oversight of Health Care and Social Development and the two subordinate expert organizations, are obviously redundant (e.g., the requirement to notarize a translation of technical, operative and legal regulatory documents; technical documentation for one product can have up to 3,000 pages of technical text).

- It is also not clear why all the registration certificates for medical items (previously, "items serving a medical purpose" and "items of medical equipment") which were issued earlier should be replaced with new ones due to the introduction of a new unified term "medical items". Such a measure seems to be unjustified, since the matter in question is the replacement of 30,000 registration certificates within a certain period of time (by 1 January 2017). Moreover, there are no grounds to demand that all the market participants submit an application to replace registration certificates for all the medical items, which were successfully registered earlier by the Federal Service for Oversight of Health Care and Social Development in compliance with all the requirements and rules which were effective at the time of registration, simply because a new term was introduced. According to the new requirements, composite medical items, which were registered earlier as a "set" or "system", would have to be "broken down" into multiple registration certificates (producers of intricate high-tech complexes would be obliged to apply for several registration certificates, and sometimes for tens of them, instead of one registration certificate for the "system"). This circumstance enormously increases the burden on the applicants themselves and on the experts from the Federal Service for Oversight of Health Care and Social Development, makes it difficult to use the codes of the Russia-wide Classifier of Products and the Goods Classifier for Foreign Economic Activity and apply tax further for each item at the phase of import as well as the phase of sale within Russia, and to register business entities (health care facilities). This pertains to medical items and equipment which have been successfully used in Russian health care facilities for many years now.

Hence, for applicants to replace the certificate form, they will be obliged to go through a procedure which, by its time and effort, is comparable to the re-registering process, and to collect and provide additional information (e.g., the results of clinical tests for goods of all risk classes), and also to face both the inability to classify the manufactured products according to the system proposed and the risk of being denied registration.

Many versions of amendments to the Government Decree are being urgently drawn up by the Ministry of Health Care, changing the registration procedure in that process; consequently, the registration and re-registration of medical items were completely stopped.

Notwithstanding the agreement reached with the Health Ministry and support by Russian manufacturers, the last version of changes in the procedure of registering medical items (Decree No. 1416 of the Government of the Russian Federation of 27 December 2012 *On the Approval of the Rules of State Registration of Medical Items* [with amendments and additions] and other regulatory acts) **do not include an accelerated procedure of registration for medical items with a low risk class**, as is the case, for instance, in the European Union.

#### **Recommendations**

Improve the system of registering medical items by simplifying it and bringing it into line with international practice by the following urgent measures:

- development of the mechanism of organizing pre-registration advisory work in preparing documents which are to be submitted for the state registration of medical items;
- approval of the procedure for appealing against the negative results of expert examination of the quality, effectiveness and safety of the medical items before the decision to refuse to register them is adopted;
- accelerated adoption of the amendments designed to simplify the procedure for registering medical items of risk class 1.

#### **1.3. Establishment of general rules and requirements for the circulation of medical items in the Customs Union and Common Economic Space (CES)**

Work is being actively carried on to develop the rules of circulation of medical items on the national (Russian) level as well as the level of Common Economic Space.

For instance, the Agreement on the Unified Principles and Rules of Circulation of Medical Items (items serving a medical purpose as well as items of medical equipment) within the Eurasian Economic Union, approved by Decision No. 146 of the CES Collegiate Body of 25 August 2014, introduces several mandatory requirements for labeling and releasing medical items. The Law on transfer pricing will come into force on 1 January 2016. That will automatically lead to both new changes in the registration procedure and the need to issue new registration certificates, thereby contradicting the re-registration of medical items being currently conducted in Russia.

At the same time, the Working Group held a meeting with the representatives of the Health Ministry and the Federal Service for Oversight of Health Care and Social Development (Roszdravnadzor), at which the representatives of the regulatory bodies expressed the view that most barriers in the permissive procedures will be eliminated after the adoption of the fundamental document, i.e., the Federal Law on the Circulation of Medical Items, work on which was resumed under the Health Ministry's guidance. The first version of the draft law should be introduced to the Russian Government during November 2014.

#### **Recommendations**

- Include FIAC representatives in the working groups for drawing up the said legal regulatory documents.
- Synchronize the time limits for the entry into force of national (Russian) legislation and CES legislation; ensure sufficient transitional time to reduce the negative effect for domestic and foreign manufacturers, and also ensure the patients' access to the socially important medical items.

## 2.6. Trade and Consumer Sector

### **Issue 1. Extending manufacturer responsibility by creating a legal framework for an effective system for recycling consumption waste (packaging waste) in Russia (jointly with the working group on technical regulation and the elimination of administrative barriers)**

The creation of a sustainable system for managing consumption waste is a key issue for FIAC member companies, which for a number of years have been developing market incentives for collecting and recycling waste in Russia (using packaging waste as a model) based on international experience and the most effective approaches. Current EU legislation in this area provides for target indicators – standards for waste collection and recycling over a given period of time, allowing the waste collection system to align with the development of waste recycling capacity.

In 2011, in the process of Russia's accession to the OECD, Russia's Ministry of Natural Resources drafted Federal Law No. 584399-5 "On Amendments to the Federal Law 'On Production and Consumption Waste' and Other Legislative Acts of the Russian Federation (as Regards Economic Incentives for Waste Management)" and submitted it to the State Duma. The State Duma adopted the draft law in the first reading on 7 October 2011.

One of the Draft's stated goals is to create economic incentives for waste recycling and to increase manufacturers' responsibility for the entire life cycle of their output. Above all, this is a matter of legislating mechanisms to reduce the generation of consumer waste, promote its recycling and return it to the economic cycle.

The draft adopted in the first reading offered virtually no such mechanisms.

During its preparation for the second reading, the draft was changed several times.

In August 2014 a new version of the government amendments was posted on the website of the Russian Ministry of Construction and Housing. In this version, the main provisions on the introduction of "extended manufacturer responsibility" take the business community's suggestions into account and are generally in line with world practice in recycling consumer goods and packaging:

- a manufacturer/importer is required to meet a recycling quota determined as a percentage of recyclable products (packaging) released onto the market;
- a regulated entity may select the method of recycling – by means of manufacturers' and importers' own infrastructure, by contracting with specialized waste management companies, by forming associations of producers and importers for recycling purposes or by making environmental payments;
- a procedure, yet to be elaborated by the government, was established for reporting and monitoring compliance with recycling quotas;
- a procedure was established for calculating and making environmental payments in cases where a manufacturer/importer selects this form of extended responsibility;
- a transition period was introduced

There are also a number of important comments on the draft.

The submitted version of the draft law grants a regional operator what is essentially a monopoly right to all household waste on its territory. Regulated tariffs are set for the management of such waste, including its transportation, decontamination and recycling (utilization). Waste management performed by any operator on a regional operator's territory and not covered by an agreement with the regional operator is prohibited.

Such a structure is inconsistent with extended manufacturer responsibility, as it lacks an economic component and rationale. The economic sense of extended manufacturer responsibility consists in creating guaranteed effective demand (within set limits) on the part of regulated entities for services involving the recycling (utilization) of certain types of consumption waste. Such demand drives investment appeal and the development of an industry for the secondary processing of consumption waste, as confirmed by broad international experience in this area. Effective demand for recycling (utilization) services in the framework of expanded manufacturer responsibility should be realized in conditions of free competition in which manufacturers/importers and waste management operators acting on their behalf have direct access to the sources of consumption waste. This will allow responsibility to be more effectively fulfilled and companies' additional expenses in connection with a wide range of consumer goods, including those of social significance, to be minimized. Similarly, households should have the ability, including towards reducing utility expenses for consumption-waste disposal, to sort waste and transfer (sell) certain types of waste to manufacturers or waste management operators in the framework of extended manufacturer responsibility.

### **Recommendations**

To resolve this problem and create a competitive recycling market the draft law **must allow contracts to be concluded at free market prices between the owners of waste and any other waste management operators for purposes of "expanded manufacturer responsibility"** – fulfillment of recycling quotas for certain types of product (consumer packaging) waste.

In view of what has been said, we recommend that clauses 2, 6 and 7 of Article 9.1 of the draft law be worded as follows:

*"2. The Collection, transportation, recycling (use), decontamination, transportation and disposal of waste in a constituent entity of the Russian Federation shall be handled by regional waste management operators ('regional operators') in accordance with the regional waste management program and the consumption waste management scheme, except where the collection, transportation, recycling (use), decontamination, transportation and disposal of waste are handled in accordance with Article 24.2."*

*"6. Regional operators shall enter into waste management agreements with the owners of production and consumption waste. A regional operator may not decline to enter into a consumption waste management agreement with a party that makes such a request in its area of operations."*

*Consumption waste owners shall enter into waste management agreements with the regional operator in whose territory waste is generated (waste collection sites are located). **Consumption waste owners may also enter into service agreements with other waste management operators for the management of certain types of product waste to be utilized (recycled) after they lose their consumer properties in accordance with Article 24.2."***

*"7. Waste management operators may not manage consumption waste in a regional operator's area of operations without having an agreement with the regional operator, **except where service agreements are entered into with consumption waste owners for the management of certain types of product waste to be subsequently utilized (recycled).**"*

To ensure competitive pricing for waste management operators' services involved in meeting manufacturers' (importers') recycling responsibility in the framework of extended manufacturer responsibility, we suggest wording paragraph 1 of Article 24.5.2 as follows:

*"2. Unregulated waste management services include waste collection and transportation as well as the collection, transportation and recycling (use) of certain types of product waste to be used (recycled) after they lose their consumer properties in accordance with Article 24.2 of the law. Unregulated waste management activities are performed at prices determined in agreements for the performance of such activities."*

2. Article 24.3<sup>3</sup>, if amended as proposed in the draft, would allow unit costs for the creation of infrastructure to be included in the environmental fee rate: *"The environmental fee rate is based on average combined costs for the collection, transportation and recycling of a single item or a unit of weight of an item that has lost its consumer properties. The environmental fee rate may also include unit costs for the construction of infrastructure for these purposes."*

## **Recommendations**

Given the equivalence principle and the intended use of the environmental fee to compensate the recycling of goods that have lost their consumer properties, we suggest wording this clause as follows:

*"The environmental fee rate is based on average combined costs for the collection, transportation, processing and recycling of a single item or a unit of weight of an item that has lost its consumer properties."*

**We request that the above proposals be taken into account in the finalizing of the government's amendments.**

**We should also point out that the latest version of the amendments is substantially different from the previous version and should, in our opinion, be subject to regulatory impact assessment, as were earlier versions of the draft law.**

**We would greatly appreciate being invited to discuss the draft law in government venues.**

## **Issue 2. Regulation of trade markups for baby food**

Russian Government Decree No. 239 On Measures to Improve the State Regulation of Prices (Tariffs), dated 7 March 1995 ("RF Government Decree No. 239") establishes the lists of producer and consumer goods and services rendered by transport, procurement and distribution companies and trade organizations in relation to which Russian local executive bodies have the right to introduce state regulation of tariffs and markups. Trade markups on the prices for baby food sold in various constituent entities of the Russian Federation are regulated based on this normative legal act.

**Artificially established marginal markups in the regions hinder development of a competitive environment. Observation of the limits in the wholesale and retail segments prevents the extension of the baby food product range. The regulation does not consider the specifics of cost formation when the promotion costs (costs of sales representatives and merchandising and certain advertising costs) can be transferred directly from the producer to the distributor or to so-called "trade houses" within the frameworks of holding companies or group companies. *The prerequisites have been created for intervention in pricing by the executive bodies of Russia's constituent entities; in some regions, therefore, FIAC members face administrative penalties and litigation in relation to regional legislation enacted on the basis of Decree No. 239 as regards the sale prices of children's products.***

## Analysis of the regulation's effectiveness

The range of products related to baby food has been significantly extended and includes specialized food products for children under three years old and products for children of preschool age (under six years) and school age (six years and above).

In general, the baby food market is highly attractive and competitive.

The basic factor of retail and wholesale price formation is not state regulation; rather, the basic factors are competition and the competitive advantages of every particular region, the remoteness of a particular type of production and of its designation from final outlets and production sites, regional specifics, etc. That is, markets contain strong regulatory mechanisms.

If we compare retail prices (in comparable trading formats) in the comparable regions governed by the regulatory legal acts adopted in accordance with RF Government Decree No.239 concerning trade markups with the prices in regions not governed by such regulation, we find that the retail prices do not depend on the presence or absence of limits. In 2013, the specialists of the Institute for Industrial and Market Studies of the National Research University Higher School of Economics analyzed the effect of regulated trade markups on baby food prices in Russia's regions. Based on the research, constituent entities of Russia were identified that regulate trade markups on baby food prices and an analysis was performed on the effect of this regulation and other factors on the prices for the following three products: baby milk powder, baby curd and apple juice. In addition, the effect of the same factors (except for regulation of trade markups on milk and flour prices) was analyzed for goods falling outside the regulation of trade markups in Russia's constituent entities.

Russia's constituent entities demonstrate a variety of regulatory approaches. As a rule, regulation extends both to wholesale and retail markups (trade markups). However, there are limits on the total markup on producer or importer prices (as is the case in Tambov region; in some other constituent entities of Russia, trade markup is differentiated depending on whether the goods are purchased from a producer (importer) or a wholesaler). There are instances in which limits are imposed on retail trade markups (e.g., in Vologda and Kostroma regions).

The trade markup limits usually vary between 10%-25% for wholesale trade and 15%-25% for retail trade. In particular instances, the executive authorities of Russia's constituent entities establish very limited trade markups within their territories depending on the local specifics. Limits may be differentiated based on other attributes. For example, they may be mitigated for imported goods (as in Vladimir and Sakhalin Regions). In Sverdlovsk and Omsk regions higher trade markups apply to Russian products than to imported products.

Retail price analysis shows that regulation of trade markups by Russia's constituent entities produces no statistically relevant effect on baby food prices. The price of baby food is determined by other objective factors, first and foremost the general price level and public income. Regulation does not have the suggested benefit of reducing prices, but entails explicit administrative expenses on the part both of authorities and business entities.

## Analysis of public perceptions

In July 2014 the Federal State Budgetary Scientific Institution Institute of Sociology of the Russian Academy of Sciences carried out a social research project entitled *State Regulation of Trade Markups on Baby Food: Public Opinion*. It produced the following results:

1. Baby food is purchased primarily by people 18-44 years old with minor children and average or above average income. These are primarily parents purchasing food for their babies and educated young and middle-aged people. Baby food products are also purchased by people of other ages and various incomes and education. Therefore, we may conclude that baby food products are intended for a wide audience.

2. The awareness of purchasers in regions with state regulation is very low - 76% of baby food purchasers are unaware of the existence of state regulation. In regions without regulation, 20% of purchasers mistakenly believe that regulation exists. Comparison of the replies given by respondents from regulated and non-regulated regions shows that the real awareness of the population concerning the presence or absence of state regulation of trade markups on baby food prices totals 2%-4%. Neither the presence nor absence of children nor income levels affect the awareness of the respondents.

3. On the whole, 43% of purchasers believe that deregulation of trade markups on baby food will increase prices; only 15% of the purchasers (10% with low income) believe that regulation restrains prices while 35% believe the opposite.

The best-informed purchasers from regulated regions, those who are aware of the existence of state regulation of trade markups, have a vague understanding of regulation mechanisms and functions, the same as the rest of the population. The opinion of low-income citizens concerning the effect of state regulation of trade markups either does not differ from the opinion of the majority or is more pessimistic. Therefore, regulation is perceived either neutrally or negatively.

4. According to the respondents, the most efficient methods for supporting households with children in terms of baby food provision include dairy shops and specialized stores selling baby food at fixed prices - 33%. Only 6% mentioned markup regulation. A group of well-informed purchasers estimated the efficiency of this mechanism lower – only 1%. Almost one third of well-informed purchasers would prefer specialized financial aid to other forms of support. The most widespread mechanisms the population uses are dairy shops and free delivery within the framework of medical prescriptions/referral by the state authorities. Certain purchasers with minor children make use of financial support (10%) and specialized stores (9%), while the majority (38%) fail to use any support.

## Legal analysis

The need to change the specified Regulation is supported by a number of legal reasons:

### **1. Inconformity of the Russian Federation's regulatory legal acts with its international obligations**

Concerning the regulation of prices (tariffs) for a number of products and services listed in the Regulation No.239 schedules, and in particular for baby food products, the specified Regulation fails to conform with Article 17 of the Treaty on Common Principles and Rules of Competition concluded on 9 December 2010 between the Russian Federation, the Republic of Belarus and the Republic of Kazakhstan ("the Treaty"). The Treaty permits state price regulation as follows:

a. on commodity markets with a natural monopoly (clause 1 Article 17).

In accordance with Federal Law No.147-FZ "On Natural Monopolies" of 17 August 1995 (as revised on 6 December 2011), the baby food market is not classified as a commodity market with a natural monopoly.

b. in emergencies or natural disasters and given national security concerns, provided that the encountered problems cannot be solved in a way that has a less negative effect on competition (clause 1 of Article 17 of the Treaty).

Regulation No.239 contains no instructions concerning the introduction of regulation in emergencies or during natural disasters or given national security concerns arising due to the absence of state regulation of baby food prices.

c. in instances of state regulation of prices for products specified in the Addendum to the Treaty.

Baby food products are not on the list of goods subject to state regulation of prices in accordance with the Treaty.

The Treaty does not provide for the issuance of internal acts related to the introduction of price regulation established by Article 17 of the Treaty, which, in accordance with part 3 Article 5 of Federal Law No.101-FZ "On International Treaties of the Russian Federation" of 15 July 1995 (as revised on 1 December 2007), results in the immediate taking of effect of the Treaty's Article 17 in the Russian Federation. If an international treaty of the Russian Federation establishes rules other than those provided for by the law, the rules of the international treaty shall apply.

### **2. Conflict of laws**

Regulation No.239 fails to conform to clause 8 part 2 Article 8 of Federal Law No.381-FZ "On the Fundamentals of State Regulation of Trading Activities in the Russian Federation" ("the Law on Trading"), which prohibits state regulation of prices in instances not covered in the federal laws. Regulation No.239 establishes trade markups for a number of products (including baby food products) in respect of which federal laws do not stipulate state regulation of prices by the authorities of Russia's constituent entities. In accordance with part 4 Article 8 of the Law on Trading, trade markups on prices for particular products may be established by virtue of federal laws and related regulatory legal acts.

### **3. Unavailability of unified practices for applying regulatory legal acts**

Currently there exist several precedents when the highest judicial body of the Russian Federation has invalidated individual provisions of Decree No. 239 and regulatory legal acts of executive bodies of constituent entities of the Russian Federation on the basis that they contradict the Trade Law. Specifically, Decision No. GKPI10-498 of the Supreme Court of the Russian Federation of 6 July 2010 invalidated paragraph 9 of the List of Services rendered by transport, procurement and distribution companies and trade organizations in respect of which Russian constituent entities' executive bodies have the right to introduce state regulation of tariffs and markups (introduction of maximum wholesale and retail trade markups on prices for pharmaceutical products excluded from the list of vital and essential medicines and medical products) approved by Decree No. 239.

Ruling No. 78-G10-13 of the Supreme Court of the Russian Federation of 21 July 2010 invalidated the provisions of Decree No. 367 of the Government of St. Petersburg of 5 April 2007 "On Introduction of Trade Markups on Prices for Pharmaceutical and Medical Products" as regards this decree's application to medical products.

Moreover, Ruling No. VAS-11752/11 of the Supreme Arbitration Court of 27 October 2011 rejected the claim for the invalidation of paragraph 3 of the List of Services rendered by transport, procurement and distribution companies and trade organizations in respect of which Russian constituent entities' executive bodies have the right to introduce state regulation of tariffs and markups (introduction of maximum markups on baby food prices).

## **Conclusion**

**Updating Decree No. 239 of the Government as regards amending the list of production and consumer goods in relation to which local Russian executive bodies have the right to introduce state regulation of tariffs and markups and trade markups for baby food will not lead to any negative outcomes for the socially unprotected population.** Prices for children's products will be determined on the basis of the conditions in each individual region. Social reaction to the amendments will be null or minimal. Simultaneously, elimination of restrictions will stimulate expansion into regional markets where expansion is problematic, broadening the range of products, which will improve competitiveness and put pressure on prices. Decree No. 239 will be brought into accordance with the legislation and international commitments of the Russian Federation. The administrative burden on business will be removed, possibilities for increasing the efficiency of business processes will be extended and non-production costs will be optimized.

## **Status**

In compliance with clause 6 of List of Instructions No. ISh-P13-4381 of I.I. Shuvalov dated 25 June 2013, the need to exclude baby food from *Decree No. 239* was considered by the Russian Government's Expert Council headed by

*M. A. Abyzov, the Minister of the Russian Federation involving relevant agencies and the expert community. On 1 September 2014, the Expert Council concluded that regional regulatory practices related to trade markups for baby food are unjustified and that continuing application of regulatory practices related to trade markups for baby food is excessive as compared to price control on the basis of the Federal Law "On the Protection of Competition" and development of targeted social support in accordance with the Concept of Internal Food Assistance Development.*

### **Recommendations**

Make a fundamental decision to exclude baby food from the scope of *Decree No. 239. Instruct the relevant agencies to consider the alternative decisions proposed by the Expert Council related to regulation of baby food as a socially significant food product category.*

### **Issue 3. Exercising control on the consumer market**

The business community is interested in the efficient and transparent performance of the control system in the consumer market, whichever federal executive body is assigned the function. FIAC member companies will be glad to take part in making decisions as experts on various issues.

The business community suggests addressing the following issues:

- Doubling veterinary and phytosanitary control of the same objects due to the lack of clear segregation of authorities of the state oversight bodies that are involved.
- Increase the number of scheduled and unscheduled inspections in the absence of specification of the number of scheduled and unscheduled inspections, depending on the object (according to hazard level or other criteria).
- The planned inspections that the authoritative agencies perform at each individual company are not coordinated with each other in terms of timing and thus result in the distraction of significant human and organizational resources from their principal activities during the year.
- It would be preferable if the request to publish the results of inspections is communicated to the oversight bodies. The law permits, but does not require, this. However, the non-transparency of the supervising bodies when administrative offenses are considered significantly complicates activity and creates non-transparent conditions for all involved parties.

### **Issue 4. Reforming veterinary and phytosanitation legislation in the Russian Federation and Customs Union**

#### **4.1. Order No. 281 "On Approval of the Rules for Organizing Work in Drawing Up Supporting Veterinary Documents and the Procedure for Drawing Up Supporting Veterinary Documents in Electronic Form"**

In July of this year the Russian Ministry of Agriculture approved Order No. 281 "On Approval of the Rules for Organizing Work in Drawing Up Supporting Veterinary Documents" and a Procedure for Drawing Up Supporting Veterinary Documents in Electronic Form (the "Order"). The Order becomes effective in March 2015.

This document, as well as the procedure for regulatory impact assessment (RIA), received a lot of criticism from members of the business community, including FIAC member companies, during the first public discussion.

Primarily, it was noted that the Order contained an incorrect reference to the regulatory framework of the Customs Union in the determination of controlled goods for the issuing of supporting veterinary certificates. According to Section IV of Decision No. 317 of the Customs Union Commission of 18 June 2010, veterinary certificates for controlled goods established in the regulatory framework of the Customs Union are issued when the goods cross the territory of the Customs Union (during the importing of goods to the Customs Union) and when they are transported from the territory of one party to the territory of another party of the Customs Union. Transportation of goods within one country is regulated by the legislation of that country (p. 3.7 of Section III).

FIAC has repeatedly stressed that the requirement to support finished food products with supporting veterinary certificates is unjustified due to the fact that these products are safe in veterinary terms (excluding export and import operations). This complies with international practice, in particular with that of the European Union: finished food products are transported within the EU without veterinary certificates. The epizootic (veterinary) welfare of a territory is secured by the inclusion in shipping documents concerning veterinary certification of information (identification numbers) about the manufacturer that has produced the goods subject to veterinary control or about the company supplying the raw materials of animal origin with which the finished food products were produced. The traceability of finished (processed) food products is successfully ensured by the information on these products' labels (date and time of production, information about the production line, plant address, production batch number, etc.). Within a production plant, traceability is ensured along the path from raw materials to finished products and vice versa. Moreover, all raw materials of animal origin are subject to veterinary and sanitary expert examination, with subsequent issuing of veterinary certificates. Thus, finished food products are produced from raw materials that are safe in veterinary terms and originate in epizootically safe territories.

The list of food products subject to supporting veterinary certificates has been extended in the adopted Order to cover almost all finished food products containing raw materials of animal origin.

The Order stipulates that the supporting veterinary documents should be issued in electronic form. However, the function as regards the drawing up and issuing of supporting veterinary documents is assigned exclusively to bodies in the Russian state veterinary agency system. These bodies' commitment to drawing up supporting veterinary documents, including in electronic form, will thus in reality determine the possibility that production and retail

companies can transition to the new requirements by March 2015. In that connection, FIAC notes that currently this commitment on the part of the vast majority of the state veterinary agencies in the Russian constituent entities is not being observed. The situation is complicated by the fact that the order does not establish that the state veterinary agencies have the direct responsibility of transitioning to the electronic issuing of supporting veterinary documents within the specified time. This transition depends on the technical readiness of veterinary agencies, which means that the terms for implementing electronic certification could significantly increase.

Moreover, the transfer to an electronic form for supporting veterinary documents requires business entities to introduce several significant changes to their business processes and information systems. This also implies significant time, financial and other costs.

Considering the above, it is expected that for an unlimited period of time after 2015, state bodies will continue to draw up documents in hard copy form. Given the expected extension of the controlled range of products, this will require that the business community adopt significant organizational measures, and these will create significant financial costs.

The Order does stipulate the previously agreed provision concerning the free-of-charge drawing up of supporting veterinary documents (in hard copy form). Veterinary certification for finished food products in hard copy form will lead to great financial costs for FIAC member companies (these costs will be included in the cost of food products, which will have an inflationary impact on the country's economy).

According to FIAC estimates, there will be tens of thousands of officials empowered to draw up supporting veterinary documents on behalf of a veterinary agency throughout the Russian Federation; a single FIAC member company will, pursuant to the Order, produce six million supporting veterinary documents per year. Finished food product logistics will become significantly more complicated, leading even to a shutdown in the small retail format. For example, sale of ice cream through kiosks will become impossible since the Order stipulates that veterinary certificates must be prepared within a single working day. This is completely unacceptable for the food industry taking into account the continuity of production.

### **Status**

The question is not settled. Compliance with Order No.281 "On Approval of the Rules for Organizing Work in Drawing Up Supporting Veterinary Documents and the Procedure for Drawing Up Supporting Veterinary Documents in Electronic Form" as adopted by the Ministry of Agriculture threatens FIAC member companies with enormous financial expenses, which will lead to an inflationary impact on the country's economy and create the risk of the operational collapse of the food industry and retailing. The effective date of this document is unrealistic, which may lead to a logistics collapse and to the shutdown of production, release, acceptance and sales of products from more than 25 plants of FIAC member companies, with related immense losses for business and the government.

### **Recommendations**

- 1) reintroduce in Order No. 281 of the Russian Ministry of Agriculture of 17 July 2014 at least a two-year transition period to ensure implementation of a practical and effective tool for veterinary certification of finished (processed) food products.
- 2) provide for free-of-charge preparation of supporting veterinary documents (including hard copies) to facilitate market participants' operations.

### **4.2. Draft Federal Law on Veterinary Medicine**

The Draft Federal Law "On Veterinary Medicine" (hereinafter, the "draft law") has been under development for several years. The current version was posted on the portal [www.regulation.gov.ru](http://www.regulation.gov.ru) for public discussion. The FIAC think tank for the development of the trade and consumer sectors has repeatedly considered the text of this document, but it still contains provisions that worsen business conditions and introduce excessive administrative barriers to business.

The draft law establishes the provision that "meat, meat products and other products of animal slaughter (processing), milk, milk products, eggs, other products of animal origin" are subject to veterinary and sanitary expert examination in order to determine their fitness for food purposes. The sale and use of these products without veterinary and sanitary expert examination are prohibited. However, a significant portion of finished (processed) food products have animal origin, and given the quality and safety control and oversight function, an overlap between veterinary supervision and sanitary and epidemiological oversight may occur. The Government of the Russian Federation reallocated functions in the food production safety area and in quality control and the organization of this control between the Ministry of Healthcare and Social Development of the Russian Federation, the Federal Service for Oversight of the Protection of Consumer Rights and Human Welfare, the Ministry of Agriculture of the Russian Federation, and the Federal Service for Veterinary and Phytosanitary Oversight. The latter is assigned veterinary oversight authority only for raw materials of animal origin which did not undergo processing or heat treatment (p. 1.b). The draft law does not address this issue.

The draft law lacks a definition of "unprocessed food products of animal origin." At the same time, the Technical Regulations "On Food Safety" of the Customs Union adopted by Resolution No. 880 of the Customs Union Commission stipulate that products subject to declaration of compliance include food products released into circulation within the customs territory of the Customs Union, excluding unprocessed food products of animal origin, while unprocessed food products of animal origin are subject to veterinary and sanitary expert examination prior to release into circulation on the customs territory of the Customs Union (unless otherwise is stipulated by the technical regulations of the Customs Union on fish products and the supporting document confirming safety) and processed

food products of animal origin are not subject to veterinary and sanitary expert examination.

For that reason we consider it appropriate to mention a previous draft law concerning veterinary medicine that appeared to reasonably include raw materials of animal origin, food products of non-industrial processing and non-food by-products as products of animal origin, specifying that raw materials of animal origin include unprocessed slaughter products, raw milk, raw skimmed milk, raw cream, bee-keeping products, eggs and egg products and other raw materials of animal origin in accordance with the list of raw materials of animal origin approved by the Government of the Russian Federation on the basis of the Russian Classifier of Products. It is reasonable to define processing as heat treatment excluding freezing, cooling, smoking, preserving, ripening, extraction, extrusion or a combination of these processes.

In its scope the draft law overlaps with the legislation on technical regulation as regards the establishing of veterinary rules and requirements; these should therefore be clearly segregated.

Pursuant to Federal Law No. 184-FZ "On Technical Regulations" of 27 December 2002, technical regulations may contain minimally required sanitary and phytosanitary measures for products originating from individual countries and/or places, including limitations on import, use, storage, transport, sales and disposal that secure biological safety.

Veterinary and sanitary measures may establish requirements as regards products, processing and production methods, product testing procedures, inspection, compliance confirmation and quarantine requirements, including transportation requirements necessary to secure welfare of animals and plants during transportation. They may also establish requirements for raw materials, sampling methods and procedures, risk research and estimation methods and other requirements contained in technical regulations.

If technical regulations establish product requirements, they should also establish forms and schemes of compliance evaluation. Certification is a form of compliance evaluation. Veterinary certification represents a form of compliance evaluation. However, the draft law does not specify that the procedure for drawing up and issuing veterinary certificates and related requirements is approved by the federal executive body that develops governmental policy and regulatory framework in the area of veterinary medicine. The issue in question consists of determining the correlation between a veterinary certificate issued in accordance with this draft law and a compliance certificate issued in accordance with technical regulations and the federal law "On Technical Regulations."

The draft law does not segregate procedures of veterinary certification from those for veterinary and sanitary expert examination, which creates additional difficulties for law enforcement. For example, among the documents resulting from veterinary and sanitary expert examination is a veterinary certificate, which is not completely correct, since it is obtained on the basis of veterinary certification results.

The listed uncertainties and discrepancies in the draft law text are disturbing since they will effectively result in the doubling of control and oversight procedures, an increase in the administrative burden and an increase in costs for business entities and lead to the consequence that officials of different levels will address issues in the veterinary area.

### **Status**

The issue is in progress. Numerous FIAC proposals aimed at eliminating the doubling of veterinary oversight and sanitary and epidemiological oversight in the Russian Federation and at creating correct and transparent conditions for veterinary and sanitary expert examination and veterinary certification have been ignored by the developers and were not taken into account in the latest version of the draft law.

### **Recommendations**

- Establish in the draft law a clear reallocation of functions in the area of food production safety and quality control and organize this control between the Ministry of Healthcare and Social Development of the Russian Federation, the Federal Service for Oversight of the Protection of Consumer Rights and Human Welfare, the Ministry of Agriculture of the Russian Federation and the Federal Service for Veterinary and Phytosanitary Oversight.
- Take into account the feasibility of establishing a list of products subject to veterinary and sanitary expert examination and veterinary certification in the draft law pursuant to the Technical Regulations of the Customs Union "On Food Safety."
- Define in the draft law the term "traceability" (taking into account the definition provided in the Technical Regulations of the Customs Union "On Food Safety") and reflect the peculiarities of veterinary certification for animals and unprocessed raw materials of animal origin.
- Define and establish in the draft law transparent conditions and criteria for veterinary and sanitary expert examination and specify their relations with the veterinary certification procedure.

## 2.7. Energy efficiency

### Issue 1. Reduction of energy consumption in residential, public and industrial buildings and structures

Energy efficiency must be enhanced if the Russian economy is to develop and be competitive. Currently, there is a legal framework in Russia for energy conservation and energy efficiency, including the framework document entitled Federal Law No. 261-FZ *On Energy Conservation and the Enhancement of Energy Efficiency*. Time limits and targets have been set for reducing energy consumption, and the state program *Energy Conservation and the Enhancement of Energy Efficiency for the Period until 2020* has been adopted. A mechanism for implementing the federal law is contained in the *Action Plan for Energy Conservation and the Enhancement of Energy Efficiency in the Russian Federation*, approved by Regulation No. 1830-r of the Russian Government of 1 December 2009.

The policy of promoting energy efficiency in residential, public and industrial buildings and structures in 2007-2013 yielded certain results. For instance, specific energy consumption per square meter of living space was reduced by 13% under comparable weather conditions. That result was achieved largely due to the higher efficiency of electric devices and to the installation of meters. However, the deadlines and target indicators of the programs and events approved by the Russian Government were, in the main, not attained.

Russia has one of the world's worst indicators of efficient energy consumption per square meter in buildings. For instance, consumption in residential buildings in Russia averages 350 kWh per square meter annually. Energy consumption in Russia is far higher (up to 50% higher, depending on the type of building) than in countries with a similar climate.

In countries with high energy efficiency (United States, EU countries, etc.), tens of steps are taken to stimulate less energy consumption, ranging from special "green" standards to the state support of lending for reconstructing buildings. Against that backdrop, Russia is increasingly lagging behind in the race for higher energy efficiency. Recently, that lag has been especially great, being no less than 20 years in comparison with, say, Finland and Sweden.

That lag occurs mainly because there are no economic stimuli to introduce energy efficient technologies and materials, the rules of technical regulation are imperfect, and adherence to construction rules and regulations is poorly controlled.

The importance of that problem was emphasized by the proposals made by Russian Prime Minister Dmitry Medvedev concerning the results of the board session of the Presidential Council on economic modernization and innovatory development *On Innovatory Development of Energy Conservation and Energy Efficiency* of 21 November 2013. The key executive bodies were asked to analyze the current mechanisms of stimulating the application of innovatory and energy-efficient technologies, units and materials and to make proposals on their improvement, and also to work out industry "roadmaps" in order to introduce innovatory materials and modern technologies into major energy-consuming industries by 2018.

To help resolve that issue in the building industry, a decision was made to conduct a comprehensive survey with leading specialists (Efficient Energy Consumption Center). Taking account of the results obtained and own rich experience in that area, certain recommendations were worked out to make changes in the system of regulating construction and to amend the system of economically stimulating enhanced energy efficiency.

Proposals to implement ten priority groups of measures were worked out after analyzing international experience and assessing the effectiveness of the Russian energy efficiency policy.

#### Recommendations

- Improve the regulatory framework for rating the parameters of energy efficiency in buildings, approve the draft Code of Rules "Energy performance of buildings. Calculation of energy consumption for heating and cooling, ventilation and hot water provision (EN ISO 13790:2008)" and eliminate its contradictions, including the mandatory rating of the specific energy consumption parameters in single-family separately standing and blocked off buildings. Review the regulatory requirements for energy efficiency parameters in buildings at least once every five years;
- Work out the codes of rules (CR) in energy conservation and enhanced energy efficiency of industrial buildings and structures and harmonize them with the European standards;
- Create a system for controlling the fulfillment of construction rules and regulations;
- Economically stimulate the construction of buildings with low energy consumption as well as passive buildings. Introduce the system of granting tax benefits and subsidizing the interest rate for bank loans for constructing energy-efficient buildings;
- Create a system of bank guarantees for loans granted for capital repairs of residential buildings, inter alia, by forming Energy Conservation Funds;
- Analyze the costs of a life cycle by applying the export gas price in calculations when determining whether it is expedient to introduce measures in order to enhance energy efficiency in buildings;

- Improve the rules for determining the class of energy efficiency of buildings and fulfill the requirements of Article 12 of Federal Law No. 2612-FZ to mark the energy efficiency of buildings, and also improve the indicator of the energy efficiency class which the construction company must put on the facade of the building to be commissioned. Apply the requirements for certifying the parameters of energy efficiency to single-family separately standing and blocked off buildings;
- Develop the system of statistically keeping track of the levels of energy consumption efficiency in buildings;
- Create recommendations and technical solution albums for carrying out measures to enhance energy efficiency when standard residential and public buildings undergo repairs;
- Bring the annual scope of capital repairs of residential buildings to 3% of their total area and that of service business buildings to 2% of their total area. In this respect, the capital repair programs should be coordinated with the complex energy conservation programs and projects of ESCO.

When working out those recommendations, attention should be especially focused on the assessment of the costs and economic effects of their implementation, particularly the real effect of the measures in enhancing energy efficiency on the cost of realty.

To implement the recommendations further, consultations should be held with all the executive bodies involved in the process, i.e. the Energy Ministry, the Construction Ministry and the Ministry for Economic Development, in order to jointly work out the proposed measures to reduce energy consumption in residential, public and industrial buildings and structures.

## **Issue 2. New tariff regulation policy. Uncertainty about the tariff containment policy**

In 2006, the Russian Government approved the plan for liberalizing gas prices on the domestic market. In accordance with that plan, the Government drew up a plan for accelerating the growth of the regulated gas prices so as to bring them in 2011 to the level of revenue generation equal to that of the export prices: the average prices for industrial consumers on the domestic market should have been ultimately equal to the prices of gas sold to European consumers. Afterwards, the Government should have suspended the direct regulation of gas prices on the domestic market, allowing the market to form the prices. Although the annual growth rate averaged 17% in 2006-2013, regulated gas prices still have not reached the level of revenue generation equal to that of the export prices.

In September 2013, the Ministry for Economic Development worked out a comprehensive plan which provides for zero indexation and the containment of the growth of tariffs of Gazprom and other natural monopolies. The plan reflects the main aspects of the scenario of socioeconomic development of Russia in 2014-2016, which was approved by the government in September 2013 and which envisages the zero indexation of tariffs of the natural monopolies and the subsequent attachment of tariffs to inflation (CPI).

On 25 October 2013, the State Duma of Russia approved the federal budget for 2014-2016 on the basis of the updated scenario of socioeconomic development, which envisages the following steps:

- No tariff indexation for gas, rail traffic and the electric power companies' services for industrial consumers in 2014, and the indexation of the relevant tariffs by the inflation value (CPI) of the previous year in 2015-2016.
- The indexation of tariffs for gas, electric power and heat in 2014-2016 for the public by 0.7 of CPI of the preceding year.

Nonetheless, currently there is no clarity about the parameters of tariffs of the natural monopolies in three years' time described in the plan, i.e., starting from 2017.

In relation to the preliminary rates of the Socioeconomic Development Scenario published by the Ministry for Economic Development of 20 May 2014:

- The indexation of wholesale gas tariffs for industrial consumers in July (as compared with the previous year) in relation to the forecast consumer price index of the previous year is planned at the level of 6% in 2015 and 5% in 2016.
- As of July 2017, indexation is planned at the level of 3.6% (at the rate of 0.8 multiplied by CPI of 2017).

The official version of the Socioeconomic Development Scenario approved in relation to Russia's budget for 2015 is to be published in October 2014. According to the Ministry for Economic Development, government policy after 2017 should be targeted at the alternative level of equal revenue generation (e.g., 0.7 of the equal revenue generation in Europe) by 2025.

The continuous (actually annual) change in the pricing principles on the gas market in recent years adversely affects the investment programs and capitalization of gas producers and electric power companies. The volatility of regulation in the gas sector is reflected accordingly in the electric power sector, the spot prices of which are closely related to the regulated gas prices.

Hence, the new tariff policy entails a substantial risk of a cut in the profit of wholesale generating companies, thereby threatening the preservation of their free cash flow, which is needed to support the current investment projects. By artificially "freezing" the gas rates for 2014, the prices on the day forward market will no longer grow and may even drop, affecting an important aspect of the generating companies' revenue.

A tariff "freeze" and the limitation of tariff growth may produce an effect opposite to that expected: the zero or insignificant annual growth of tariffs will reduce the natural stimuli to enhance energy efficiency among consumers and make it less interesting for the generating companies to make investments in modernizing the existing generating capacities. Consequently, the generator pool may age more quickly and the power consumption of most industries may increase.

The new tariff policy may cause GDP to grow more slowly mainly due to the large share of the gas and energy industries in the country's GDP.

### **Recommendations**

The period of nil growth (limited growth) of tariffs should be as short as possible. Regulators should return to the policy of indexing wholesale tariffs on gas for industrial consumers by the value of "CPI + minimum of 5%" so as to gradually attain the level of equal revenue generation of export and domestic gas prices and:

- Create natural stimuli of energy efficiency and energy conservation among all the gas and electric power consumers.
- Keep the gas sector sustainable at the level acceptable by private investors, ensuring (by indexing gas tariffs) cash flows which are needed to develop new key fields requiring capital outlays.
- Restore the investment appeal and ensure long-term energy sustainability, allowing the generating companies to receive marginal profit from the sale of electric power at the level acceptable for strategic investors.

A steady increase in gas tariffs is one of the most important instruments which can be used by the state currently and in the foreseeable future to maintain a long-term balance and an investment appeal of the gas and electric power industries.

To compensate for the generating companies' reduced marginal profit resulting from a "freeze"/ limitation of tariff growth, regulators should consider the possibility of introducing compensation mechanisms to restore the generating companies' profitability of the period prior to the freeze and re-establish the investment appeal of energy consumption.

### **Issue 3. Forming a gas market**

#### **3.1. Gas Exchange**

Gas trade on the electronic trading platform of Gazprommehregiongaz LLC in 2007-2008 by a trading mechanism, synchronized with the capacities of a unified gas supply system, was a means of forming price signals and diversifying the gas supply sources, and also had the potential to become the basis for liberalizing the gas market.

In 2008, gas trade on the electronic trading platform was suspended after the economic crisis broke out. Currently, the Russian gas sector has no trading platform in operation.

Pricing is not transparent, and additional price competition stimuli are not created when there are no market signals formed on an independent exchange/trading platform.

The Commission for the Strategy of Development of the Fuel and Energy Complex and Environmental Safety under the Russian President ordered on 4 June 2014 that a law on restarting a gas exchange be drafted by the end of September 2014.

### **Recommendations**

- Resume gas trade on the basis of the current or new independent trade exchanges and/or trading platforms.
- Introduce mechanisms whereby the prices formed on the gas exchange can be used as indicative prices for entry into agreements as well as for physical trade and operations involving the gas derivatives of financial instruments.
- Envisage the wide involvement of the key gas producers and consumers in regulating the work of gas exchanges / trading platforms.

#### **3.2. Pricing transparency of the major gas player**

The plan approved by Russian Prime Minister Dmitry Medvedev on 14 November 2013 (Action Plan for Limiting the Final Cost of Goods and Services of Infrastructural Companies while Sustaining Their Financial Stability and Investment Appeal) provides for the adoption of legislative amendments designed to provide Gazprom with the right to sell gas on the domestic market at prices below the regulated wholesale gas prices (FTS prices) (within the range of 1-0.8 of the regulated price).

The Commission for the Strategy of Development of the Fuel and Energy Complex and Environmental Safety under the Russian President ordered on 4 June 2014 that a law containing a mechanism for applying the deceleration multipliers to large consumers of Gazprom be drafted by the end of September 2014

- Gazprom can receive permission to provide discounts of 15-20% of the wholesale domestic gas prices to its large industrial consumers.

In such a situation, large industrial gas consumers (including generating companies) have no clear idea of the size of the discounts being provided as well as Gazprom's guidelines for granting discounts to certain gas consumers.

Actually, the possibility of providing discounts on the price established by the Federal Tariff Service of Russia for a certain consumer, which is at Gazprom's discretion, gives unsubstantiated preferences to certain consumers, thereby contradicting the principles of honest and open competition and infringing the right of other participants in the gas market. Therefore, it seems inexpedient for Gazprom to be able to provide discounts on the prices established by FTS. We believe that the most transparent and competitive mechanism of gas pricing is the development of the gas exchange, where Gazprom and other independent suppliers can sell gas at market prices. Moreover, the development of trade on the exchange will help form objective price indicators for gas which are accessible to all the market participants.

#### **Recommendations**

- The possibility of granting Gazprom the right to apply decelerating multipliers to the regulated gas price for wholesale consumers should be deemed inexpedient.
- If Gazprom is granted the right to apply decelerating multipliers to the regulated gas price for wholesale consumers, it is necessary to approve clear-cut non-discriminatory rules (requirements) for applying such multipliers to the existing and new consumers.
- The introduction of Gazprom's policy of applying the possible decelerating multipliers to regulated gas prices for wholesale consumers should be accompanied by thorough monitoring by the Federal Antimonopoly Service and other relevant regulatory authorities.

## 2.8. Efficient use of Natural Resources in Russia

### Issue 1. Making Amendments and Additions in the Existing Legislation, Aimed at Improving the Investment Climate

*(Law of the Russian Federation No. 2395-I of 21 February 1992 "On Subsoil", Federal Law No. 57-FZ of 29 April 2008 "On the Procedure for Making Foreign Investments into Business Entities of Strategic Significance for National Defence and State Security")*

#### Proposals for the Subsoil Law

##### Exploration and Production

Foreign investors may only participate as minority partners of the companies controlled by the Russian Federation in development of subsoil areas of federal significance in the continental shelf. As for other subsoil areas of federal significance, foreign companies may only participate in their development with special permits issued in each particular case. It appears that in reality, these permits will only be granted to joint ventures of Russian and foreign companies set up in accordance with legislation of the Russian Federation. In principle, this practice is in place in many oil-producing countries and it is acceptable for large international oil and gas companies. Foreign investors generally welcome effective winning cooperation with Russian companies in development of subsoil of the Russian Federation, but this cooperation is impeded in practice by a number of legislative provisions.

Business practices of international oil and gas companies expect their participation in field development both as investors and as project operators. Most of large oil and gas projects for field development are implemented through special purpose vehicles specially set up by the project participants for implementation of this project. Such a company is normally a new legal entity.

In view of the above, a provision in the Subsoil Law for a subsoil user of a subsoil area of federal significance in the continental shelf to have mandatorily at least five year experience in development of subsoil areas of the continental shelf of the Russian Federation makes it impossible to implement such projects through a special purpose vehicle, since a newly registered joint venture set up by government-controlled Russian companies with foreign investors' participation will be a new legal entity that is set up specially for implementation of a project and that cannot by definition have relevant experience. One of possible solutions is to take account of the experience of the project joint venture's incorporators and/or their subsidiaries in developing subsoil areas of the continental shelf. Both experience in developing the Russian continental shelf and expertise obtained by companies in various parts of the world could be taken into account. It is also practical for the operator's legal status to be formalised legislatively, i.e. an operator being a subsoil user. A company set up by project participants through a special purpose company would then be able to have the operator's status.

##### Recommendations

- To make amendments in the Subsoil Law whereby the five-year experience of development of subsoil areas of the Russian continental shelf that a legal entity being a subsoil user of the Russian continental shelf has, shall include the experience of operating in the Russian and foreign continental shelf obtained by the companies incorporating this legal entity or by other companies that are subsidiaries of the incorporators of the legal entity that is a subsoil user of the Russian continental shelf.
- To make amendments in the Subsoil Law, clarifying what development of subsoil areas of the continental shelf means, and specifying what types of subsoil use or activities in the Russian continental shelf will be taken into account for counting the necessary experience.
- To make amendments in the Subsoil Law, providing a definition and legal status of an operator as a subsoil user.

##### Subsoil Geological Survey

A possibility for taking a decision to terminate the right of using a subsoil area where a field of federal significance was discovered, enjoyed by legal entities with foreign participation or by foreign investors, seriously discourages foreign investors from investing into geological exploration in Russia.

Reimbursement of expenses for prospecting and appraisal of discovered fields is not a workable mechanism, as the reimbursement amount would not cover expenses for other projects in the event of unsuccessful prospecting of new fields (for instance, dry wells). Oil and gas and mining companies invest into exploration of a number of subsoil areas that may be located in different regions and even in different countries, and it is not everywhere that commercial reserves of natural resources are discovered. Large companies have extensive investment programmes involving many subsoil areas. These investments are by definition risky from the geological viewpoint; other risks related to possible termination of the right of using a subsoil area where a discovery was made, make these investments highly insecure. Moreover, international oil and gas companies' investments into exploration are always motivated by a prospect of participating in development of newly discovered fields.

While there is a definition of a foreign investor in Federal Law No. 57-FZ of 29 April 2009 "On the Procedure for Making Foreign Investments into Business Entities of Strategic Significance for National Defence and State Security"

adopted at the same time as the above amendments in the Subsoil Law, the wording of the Subsoil Law does not make it clear what exactly is meant by a subsoil user being a legal entity with participation of foreign investors.

While Federal Law No. 57 uses the word "control", the Subsoil Law uses the term "participation". While a definition of control is provided and criteria for such control are set, a definition of participation and any criteria are lacking. Thus, this notion may be interpreted even as holding only one share, because neither the law nor subordinate legislative acts set a threshold of such participation (unlike Federal Law No. 57-FZ of 29 April 2009).

## **Recommendations**

1. To include a provision in the Subsoil Law, ruling out a possibility to deny the right of developing a discovered field of federal significance or to terminate this right due to a possible threat for national defence and state security, with regard to subsoil users, including those with foreign participation, that are controlled by the Government of the Russian Federation directly or through companies controlled by the Government of the Russian Federation. This provision would be similar to the provision regarding the government-controlled companies, that is laid down in Federal Law No. 57-FZ of 29 April 2009 "On the Procedure for Making Foreign Investments into Business Entities of Strategic Significance for National Defence and State Security".
2. To include a provision in the Subsoil Law that prior to announcing a competitive tender or auction for the right to subsoil exploration, including exploration under a combined licence, the Government of the Russian Federation or its authorised body should conduct a survey and issue a statement reading that there will be no threat (there will be a threat) for national defence and state security if the subsoil user is a company with participation of foreign capital and if upon exploration this subsoil user discovers a natural resource field whose parameters meet criteria of Article 2.1 Part 3 of the Subsoil Law. A respective statement of the Government of the Russian Federation or its authorised body should be published as part of the official announcement of a tender or auction for the right to subsoil use. If at the time of holding a tender or auction, the Government of the Russian Federation or its authorised body comes to the conclusion that there is no threat for national defence or state security in the above instance, and the respective information is published as part of the announcement of the tender or auction, the Government of the Russian Federation may not take a decision denying the right of using a subsoil area for natural resource exploration and production in this subsoil area to a subsoil user with participation of foreign capital, or may not take a decision terminating the right of using the subsoil under a combined licence.

Other options can also be considered for providing a guarantee to a foreign investor participating in a joint venture set up for development of a newly discovered field.

## **Proposals for modifying the procedure for obtaining a geological exploration license**

The Government of the Russian Federation has set as a priority the efficient replacement of the mineral reserve base in Russia based on an inflow of private investments, including foreign investment. The creation of a favorable legal framework regulating the granting of mineral exploration licenses is a key component of this objective.

A number of steps have already been taken to improve subsoil exploration licensing system. In particular, early in 2014, certain amendments were introduced in the procedure for consideration of applications for obtaining a geological exploration license other than on subsoil plots of federal significance (refer to Order of the MNR of Russia No. 61 of March 15, 2005, as amended on January 27, 2014), hereinafter "the Procedure".

The essence of the amendments is to provide an opportunity to obtain, by way of exception from the general rule, a geological exploration license under the first favorably considered application, without going through the tender or auction procedure applicable under the general rule, when two or more applications for participation in the auction are filed. This new opportunity is only available for plots for which there is no data regarding mineral reserves and probable resources of P1 and P2 types, and for those deposits that were not included in the programs or lists of deposits previously offered for auction. Under the new rules, claims staked and approved for geological exploration, including the search and assessment of deposits of solid minerals, must be undertaken at the expense of the subsoil users. Moreover, these claims are to be effected using the simplified procedure without including such subsoil plots in the existing auction lists (described in detail in Chapter 6 of the Procedure).

As is generally known, P3 probable resources under the Russian classification system generally refer to a low probability of yielding prospective reserves. P3 resources are "...estimated only as a potentiality of discovery of a mineral deposit relying on a favorable geological and paleogeographic environment identified in the estimated region in the course of medium- and small-scale geologic-geophysical surveys, satellite image interpretations, and also based on data from geophysical and geochemical surveys" (as described in item 20 of "Classification of reserves and probable resources of solid minerals" approved by Order of the MNR No. 278 of December 11, 2006). Such resources cannot be defined as resources containing mineral occurrences, and are even outside the scope of the restrictions established by other restrictive regulations such as the legislation on subsoil areas of federal significance.

The restriction of claim-staking for geological exploration licenses only for areas indicating P3 resources considerably narrows the scope of application of the new initiative and accordingly diminishes the positive effect for market players considering a possible investment in geological exploration. Moreover, the new claim staking procedures compare unfavorably to other leading mining jurisdictions that allow claims to be staked on a first-come, first-served basis, without any restrictions as to whatever reserves (if any) might have been previously registered in a particular area.

## **Recommendations**

1. To consider lifting the restrictions established by the Procedure to allow areas that contain probable resources of P1 and P2 levels to be considered for possible claim staking.
2. It would be consistent with international practice that any first applicant meeting the eligibility criteria established by the Procedure be allowed to stake a claim for geological exploration without any additional encumbrances or restrictions such as the mere existence of a prospective area in any lists previously compiled.
3. If implemented in the new Procedure, the above mentioned proposals would also have a favorable effect on other aspects of the subsoil legislation.

## **Requirement to obtain permission for mining, specifically the completion of geological study over an entire license area prior to commencing mining operations**

Part Two of Law of the Russian Federation No. 2395-I of February 21, 1992 "On Subsoil" states that subsoil areas may be granted for use concurrently for geological exploration, detailed prospecting and production of minerals. Detailed prospecting and production of minerals, except for detailed prospecting and production of minerals on a subsoil plot of federal significance, can be carried out both in the course of geological exploration of the subsoil and after completion thereof. Detailed prospecting and production of minerals on a subsoil plot of federal significance can be carried out based on the decision of the Government of the Russian Federation determining the subsoil user's possibility to carry out detailed prospecting and production of minerals on such a subsoil plot subject only to completion of the geological exploration on such a subsoil plot.

A search and assessment of the entire plot does not guarantee the exhaustive completeness of information about the plot. In practice, a large mass of new reserves (considerably exceeding the reserves discovered at the search and assessment stage) is often identified in the process of detailed prospecting and production.

The scheme under Article 6 ignores the fundamental principles of rational and efficient use of subsoil. It is well known that comprehensive geological exploration, rational comprehensive use and conservation of subsoil (Article 23 of the law "On Subsoil") is attained through an optimised combination of various stages of the use of subsoil. If within a license area a commercial reserve is identified which is sufficient for approbation of reserves and preparation of a development project, then the most rational approach shall be going on to the stage of detailed prospecting and commercial development of the identified deposit, rather than continuing with geological study and complete prospecting of the entire plot before commencing detailed prospecting and production.

The subsoil use model described in Article 6 virtually contravenes the subsoil user's right to perform geological works at all stages of the project.

## **Recommendation**

The Government's decision should be carried out for an entire plot of federal significance concurrently for geological exploration, detailed prospecting and production of minerals on such a plot.

## **Classification of Fields of Federal Significance**

The following tendencies are true for the current development of the mineral base of solid natural resources:

- the fund of easy-to-discover fields is being used up;
- fields of rich concentrated ores are being taken out of service and replaced with fields of poor difficult-to-dress ores;
- exploration works are carried out in remote areas with harsh geological and climatic conditions and less developed infrastructure.

This makes it necessary to encourage subsoil users for prospecting new large fields that will be developed because of their economic attractiveness, which would not only bring real investments into the Russian economy and create jobs in remote regions but would promote introduction of new, more advanced technology in the industry.

However, the existing legislation contains a number of provisions that prevent from increasing investments into exploration and from enhancing its efficiency. For instance, when the Federal Law "On the Procedure for Making Foreign Investments into Business Entities of Strategic Significance for National Defence and State Security" was passed, the Subsoil Law set criteria for regarding subsoil areas as subsoil areas of federal significance. Currently, subsoil areas of federal significance include subsoil areas containing more than fifty tonnes of vein gold reserves, more than 500,000 tonnes of copper reserves; there are certain solid natural resources whose mere showings make subsoil areas regarded as those of federal significance. In view of the above description of the mineral base and a tendency for reduction of valuable concentration of noble metals in ores, these subsoil areas are not so promising in terms of economic viability of their separate development. A legislative regime does not encourage companies for discovery or detailed exploration of medium-size and large fields, which has a poor effect on the state of the country's mineral base.

In view of the above, it makes sense to review limitations for sizes of subsoil areas of federal significance so that they are indicative of their real strategic importance and encourage investments into exploration.

## Recommendations

Article 2.1 Clause 2 - to read as follows:

“2) that are located in a constituent of the Russian Federation or in constituents of the Russian Federation and that contain, based on the state balance sheet of natural resource reserves starting from 1 January 2006:

- recoverable oil reserves of 70 million tonnes or more;
- gas reserves of 50 billion cubic metres or more;
- vein gold reserves of 250 tonnes or more;
- copper reserves of 7 million tonnes or more”.

### **Proposals for Federal Law No. 57-FZ of 29 April 2009 “On the Procedure for Making Foreign Investments into Business Entities of Strategic Significance for National Defense and State Security”**

Article 2 Part 7 of Federal Law No. 57-FZ sets two criteria, and when at least one of them is in place the law provisions do not cover legal relations arising from foreign investments made into business entities controlled by the Russian Federation. In the working group experts' view, the first criterion is a particular case of the second one, it is not needed and may be deleted from the text. Simpler wording would help to interpret the above provision unambiguously.

Article 4 Clause 4 of this Law reads that a preliminary approval is not required for transactions with shares (stakes) of a business entity of strategic importance if prior to these transactions a foreign investor or a group of persons have already controlled more than fifty percent of this business entity. This provision is fair and justified. However, a reservation “except a business entity having strategic significance and using a subsoil area of federal significance” makes transactions with such business entities' shares unreasonably complicated.

This provision may be interpreted in such a manner that a preliminary approval would be required for purchase and sales of shares (stakes) within one group of persons that controls more than fifty percent of a Russian company having strategic significance and using subsoil areas of federal significance. It seems unnecessary to obtain an approval for transferring shares from one participant of the group to another.

It makes it difficult to study the Russian continental shelf comprehensively if geological survey is regarded as one of strategic types of activities. This seems unreasonable, especially in the light of recent proposals to reinstate geological survey as a separate type of subsoil use in the continental shelf and to make it possible for all interested parties, including foreigners, to obtain a licence for this type of subsoil use. Taking out geological survey from the list of strategic types of activities would promote geological (including multi-client) operations, particularly in the continental shelf, carried out jointly by Russian and foreign companies, and would make advanced geological techniques available to Russian companies.

Pursuant to Article 6 Clause 2 of Federal Law No. 57-FZ, types of activities of strategic significance for national defence and state security include “operations for active influence on geophysical processes and phenomena”. The working group experts believe that geological survey does not fall within this wording, but the paragraph needs clarification to avoid any misunderstanding. If, because of the size of the text, it is not possible to clarify the above wording, a reference to a subordinate legislative act should be included into the above Clause.

## Recommendations

1. Article 2 Part 7 of the Law - to read as follows:

“7. Provisions of this Federal Law regulating relations arising from foreign investments made into business entities that are of strategic significance for national defence and state security and that use subsoil areas of federal significance, except provisions of Part 3 of this Article, shall not apply to relations arising from foreign investments made into business entities that are of strategic significance for national defence and state security and that use subsoil areas of federal significance, if the Russian Federation has the right to exercise directly or indirectly more than fifty percent of total voting shares (stakes) representing these business entities' authorised capitals.”

2. Article 4 Clause 4 - to delete “(except a business entity that has strategic significance and uses a subsoil area of federal significance)”.
3. Article 4 Clause 4 - to delete “(except a business entity that has strategic significance and uses a subsoil area of federal significance)”.
4. Article 6 Clause 39 - to read as follows:

“natural resource exploration and production in subsoil areas of federal significance”.

The above amendments would help foreign investors to assess their risks correctly, which should in turn increase attractiveness of investments into the natural resource sector and in particular into the energy sector of the Russian Federation.

## Issue 2. Liberalisation of Geological Information Export

A necessity for obtaining a licence even for export of unrestricted geological data has been a real issue.

The Eurasian Economic Commission's Decision No. 134 of 16 August 2012 approved the Comprehensive List of Goods That Are Subject to Bans or Restrictions for Import or Export by the Customs Union Member States within the Eurasian Economic Community in the Trade with Third Countries (hereinafter referred to as "the Comprehensive List") and the Regulation on Application of Restrictions. The title of the Comprehensive List reads that it is a list of goods. However, the Comprehensive List includes Clause 2.23 Subsoil Information Grouped by Regions and Fields of Energy and Mineral Resources, That Is Restricted for Export from the Customs Union's Customs Territory. The internal logics seems upset here because, based on the analysis of the notion "information" in Article 2 of Federal Law No. 149-FZ of 27 July 2006 "On Information, Information Technology and on Protection of Information", one can draw a clear conclusion that information is not a commodity. A review of Federal Law No. 164-FZ of 8 December 2003 "On Fundamental Principles of Government Regulation of Foreign Trade Activities" proves the above conclusion. Pursuant to Article 2 Clause 26 of this Law, goods mean "movable property, immovable property including air-, sea crafts, inland waterways vessels, combined navigation (river - sea) vessels, space crafts, as well as electric energy and other types of energy, that are commodities of foreign trade activities". It is obvious that information does not fall within this definition, which is supported by the fact that no code for information is provided in the Integrated Commodity Classifier of Foreign Economic Activities.

Licensing of export of geological information that is not state secret makes it extremely difficult to implement joint projects dealing with geological survey and development of subsoil of the Russian Federation and to operate using advanced methods. Using state-of-the-art techniques for effecting transactions, for instance, an electronic access to the partner's documents (Electronic Due Diligence Room), results in breach of legislation. For information to be processed in foreign data processing centres, a company has to obtain a licence, which often causes suspension of work for quite a long time.

### Recommendations

Foreign investors appreciate as a positive step, that information about balance-sheet reserves of natural resources was taken out of the list of information regarded as state secret. Based on government bodies' replies, the main aim of licensing of geological information export is to check if it contains information regarded as state secret. To this end, for effective lowering of administrative barriers, it seems necessary for information that a priori cannot be regarded as state secret pursuant to Clause 67 of the List of Details Regarded as State Secret (approved by Decree of the President of the Russian Federation No. 1203 of 30 November 1995, as amended in Decree of the President of the Russian Federation No. 90 of 11 February 2006), to be taken out of the Comprehensive List, i.e. information obtained during joint works engaging foreign states' individuals and legal entities in particular natural resource fields or in their parts.

## Issue 3. Proposals for legislation on Oil and Oil Product Spill Prevention and Response

The legislation in the sphere of oil spill response presently contains a contradiction between Federal Law № 155 *On the Inland Sea Waters, Territorial Waters, and Contiguous Zone of the Russian Federation* and Federal Law № 187 *On the Continental Shelf of the Russian Federation*, which require a mandatory positive conclusion on the draft OSR Plan from the State Environmental Expert Review Board, with subsequent notification of executive-branch bodies of its approval, and the current Government Resolutions № 613 and № 240 and Ministry of Emergency Situations Order № 621, which require a procedure for the endorsement and approval of a draft OSR Plan at the executive-branch bodies. Various interpretations are permitted at present, and different requirements are placed on the endorsement and approval of OSR Plans at oversight bodies at both the regional and federal levels.

The procedure for the State Environmental Expert Review of an OSR Plan as an independent subject of expert review creates additional administrative barriers to approval of OSR Plans, requiring additional efforts, time and costs from the mineral developer, since:

1. Pursuant to Federal Law № 174 *On Environmental Expert Review*, the documentation to subject to the State Environmental Expert Review (OSR Plan) must contain information on the environmental impact assessment, but the contents of an OSR Plan specified by Ministry of Emergency Situations Order № 621 do not require development of this section as part of an OSR Plan. The development of a separate Environmental Impact Assessment for OSR Plans with the single objective of satisfying the requirements of Federal Law № 174-FZ is not only an additional administrative barrier, but also an additional financial burden for a business, which has an adverse impact on the economics of projects.

2. The procedure for revising OSR Plans is not currently standardized, since according to Federal Law № 174 an OSR Plan requires a repeat State Environmental Expert Review in the event of any revisions, which may lead to the majority of Plans losing legitimate status and overloading of the State Environmental Expert Review Board with plans requiring repeat expert reviews. At present, repeat endorsement of OSR Plans before their terms expire is only required if the revisions made make it necessary to increase OSR manpower and resources.

3. The need for a repeat State Environmental Expert Review every 5 years and revisions if necessary to correct criticisms of OSR Plans received from government authorities in the endorsement process.

Furthermore, the Draft of RF Government Resolution *On Organizing Oil Spill Prevention and Response on the RF Continental Shelf, Inland Sea Waters, Territorial Waters, and Contiguous Zone of the RF* prepared by the Ministry of

Emergency Situations of Russia does not take into account the requirements of the aforementioned federal laws pertaining to State Environmental Expert Review of OSR Plans, and the provisions of Ministry of Emergency Situations Order № 621, which directly defines the requirements for the content of OSR Plans and the procedure for their endorsement.

The draft Government Resolution retains the requirement for spill response within 4 hours on water and within 6 hours on land found in the current Government Resolution № 240 for facilities located on inland sea waters and territorial waters, which may be infeasible in inaccessible work areas.

### **Recommendations**

Eliminate OSR Plans from the independent subjects of State Environmental Expert Review and make the appropriate revisions to Federal Law № 187 and Federal Law № 155.

Promote the fastest possible adoption of the draft Government Resolution prepared by the Ministry of Emergency Situations that replaces the procedure for endorsement of OSR Plans with a notification procedure, taking into account the conflict that has developed in the current laws.

Develop and codify a uniform approach to the development and approval of OSR Plans by both the authorized executive-branch bodies and the State Environmental Expert Review Board.

Review the use of an integrated approach to planning measures aimed at oil spill response: mechanical cleanup, incineration, and dispersal. The selection of measures should be based on net environmental benefit analysis (NEBA).

## 2.9. Innovation Development

**Issue 1. Cooperation with state bodies to identify the basic notions designed to improve the legal field, such as "technology transfer" and "commercialization", and prevent the wrongful and excessive use of the term "innovation."**

The idea of using innovations to stimulate economic growth, as formulated by the state, has been favorably received by society and the business community. Unfortunately, the lack of a clear meaning and functional definition of the notion "innovation" gives rise to all sorts of speculation around this development concept. Certain businesses attempt to falsely represent useless, uncompetitive and impractical products, technologies and business models as innovations. The resulting gaps in the interpretation and implementation of innovative practices make the Russian economy less attractive for investors.

Solution

Study the methods and practices used by FIAC member companies in designing and structuring their innovation process. FIAC member companies should prepare recommendations and submit them to the relevant federal executive bodies for consideration and possible implementation.

### Recommendations

1. Formulate clear criteria for classifying projects and products as innovative, taking into account global practices (as used in the United States, Sweden and Germany), including the criterion of economic efficiency.
2. Prepare a list of priority innovative products and technologies by industry. Set up an advisory panel to use the technical competences of FIAC member companies in collecting information for purposes of decision-making and preparing documents necessary for the determination of priority areas and technologies.

Identify the methods of monetary stimulation for attracting and introducing the best available technology BAT.

**Issue 2. Using the technical ability of FIAC member companies to identify the specific and most critical technologies for developing the Russian economy and encouraging the introduction of innovative business models.**

**Development of a mechanism to use the best global innovative and technological competences available through FIAC member companies with a view to encouraging cooperation and providing assistance in shaping Russia's innovation policy.**

There is no mechanism for using the technological competences available through FIAC member companies in identifying the specific and most critical technologies and introducing innovative business models for the development of the Russian economy. FIAC member companies are now the largest repositories of scientific, technological and engineering knowledge that is vital for modernizing the Russian economy. Their expertise could be applied on a much broader scale to shape Russia's innovation policy and promote the work of state bodies (such as the Council for Modernizing the Economy and Innovative Development of Russia) that have a role to play in economic development.

Solution

Step-by-step accumulation of experience relating to FIAC member companies' activities in the following areas of innovative development: fundamental research, development and modernization of technologies, development and modernization of products, development and implementation of new business models. Consider creating an inter-agency advisory body to include FIAC members as well as involving FIAC technical experts in the work done by existing advisory bodies on innovation-based development. Design pilot projects in specific areas.

### Recommendations

Include FIAC technical experts in working groups involved in developing technical regulations, federal laws and subordinate acts for specific ministries. Recommend that a technical expert panel be created by the relevant ministerial orders.

**Issue 2.1. Engaging competencies of FIAC member companies in order to facilitate a series of expert activities (including surveys) with the participation of interested federal executive bodies, technological platforms, businesses in the real sector of the economy, innovative regional clusters, and organizations producing industry forecasts for scientific and technological development**

The effective operation of the technology forecasting system, focused on the long-term needs of the economy's manufacturing sector with the development of key production technologies, entails determined requirements for the composition, structure and characteristics of the main elements in national and sector forecasts for scientific and technological development and participation of key players in the national innovation system.

Solution

Carry out a series of expert activities (including surveys) that will involve relevant federal executive agencies, technological platforms, businesses in the real sector of the economy, innovative regional clusters, and organizations producing sector forecasts for scientific and technological development, on the basis of the FIAC and organizations

that provide scientific and methodological support to the system of technological forecasting – (National Research University Higher School of Economics, etc.)

### **Recommendations**

Carry out a series of expert activities (including surveys) involving relevant federal executive agencies, technological platforms, businesses in the real sector of the economy, innovative regional clusters, and organizations producing sector forecasts for scientific and technological development (July – November 2014).

Make a series of analytic reports containing the main results of the activities undertaken (September – December 2014).

Integrate experts of technology companies and FIAC members in the group of experts and organizations to compile foresights.

**Issue 3. Formulate recommendations for changes in the regulatory framework (Decrees No. 218, 220, etc.) providing state incentives for innovation-based development to interest foreign companies in Russia's innovation-based development programs, providing for joint research and technology efforts and ensuring that the technological experience of world-leading companies is utilized**

**Simplifying the procedures for certifying new techniques and items. Applying and adapting measures and norms of the European Union to the technological items imported into the customs territory of Russia. Ceasing the practice of additionally certifying products in Russia.**

**Influencing the economy and international commitments of Russia in the event of a rejection of the national principle of exhaustion of trademark rights and the legal recognition of "parallel import".**

1) There is no mechanism for information exchange between FIAC member companies, development institutes, ministries and departments (the Russian Economic Academy, etc.) on programs for innovation-based development. As a result, very limited use is made of the potential of world-leading companies.

2) There is no unified system for evaluating the competitiveness of innovative developments and engineering practices at the international level.

3) There is no consensus of opinion on the issue of parallel imports.

#### **Solution**

Consider creating an inter-agency advisory body to include FIAC members as well as involving FIAC technical experts in the work done by existing advisory bodies on innovation-based development.

Involve the experts of FIAC members in identifying conditions in conformance with companies' interests, accepted international practices, legislation and the interests of Russia's innovation-based development program.

### **Recommendations**

Analyze the programs of development institutions to identify the opportunities for cooperation with FIAC member companies.

Involve designated representatives of the Russian Ministry of Education and Science in the think tank's work in order to synchronize efforts and plan joint activities.

Summarize existing international and Russian law-implementation practice, and assess the potential socioeconomic impact of the proposed legalization of parallel imports.

### **Issue 4. Sustainable development:**

- promote and popularize environmentally safe transport in Russia;
- Simplification of procedures of certification of environmentally safe vehicles and technologies.
- Adaptation of measures and norms of European Union for imported goods on the custom territory of the Russian Federation (corresponding products of the technological setting).
- Discontinuation the practice of additional certification of products of technological settings in Russian Federation.

#### **Solution**

State support at the federal level to stimulate the use of electric and hybrid cars Development and adoption of federal regulations on locating the charging infrastructure for parking places

### **Recommendations**

Consider developing a federal target program involving comprehensive state support for environmentally safe vehicles.

Develop clear-cut environmental standards for motor vehicles in Russia, and link the environmental class of motor vehicles to tax and other benefits for their owners.

## **Issue 5. Innovative development of regions as a means of making them more attractive for investments**

According to many expert assessments and forecasts of Russia's economic development, the country's GDP growth rates will slow down in the medium term as the traditional development model is followed. The constituent entities of the Russian Federation will play an increasing role, and their main aim will be to rapidly attract investments. Innovative production, science, education and research will be among the most promising areas for investment. However, special conditions need to be created to bring investments into those sectors. The investment climate and conditions that bring investments into the processing industry may not be attractive for investments in high-tech segments.

### **Solution**

Determining the reasons and consequences of the uneven distribution of innovative techniques by foreign companies in the Russian regions.

### **Recommendations**

1. Develop criteria for assessing the degree of a regional economy's attractiveness for high-tech investments.
2. Identify the regions that are potentially the most attractive for investments in high-tech sectors of the economy.
3. Develop recommendations / a list of measures to bring investments into a region's innovative sectors.
4. Prepare recommendations on amendments to current federal laws to stimulate investments in high-tech and science-intensive sectors in constituent entities of the Russian Federation.
5. Implement a pilot high-tech project (a production facility, research center, etc.) in a region that is attractive for that purpose.

**Issue 6. Human capital as a factor contributing to the country's investment attractiveness. Ensuring cooperation between educational institutions and FIAC member companies in training specialists, developing and implementing innovative technologies, conducting up-to-date R&D and making the Russian system of higher education more competitive. Through cooperation between higher educational institutions and international technological companies that are members of FIAC, create conditions to promote the international reputation of leading Russian higher educational institutions, their internationalization, and the entry of 8-10 educational institutions into the elite group of world-class research centers.**

There is a serious shortage of qualified specialists. Specialists in the area of higher and professional education are unfamiliar with modern and prospective technologies, effective training practices, and applied and fundamental breakthrough research in the interests of industry. This can adversely affect the investment attractiveness of projects involving modern production, engineering and research.

### **Solution**

With a view to improving the current situation, several measures should be taken to:

- 1) develop recommendations for modifying the content and methodology of education programs in order to raise investment appeal to the level of "qualified staff available."
- 2) use the international experience of FIAC member companies to develop and submit recommendations to the Russian Government on establishing a unified education center (including distance learning and on-line consulting) to assist both university innovation centers and young innovators in productizing their ideas and launching start-ups.
- 3) work out a road map for creating an infrastructure to enable the network of university innovation centers to function successfully.
- 4) work out recommendations for cross-disciplinary training.
- 5) prepare proposals to develop and implement engineer certification programs based on global practices.
- 6) Develop and (if there is sufficient financing) launch pilot projects in cooperation with the Ministry of Education and Science. Assessing the effectiveness of pilot projects and developing recommendations for their wide-scale implementation.
- 7) Draw FIAC member-companies into the elaboration of the federal state educational standard for engineering and management education relating to applied baccalaureate; attract companies to assess the quality of educational programs and that of specialist training, and also draw company specialists into working out educational programs in order to renew them in line with the high-tech requirements.

### **Recommendations**

- 1) **Administrative staff of higher educational institutions:** jointly with the Russian Ministry of Education and Science, develop programs of further professional training to train the new generation of administrators and researchers at higher educational institutions, with a view to presenting and implementing best world practices in the educational process, as well as applied and fundamental breakthrough research in cooperation with industry and in its interests.

2) **Ensure cooperation with the Russian Ministry of Education and Science and directly with higher educational institutions and colleges in Russia** in order to develop advisory innovation centers at Russian higher educational institutions using technological platforms as well as to make the Russian system of higher education more competitive (development of further education and career development programs). Determine the necessary competences, and look for the educational institutions best suited to develop those competences.

3) **Engineering training:** formulate recommendations, jointly with the Russian Ministry of Education and Science, on "new engineer education" programs (training in cross-disciplinary skills, creating a "cloud" system of related competences in basic education, establishing a category of engineer entrepreneurs, engineer product managers, etc.).

4) **Models of cooperation between higher educational institutions and industry:** summarize the experience of FIAC member companies, and develop recommendations on effective forms of cooperation between higher educational institutions and industry (basic departments of such institutions, internships, education and certification centers [including distance learning and on-line consulting], innovation centers involving technological platforms, centers for rapid prototyping and small-scale production, etc.).

To improve cooperation between higher educational institutions and FIAC member countries, the Russian Ministry of Education and Science proposes measures to draw highly qualified specialists and creative young people into the sectors of the economy which determine its innovation development, i.e.,

- include the representatives of the interested companies in the working groups for developing the federal state educational standards for the innovation sectors of the economy;
- develop stable, long-term academic and cultural relations between higher educational institutions and companies;
- jointly hold events to promote up-to-date technological solutions;
- hold scientific and technological events at higher educational establishments jointly with companies: seminars, conferences, round tables, and forums on priority scientific and technological directions which are of mutual interest;
- jointly hold events to promote up-to-date technological solutions;
- establish expert scientific and technological councils and include the representatives of companies in them, draw companies into assessing the quality of learning programs and the efficiency of specialist training;
- jointly develop the content as well as the informational, methodological, material and technological support of the key and additional learning programs for companies that comply with the requirements of modern technologies;
- improve the regulatory legal base (Decree No. 218 of the Government of the Russian Federation of 9 April 2010 On Measures of State Support of the Development of Cooperation between Russian Higher Educational Establishments and Organizations which Implement Comprehensive Projects for Creating High-tech Production, etc.) with a view to creating favorable conditions for participation by foreign companies, which have a high-tech potential and are BAT carriers, in conducting R&D and innovation work;
- work out recommendations for amending legislation to promote the implementation of the R&D results in production on a company's material and technical basis, and then release and subsequently commercialize them;
- draw the representatives of the FIAC innovation working group into the work of the Commission for Modernization and Technological Development of the Russian Economy, Skolkovo and Other Development Institutions;
- create conditions for the fulfillment of contractual work by higher educational establishments on the basis of the order of companies with the engagement of leading specialists of higher educational establishments;
- establish joint creative collective groups which include professors and instructors of a higher educational establishment as well as specialist practitioners in order to modernize and renew the teaching programs of a higher educational establishment;
- teach company employees under additional professional programs of a higher educational establishment (programs for retraining and improving the qualification of specialists);
- arrange the improvement of the qualification of instructors and workers of higher educational establishments and send them on internship on the basis of the material and technical basis of companies, jointly train specialists with a higher degree of qualification in science with regard to the companies' interests;
- establish departments and other structural subdivisions which provide practical training on the basis of the companies which engage in activity relating to the scope of the relevant training program;
- form stipend programs for students and create grants for young instructors;
- arrange internship, practical training, undergraduate training and other practices for students;
- engage young specialists in an industry wherein a company works, e.g., provision of assistance by companies in professionally training specialists for work in their structural divisions;

- carry on joint profession-focused work with students in relation to the latest know-how and the spread of foreign languages and culture;
- scientific and technological contests should be held by leading higher educational establishments together with the companies concerned in accordance with the direction of these companies' innovation activity, giving grants to the contest winners and prize-holders to allow them to engage in technological development;
- jointly develop and create educational stands and publish handbooks, materials and manuals for educational processes at a higher educational establishment;
- work out recommendations to improve the regulatory legal base so as to create favorable conditions for participation by foreign companies with a high technological potential, which are BAT carriers, in joint R&D, innovation development and its subsequent commercialization.

By working on the above proposals further, make the mechanisms of cooperation more effective and improve cooperation between FIAC member-companies and higher educational establishments so as to promote innovation development.

### **Issue 7. An economically justified policy on promotion of localization oriented on best international practices**

Production localization closes the gap between the technological development of Russian manufacturers and the world's leading companies, and affects the rate of industrial growth, both in the region and in the company. The effect is systemic in nature and requires an assessment, which contributes to a stronger regional economy adjusted for upgrading the technological level of production.

#### **Solution**

It is necessary to ensure consistency in policies promoting localization of industrial production in the Russian Federation with regard to maintaining the competitiveness of end products.

Special attention should be given to R&D localization in the context of tough international competition in the field of high technology. Developing an R&D infrastructure that complies with the international standards (including process engineering centers, laboratories, and pre-clinical and clinical trial centers in the pharmaceutical industry) is vitally important to attract R&D departments of leading multinational corporations, as well as to promote domestic high technology companies.

#### **Recommendations**

If effective incentive policy on production localization is introduced, it is necessary to implement the principle of "localization in return for support measures", based on market size, existing production capabilities and cost structure.

The most promising measures to stimulate localization include tax incentives, as well as improvement of customs regulations and administration, specifically addressing investors' problems that are associated with imported components, technology imports, and exports of finished products.

Requirements for localization of industrial production and methods to calculate localization levels should be tailored to specific industries and the conditions of their development in the Russian Federation. Arbitrary definitions for localization levels, ignoring the objective characteristics of industries (in particular, current trends in the production of pharmaceuticals, international research and development, and the importance of related services such as maintenance and software development in the production of telecommunications equipment) are fraught with imposing excessively steep demands, which may adversely affect the investment.

Measures aimed at providing businesses with skilled workforces play an important role in the success of localization projects. Fundamental importance is attached to the creation of educational centers that concentrate on training specialists in regional clusters of localized production facilities, the implementation of housing construction programs, and the introduction of incentives for working professions to move to the region, as well as creation of a favorable urban environment (more conveniences and security, improved educational and recreational infrastructure) in order to attract top-paid highly qualified specialists, including those from abroad.

#### **Issue 7.1. Import substitution**

Currently, issues of import substitution are becoming increasingly vital. The Russian economy is rather dependent on supplies of imported equipment and products. In many strategic industries, the share of imports consumption is estimated at over than 80%. The government intends to rebuild the economic development model and shift to import substitution technology in strategic sectors, using domestic sources of growth. The emphasis will be put on those sectors where import substitution is "promising", and Russian goods will be competitive in world markets. These are primarily agriculture sectors and related food products sectors, software manufacturing, engineering, and others. According to available estimates, the situation in the domestic information technology industry is complex. According to various data, 67% of the software and 90% of the hardware used in Russia is from abroad.

At the moment, on the instruction of the President (PR-1159 cl.1I, cl.1i) and Prime Minister of the Russian Federation, the Russian Industry and Trade Ministry is developing plans to promote import substitution in industry. In this regard, as well as due to obligations related to Russia's WTO membership, consideration is given both to existing and new mechanisms and measures of state support. It is possible to reduce the gap by implementing innovations,

modernizing production facilities, and putting new facilities into operation that are the result of also FIAC member companies' investment activities.

#### Solution

In the long term, it is possible to reduce import dependency through innovation and the stimulation of investment in technical industries. Import substitution may become a sufficiently long term basis for economic and industrial growth.

IT sphere: first, consolidation is necessary in the Russian legislation regarding "criteria used for determining Russian IT developing companies", as well as those for defining Russian IT products.

An important aspect of note is the human factor. Russia has very high labor costs, and, of course, this creates serious problems, even despite the fact that most manufacturing facilities are located in regions with low labor costs. We are giving way to China, Turkey and other countries in both the cost of labor and its effectiveness. Implementing an import substitution program also requires not only desire and experience in the development and modernization of technology and competitive production, but the availability of highly skilled professionals. It is cooperation with international companies, representing technological expertise that will accelerate the growth of the Russian economy.

#### Recommendations

It is necessary to clarify the definition of import substitution is, and designate compliance criteria, including those for localized manufacturing facilities. It is also essential to ensure consistency in policies promoting localization of industrial production in the Russian Federation with regard to maintaining the competitiveness of end products.

In order to conduct the so-called "technological revolution", it is necessary to carry out a dialogue with international technology companies. Rather than focusing on substitution, emphasis should be placed on new investment, joint development and improved technology, relying on technical equipment, expertise and commitment to innovation in the R&D area. Developing a mutually beneficial exchange that will provide an opportunity for qualitative acceleration of the Russian economy, including "import substitution." To avoid an increase in product costs, it is necessary to investigate the possibility of importing individual components, parts, and software from countries that have not joined in the sanctions against Russia.

## 2.10. Development of the Far East and Siberia

### Report on the working group's activities in 2014 and plans for 2015

Promote foreign investments in the Far East and Siberia, and provide guidance for foreign investors by demonstrating successful, positive investment experience on the part of the FIAC member companies:

1) In 2014, top officials from Primorsk Territory, Tomsk Region, Altai Territory, Khabarovsk Territory and Kemerovo Region as well as officials from the Offices of the Plenipotentiary Envoys of the Russian President in Siberia and the Far East, the Ministry of Economic Development and the Ministry for the Development of the Russian Far East addressed FIAC members at two of the working group's Investment Sessions, providing information on the investment advantages and projects of their regions.

In 2010 - 2014, the members of the working group were addressed by top officials of the Republic of Sakha (Yakutia), Primorsk Territory, Amur Region, Magadan Region, Irkutsk Region, Krasnoyarsk Territory, Sakhalin Region, Khabarovsk Territory, Tuva, Buryatia, Chukotka, Kamchatka, Jewish Autonomous Region, Novosibirsk Region, Zabaikal Territory, the Altai Republic, Tomsk Region, Altai Territory, Kemerovo Region and by officials of the Offices of the Plenipotentiary Envoys of the Russian President in Siberia and the Far East, the Ministry of Economic Development and the Ministry for the Development of the Russian Far East.

2) In 2014, major corporations, banks and organizations which are currently not FIAC members have been invited to attend the working group's Investment Sessions. A number of major global corporations, companies and banks that have a wealth of investment experience throughout the world are poorly informed about what FIAC does and how effective its efforts have been.

The representatives of several companies – JBIC (Japan Bank for International Cooperation), Nomura Research Institute, Japan External Trade Organization (JETRO) and JOGMEG (Japan Oil, Gas and Metals National Corporation) – took part in the Investment Sessions in 2012 - 2014 and are keen to do so in the future.

3) In October 2013, the working group held its first meeting with the new officials of the Ministry for the Development of the Russian Far East, led by Minister A.S. Galushka, to discuss the agenda of cooperation and further steps to promote foreign investments in the Far East. The meeting resulted in the decision to establish close cooperation between the members of the FIAC working group and the ministry, "to be agents at the localities," to hold an international expert analysis of the situation in the regions on the basis of the company's global business experience, and to provide information on cardinal issues in the regions of the Far East in order to promote its rapid development and help attract foreign investments to the area. An agreement was also reached on direct contacts with the ministry's top officials for certain meetings of FIAC member companies to promptly resolve pressing issues.

#### Work plan for 2015

Interaction and enhancing relations with the Ministry for the Development of the Russian Far East and the Offices of the Plenipotentiary Envoys of the Russian President in the Far Eastern and Siberian federal districts.

Continue to hold Investment Sessions with officials representing the regional authorities of the Far East and Siberia as well as the Offices of the Plenipotentiary Envoys of the Russian President in the Far Eastern and Siberian federal districts.

Engagement of major corporations, banks and organizations which are currently not FIAC members in the working group's Investment Sessions. This issue should be continuously coordinated with the Russian Ministry of Economic Development.

Cooperation with the steering committees of the forums in the Far East and Siberia (Baikal Economic Forum in Irkutsk, Pacific Economic Congress in Vladivostok, and the Economic Forum in Yakutsk and Khabarovsk).