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ADVISORY COUNCIL IN RUSSIA
15 OCTOBER 2012
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FIAC

FOREIGN INVESTMENT
ADVISORY COUNCIL

26th Plenary Session

15 October 2012

Foreign Investment Advisory Council in Russia

Twenty Sixth Session, October 15, 2012

CONTENTS

1. OVERVIEW OF LEGISLATIVE CHANGES FOLLOWING THE XXV SESSION OF FIAC IN RUSSIA

Issue	Description	Status in October 2011	Status in October 2012
I. Tax administration	I. Tax audit procedure	As of 2 September 2010, the Tax Code includes a provision whereby in the event of submission of an adjusted tax return by a taxpayer, an on-site tax audit shall be conducted with respect to the period covered by such a tax return. The wording of the provision is ambiguous and may be interpreted as the tax authorities' right to initiate an on-site tax audit for the period covered by a tax return, including the period beyond the limitation period of three years, or their right to audit the period covered by an adjusted tax return only under the condition that the tax return is submitted during an on-site tax audit. (Article 89 of the Tax Code of the Russian Federation, Federal Law No. 229-FZ of 27 July 2010).	As of January 2012, there is a new type of tax audits: an audit of the fullness of the calculation and payment of taxes with regard to the performance of transactions between interdependent entities (Article 105.17 of the Russian Tax Code). The conformity of prices to market prices can now no longer be checked by an on-site or desk audit. The new type of audits will be performed by the Federal Tax Service of Russia at its location. The grounds for the Federal Tax Service to check price conformity are the following (Article 105.17.1 of the Russian Tax Code): • notification of controlled transactions submitted by the taxpayer; • notice of the territorial tax authority, which during a desk or on-site audit discovered instances of the performance of unannounced controlled transactions; • revelation of a controlled transaction when the Federal Tax Service conducted an on-site audit again. The verification of the correctness of applying the prices does not obstruct the performance of on-site and desk audits for the same period. Generally, an audit should not be longer than six months (Article 105.17.4 of the Russian Tax Code): The Federal Tax Service is entitled to use the following methods to determine the conformity of the transaction prices to the market prices (Article 105.7.1 of the Russian Tax Code): • comparable market price method; • resale price method; • cost method; • comparable profit generation method; • profit distribution method. The rules for conducting transfer pricing audits will be established with regard to the following timetable:

Issue	Description	Status in October 2011	Status in October 2012
			• An audit of transfer pricing in the transactions performed in 2012 can be started not later than 31 December 2013; • An audit of transfer pricing in the transactions performed in 2013 can be started not later than 31 December 2015; • The rule for the standard three-year period which can be audited will come into force only on 1 January 2014. The specific features of conducting an on-site tax audit of the consolidated taxpayer group have been established as of 1 January 2012.
	2. Tax authorities' request for documents	As of 2 September 2010, a request for documents is sent by registered post if it cannot be delivered personally with a signed receipt or sent by e-mail. In this case, the request is considered to be received after 6 days from the time when it was sent. (Article 93 of the Tax Code of the Russian Federation, Federal Law No. 229-FZ of 27 July 2010).	As of 1 January 2012, the time limits are extended by at least 10 days when conducting a tax audit of the consolidated taxpayer group. The documents requested during a tax audit are presented within 10 days (20 days when the consolidated taxpayer group undergoes a tax audit) from the day on which the relevant request is received. Clauses 1.1 and 8 were added to Article 93.1 of the Russian Tax Code: 1.1. When conducting a desk tax audit of the calculation of the financial result of an investment partnership, the tax authority is entitled to demand the following information for the period under review from a participant in the agreement of an investment partnership, i.e., a managing partner who is responsible for the management of tax accounting: 1) the composition of the participants in the investment partnership agreement, including information on the changes in this composition; 2) the composition of the participants in the investment partnership agreement, i.e., the managing partners, including information on the changes in this composition; 3) the share of profit (expenses, losses) of each managing partner and partner; 4) the share of participation of each managing partner and partner in the investment partnership's profit, as set by the investment partnership agreement;

Issue	Description	Status in October 2011	Status in October 2012
			5) the share of each managing partner and partner in the partners' total equity; 6) the changes in the procedure for the determination by the participant in the investment partnership agreement , i.e., the managing partner responsible for managing tax accounting, of the expenses incurred in the interests of all partners concerning the management of the partners' common affairs when such a procedure is established by the investment partnership agreement.
	3. Time limits for presenting the report and decision of the tax authorities to the taxpayer	As of 2 September 2010, the decision on the audit results is considered to be received after six workdays from the date on which the letter with the decision was sent by registered post. (Article 101 of the Tax Code of the Russian Federation, Federal Law No. 229-FZ of 27 July 2010).	As of 1 January 2012, in the event of a tax audit of the consolidated taxpayer group, a notification of the time and place for examining the tax audit materials is to be sent to the accountable member of that group who is deemed the entity to be audited. The representatives of the accountable member as well as other members of that group are entitled to take part in examining the tax audit materials. The accountable member of the consolidated taxpayer group is obliged to notify the members of that group of the time and place for examining the tax audit materials. (The clause was introduced by Federal Law No. 321-FZ of 16 November 2011.) The tax authority is obliged to notify the member of the consolidated taxpayer group of the time and place for examining the tax audit materials. (The clause was introduced by Federal Law No. 321-FZ of 16 November 2011.) In the event of an audit of the consolidated taxpayer group, the decision may contain instructions to hold one or several members of the group liable. (as amended by Federal Law No. 321-FZ of 16 November 2011) The decision to hold an entity liable for a tax offense and the decision not to hold an entity liable for a tax offense, made with regard to the results of examining the materials of the on-site tax audit of the consolidated taxpayer group, are to come into force 20 days after they are presented to the accountable member of that group. (as amended

Issue	Description	Status in October 2011	Status in October 2012
			by Federal Law No. 321-FZ of 16 November 2011) If the decision envisaged by clause 7 of this article is made with regard to the results of examining the materials of the on-site tax audit of the consolidated taxpayer group, the supportive measures set by this article may be taken in relation to the members of the group. In this respect, the supportive measures are taken first and foremost in relation to the accountable member of the group. When the supportive measures taken in relation to the said accountable member are not enough to execute the decision envisaged by clause 7 of this article, the supportive measures can successively be taken in relation to other members of the consolidated taxpayer group with regard to the restrictions set by Article 46.11 of the Code. Federal Law No. 29-FZ. (The clause was introduced by Federal Law No. 321-FZ of 16 November 2011.)
	4. Suspension of operations on bank accounts	As of 1 January 2011, interest is also paid when the tax authority makes an illegitimate decision to suspend operations on bank accounts, starting from the day on which the bank received the decision to cancel the suspension of operations. The interest rate is determined on the basis of the refinancing rate of the Bank of Russia which was effective during the illegitimate blocking (Article 76 of the Russian Tax Code, Federal Law No. 229-FZ of 27 July 2010).	Clauses 2.1 and 13 were added to Article 76 of the Russian Tax Code: 2.1. The decisions on the suspension of operations on bank accounts and transfers of electronic cash to ensure tax and levy payment obligations of the participant in the investment partnership agreement, i.e., the managing partner responsible for the maintenance of tax accounting, with regard to the fulfillment of the investment partnership agreement shall be adopted by the head (deputy head) of the tax body at the location of such a managing partner. To back up the managing partner's obligations to pay taxes and levies, the first to be suspended are operations on bank accounts and the transfers of the investment partnership's electronic cash. If there are no financial resources on the investment partnership's accounts or they are not enough, the decision to suspend operations on bank accounts as well as transfers of electronic cash may be made in relation to the managing partners' accounts. In this respect, such a decision is made first and foremost in relation to the accounts of a managing partner who is responsible for maintaining tax accounting. If there are no financial resources on the managing partners' bank

Issue	Description	Status in October 2011	Status in October 2012
			accounts or they are not enough, the decision to suspend operations on the accounts as well as transfers of the partners' electronic cash can be made in relation to the partner's accounts in the amount which is proportionate to the share of each of them in the partners' total equity as of the date on which a debt originated. The decision to suspend operations on bank accounts and the transfers of electronic cash of the managing partners and partners can be made no earlier than when the decision to collect tax from the financial resources on the said persons' bank accounts is adopted. (clause 2.1 was introduced by Federal Law No. 336-FZ of 28 November 2011) The operations of the participants in the consolidated taxpayer group are suspended on their bank accounts in the same sequence in which the tax authority seizes the financial resources on bank accounts in accordance with Article 46.11 of the Code. The decision to suspend operations on bank accounts may be taken according to the procedure provided for in this Article in the event that participants of the consolidated taxpayer group fail to submit an income tax declaration within 10 days after expiry of the period established for submitting such declarations. In this case a decision to suspend operations o bank accounts can be taken simultaneously with regard to all participants of the group. (clause 13 was introduced by Federal Law No. 321-FZ of 16 November 2011)
	5. Tax obligations of banks	As of 10 December 2010, a bank is obliged to inform the tax authorities electronically about the balances on the taxpayer's suspended accounts within three workdays after the suspension decision is received. A credit institution is also obliged to provide information within three workdays from the date on which an account was opened or closed or its details were changed, and from the date on which a substantiated request was made by the	As of 1 January 2012, the banks open accounts for organizations and individual entrepreneurs and give them the right to use the corporate electronic means of payment for electronic cash transfers only when a certificate of registration with the tax authority is presented. A bank is obliged to provide information on the granting of the right to or the termination of the right of an organization or an individual entrepreneur to use corporate electronic means of payment for electronic cash transfers, and on a change in the details of the corporate electronic means of payment in electronic form, to the tax authority at its location within three days from the date of the relevant

Issue	Description	Status in October 2011	Status in October 2012
		inspectorate for a reference or a statement. (Article 86 of the Russian Tax Code, Federal Law No. 287-FZ of 3 November 2010.)	event. The rules set forth in this article are also applied to the investment partnership's accounts.
	6. Failure to honor the deadlines for presenting a tax declaration	As of 2 September 2010, a taxpayer's failure to submit a tax declaration within the time limits established by tax and levy legislation to the tax authority at the place of registration entails a fine of 5 percent of the unpaid amount of tax, which was to be paid (or additionally paid) on the basis of that declaration, for every full or incomplete month from the day set for its submission , but not more than 30 percent of the amount in question and not less than RUB 1,000 (Article 119 of the Russian Tax Code, Federal Law No. 229-FZ of 27 July 2010).	The name of Article 119 of the Russian Tax Code has changed: Article 119. Failure to present a tax declaration (calculation of the investment partnership's financial result). (as amended by Federal Law No. 336-FZ of 28 November 2011) Clause 2 was added to Article 119: Failure by the managing partner responsible for maintaining tax accounting to submit the calculation of the investment partnership's financial result to the tax authority at the place of registration within the time limits set by the tax and levy legislation shall entail a fine of RUB 1,000 for every full or incomplete month from the day set for its submission. (clause 2 was introduced by Federal Law No. 336-FZ of 28 November 2011) Article 119.2 was added to the Russian Tax Code: "Submission of a calculation of the investment partnership's financial result with inaccurate information by the managing partner responsible for maintaining tax accounting to the tax authority" (introduced by Federal Law No. 336-FZ of 28 November 2011.) l. The submission of a calculation of the investment partnership's financial result with inaccurate information by the managing partner responsible for maintaining tax accounting to the tax authority shall entail a fine of RUB 40,000. 2. The same actions performed intentionally shall entail a fine of RUB 80,000.

Issue	Description	Status in October 2011	Status in October 2012
	7. Time limits for fulfilling tax payment demands	As of 2 September 2010, the demand to pay tax must be fulfilled within eight workdays A fine which was set before 2 September 2010 may be collected after that date only in the amount which is not more than the maximum penalty set by the new amended version of the Russian Tax Code. (Federal Law No. 229-FZ dated 27 July 2010).	
	8. Electronic document flow	The FTS of Russia has introduced the rules for the exchange of electronic documents between the tax authorities and the taxpayers using telecommunications channels. The rules for exchanging electronic documents applies to the following documents: • request for documents (information) (Article 93 of the Russian Tax Code) • documents (information) to be supplied at the demand of a tax authority (Article 93 of the Russian Tax Code) • act on the joint reconciliation of calculation of taxes, levies, penalties and fines (Article 32 of the Russian Tax Code) • demand to pay a tax, levy, penalty or fine (Article 69 of the Russian Tax Code) • tax notification (Article 52 of the Russian Tax Code) • decision to collect a tax or levy (Article 46 of the Russian Tax Code) • decision to suspend operations on bank accounts (Article 76 of the Russian Tax Code)	

Issue	Description	Status in October 2011	Status in October 2012
		• tax declaration in electronic form with an electronic digital signature (Article 80 of the Russian Tax Code) (Federal law No. 229-FZ of 27 July 2010) The forms and formats of the documents which are stipulated in the Tax Code and are used by the tax authorities when exercising their powers in the relations governed by tax and levy legislation as well as the procedure for completing the forms of those documents and the procedure for submitting such documents electronically by the telecommunications channels are approved by the federal executive body authorized to exercise control and oversight in relation to taxes and levies if some other procedure for approving them is not set forth in the Tax Code (Article 31 of the Russian Tax Code).	
	9. Transfer pricing	As of 1 January 2012, Article 40 of the Tax Code is applicable only to the transactions whose revenue and/or expenses were recognized for profits tax purposes prior to 1 January 2012. As of 1 January 2012, the transfer pricing law is in force; it includes provisions governing the taxation procedure in the transactions between interrelated entities and the rules of tax control over compliance of the prices, used in controlled transactions, with the market prices [1]. In this respect, control over compliance of the prices with the market prices will be exercised within the limits of an independent audit for the period from 2012; it will not depend on the on-site or desk tax audits for that tax period and will be applied only to controlled transactions. (Federal Law No. 227-FZ of 18 July 2011).	As of 1 January 2012, the Law reduces the list of controlled transactions. Controlled transactions will include mainly transactions between interrelated entities and certain transactions between entities which are not interrelated. Among foreign trade transactions, those controlled shall be the following: all the transactions involving interrelated entities (without restrictions); transactions with third parties involving commodities of the world trade exchange which are included in the following commodity groups: oil and oil products, ferrous and nonferrous metals, mineral fertilizer, precious metals and precious stones, provided that the revenue from the transactions is over RUB 60 million; transactions with third parties which are in the states (territories) in the so-called "black list", approved by the Russian Finance Ministry, provided that the revenue from the transactions is over RUB 60 million.

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			As for transactions which do not involve foreign trade, those controlled shall be the following with interrelated entities when the threshold of RUB 60 million is surpassed: • a transaction in a commodity which is subject to mineral extraction tax at the *ad valorem* tax rate, or • at least one party to the transaction is exempt from the taxpayer's obligations concerning corporate profits tax or applies the 0% rate in accordance with Article 284.5.1 of the Russian Tax Code, i.e., is a participant in the Skolkovo project, or • at least one of the parties is a resident of the special economic zone (the transactions will be controlled only from 2014). As of the beginning of 2014, when the threshold of RUB 100 million in transactions within Russia is surpassed, controlled transactions shall be those involving interrelated entities if one of the parties to a transaction is a taxpayer who uses one of the following tax regimes: unified tax on imputed income for certain activities or unified agricultural tax (if a transaction is within the scope of the relevant activity). Other transactions between interrelated entities within Russia shall be controlled if the revenue from all such transactions exceeds RUB 3 billion[1]. In this respect, some of these transactions will not be deemed controlled if the parties to a transaction are participants in the unified consolidated taxpayer group (after the relevant law enters into force, and also when all the following occur at the same time: • the parties to a transaction are registered in one constituent entity of the Russian Federation, and they

[1] That amount will be reduced to RUB 2 billion in 2013 and to 1 billion since 2014.

Issue	Description	Status in October 2011	Status in October 2012
			• have no subdivisions in other constituent entities of the Russian Federation, and • do not pay profits tax to the budgets of other constituent entities of the Russian Federation, and • have no losses which are taken into account when profits tax is calculated, and • there are no other grounds for control than those mentioned above (for which the threshold used is RUB 60 million or 100 million). *Related entities* Related entities will be defined more broadly. The law has several criteria whereby companies and individuals may be considered related. The key criterion, however, is still equity interest, when one organization (jointly with its related entities) directly and/or indirectly participates in another organization and the portion of such participation is over 25% (it is now 20%). In this respect, the law indicates that Russian state participation in the organizations is not in itself grounds for regarding such organizations as related. The law also indicates that, by taking account of the facts, the court is entitled to recognize organizations and/or individuals as related parties on other grounds if it is proved that influence is exerted on the terms or results of transactions due to the relations between the entities. *Methods* Under the law, there are five methods for determining the market price, like those used in international practice. The method of comparable market prices (CMP) will be of prime importance, while the profit distribution method will be used only when other methods cannot be applied. Moreover, taxpayers can use other methods besides the five methods set forth in the law. All the five methods set forth in the law are briefly described below: I. To apply the CMP method, it is enough for at least one transaction to meet the criteria of comparability, provided that the vendor in the

Issue	Description	Status in October 2011	Status in October 2012
			comparable transaction does not dominate the market. 2. The subsequent sale price method will be applied to determine the market price at which the purchaser acquires commodities from the related entity and sells them to an independent entity. When that method is used, the gross margin resulting from resale within the limits of a controlled transaction should be compared with the market profit margin established in relation to the information on non-controlled comparable transactions. 3. The cost method will be used largely in relation to the transactions in providing services, except in the instances when use is made of the intangibles which have a considerable impact on the income-generation level. In this respect, the gross margin of the costs of the testing entity is compared with the market profit margin. 4. The comparable profits method (CPM) can be used, for instance, when no adequate comparison can be made of the financial accounting data on the basis of which the profit margin can be accurately determined in accordance with the procedure set forth by the subsequent sale price method and the cost method. When using that method, the testing company should be a company which, in comparison with the second party to the transaction, performs fewer functions, assumes less commercial risks and has no intangibles which have a substantial impact on the income-generation level. To apply that method, the following income-generation indicators can be used: sales margin, gross profit margin of commercial and management costs (if the reseller bears inconsiderable commercial risks), cost margin and the return on assets. When using the CPM, other income generation indicators can be used, provided that their use is substantiated with regard to functional analysis. 5. The profit distribution method is used when other methods cannot be used and when the parties to a transaction jointly own intellectual property. Two varieties of that method can be used: the distribution of gross profit and the distribution of net profit The distribution of profit between the parties to a controlled transaction is based on the evaluation of

Issue	Description	Status in October 2011	Status in October 2012
			the contribution of the parties to the gross profit concerning the transaction in question by assessing the following criteria: • amount spent by a party to a controlled transaction for construction of unique intangible assets, the usage of which directly affects the actual profit on sales under controlled transaction; • number of employees that directly affects the actual profit on sales under controlled transaction; and • market value of assets, the usage of which directly affects the actual profit on sales under a controlled transaction. • other factors that reflect the link between functions, assets, risks and profit received. • If the above mentioned methods do not make it possible to identify compliance of the price used in a single transaction with the market one, such compliance may be identified based on the market value of the subject matter of the transaction calculated during an independent appraisal. *Market price interval (profitability interval)* The law abolishes the existing allowable 20% fluctuation from market price and introduces a market price interval instead. A statistical approach similar to the approach used in the majority of other OECD states will be used to calculate a market price interval. To calculate a market price interval for the purposes of CMP method application, at least one comparable transaction is required. To calculate a profitability interval for the purposes of the subsequent sale price method, cost method and comparable profit method, at least four comparable entities are required (ideally). If less than four comparable entities are available, the search limit can be extended to analyze functionally comparable companies. In addition, ownership interest may be increased from 25% to 50% to facilitate search of additional comparable companies. If despite all measures taken the number of comparable companies is still less than four, the range can be calculated based on the information

Issue	Description	Status in October 2011	Status in October 2012
			available. The law also provides for adjustment of profitability indexes in order to account for differences in payables and receivables and in inventories between comparable companies and a taxpayer. The law provides for the taxpayers' right to adjust their tax liabilities at their own discretion, if prices used in a controlled transaction differ from market prices. But the law does not provide for the taxpayers' right to adjust prices or to make changes in markups, if a taxpayer's profitability is outside the market profitability range. *Sources of information* When checking transaction prices for conformity with market prices, both the tax authorities and the taxpayers are required to use only publicly available information sources. The following information sources may be used for those purposes: • information on prices and global trade exchange prices (applicable for global exchange-traded commodities); • customs data published by the Federal Customs Service; • information on prices and trade exchange prices obtained from the following sources: • authorized governmental agencies; • official information sources of foreign states; • international organizations; • published and/or publicly available materials and information systems; • information from agencies that provide information on prices; • information on transactions provided by the taxpayer; • data from the organizations' financial statements and statistical reports (data from foreign organizations may be used only when data from Russian organizations cannot be used); • information on the market value of the appraisal targets determined by an independent appraiser, and

Issue	Description	Status in October 2011	Status in October 2012
			• other information that may be used to determine the market price range and profitability by the transfer pricing methods used. When transaction prices are checked for conformity with the market prices, use may not be made of the information classified as a tax secret as well as any other information access to which is restricted by the laws of the Russian Federation (excluding information on a taxpayer being audited). *Reporting controlled transactions* Taxpayers will be required to file a report with the tax authorities on controlled transactions which they performed if the total income from the transactions completed by the taxpayer with one party during a calendar year exceeds RUB 100 million[2]. Such a report should be filed with the tax authorities no later than 20 May of the year following the calendar year in which the controlled transactions were completed. Reports on controlled transactions are to contain information on the subject of a transaction, its parties, and income received from or expenses incurred in a controlled transaction. *Documentation requirements for transfer pricing* In accordance with the law, taxpayers will be required to prepare documents in arbitrary form with a substantiation of the pricing methodology used for controlled transactions if the total income from all the controlled transactions performed by the taxpayer with one party during a calendar year exceeds RUB 100 million[3]. The taxpayer should file such documents with the tax authorities within 30 days

[2] That amount will be reduced to RUB 80 million in 2013. In 2014, the restriction will be lifted.

[3] That amount will be reduced to RUB 80 million in 2013. In 2014, the restriction will be lifted.

Issue	Description	Status in October 2011	Status in October 2012
			after receiving the relevant request. But the request may not be made earlier than 1 June of the year following the calendar year in which the controlled transactions were performed. The documents will not be required for foreign trade transactions with independent entities, transactions where prices match regulated prices or are in line with the anti-monopoly authorities' requirements (as specified by law for such transactions), transactions involving securities and financial futures traded on the organized securities market, as well as transactions in respect of which a pricing agreement has been entered into. In the event of all transactions with the related entities, taxpayers will be obliged to prepare documents in the form generally used in countries with an advanced system of control over transfer pricing. The documents should have a functional analysis of the parties to a controlled transaction (provided that the analysis was made by the taxpayer), information on the organizational structure of the taxpayer, a description of the transaction terms, a substantiation of the choice of the transfer pricing method and the information sources used, a calculation of the market price range and adjustments to the tax base made by the taxpayer. *Symmetric adjustments* Where the tax authorities establish that a price in a controlled transaction does not match the relevant market price and decide that the tax base of one of the parties to the transaction should be increased, the other party will be entitled to implement a symmetric adjustment, i.e., reduce the tax base with regard to the adjusted price (taxpayers will not be able to make such adjustments at their discretion). Such adjustments will be permitted only for Russian organizations and only in respect of the transactions performed in Russia. *Pricing agreement* The law introduces a provision on pricing agreements. Starting 1 January 2012, taxpayers may file an application for concluding a pricing agreement which outlines the pricing procedure or pricing methods for a controlled transaction. The law also clarifies that the

Issue	Description	Status in October 2011	Status in October 2012
			right to enter into a pricing agreement will be granted to taxpayers classified as major taxpayers. Foreign companies will not be allowed to enter into pricing agreements. The application for concluding a pricing agreement will be handled within nine months. Agreements will be entered into for a period of up to three years with an option to be extended for two years. The law also provides for the conclusion of a multilateral pricing agreement in respect of a foreign trade transaction, given that a party to the transaction is a tax resident of a foreign state with which there is a double taxation treaty. Pricing agreements will be effective starting 1 January of the year following the year in which they were signed (unless provided otherwise by the agreement). But an agreement may also cover prior periods, namely, it may be effective starting from the date on which the taxpayer filed a report on its conclusion or before its effective date. *Penalties* Penalties for the failure to pay tax resulting from the use of non-market prices will not be applied in respect of the years 2012 and 2013. According to a provision of the law that will take effect in 2014, such non-payment will be penalized by a fine totaling 20% of the amount of additional tax. Starting in 2017, the fine will increase to 40% of the amount of additional tax, but at least RUB 30,000. Penalties will not be applied if the prices were set under a pricing agreement or if the taxpayer has submitted documents justifying the use of market prices.

Issue	Description	Status in October 2011	Status in October 2012
	10. Consolidated taxpayer group		On 21 November 2011 the law concerning consolidated taxpayer groups was officially published in Rossiiskaya Gazeta.[4]. Taxpayers will be able to apply to establish a consolidated group of taxpayers from 1 January 2012. Most provisions of the law have not changed significantly in comparison with the draft reviewed in the August Russian Tax Brief. However, some significant amendments have been introduced which are covered in this article. A consolidated taxpayer group (hereinafter - 'Group') is to be a voluntary association of profits tax payers for the purposes of calculation and payment of profits tax based on the aggregate financial results of all Group participants. The agreement establishing the Group must be registered and accepted by the tax authorities. Only Russian companies can participate in Groups. The minimum period for which a Group may be established is two years. A Group may be established by companies if one company directly or indirectly holds at least a 90% share in the others. The group of companies should satisfy the following main criteria on applying to establish a Group: • the aggregate amount of federal taxes which must have been paid in the preceding calendar year was at least RUB 10 billion; • the total revenue of the group in the preceding calendar year was at least RUB 100 billion; and • the aggregate value of assets of the group as at the preceding 31 December was at least RUB 300 billion.

[4] Federal Law No. 321-FZ dated 16 November 2011 "Concerning the Introduction of Amendments to Parts One and Two of the Tax Code of the Russian Federation in Connection With the Creation of a Consolidated Taxpayer Group".

Issue	Description	Status in October 2011	Status in October 2012
			These thresholds seem likely to be the main barrier to companies wishing to form a Group. The authorities have already changed them at least twice to expand the range of eligible companies, but they still seem to be rather high. The law includes other criteria, for example, the companies should not be undergoing reorganization, insolvency proceedings or liquidation and their net assets should exceed charter capital. Tax administration Tax accounting, tax calculation and tax payment responsibilities for the entire Group will be imposed on one participant, which is designated the "responsible participant". Should this company fail to discharge its liabilities, all members of the Group will be liable jointly and severally for any tax underpayment, the corresponding penalties and late payment interest. Tax audits are to be performed with respect to all companies in a particular Group at the same time. The law states that a Group's profits tax base should be based on the Group's participants' income and expenses whereas early drafts provided for adding together profits and losses of each participant. The consolidated profit may not be reduced by any tax losses accumulated by the participants prior to the establishment of the Group. Intragroup transactions are to be included in the consolidated tax base. Early drafts provided for the elimination of intra-group transactions from the calculation. The final text only provides that transactions amongst participants of the Group are not subject to transfer pricing control (except for taxpayers of mineral extraction tax at ad valorem rates, such as those which extract precious metals, ferrous metals, and various types of salt). The law does not exclude companies which have subdivisions outside Russia from participation in a Group. The concept of tax consolidation is without precedent in post-Soviet Russia, so implementation may not be straightforward. Thresholds may have been kept high deliberately so that the initial volunteers can act as a kind of pilot project before a final decision is made on how

Issue	Description	Status in October 2011	Status in October 2012
			widely consolidation should be made available in future. The establishment of a Group may be beneficial for some entities. The main advantages of the proposals are the possibility to strengthen control over the tax accounting function, decrease the amount of transactions subject to mandatory transfer pricing control and the respective administrative burden, and potentially optimize the tax burden of affiliates.
2. VAT	I. VAT deduction	Effective 1 October 2011, the tax charged by contractors (builder clients) when fixed assets are liquidated or disassembled is also to be deducted (Article 171 of the Tax Code of the Russian Federation, Federal Law No. 245-FZ of 19 July 2011).	
	2. VAT recovery	Effective 1 October 2011, the list of instances of mandatory recovery of VAT is updated: • the receipt of subsidies from the federal budget by the taxpayer in accordance with Russian legislation for the reimbursement of the expenses on payment for the acquired goods (work, services), including tax, and for the reimbursement of expenses on the payment of tax when importing goods into Russia and other territories under its jurisdiction; • further use of goods (work, services), including fixed assets and intangible assets, and exercise of proprietary rights to carry out transactions in selling goods (work, services) which are subject to 0% VAT; • the amounts of tax on construction and assembly and on the goods acquired for construction and assembly in upgrading	

Issue	Description	Status in October 2011	Status in October 2012
		(reconstructing) real estate are to be restored if such real estate is to be used further for the transactions indicated in Article 170.2 of the Tax Code (Article 170 of the Tax Code of the Russian Federation, Federal Law No. 245-FZ of 19 July 2011).	
	3. Location of work performed (services rendered)	Effective 1 January 2011, location of work performed (services rendered) should be deemed the territory of the Russian Federation, if: • the services of carriage and/or transportation are also rendered (fulfilled) by foreign entities not registered with the tax authorities as taxpayers, and if the points of departure and arrival are within Russia (except for the services relating to freight and passenger traffic, which are not rendered by a foreign entity through its permanent representative office) • the services of pipeline transportation of natural gas across the territory of the Russian Federation are rendered by Russian entities • work is performed and services are rendered for the purpose of a geological survey, exploration and extraction of hydrocarbon raw materials in areas of subsurface resources which are fully or partially on the continental shelf and/or in the exclusive economic zone of the Russian Federation. As of 1 October 2011, the audit services as well as the transfer of emission reduction units (ERUs) (the rights to ERUs) received under the projects to reduce anthropogenic emissions or	

Issue	Description	Status in October 2011	Status in October 2012
		increase absorption by greenhouse gas absorbents in compliance with Article 6 of the Kyoto Protocol to the UN Framework Convention on Climate Change (UNFCCC) are subject to VAT at the location of the purchaser's economic activity (Article 148 of the Tax Code of the Russian Federation, Federal Law No. 245-FZ of 19 July 2011).	
	4. Non-taxable transactions	Sale (as well as transfer, fulfillment and provision for own needs) of the following goods (work, services) in Russia is also non-taxable (tax exempt) (Article 149 of the Tax Code of the Russian Federation): • Effective 1 January 2011, depositary services rendered by a depositary for financial resources of the International Monetary Fund, the International Bank for Reconstruction and Development and the International Development Association under the articles of the agreements of the International Monetary Fund, the International Bank for Reconstruction and Development and the International Development Association (Federal Law No. 291-FZ of 3 November 2010); • Effective 1 October 2011, the provision of social services to minors, services in supporting and socially assisting the aged, the disabled, and homeless children who are in a difficult situation, in finding incapacitated individuals, and in training guardians (Federal Law No. 235-FZ of 18 July 2011); • Effective 1 October 2011, sale (as well as transfer, fulfillment, and provision for own	Not subject to VAT: • Effective 1 January 2012, real estate property may be transferred to replenish special-purpose capital of non-commercial entities (Article 4.3 of the Law). Therefore, effective the date specified above, both funds transferred to the formation of special-purpose capital of non-commercial entities and real estate property transferred to replenish the capital are not subject to VAT (Article 146.2.8 of the Tax Code of the Russian Federation). If such transfer of real estate property takes place, the donor shall restore the amounts of VAT relating to such property, which were previously deducted (Article 170.3.1 of the Tax Code of the Russian Federation). • Effective 1 January 2012, certification services for maintenance inspection operators, maintenance inspection services rendered by maintenance inspection operators in accordance with legislation covering maintenance inspection of vehicles (Federal Law No. 170-FZ of 1 July 2011) • Effective 1 January 2012, special-purpose funds received from a territorial fund of obligatory medical insurance by medical insurance companies participating in the obligatory medical insurance program (Federal Law No. 313-FZ of 29 November 2010) The reform of the obligatory medical insurance system resulted in supplemental provisions in Article 149.3.7 of the Tax Code of the Russian Federation. Pursuant to these provisions, services on insurance, coinsurance and reinsurance rendered by insurance companies are not subject to VAT. At present, such transactions

Issue	Description	Status in October 2011	Status in October 2012
		needs) of goods (except for excisable goods, mineral raw materials and other minerals, and other goods in the list of the Government of the Russian Federation), work and services (except for broker services and other services offered by agents), which are produced and sold by state and municipal unitary enterprises, provided that the average number of disabled individuals among their employees is no less than 50%, while their share in the labor remuneration fund is no less than 25% (Federal Law No. 245-FZ of 19 July 2011); • Effective 1 October 2011, the provision of services on insurance, coinsurance and reinsurance of export loans and investments against entrepreneurial and (or) political risks (Federal Law No. 245-FZ of 19 July 2011); • Effective 1 October 2011, the provision of free-of-charge services in producing and (or) publicizing social advertisements in compliance with the Russian advertising law; • Effective 1 October 2011, import of unregistered medicines for certain patients whose vital organs are suffering from dysfunction, as well as hematopoietic stem cells and marrow for non-related transplantation into Russia or other territory under its jurisdiction is non-taxable (tax exempt) (Article 150 of the Tax Code of the Russian Federation, Federal Law No. 235-FZ of 18 July 2011).	include receipt of funds by medical insurance companies (participating in the obligatory medical insurance program) from a territorial fund of obligatory medical insurance, if such funds: • are special-purpose funds and transferred under an agreement on obligatory medical insurance financial support; • are intended for expenses related to activities on obligatory medical insurance in accordance with the above mentioned agreement; • are compensation for activities provided for in the agreement on obligatory medical insurance financial support. Effective 1 January 2012, work and services related to maintenance of marine and inland vessels in ports are not subject to VAT. In particular, this exemption covers vessels repair, port costs, port vessels services, pilotage. Effective 1 January 2012, this exemption also covers maintenance of mixed (sea-river) vessels. On 1 January 2012, Federal Law No. 335-FZ On Investment Partnership of 28 November 2011 came into effect. This law covers a regular partnership agreement signed by several parties to perform joint investment activities. Two new VAT benefits were also provided. First, services on the management of partners' common affairs are not subject to VAT (Article 149.3.33 of the Tax Code of the Russian Federation). Second, the following is not subject to VAT (Article 149.3.34 of the Tax Code of the Russian Federation): • transfer of property rights in the form of contribution under an investment property agreement; • transfer of property rights to a partner in case of apportionment of share of property co-owned by partners or in case of property partition (within the amount of contribution of such participant).

Issue	Description	Status in October 2011	Status in October 2012
	5. Transactions not subject to VAT	As of April 2011, the following transactions are deemed non-taxable: transactions performed in Russia on selling (transferring) state or municipal assets which are not attached to state enterprises and institutions and which compose the property of the Russian Federation, and also municipal assets which are not attached to municipal enterprises and institutions, and are bought out in accordance with the procedure established by the Federal Law "On Specific Features of Alienation of Immovable Property which Is Either State Property of the Constituent Entities of the Russian Federation or Municipal Property and Is Leased by Small and Medium-sized Businesses, and on the Introduction of Amendments to Certain Legislative Acts of the Russian Federation" (Article 146 of the Tax Code of the Russian Federation, Federal Law No. 395-FZ of 28 December 2010)	As of 1 January 2012, the performance of work (provision of services) by state institutions as well as budgetary and autonomous institutions under a state (municipal) order, funded from the budget system of the Russian Federation (Article 146 of the Tax Code of the Russian Federation, Federal Law No. 245-FZ of 19 July 2011), is also non-taxable.
	6. Invoice	The provisions, which introduce the adjusted invoices, enter into force on 1 October 2011 (Federal Laws No. 229-FZ and No. 245-FZ of 27 July 2010 and 19 July 2011, respectively). The adjusted invoices are issued when there is a change in the cost of the goods shipped (work performed, services rendered) and in the proprietary rights transferred, and in the event of a change in the price or quantity (volume) of goods (work, services) and in proprietary rights. The difference between the amounts of tax calculated before and after the change is indicated with a negative sign. The adjusted invoices are grounds for deducting the amounts of VAT from a seller or a buyer. To deduct tax, there must be documents which	On 26 December 2011, Decree of the Government of the Russian Federation No. 1137 (hereinafter, Decree No. 1137) came into force approving new invoice forms. Decree No. 1137 was published in January 2012. Invoice and adjusted invoice forms slightly differ from previous forms. Amendments are primarily associated with a new procedure for implementing changes into invoices: Lines for order number and adjustment date were added. Currency line was also added. Consignor (principal) deducts VAT on purchased goods, work or services based on an intermediary's invoice that contains the information from a seller's invoice. When goods, work, services or property rights are sold through separate subdivisions, a digital index of a separate subdivision should be added to an invoice order number (same for the whole entity) after

Issue	Description	Status in October 2011	Status in October 2012
		confirm the purchaser's consent to a change in the price or in the quantity of goods. When the cost rises • the seller takes account of the difference between the cost of the goods shipped before and after an increase in the tax base of the period when the shipment was made; • the purchaser uses the adjusted invoice to deduct VAT in the amount of the difference between the taxes calculated with regard to the cost of the goods shipped before and after an increase during the period when all the requirements for deducting VAT are met. When the cost drops • using the adjusted invoice, the seller deducts tax in the amount of the difference between the VAT calculated with regard to the cost before and after a decrease during the period when all the requirements for deducting VAT are met; • the purchaser restores VAT in the budget in the amount of the difference between the amounts of tax on the cost of the goods shipped before and after a decrease. The restoration is made upon receipt of either the primary documents on a change in the cost of the acquired goods or the adjusted invoice (whichever is earlier).	a separator bar. The index is specified in an order on accounting policy. Invoices that do not comply with the established form and the rules regarding completion of the form are not registered in purchase book. Pursuant to this paragraph, a taxpayer will not be able to deduct VAT under the invoice that does not comply with the requirements of Article 169 of the Tax Code of the Russian Federation and with the established form. At present, if an error is made when preparing an invoice, a seller should submit a new invoice with the same number and date as the invoice where an error has been made. A special line (1a) should indicate the order number and the date of the corrections in the invoice. When an invoice is prepared for the first time, this line should be market with dash. The corrected invoice should be signed by a director or a chief accountant of an entity or by other authorized persons. It should be noted that if corrections in an invoice are needed after preparation of adjusted invoices to such invoice, the duplicate should include the information without regard to data of adjusted documents.

Issue	Description	Status in October 2011	Status in October 2012
	7. Procedure and time limits for paying VAT to the budget	Effective 2 September 2010, foreign entities, which have several separate subdivisions in Russia, should independently choose a subdivision, and at the place of its tax registration they will present tax declarations and pay tax on the whole for operations of all the foreign entity separate subdivisions in Russia. Foreign entities should notify tax authorities at the location of their separate subdivisions in Russia of their choice in writing (Article 174 of the Tax Code of the Russian Federation, Federal Law No. 229-FZ of 27 July 2010).	
	8. Application procedure for VAT recovery	A bank guarantee, which envisages a bank obligation to pay to the budget for the taxpayer, on the basis of a tax authority's demand, the amounts of tax which the taxpayer received in excess (by an offset) as a result of tax reimbursement by an application procedure, should be provided by a bank which is included in the list of banks of the Ministry of Finance of the Russian Federation. The tax authority should, not later than the day following the day on which it sent the taxpayer, which provided the bank guarantee, a statement of the absence of any violation of tax and levy legislation, dispatch to the bank which issued the bank guarantee a written statement exempting the bank from the obligations arising from that bank guarantee (Article 176.1 of the Tax Code of the Russian Federation and Federal Law No. 245-FZ of 19 July 2011).	Effective 1 January 2012, one of the requirements for including a bank in the list, i.e., a bank's registered charter capital in the amount of no less than 500 million rubles, is to be abolished. A bank guarantee for the submission of an application to use the application procedure concerning tax reimbursement is presented by the taxpayer within five days from the day on which the tax declaration is submitted. To use a simplified procedure for VAT recovery, a taxpayer should file a relevant application to a tax inspectorate no later than within five days after submission of the tax declaration (Article 176.1.7 of the Tax Code of the Russian Federation). A bank guarantee should be submitted within the same time limit (Article 176.1.6.1 of the Tax Code of the Russian Federation). Another change relates to the banks which issue bank guarantee for the purpose of applying application procedure for VAT recovery. If a tax authority revealed no violations in the course of in-house declaration review, a taxpayer is notified about this within seven days upon completion of the review (Article 176.1.12 of the Tax Code of the Russian Federation). Effective 1 January 2012, tax authority should notify the bank about release from obligations under the guarantee no later than the day following the day on which the abovementioned notification has been sent to the taxpayer that provided the bank guarantee.

Issue	Description	Status in October 2011	Status in October 2012
	9. 0% VAT rate	Effective 1 January 2011, 0% rate will be applied only to services determined by the Tax Code of the Russian Federation as related to export/import of goods, namely, 1. International carriage services 2. Work (services) performed (rendered) by entities engaged in oil and oil-product pipeline transportation 3. Services on transporting natural gas by pipeline 4. Services rendered by an entity in managing a unified national electric grid 5. Work (services) performed (rendered) by Russian entities (except for pipeline transport entities) at seaports and river ports in transshipping and storing goods which are conveyed across the Russian border 6. Work (services) on processing goods placed under the customs processing procedure at the customs; 7. Services in providing rolling stock and (or) containers 8. Work (services) performed (rendered) by internal water transport organizations Effective 1 October 2011, in order to confirm the grounds for applying the 0% export rate, it is no longer necessary to present a bank statement (its copy) confirming the actual receipt of revenue from a foreign or Russian entity – the purchaser of work (services) – on the taxpayer's account in a Russian bank (Article 164 of the Tax Code of the Russian Federation, Federal Law No. 245-FZ of 19 July 2011).	Effective 1 January 2012, the procedure for applying 0% VAT is adjusted in regard to sales of built vessels that are subject to registration in the Russian International Register of Vessels. The list of documents has been adjusted: at present, documents confirming main motor capacity and tonnage (Article 165.13.4 of the Tax Code of the Russian Federation is no longer in force). Effective 1 January 2012, provision, which was necessary for application of 0% VAT, regarding the period of registration of a vessel in the Russian International Register of Vessels for at least 10 years, is no longer included into Article 161.6 of the Tax Code of the Russian Federation. A vessel owner should not transfer VAT (18%) from the cost of the vessel that has been deleted from the Russian International Register of Vessels earlier than the date specified. Effective 1 January 2012, export or import of goods (to and from Russia) by marine vessels or by mixed (sea-river) vessels based on time charter agreement are subject to 0% VAT (Article 164.1.12 of the Tax Code of the Russian Federation). To confirm 0% rate the following documents should be submitted to a tax authority: • copy of services agreement (Article 165.14.1 of the Tax Code of the Russian Federation); • copies of transportation, shipping or other documents confirming export or import of goods (Article 165.14.2 of the Tax Code of the Russian Federation). Such documents may comprise bill of lading or consignment note. Effective 1 January 2012, transportation of oil and oil products under customs transit procedure is subject to 0% VAT. The following services are subject to 0% VAT, even if they are rendered regarding: • oil and oil products under customs transit procedure; • oil and oil products exported from Russia to CU member states. At present, if goods exported to CU member states are not declared, documents confirming transportation services should be submitted (Article 165.3.2.3 of the Tax Code of the Russian Federation). In this case, a 180-day period for submission of documents that confirm 0% rate starts from the date of

Issue	Description	Status in October 2011	Status in October 2012
			preparation of documents on oil and oil products transportation (Article 165.9.7 of the Tax Code of the Russian Federation). Effective 1 January 2012, list of documents confirming 0% rate in regard to export of aquatic bio-resources catch is updated. No copy of order for shipment of exported goods is required (that specifies port of discharge and is stamped with "Shipment Permitted" mark by border customs of the Russian Federation (Article 165.1.4.3 of the Tax Code of the Russian Federation)) in case of export of aquatic bio-resources catch and goods produced from aquatic bio-resources that are shipped to Russia without uploading to land territory.
	10. VAT upon the sale of the assets of stakeholders deemed bankrupt	Effective 1 October 2011, when selling on the territory of the Russian Federation the property and/or proprietary rights of debtors who under Russian legislation are deemed bankrupt, the tax base is determined as the amount of income from the sale of that property with regard to tax. The tax base is determined by the tax agent separately for each transaction in selling that property. In this respect, the tax agents are the buyers of that property and/or of proprietary rights, except for individuals who are not entrepreneurs. Those entities should use the calculation method and withhold the relevant amount of tax from the income received and pay it to the budget (Article 161 of the Tax Code of the Russian Federation, Federal Law No. 245-FZ of 19 July 2011).	
	11. VAT upon cession of proprietary rights	Effective 1 October 2011, the tax base is determined as the amount exceeding the amount of income, received by the initial lender upon cession of the right of claim, in relation to the size of the monetary claim, the right to which has been ceded. In addition, the tax base is	

Issue	Description	Status in October 2011	Status in October 2012
		determined irrespective of the status of an operation (taxable or non-taxable) underlying the initial cession. (Article 155 of the Tax Code of the Russian Federation, Federal Law No. 245-FZ of 19 July 2011).	
	12. VAT upon receipt of revenue in foreign currency, and in rubles in an amount equivalent to that in foreign currency	As of 1 October 2011, when the taxpayer receives revenue from the sale of goods (work, services) in foreign currency for operations taxed at the 0% rate, the taxpayer's revenue is translated into rubles at the exchange rate established by the Bank of Russia for the date on which goods are unloaded (transferred) (work is performed, services are rendered) (Article 153 of the Tax Code of the Russian Federation, Federal Law No. 245-FZ of 19 July 2011). When selling goods (work, services) under agreements whereby they are to be paid for in rubles in the amount equivalent to the amount in foreign currency or in nominal units • the tax base is determined as of the day on which goods are unloaded (transferred) (work is performed, services are rendered); • when determining the tax base, foreign currency is translated into rubles at the exchange rate established by the Bank of Russia for the date on which goods are unloaded (transferred) (work is performed, services are rendered); • the tax base is not adjusted during subsequent payment for the goods (work, services); • the exchange-rate sum differences relating to tax, which the taxpaying seller comes across upon subsequent payment for	

Issue	Description	Status in October 2011	Status in October 2012
		goods (work, services), are included in non-sale income or non-sale expenses (Article 172 of the Tax Code of the Russian Federation, Federal Law No. 245-FZ of 19 July 2011).	
	13. Customs Union	Effective 1 July 2010, business operations between the counterparties of Russia, Belarus and Kazakhstan are subject to VAT and excise duties under the new rules established by the Agreement on the Principles of Collecting Indirect Taxes upon the Export and Import of Goods, Performance of Work, and Provision of Services in the Customs Union dated 25 January 2008: • 0% VAT is applied and excise duties are exempt from payment when goods are exported; • when goods are imported, taxes are levied by the tax authorities of the importing state; • when work is performed (services are rendered), VAT and excise duties are charged in the state whose territory is deemed the location of sale of work (services).	
	14. Tax agent	As of 1 January 2011, the list of entities, the lease of whose assets entails the need for the tax agent to withhold and pay VAT, includes state institutions (Article 161 of the Tax Code of the Russian Federation, Federal Law No. 83-FZ of 8 May 2010).	

Issue	Description	Status in October 2011	Status in October 2012
3. Profits tax	I. Updated list of the profits tax taxpayers		As of 1 January 2012: Organizations participating in the consolidated taxpayer group shall be deemed to be taxpayers of the profits tax assessed for this consolidated taxpayer group. Participants of the consolidated taxpayer group shall perform their obligations as taxpayers of the profits tax in respect to the consolidated taxpayer group in part, essential for accrual of such tax by the responsible participant of the group (Article 246 of Federal Law No. 321-FZ dated 16 November 2011)
	2. Clarified definition of an object of taxation for profits tax		As of 1 January 2012: For organizations representing participants of the consolidated taxpayer group, object of taxation for profits tax shall be deemed an amount of aggregate profit of all participants of the consolidated taxpayer group attributed to one particular member of the group and calculated as determined by clause 1 of Article 278.1 and clause 6 of Article 288 of the Tax Code (Article 247 of Federal Law No. 321-FZ dated 16 November 2011)
	3. Additional items in list of non-sale income		As of January 2012, non-sale income shall include, in particular, income: 1. in the form of amounts of adjustment made to a taxpayer's profit as a result of using the methods for determining for taxation purposes the conformity of prices used in transactions to market prices (profit margins), as described in Article 250 of the Tax Code, Federal Law No. 227-FZ, dated 18 July 2011 2. in the form of the monetary equivalent of real estate and (or) securities transferred for the replenishment of special-purpose capital of a non-commercial organization, which has been repaid to the donor, as described in Article 250 of the Tax Code, Federal Law No. 328-FZ dated 21 November 2011

Issue	Description	Status in October 2011	Status in October 2012
	4. Non-deductible revenues	As of 1 January 2011, the list of non-deductible revenues was enlarged to include the following: 1. Revenues in the form of property, property or non-property rights in the amount of their cash estimate that are given to a business entity or partnership for the purposes of: a) Building up the net assets including through the formation of additional capital and/or funds by shareholders or participants; b) Building up the net assets of a business entity or partnership with the concurrent reduction or termination of liabilities of such business entity or partnership to the respective shareholders or participants (pursuant to provisions stipulated in the legislation of the Russian Federation or provisions of the founding documents or resulting from a decisions taken by a shareholder or participant); c) In the event of the reversal of dividends which were not demanded and were not received by shareholders of or participants in a business entity (dividends announced and not received by the established deadline) or the reversal of a part of distributed profits of a business entity or partnership to the undistributed profits of a business entity or partnership. The scope of the foregoing provisions includes the relations which were established after 1 January 2007 (Article 251 of the Tax Code, Federal Law No. 409-FZ dated 28 December 2010) 2. Revenues in the form of funds received from the provision of state (municipal) services (performance of work) by state-owned agencies as well as from the completion of other state	As of 1 January 2012, the list of non-deductible revenues was enlarged to include the following: 1. in form of receipts from foundations for the support of scientific, scientific and technical and innovation activities established in accordance with Federal Law No. 127-FZ dated 23 August 1996 “Concerning Science and State Scientific and Technical Policy” for certain scientific, technical programs and projects, innovative projects; 2. in form of receipts for the formation of foundations for the support of scientific, scientific and technical and innovation activities established in accordance with Federal Law No. 127-FZ dated 23 August 1996 “Concerning Science and State Scientific and Technical Policy” (Article 251 of the Tax Code as amended by Federal Law No. 249-FZ dated 20 July 2011) 3. in the form of special-purpose resources which are received by medical insurance organizations which are participants in compulsory medical insurance from a territorial compulsory medical insurance fund in accordance with an agreement on the financing of compulsory medical insurance; (Article 251 of the Tax Code as amended by Federal Law No. 313-FZ dated 29 November2010) 4. in the form of resources of owners of premises in apartment buildings which are received in accounts of partnerships of housing owners, housing and housing construction co-operatives and other specialized consumer co-operatives and management organizations which carry out the management of apartment buildings for the financing of repairs and capital repairs to common property within apartment buildings; (Article 251 of the Tax Code as amended by Federal Law No. 320-FZ dated 16 November 2011) 5. income of shipowners which is received from the operation and (or) sale of vessels which were built by Russian shipbuilding organizations after 1 January 2010 and have been registered in the Russian International Register of Ships. In this respect, for the purposes of this subsection the operation of such vessels shall be understood to mean

Issue	Description	Status in October 2011	Status in October 2012
		(municipal) functions (Article 251 of the Tax Code, Federal Law No. 83-FZ dated 8 May 2010)	the use thereof for the carriage of cargoes, passengers and luggage, for towing and to provide support for those services and activities, irrespective of the location of the departure point and (or) the destination point, and the leasing of such vessels for such use; (Article 251 of the Tax Code as amended by Federal Law No. 305-FZ dated 7 November 2011)
	5. Addition to the list of special-purpose receipts for the maintenance of non-commercial organizations and the conduct by them of their statutory activities		As of May 2012, special-purpose receipts for the maintenance of non-commercial organizations and the conduct by them of their statutory activities shall include resources which have been received by an association of tour operators in the area of outbound tourism established in accordance with Federal Law No. 132-FZ dated 24 November 1996 “Concerning the Fundamental Principles of Tourism Activities in the Russian Federation” in the form of contributions transferred to the compensation fund of the association of tour operators in the area of outbound tourism which is intended for the financing of expenses provided for in the above-mentioned Federal Law for the rendering of emergency assistance to tourists. (Article 251 of the Tax Code as amended by Federal Law No. 47-FZ dated 3 May 2012)
	6. Restoration of the amount of tax at loss of status of Skolkovo "Innovation Centre" project participant		The amount of tax for the tax period in which the loss of project participant status occurred or the aggregate amount of profit earned by the project participant exceeded 300 million rubles must be restored and paid to the budget in accordance with the established procedure and appropriate amounts of penalties must be recovered from the project participant. (Article 246.1 as amended by Federal Law No. 339-FZ dated 28 November 2011)
	7. Expanded interpretation and amended procedure of recognition of research and (or) development expenses	Research and (or) development expenses of a taxpayer associated with the creation of new or improvement of existing products (goods, work and services), i.e. expenses for invention carried out independently or together with other	As of January 2012, research and (or) development expenses incurred by a taxpayer shall be recognized for taxation purposes irrespective of the result of the research and (or) development in the manner provided for in this Article after the research or development has been completed (or individual phases of work have been

Issue	Description	Status in October 2011	Status in October 2012
	for the tax purposes	organizations (in the amount corresponding to the its share of expenses), as well as those carried on the basis of contracts where the taxpayer acts as a customer for research and (or) development, shall be recognized for the taxation purposes upon completion of those research or development (completion of individual phase of work) and the parties have signed a delivery and acceptance certificate as stipulated hereby. (as amended by Federal Law No. 57-FZ dated 29 May 2002) Taxpayer shall record these expenses as miscellaneous expenses on a straight-line basis during one year, provided that those research and development will be used in production and (or) sale of goods (works, services) starting from the 1st day of the month following the month when such research was completed (individual phase of work).	completed) and (or) the parties have signed a delivery and acceptance certificate. A taxpayer shall recognize expenses for research and (or) development launched before 1 January 2012 , including those with negative result, as miscellaneous expenses for the accounting (tax) period in which the research and (or) development was completed in the amount of actual expenditures with a coefficient of 1.5 applied, which was effective in 2011. Where, as a result of expenses incurred for research and (or) development, a taxpayer obtains exclusive rights in results of intellectual activity, those rights shall be recognized as intangible assets, and taxpayer has a right to choose procedure for writing off the expenses for such research and (or) development. (Article 262 as amended by Federal Law No. 132-FZ dated 7 June 2011)
	8. Addition to the list of miscellaneous expenses associated with production and (or) sales		As of January 2012, miscellaneous expenses associated with production and sales shall include the following expenses of a taxpayer: 1. standardization expenses. Article 264 of the Tax Code, as amended by Federal Law No, 330-FZ dated 21 November 2011. 2. expenses associated with the implementation of production technologies and methods of organizing production and management. Article 264 of the Tax Code, as amended by Federal Law No. 132-FZ dated 7 June 2011. 3. expenses for the formation of reserves for future research and (or) development expenses. Article 264 of the Tax Code, as amended by Federal Law No. 132-FZ dated 7 June 2011. 4. expenses incurred by taxpayers in connection with the rendering without consideration of services involving the production and (or)

Issue	Description	Status in October 2011	Status in October 2012
			distribution of social advertising . Article 264 of the Tax Code, as amended by Federal Law No. 235-FZ dated 18 July 2011
	9. Determination of the tax base for income received by participants of a consolidated taxpayer group		As of January 2012, the tax base for income received by all participating organizations of a taxpayer consolidated group (hereafter in this Chapter referred to as "consolidated tax base") shall be determined on the basis of the sum of all income and the sum of all expenses of the participants of the taxpayer consolidated group which are recognized for taxation purposes, with account taken of the special considerations established by this Article. In this respect, income of participants of a taxpayer consolidated group which is taxable at source shall not be included in the consolidated tax base. Article 278.1, Federal Law No. 321-FZ dated 16 November 2011.
	10. Tax rate	As of 1 January 2011 the tax rate of 0 percent is applicable to: 1. Revenues of organizations conducting educational and medical care activities (Article 284.1 of the Tax Code) 2. Revenues from transactions on the realization or other alienation of shares (participatory interest in the charter capital) of Russian organizations. Specifics of such realization or alienation are stipulated in Article 284.2 of the Tax Code which establishes the condition that on the date of realization (redemption) of the foregoing shares (participatory interest) should be owned by a taxpayer continuously on the basis of property right or another right in rem for more than 5 years; 3. Organizations that had applied the rate of 0 percent and then moved to the application of the main tax rate of 20 percent including through the noncompliance with conditions shall not be	As of 1 January 2012, the tax rate shall be established at 0 per cent for organizations which are residents of a technology development special economic zone (from 1 January through 1 January 2018) and organizations which are residents of a tourism and recreation special economic zone (from 1 January through 1 January 2023), which have been combined into a cluster by a decision of the Government of the Russian Federation (Article 284 of the Tax Code).

Issue	Description	Status in October 2011	Status in October 2012
		entailed to re-adopt the 0 percent rate for the next five years after the tax period during which they moved to the 20 percent rate; 4. With respect to the application of 0 percent rate to dividends, the requirement on the minimal value (RUR 500 million) of the acquisition of or receipt of a contribution to the charter (share) capital (fund) of an organization distributing dividends or depository receipts giving the right to dividends has been canceled. 5. As of 1 January 2011, 0 percent tax rate is applicable to a foreign organization if the country of the permanent location of such foreign organization distributing dividends is not included to the list adopted by the Ministry of Finance of the Russian Federation which stipulates the countries and territories with a low tax burden and/or the countries which do not require the disclosure or provision of information for the performance of financial transactions (offshore zones).	
	11. Procedures for calculation and contribution	As of 1 January 2011, an increase of restriction ceiling became effective, which gave the right not to make monthly advance payments (Clause 3 of Article 286 of the Tax Code) to organizations, whose average quarterly sale revenues did not exceed RUR 10 million, and entitled them to transfer to the budget only quarterly advances based on the results of a period under review. (Federal Law No. 229-FZ dated 27 July 2010).	As of 1 January 2012, the responsible participant of a consolidated taxpayer group shall be obliged to submit tax declarations for tax on profit of organizations for the consolidated taxpayer group to the tax authority with which the agreement on the created of that group is registered in accordance with the procedure and within the time limits which are established by this Article for a tax declaration. (Federal Law No. 321-FZ dated 16 November 2011). Every participant of the investment partnership shall independently fulfill obligations relating to the payment of tax on profit of organizations which arises in connection with the its participation in an investment partnership (Federal Law No. 336-FZ dated 28 November 2011)

Issue	Description	Status in October 2011	Status in October 2012
	12. Procedures for the calculation of amortization	As of 1 January 2011, the threshold of the initial value of amortized property and fixed assets is set to exceed RUR 40,000. Taxpayers are entitled to determine the useful life of certain intangible assets independently. The useful life of such intangible assets may not be less than two years (except the right to a trade mark, service mark, the place of origin of goods and the brand names of already accounted intangible assets that are amortized based on the useful life periods established before 2011 (Article 257 of the Tax Code, Federal Laws No. 229-FZ dated 27 July 2010, and No. 395-FZ dated 28 December 2010).	As of January 2012, where an organization incurs research and (or) development expenses, items of amortizable assets which are used in performing research and (or) development shall form a subgroup within an amortization group, and separate records shall be maintained of such amortization groups and subgroups. (Article 258 as amended by Federal Law No. 132-FZ dated 7 June 2011)
	13. Expenses on licenses for the use of subsoil reserves	As of 1 January 2011, the term for the writing-off of expenses incurred during the acquisition of licenses has been reduced from 5 years to 2 years if the taxpayer does not conclude a licensing agreement based on tender results. (The amendment affects only the expenses incurred after 1 January 2011) (Article 325 of the Tax Code, Federal Law No. 229-FZ dated 27 July 2010).	
	14. Expenses on the development of natural resources	As of 1 January 2011, the write-off period for expenses on the development of natural resources was reduced to 2 years. (The amendment impacts the expenses incurred after 1 January 2011). Expenses on the development of natural resources which is recognized as without result shall be written off in accordance with the general rule from the first day of the month following its completion. They shall be recognized for taxation purposes without	

Issue	Description	Status in October 2011	Status in October 2012
		limitation. (Article 261 of the Tax Code, Federal Law No. 229-FZ dated 27 July 2010).	
	15. Interest on debt obligations	From 1 January 2011 through 31 December 2012 [the maximal interest] equals to the CBR refinance rate multiplied by 1.8 times (for the debt obligations in rubles) or the product of the CBR refinance rate and the ratio of 0.8 (for the obligations in foreign exchange). (Federal Law No. 229-FZ dated 27 July 2010).	
	16. Expenses related to the use of ancillary production and business units	As of 1 January 2011, organizations with the number of employees equal to or above 25 percent of the total number of working population of a town, which have within their organizational structure units for the maintenance of houses, social and cultural facilities, shall be entitled to deduct the actually incurred expenses on maintenance of the aforementioned houses and facilities. (Article 275.1 of the Tax Code, Federal Law No. 229-FZ of 27 July 2010).	
	17. Procedures for the performance of tax agent's functions	As of 1 January 2011, the tax agent is entitled to transfer the withheld tax no later than on the day following the disbursement (bank transfer) of funds to a foreign organization. The same rule is effective for dividends and interest on government and municipal bonds. (Article 287 of the Tax Code, Federal Law No. 229-FZ dated 27 July 2010).	As of 1 January 2012, types of income exempt from calculation and payment of tax on income received by a foreign organization which is withheld by the tax agent were expanded to include: 1. payment of interest income; a) on State securities of the Russian Federation, State securities of constituent entities of the Russian Federation and municipal securities; b) which is paid by Russian organizations on circulated bonds issued by those organizations in accordance with the legislation of foreign states; 2. in cases where Russian organizations pay interest income on debt

Issue	Description	Status in October 2011	Status in October 2012
			obligations to foreign organizations and the following conditions are simultaneously met: a) the debt obligations of the Russian organizations in respect of which the interest income is paid arose in connection with the placement of circulated bonds by the foreign organizations; b) the foreign organizations to which the interest income on debt obligations is paid are as at the date on which the interest income is paid residents of states with which the Russian Federation has agreements (treaties) regulating the double taxation of income of organizations and individuals and have presented to the Russian organization paying the interest income a confirmation. Article 310 of the Tax Code, as amended by Federal Law No. 97-FZ dated 29 June 2012.
4. Excise duties	I. Excisable goods	On 1 January 2011 the list of excisable goods was expanded to include: • Cognac spirit • Beer and beverages made with beer that have an ethyl alcohol content of over 1.5% – excisable alcohol products Motorcycles with an engine power of over 112.5 kilowatts (150 horsepower) • Wine materials are not treated as excisable goods (Article 181 of the Tax Code of the Russian Federation, Federal Law No. 306-FZ of 27 November 2010)	From 1 July 2012 the following goods are excisable: ethyl alcohol produced from food and non-food raw materials, including denatured ethyl alcohol, crude alcohol, and wine, grape, fruit, cognac, calvados and whiskey distillates (hereinafter referred to as ethyl alcohol) Federal Law 338-FZ dated 28 November 2011 From 1 July 2012 • potable spirit will be removed from excisable alcohol products, and fruit wine and sparkling wine (champagne) will be added to wines, • the ethyl alcohol level at which beverages are classified as excisable alcohol products will be reduced to 0.5% (Article 181 of the Tax Code of the Russian Federation, Federal Law No. 218-FZ of 18 July 2011)
	2. New increases in excise rates	Federal Law No. 306-FZ of 27 November 2010 increased excise rates (Article 193 of the Tax Code of the Russian Federation)	Federal Law No. 338-FZ of 28 November 2011 increased excise rates (Article 193 of the Tax Code of the Russian Federation)

Issue	Description	Status in October 2011	Status in October 2012
	3. Subject of taxation	From 1 August 2011, operations involving the transfer of the following by one company division that is not an independent taxpayer to another division of the same company: • manufactured ethyl alcohol • and/or cognac spirit for the subsequent production of alcoholic and/or excisable alcohol-containing products, including • operations involving the transfer of manufactured crude ethyl alcohol for the production of rectified ethyl alcohol to be used by the same company in manufacturing alcoholic and/or excisable alcohol-containing products are taxable. At the same time, operations involving the transfer of similar goods within an organization are nontaxable (tax-exempt) (Article 182 of the Tax Code of the Russian Federation, Federal Law No. 306-FZ of 27 November 2010).	
	4. Customs Union	A tax procedure and the specifics involved in charging excise duties are established for imports and exports of excisable goods in the Customs Union (Articles 185-186.1 of the Tax Code of the Russian Federation, Federal Law No. 306-FZ of 27 November 2010)	
	5. Payment procedure for excise duties	From 1 July 2011, producers of alcohol products or excisable alcohol-containing products must prepay excise duties to the budget. The amount of excise duty to be prepaid is determined based on the total amount of ethyl alcohol to be purchased (transferred within an organization for subsequent production of	From 1 July 2012, taxpayers exporting produced alcoholic and/or excisable alcohol-containing products placed under the export customs procedure, which pursuant to Article 194.8 of the Tax Code are subject to prepayment of excise duties on alcoholic and/or excisable alcohol-containing products, are entitled to present a bank guarantee to the tax authority in order to be exempt from payment of excise duties on the subject goods exported from Russia under the

Issue	Description	Status in October 2011	Status in October 2012
		alcoholic and/or excisable alcohol-containing products), including crude ethyl alcohol and/or cognac spirit (in liters of anhydrous alcohol) and the appropriate excise rate for alcoholic and/or alcohol-containing products as a whole for the tax period. Articles 194 and 204 of the Tax Code of the Russian Federation establish the procedure and time limits for prepayments on operations with excisable goods. Companies that manufacture alcohol-containing perfumes and cosmetics in metal aerosol cans and/or alcohol-containing household chemicals in metal aerosol cans are exempted from prepayment of excise duties (Articles 182 and 194 of the Tax Code of the Russian Federation). Producers are not required to make a prepayment if they provide the inspectorate with a bank guarantee and notification of exemption from prepayment (Article 204.11 of the Tax Code of the Russian Federation, Federal Law No. 306-FZ of 27 November 2010).	export customs procedure as well as from prepayment of excise duties on alcoholic and/or excisable alcohol-containing products. Federal Law No. 338-FZ dated 28 November 2011 Pursuant to Article 204.11 of the Tax Code of the Russian Federation, producers of alcoholic and excisable alcohol-containing products are exempted from prepayment of excise duties if they provide the tax authority where they are registered with a bank guarantee and notification of exemption from such payment. From 1 July 2012, this Article provides that for this purpose the taxpayer may provide several bank guarantees: • for ethyl alcohol purchases from several suppliers in one tax period • for the number of ethyl alcohol shipments purchased from one supplier in one tax period.
	6. Tax deduction	Effective 1 July 2011, prepayments are not included in the cost of alcoholic and/or excisable alcohol-containing products and are deductible (Article 199 of the Tax Code of the Russian Federation, Federal Law No. 306-FZ of 27 November 2010). The specifics involved in the tax deduction and offsetting of prepayments are established in Articles 200, 201 and 203 of the Tax Code of the Russian Federation.	From 1 July 2012, excise duty paid in the Russian Federation on ethyl alcohol produced from food raw material and used to produce wine materials that are subsequently used in the production of alcoholic products are nondeductible (Article 200 of the Tax Code of the Russian Federation, Federal Law No. 218-FZ of 18 July 2011).
5. Personal income tax	1. Social tax deductions	Federal Law No. 235-FZ of 18 July 2011 lists contributions that a taxpayer may treat as social tax deductions from 1 January 2012 (Article 219 of the Tax Code of the Russian Federation).	An individual is entitled to a social tax deduction as a result of contributions to charity funds and other socially-oriented non-profit organizations (Article 219.1.1 of the Tax Code of the Russian Federation).

Issue	Description	Status in October 2011	Status in October 2012
	2. Property-related tax deductions	Effective 1 January 2011, if a taxpayer applies to a tax agent for a property-related tax deduction of expenses actually incurred by the taxpayer (Article 220.1.2 of the Tax Code of the Russian Federation), and the tax agent then wrongfully 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 (Article 220 of the Tax Code of the Russian Federation, Federal Law No. 229-FZ of 27 July 2010).	Pensioners may carry back tax deductions related to purchase of housing for a maximum of three preceding tax periods (paragraph 3 of Article 210.3, paragraph 29 of Article 220.1.2 of the Tax Code of the Russian Federation)
	3. Professional tax deductions	Insurance contributions for compulsory pension insurance and compulsory medical insurance that are accrued or paid by a taxpayer for the relevant period (from 1 January 2010); taxpayers receiving royalties or fees for the creation, performance or other use of works of science, literature and art; fees paid to the authors of discoveries, inventions and industrial prototypes may also be treated as professional tax deductions (Article 221 of the Tax Code of the Russian Federation, Federal law No. 395-FZ of 28 December 2010.)	
	4. Transactions with securities and term transaction financial instruments	Under amendments made to Article 212 of the Russian Tax Code by Federal Law No. 395-FZ of 28 December 2010, the market value of marketable and non-marketable securities is to be determined on the date of the transaction. This applies to legal relations arising from 1 January 2010. Securities and term transaction financial instruments are classified as marketable and non-marketable securities as of the date of sale	Amendments were introduced to Article 214.3. The procedure for determining the tax base for repo transactions involving securities. It was clarified that the provisions of this article apply to repo transactions that were performed on the taxpayer's behalf by brokers, authorized representatives, agents, trustees (including trade organizers on the securities market and on stock exchanges) based on respective civil law contracts. (Federal Law No. 330-FZ dated 28 November 2011).

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		of the security or term transaction financial instrument, including the receipt of variation margins and premiums under contracts. Federal Law No. 395-FZ also amends Article 214.1 of the Tax Code, which regulates how the tax base is determined and how tax on income from transactions with securities and term transaction financial instruments is calculated and paid. Among other things, this article envisages the determination of the tax base for transactions with securities and term transaction financial instruments, repo transactions with securities and transactions with security-based loans at the end of the tax period as well as the procedure for calculating the tax base in Article 214.1-214.3 of the Tax Code of the Russian Federation, as amended by Federal Law No. 395-FZ of 28 December 2010.	When determining the financial result on transactions with securities received by an individual contributor in the event that special-purpose capital of an NPO is paid back, a donation is canceled or securities contributed to the capital of the NPO are otherwise returned, the individual contributor may expense only those costs on transactions with securities which were incurred prior to the said contribution (Article 214.1.13 of the Tax Code of the Russian Federation)
	5. Non-taxable (tax exempt) income	Federal Law No. 235-FZ of 18 July 2011, Federal Law No. 395-FZ of 28 December 2010 and Federal Law No. 207-FZ of 27 July 2010 expand the list of nontaxable (tax-exempt) income for relations arising from 1 January 2011 (Article 217 of the Tax Code of the Russian Federation).	Federal Law No. 330-FZ of 21 November 2011, Federal Law No. 338-FZ of 28 November 2011, Federal Law No. 328-FZ of 21 November 2011 and Federal Law No. 359-FZ of 30 November 2011 expand the list of non-taxable income.
	6. Financial support in the form of subsidies	From 1 January 2011, financial support in the form of subsidies received under the Federal Law “On the Development of Small and Medium-Sized Business in the Russian Federation” is to be treated as income within two tax periods after the date of receipt in proportion to expenses actually incurred using this source. If, at the end of the second tax period, such financial support exceeds the amount of	

Issue	Description	Status in October 2011	Status in October 2012
		recognized expenses actually incurred using this source, the full difference between these amounts is to be treated as income of that tax period. If such financial support is used to acquire amortizable assets, it should be treated as income as and when expenses are recognized for the acquisition of such amortizable assets (Article 223 of the Tax Code of the Russian Federation, Federal Law No. 23-FZ of 7 March 2011).	
	7. Article 214.5 was introduced. Specifics of determining the tax base on income received by partners of an investment partnership		The article determines the taxpayers and the tax base on income received by partners of an investment partnership. The article provides the specifics of determining the tax base in those cases when a taxpayer participates in several investment partnerships and sets forth the accounting treatment of losses incurred by the investment partnership.
	8. Tax agent	From 1 January 2011, tax agents must keep records in their tax ledgers of income they provide to individuals in the tax period, tax deductions provided to individuals, and taxes calculated and withheld. Tax agents submit this information electronically via channels of telecommunication or on electronic storage media (for more than 10 individuals) (Article 230 of the Tax Code of the Russian Federation, Federal law No. 229-FZ of 27 July 2010). This Federal Law also establishes a procedure for collecting tax and refunding it to the taxpayer (Article 231 of the Tax Code of the Russian Federation): From 1 January 2011, a tax agent is to refund excess personal income tax withheld to the taxpayer out of personal income tax payable for	A depositary performing payment (transfer) of income derived from issue securities for which centralized custody is mandatory is not considered to be tax agent when transferring amounts to taxpayers in repayment of the nominal value of the securities. In that case taxes are to be paid pursuant to Article 228 of the Tax Code. (Federal Law No. 122-FZ of 3 June 2011). The depositary is considered to be tax agent for personal income tax (Article 214.1.18 of the Tax Code of the Russian Federation) when paying interest income to individuals on federal government issue securities for which centralized custody is mandatory and on other issue securities with mandatory centralized custody when such issue underwent state registration after 1 January 2012.

Issue	Description	Status in October 2011	Status in October 2012
		future periods within three months after receiving an application from the taxpayer. If funds are insufficient, a tax agent may obtain a refund of tax from the budget by applying to the tax authorities in accordance with the established procedure. If a tax agent fails to meet the deadline for refunding personal income tax to a taxpayer, interest is accrued in the amount of the refinancing rate for each calendar day of delay. A refund of personal income tax in connection with a recalculation done at the end of the tax period because the taxpayer has become a Russian tax resident is to be refunded to the taxpayer by the tax authority at the taxpayer's place of residence (stay) when the tax declaration and supporting documents are submitted.	
6. Corporate assets tax	1. Tax base. Tax benefits.	From 1 January 2011 to 1 January 2025 (for completed capital investments included in the balance sheet value of the relevant facilities from 1 January 2010), completed capital investments for the following may be deducted: construction, reconstruction and modernization of navigation hydraulic structures on Russia's inland waterways, port hydraulic structures and air transport infrastructure (with the exception of centralized aircraft fueling systems and space launch complexes) that are being commissioned, reconstructed or modernized and are included in the balance sheet value of these facilities (Article 376 of the Tax Code of the Russian Federation). Assets making up a mutual fund are taxable to the management company (Article 378 of the Tax Code of the Russian Federation, Federal	The period for providing tax benefits on assets recorded on the balance sheet of an entity which is a tax resident of a special economic zone has been extended from five to ten years. Highly energy efficient facilities (or those with a high class of energy efficiency) commissioned after 1 January 2012 shall be exempt from assets tax during three years from their date of registration (Article 381.21 of the Tax Code of the Russian Federation). Shipbuilding entities which are residents of industrial special economic zones shall be exempt from assets tax on assets used for building and repairing vessels (Article 381.22 of the Tax Code of the Russian Federation). Entities classified as management companies of SEZ shall be exempt from assets tax if property, plant and equipment recorded on their balance sheets is represented by real estate property constructed for the purpose of implementing agreements on establishing the SEZ. The tax benefit shall be applicable for ten years starting from the month following the month when the real estate property was

Issue	Description	Status in October 2011	Status in October 2012
		Law No. 308-FZ of 27 November 2010).	recorded on the balance sheet (Article 381.23 of the Tax Code of the Russian Federation).
	2. Assets transferred to the investment partnership for its business purposes		The entity being the managing partner calculates and fully pays assets tax on assets transferred to the investment partnership for its business purposes. The tax base shall be determined based on the residual value of such assets. The residual value is to be communicated by an authorized managing partner (Article 377.1and 377.2 of the Tax Code of the Russian Federation)
9. 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 insurance funds	1. Insurance contribution rates		From 1 January 2012, no contributions are made to the regional compulsory medical insurance funds. Compulsory medical insurance contributions at the rate of 5.1% are to be made to Federal Compulsory Medical Insurance Fund of the Russian Federation. The total insurance contribution rate for the majority of payers (with the exception of those who are entitled to reduced tariffs)is thirty per cent. For certain categories of payers the reduced contribution rate was lowered: it constitutes 20% (parts 1, 3 and 4 of Article 58.8 of Federal Law No. 212-FZ of 24 July 2009) The rate for insurance contributions on job-related payments and other compensation to crew members of vessels registered in the Russian International Shipping Register is 0 per cent (parts 1 and 3.3 of Article 58.9 of Federal Law No. 212-FZ of 24 July 2009).
	2. Assessment base for insurance contributions	Effective 1 January 2011, the tax base used to calculate insurance contributions is limited to a maximum 463,000 rubles per individual as a cumulative total from the beginning of the calculation period. Provisions on rounding off have also entered into force. The base is indexed on an annual basis to account for growth in the Russian average wage. The indexed amount is rounded off to the nearest thousand, with an amount of 500 rubles or more being rounded up and an amount of less than 500 rubles being rounded down.	From 1 January 2011, the general rate is applied to payments not exceeding the maximum assessment base for insurance contributions (Article 58.1, part 1 of Federal Law No. 212-FZ of 24 July 2009). In 2012 the maximum assessment base per individual employee amounts to 512,000 rubles. Payments to employees in excess of the maximum assessment base for insurance contributions are taxed at a rate of 10% (Article 8, part 4 and Article 58.2, part 1 of the Federal Law No. 212-FZ of 24 July 2009).

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		For small businesses, an aggregate rate of 26% is set within the insured annual salary in 2011 and 2012 (Article 8 of Federal Law No. 212-FZ of 24 July 2009, as amended by Federal Law No. 272-FZ of 16 October 2010).	
	3. Amounts not subject to insurance contributions	Effective 1 January 2011, the list of exempt payments includes an employer's contributions under legislation on additional social benefits for certain categories of employees. Compensation payments for unused vacations unrelated to the employee's dismissal or resignation (Article 9 of Federal Law No. 212-FZ of 24 July 2009, in the version of 18 July 2011).	
	4. Social insurance	Effective 1 January 2011, employers will pay temporary disability benefits for the first three days of an employee's illness out of their own funds. Temporary disability benefits and maternity and childcare benefits are calculated based on an individual's average wage for two calendar years preceding the year to which such benefits apply.	
	5. Submission of electronic documents	From 1 January 2011, the following may be submitted in electronic form: • the reporting of companies with an average staff of up to fifty employees; • a calculation of accrued and paid insurance contributions that is submitted to regulatory bodies when a company goes out of	

Issue	Description	Status in October 2011	Status in October 2012
		business; • an appeal against an act of the body that oversees payment of insurance contributions or an action (inaction) of an official of that body as well as supporting documents and a request to withdraw an appeal. The decision taken on such an appeal must also be in the form of an electronic document. In this connection, the body that oversees payment of insurance contributions must send confirmation via public telecommunication networks.	
	6. Reporting	The deadline for submitting reports to the Social Insurance Fund has been extended to the fifteenth of the month following the reporting period. The deadline for submitting reports on contributions + personal reporting to the Pension Fund has been changed to the fifteenth of the second month following the reporting period; the reports are to be submitted together (Article 9 of Federal Law No. 212-FZ of 24 July 2009, as amended by Federal Laws No. 339-FZ of 8 December 2010 and No. 313-FZ of 29 November 10).	Insurance contributors that do not perform payments to individuals do not have to report their accrued and paid contributions to the Pension Fund of the Russian Federation. Only heads of peasant households and farms are still obliged to submit reports under Form RSV-2 by 1 March of the year following the reporting year (Article 16.5 of the Federal Law No. 212-FZ of 24 July 2009)
	7. Authority of regulatory bodies to oversee payment of insurance contributions	From 1 January 2011, bodies that oversee the payment of insurance contributions may summon payers to give explanations only if information provided is incomplete or inconsistent.	The format, procedure and terms of sending an insurance contributor a resolution on recovery of arrears in electronic form via telecommunication channels shall be established by bodies responsible for monitoring the payment of insurance contributions. (Federal Law No. 379-FZ dated 3 December 2011).

Issue	Description	Status in October 2011	Status in October 2012
	8. Liability for breach of law		From 1 January 2012, the fine for a payer's failure to provide the documents needed to monitor the payment of insurance contributions has been increased from 50 to 200 rubles (Article 48 of Federal Law No. 212-FZ of 24 July 2009). The fine is imposed for every lacking document. From 1 January 2012, payers shall be held liable for breaking the deadlines established by law to present information about opening or closing bank accounts. In such cases a fine of 5000 rubles shall be imposed. (Article 46.1 of Federal Law No. 212-FZ of 24 July 2009). It should be noted that prior to the above date both the insurance contributors (Article 28.3.1 of Federal Law No. 212-FZ of 24 July 2009) and the banks (Article 24.1 of Federal Law No. 212-FZ of 24 July 2009) were obliged to provide such data. However, only banks were held liable for failure to present the requested information. The liability was in the form of a fine amounting to 40,000 rubles. (Article 49 of Federal Law No. 212-FZ of 24 July 2009).
Special tax regimes: **Unified tax on imputed income**	1. Applicability	From 1 January 2011, pharmacy institutions may not pay unified tax on imputed income if: 1) their average headcount in the preceding calendar year exceeded 100 employees; or 2) other legal entities own over 25% of their charter capital (Article 346.26 of the Tax Code of the Russian Federation).	Due to the expansion of Moscow, unified tax on imputed income may be introduced for certain municipalities included in the intra-urban territory of Moscow (city of federal significance) as a result of a change in boundaries for a period of two years from the date of such change. Federal Law No. 96-FZ dated 29 June 2012
Unified agricultural tax	1. Loss of the right to apply unified agricultural tax	From 1 January 2011, a procedure was established involving penalties for taxpayers that lose the right to apply unified agricultural tax (346.3 of the Tax Code of the Russian Federation, Federal Law No. 115-FZ of 2 June 2010).	From 1 January 2013, the application procedure for switching to the unified agricultural tax shall be replaced by a notification procedure. (Federal Law No. 94-FZ dated 25 June 2012).
Simplified taxation system	1. Applicability. Notification procedure.	From 1 January 2011, state and budget-funded institutions may not use the simplified taxation	From 1 October 2012, the application procedure for switching to the simplified taxation system has been replaced by a notification

Issue	Description	Status in October 2011	Status in October 2012
		system (Article 346.12 of the Tax Code of the Russian Federation, Federal Law No. 83-FZ of 8 May 2010).	procedure. (Federal Law No. 94-FZ dated 25 June 2012).
License-based taxation system	1. Chapter 26.5 was introduced.		Starting from 2013, a license-based taxation system will replace the simplified taxation system for private entrepreneurs on the basis of a license that is currently applied in accordance with Article 346.25.1 of the Tax Code, Chapter 26.2 "Simplified Taxation System". From 1 January 2013, the above article of the Tax Code shall become ineffective. Pursuant to the Tax Code, the license-based taxation system shall be introduced by laws of constituent entities of the Russian Federation and shall be applicable in those particular constituent entities of the Russian Federation. According to Article 8.1 of Federal Law No 94-FZ, laws of constituent entities of the Russian Federation concerning the introduction of the license-based taxation system in a particular constituent entity of the Russian Federation from 1 January 2013 must be published not later than 1 December 2012. The license-based taxation system shall be applied by private entrepreneurs, and transfer to it shall be made on a voluntary basis. The license-based taxation system may be applied in addition to other taxation regimes. This means that if for certain types of business activities a private entrepreneur applies either the general taxation system or a simplified taxation regime, or the taxation regime for agricultural producers (unified agricultural tax), or unified tax on imputed income, for other activities the same entrepreneur is entitled to apply the license-based taxation system if such activities were transferred to the license-based taxation system by respective laws of the constituent entity of the Russian Federation. Under the new license based taxation system, the average number of employees (including under civil law contracts) which a private entrepreneur is entitled to employ during a tax period shall increase to 15 people as compared to 5 under the current simplified taxation system on the basis of a license. This limit shall be applicable to all

Issue	Description	Status in October 2011	Status in October 2012
			business activities of the private entrepreneur. Constituent entities of the Russian Federation shall on a mandatory basis introduce a license-based taxation system for 47 types of business activities stipulated in Article 346.43.2 of the Tax Code of the Russian Federation. This is less than currently provided for by the effective simplified taxation system on the basis of a license (69 types of activities). The reduction resulted from a consolidation of certain business activities; besides, the denomination of certain activities was aligned with the Russian National Classifier of Services to the Public. Certain new types of business activities have been included in the mandatory list: tour guide services; rental services; dry cleaning, dyeing and laundry services; passenger carriage by water transport; cargo carriage by water transport; retail trade using fixed-site outlets with a sales area of each outlet not exceeding 50 sq. m; retail trade using fixed-site outlets without sales areas and trade chains without fixed sites. "Public catering services" have been replaced by "Public catering services rendered through public catering outlets with a patron service area exceeding 50 square meters for each public catering outlet. Motor transport services have been split into two types of activity: goods carriage by motor transport and passenger carriage by motor transport. Constituent entities of the Russian Federation are entitled to expand the mandatory list of services stipulated by Article 346.43.2 of the Tax Code of the Russian Federation by additional types of business activities classified in the Russian National Classifier of Services to the Public as consumer services. The license-based taxation system may not be applied to business activities set forth in Article 346.43.2 of the Tax Code of the Russian Federation if they are performed under an ordinary partnership agreement (joint venture agreement) or fiduciary asset management agreement. The tax base shall be determined as the amount of annual income potentially receivable by a private entrepreneur for a type of business activity in relation to which the license-based taxation system is applied, as established for a calendar year by law of a constituent entity of the Russian Federation The minimum amount of annual

Issue	Description	Status in October 2011	Status in October 2012
			income potentially receivable by a private entrepreneur may not be less than 100,000 rubles, and the maximum amount may not exceed 1,000,000 rubles. The above minimum and maximum amounts of income are subject to adjustment by a deflator index established for the relevant calendar year which takes into account changes in consumer prices for goods (work and services) in the Russian Federation. Pursuant to Article 8.4 of Federal Law 94-FZ, for the purposes of Chapter 26.5 of the Tax Code of the Russian Federation the deflator index for 2013 is determined to be equal to 1. Constituent entities of the Russian Federation shall have the right to increase the maximum amount of annual income potentially receivable by a private entrepreneur: not more than threefold for such business activities as: technical maintenance and repair of motor vehicles, motorcycles, machinery and equipment; transportation services involving goods and passenger carriage by motor and water transport; medical activities or pharmaceutical activities carried out by a person who possesses a license for those types of activity; ceremonial and ritual services (subclauses 9, 10, 11, 32, 33, 38, 42 and 43 of Article 346.43.2 of the Tax Code of the Russian Federation); not more than fivefold with regard to all types of business activities falling under the license-based taxation system, which are carried out in cities with more than one million inhabitants; not more than tenfold for such business activities as: rental (lease) of residential and non-residential premises, country houses and land plots to which the private entrepreneur has title; retail trade and public catering (subclauses 19, 45 - 47 of Article 346.43.2 of the Tax Code of the Russian Federation). For the purpose of establishing the amounts of annual income potentially receivable by a private entrepreneur for types of business activities to which the license-based taxation system is applied, constituent entities of the Russian Federation shall have the right to differentiate types of business activity referred to in Article 346.43.2 of the Tax Code of the Russian Federation where such differentiation is provided for in the Russian National Classifier of Services to the Public or the Russian National Classifier of Types of Economic

Issue	Description	Status in October 2011	Status in October 2012
			Activity (OKVED) Constituent entities of the Russian Federation shall also have the right to determine the amount of annual income potentially receivable by a private entrepreneur depending on: the average employee headcount and the number of motor vehicles; the number of separate facilities (premises, land plots) with regard to business activities provided for in clauses 19, 45 - 47 of Article 346.43.2 of the Tax Code of the Russian Federation (rental (lease) of residential and non-residential premises, country houses and land plots to which the private entrepreneur has title; retail trade and public catering). Unlike the current simplified taxation system on the basis of a license (Article 346.25.1.7 of the Tax Code of the Russian Federation), the license-based taxation system shall not limit the amount of annual income potentially receivable by a private entrepreneur by the basic profitability under the unified tax on imputed income, if the type of activity is the same under both tax regimes. The amount of annual income potentially receivable by a private entrepreneur established for a calendar year by legislation of a constituent entity of the Russian Federation shall be applied in the following calendar year (years), if not amended by law of the constituent entity of the Russian Federation. Private entrepreneurs paying tax under the license-based taxation system shall be exempted from the obligation to pay: personal income tax (with respect to income received from business activities in relation to which the license-based taxation system is applied); tax on property of individuals (with respect to property which is used in business activities in relation to which the license-based taxation system is applied); value added tax, except for value added tax which is payable in accordance with the Tax Code in connection with business activities in relation to which the license-based taxation system is not applied, in connection with imports of goods to Russia and other territories under its jurisdiction and in connection with operations which are taxable in accordance with Article 174.1 of the Tax Code of the Russian Federation. Private entrepreneurs who apply the license-based taxation system shall pay other taxes and shall act

Issue	Description	Status in October 2011	Status in October 2012
			as tax agents. The document which certifies the right to apply the license-based taxation system shall be a license to carry out a business activity in relation to which the license-based taxation system has been introduced by a law of a constituent entity of the Russian Federation. A license shall be issued to a private entrepreneur by the tax authority where the private entrepreneur is registered as a taxpayer; it shall be valid within the constituent entity of the Russian Federation specified in the license. A private entrepreneur who has received a license in one constituent entity of the Russian Federation shall have the right to receive a license in another constituent entity of the Russian Federation. A private entrepreneur shall submit an application for a license to the tax authority at his place of residence not later than 10 days before the date on which the private entrepreneur is to begin applying the license-based taxation system. Where a private entrepreneur plans to carry out business activities on the basis of a license in a constituent entity of the Russian Federation in which he is not registered with the tax authority at his place of residence or as a taxpayer applying the license-based taxation system, such application shall be submitted to any regional tax authority of that constituent entity of the Russian Federation at the option of the private entrepreneur. The tax authority shall be obliged, within five days of receiving an application for a license, to issue a license to the private entrepreneur or to notify him of the refusal to issue a license. The basis for a refusal by a tax authority to issue a license to a private entrepreneur shall be: the indication in the application for a license of a type of activity which is not on the list of types of business activities in relation to which the license-based taxation system has been introduced by the constituent entity of the Russian Federation; the indication of a period of validity for the license that does not comply with its potential validity period; a violation of the condition for transferring to the license-based taxation system or at expiry of the license for business activities in relation to which the license-based taxation system was applied; the existence of arrears in respect of a tax which is payable in connection with the application of the license-

Issue	Description	Status in October 2011	Status in October 2012
			based taxation system. A license shall be issued for a period chosen by the taxpayer ranging from one to twelve months within a calendar year. A taxpayer shall be considered to have lost the right to apply the license-based taxation system and to have transferred to the general taxation regime from the beginning of the tax period for which he was issued a license in the event that: • the taxpayer's income from sales as determined from the beginning of the calendar year in accordance with Article 249 of the Tax Code of the Russian Federation from all types of business activities in relation to which the license-based taxation system is applied has exceeded 60 million rubles. Where a taxpayer simultaneously applies the license-based taxation system and the simplified taxation system, income under both of those special tax regimes shall be taken into account in determining income from sales for the purposes of compliance with the limitation; • the taxpayer was in breach of the limitation on the average number of employees during the tax period; • the taxpayer failed to timely pay tax payable under the simplified taxation system. The amount of personal income tax payable for a tax period in which a private entrepreneur lost the right to apply the license-based taxation system shall be reduced by the amount of tax paid in connection with the application of the license-based taxation system. A private entrepreneur shall be obliged to give notice to a tax authority of the loss of the right to apply the license-based taxation system or the cessation of business activities in relation to which the license-based taxation system is applied within 10 calendar days from the date of occurrence of the circumstance which is the basis for the loss of the right to apply the license-based taxation system. He shall have the right to transfer to the license-based taxation system again for the same type of business activity not earlier than the following calendar year. According to the current simplified taxation system on the basis of a license, a private entrepreneur may use such right upon expiry of

Issue	Description	Status in October 2011	Status in October 2012
			a 3-year period. The registration of a private entrepreneur as a taxpayer applying the license-based taxation system shall be carried out by the tax authority to which he submitted the application for a license on the basis of that application within five days from the day on which it was received. The date of registration of a private entrepreneur with a tax authority shall be the commencement date of the validity of the license. The deregistration with a tax authority of a private entrepreneur applying the license-based taxation system shall be carried out within five days from the expiry date of the license, or date of receipt by a tax authority of an application for deregistration due to loss of right to apply the license-based taxation system and transfer to the general taxation regime or due to cessation of business activities in relation to which the license-based taxation system is applied. The tax period shall be a calendar year. Where a license was issued for a period of less than a calendar year, the tax period shall be the period for which the license was issued. Where a private entrepreneur ceases business activities in relation to which the license-based taxation system was applied before expiry of the license, the tax period shall be the period from the commencement date of the validity of the license to the date of cessation of the activities in question as stated in the application to the tax authorities confirming loss of right to apply the license-based taxation system or cessation of business activities in relation to which the license-based taxation system is applied. The tax rate shall be established at 6 per cent of annual income potentially receivable by the private entrepreneur. Where a private entrepreneur receives a license for a period of less than a calendar year, tax shall be computed by means of dividing the amount of annual income potentially receivable by the private entrepreneur by twelve months and multiplying the result obtained by the number of months in the period for which the license was issued. A private entrepreneur who has transferred to the license-based taxation system shall pay tax at the location where he is registered with a tax authority:

Issue	Description	Status in October 2011	Status in October 2012
			• if the license was received for a period of up to six months – in an amount equal to the full amount of tax not later than twenty-five calendar days after the commencement date of the validity of the license; • if the license was received for a period of from six months to a calendar year: in an amount equal to 1/3 of the amount of tax not later than 25 calendar days after the commencement date of the validity of the license; in an amount equal to 2/3 of the amount of tax not later than 30 calendar days before the last day of the tax period. Please note that the tax may not be reduced by the amount of insurance contributions for compulsory pension insurance, compulsory social insurance for temporary disability and maternity, compulsory medical insurance, compulsory social insurance for work-related accidents and occupational illnesses as now provided for at payment of the outstanding portion of the license under the simplified taxation system on the basis of a license. No tax declaration shall be submitted to the tax authorities for tax payable in connection with the application of the license-based taxation system. However taxpayers, who apply the license-based taxation system, shall record of income for tax purposes in the income ledger which is maintained separately for each license received in order to ensure that the limitation on income from sales is observed. On 1 January 2013, Federal Law No. 402-FZ dated 6 December 2011 *On Accounting* will become effective. According to Article 2.1.4 thereof, provisions of this Federal Law shall apply to private entrepreneurs as well. However, pursuant to Article 6.2.1 thereof private entrepreneurs need not maintain accounting records where, in accordance with the tax and levy legislation of the Russian Federation, they maintain records of income and expenses and (or) other taxable items in accordance with the procedure established by that legislation. Taxpayers applying the license-based taxation systems must maintain tax records of their income, therefore they do not need to maintain accounting records. According to Article 8.2 of Federal Law No. 94-FZ, private entrepreneurs planning to apply the license-based taxation system

Issue	Description	Status in October 2011	Status in October 2012
			from 1 January 2013 must submit applications for a license not later than by 20 December 2012 in accordance with the procedure prescribed by Article 346.45 of the Tax Code of the Russian Federation. A tax authority may refuse to issue a license if according to the application the period of validity for the license is stated as either less than one month or more than twelve months, or the requested type of business activity is not mentioned in Article 346.45.2 of the Tax Code of the Russian Federation. From the date of official publication of Federal Law No. 94-FZ (27 June 2012), licenses such as are provided for in Article 346.25.1 of the Tax Code of the Russian Federation may be issued to private entrepreneurs for a period through 31 December 2012. Licenses issued before the date of official publication of Federal Law No. 94-FZ with a period of validity which expires after 1 January 2013 shall be valid through 31 December 2012. The cost of a license in this case shall be recalculated in accordance with the actual effective period of the license and credited (refunded) in accordance with the procedure prescribed by Article 78 of the Tax Code of the Russian Federation (Article 8.3 of Federal Law No. 94-FZ).
REFINANCING RATE		On 28 February 2011, the refinancing rate was set at 8%. On 3 May 2011, the refinancing rate was set at 8.25%.	On 26 December 2011, the refinancing rate was set at 8%. On 14 September 2012, the refinancing rate was set at 8.25%.

2. ISSUES AND RECOMMENDATIONS OF FIAC THINK TANKS AND INDUSTRIAL WORKING GROUPS

Foreign Investment Advisory Council

3.1. Improvement of Customs Law

Issue 1. Electronic declarations

Participants in foreign trade greatly appreciate the benefits of using electronic declarations. However, for these benefits to be fully enjoyed, a number of measures need to be taken, including amendments to the regulatory framework and technical improvements.

1. For instance, the transition to electronic declarations and electronic document flow is seriously hampered by the requirement to use hard-copy documents. These include documents to confirm compliance, whose use is governed by the Regulations on Importing Products (Goods) Subject to Mandatory Conformity Assessment into the Customs Territory of the Customs Union, as approved by Decision No. 319 of the Customs Union Commission. At the same time, the use of electronic databases for the purposes of exercising sanitary and epidemiological control, which is highly appreciated by participants in foreign trade, proves that these may also be used for other forms of control.
2. Currently, no adjustments can be made to the electronic data once the goods have been released (which may be needed for incomplete declarations or to correct an error in the customs declaration). As a result, the respective adjustments may only be filed in hard copy. This restricts the process of incomplete declaring via the Electronic Declaration Center.
3. While using electronic declarations, participants in foreign trade found that there are some inconsistencies between the format of electronic declarations generated by using the licensed software and that used by customs authorities. This gives rise to additional requests for information from customs authorities, followed by adjustments that should be made to the declaration by the declarer. As a result, the customs clearance process becomes more onerous and lengthy. When addressing this issue with the software vendor, it became clear that no changes to the software can be made, as it is developed in STRICT compliance with the Terms of Reference provided by the Federal Customs Service.

Recommendations

1. Ask the Federal Customs Service to propose that the EEC amend the Regulations on Importing Products (Goods) Subject to Mandatory Conformity Assessment into the Customs Territory of the Customs Union, as approved by Decision No. 319 of the Customs Union Commission.
    a. Clause 2.1 of the Regulations should be amended as follows:

    "When declaring products (goods) to the customs authorities, it is necessary to provide information on the availability of one of the documents confirming compliance with the established limits (hereinafter, the "compliance documents")."

    b. The following paragraph should be added to Clause 2 of the Regulations:

    "The following shall be regarded as confirmation of the availability of the compliance document:

    - *an original compliance document or its copy certified by the issuing agency or the recipient, or*
    - *an excerpt from the Unified Register of the issued certificates of compliance and the registered declarations of compliance based on a single format, or*
    - *an electronic version of the above documents certified by an electronic digital signature, or*
    - *information sourced from the electronic database of the Unified Register of the issued certificates of compliance and the registered declarations of compliance, generated on the basis of a single format on a specialized search server available on the Customs Union's website, or*

- *a reference to the number and date of issue/registration of the compliance document in the documents confirming the purchase (receipt) of goods, and (or) in other supporting documents, or*
- *a mark on the goods and (or) on their container with the number and date of issue/registration of the compliance document ."*

2. Utilize the potential of the existing software to allow adjustments to be made electronically.
3. Synchronize the terms of reference for software vendors to make sure that the electronic declaration software for declarers is consistent with the software used by customs authorities to check customs declarations.

Issue 2. Filing registration and statutory documents to a customs authority

Pursuant to Article 208.4 of Federal Law No. 311-FZ of 27 November 2010, a declarer shall file the documents confirming its legal capacity to complete customs operations specified in Article 208.5 of Federal Law No. 311-FZ. The documents shall be filed to a customs authority, which is authorized to accept declarations of goods, one time when first applied.

Therefore, despite the fact that the term "registration of participants in foreign trade with a customs authority" was deleted from the regulations, the principle of filing documents to a customs post (necessary to complete customs operations) is legislatively enshrined, and as a result of changes in customs clearance location, participants in foreign trade will need to prepare a new package of documents. The majority of documents are needed to be filed as notarized copies. This leads to work hours losses related to documents preparation and extra expenses of the companies.

Similar packages of documents are requested by a customs post and by all customs authorities for other purposes: refund of customs charges, obtaining of economic operator license or TSW owner certificate, etc.

It is obvious that the Federal Customs Service of Russia does not have a single bank of data of participants in foreign trade.

The list of documents to be filed is provided in Article 208.5 of Federal Law No. 311-FZ, however, customs authorities vary in its interpretation. The number and type of the documents requested depend on a customs post or a port/broker combination.

The list of documents, which are needed to commence customs clearance at a customs post, received from brokers often include documents that are not provided in Article 208.5 of Federal Law No. 311-FZ, for example: certificate of registration with the Ministry of Justice of the Russian Federation; company's balance sheet marked by the tax authority; copies of certificates of title or lease agreements of participants in foreign trade (documents confirming location of an entity at legal or actual address); copies of passports of an entity's director and chief accountant, founders' resolution on assigning a director, order on assigning a chief accountant, etc.)

The Federal Tax Service of Russia has already issued certain clarification letters regarding the documents filed, in particular, it has issued a letter notifying that no Rosstat's statements are required. However, this letter could resolve the issue concerning different interpretation of the list only in regard to Rosstat's statements.

Transfer to electronic declaration gave rise to a new issue: registration documents (charter, articles of association, founders' meeting minutes, founders' resolutions, etc.) and all other documents, orders and statements shall be filed both in hard copies and in text format (i.e. shall be formalized) (if no Word format for a document is available, this document shall be typed manually). At the same time, same formalized documents are downloaded for several times to the server of the Information Technology Chief Directorate of the Federal Customs Service of Russia, because these documents are filed to each customs post where goods (work, services) are declared.

Recommendations

1. FIAC members believe that the Federal Customs Service of Russia should develop a database of participants in foreign trade, so each customs post could use it. If a participant in

foreign trade is registered in this database, no additional registration at the customs post should be required.

2. All issues mentioned above could have been resolved by means of electronic data exchange between the Federal Customs Service and the Federal Tax Service of Russia similar to data exchange between the Federal Customs Service and other authorities. Tax authorities have all information about entities that is needed for customs purposes, because they keep all statutory and registration documents (certificates, charter, extract from the Uniform State Register of Legal Entities, etc.) that passed state registration. Only one document many be used, namely, an excerpt from the Uniform State Register of Legal Entities, which provides all basic information about an entity: legal organization form and name; location; founders and charter; establishment of a legal entity, branches, representative offices, etc. It also provides the information about the chronology of changes in registration documents.
3. Withdraw from filing formalized registration and statutory documents to a customs authority, which is authorized to accept declarations of goods.

Issue 3 Imports and exports of equipment for testing or for setting up production facilities in the Russian Federation

Complex procedures for receiving approvals and permits from the Federal Security Service for import and export of equipment with cryptographic modules have significant negative effect on the development of an innovation-based economy in Russia. In particular, the approval process for test engineering platforms import can take over two months, while the life cycle of these platforms can be only several weeks after they leave the factory, making it impossible to commit to timely testing or engineering work. This reduces Russia's appeal for international companies that carry out research and development activities in Russia and adversely affects the competitiveness of Russian companies. The lack of favorable regulatory climate may result in projects being moved to countries with more favorable regimes.

This problem is characteristic of all industries. It hinders the development of research centers in Russia for major international corporations and limits the abilities of Russian companies that develop software for export. As a result, Russia becomes less attractive as a location for high-tech research and development; diffusion and adaptation of the latest technologies declines; and ultimately so does the development of high-tech industry in Russia.

Even if equipment contains cryptographic modules subject to limitations, the Federal Security Service usually issues permits for the import of such equipment imposing restrictions on its use (for internal use only, to be destroyed after use). Taking into account the abovementioned facts and considering that such equipment is not transported for the purposes of being sold or released into free circulation in Russia, and it is rendered unusable during testing, the existing procedure for obtaining permission to import samples for testing seems to be redundant.

Recommendations

1. Introduce a notification-based (electronic) procedure for obtaining permission to import/export samples for testing.

2. Create a register of companies undertaking R&D in the high-tech sector in order to reduce their regulatory compliance burden associated with imports of such equipment and to ensure security of the country in relation to such export-import operations. An importer company's entry in the register may be supported by a bank guarantee (practice commonly used in Israel). Sample control after import is performed as follows: an importer company communicates to the Federal Security Service addresses of all offices where the samples are used; special records of samples are maintained; the Federal Security Service officers may perform audit procedures to ensure the availability of samples in the listed offices.

3. Establish a time limit of 2 weeks for answering to the applicant for registration of notifications with the Federal Security Service.

Issue 4. Key challenges in obtaining an AEO status

One FIAC member company had a problem involving the ambiguous legal status of entities that were reorganized by means of transformation less than twelve months before (or immediately after) applying to the Federal Customs Service of Russia for registration in the Register of Authorized Economic Operators;

the Federal Customs Service's current Administrative Regulations on the State Service of Maintaining the Register of Authorized Economic Operators (approved by Order No. 1877 of the Federal Customs Service of Russia on 14 September 2011) allow an ambiguous interpretation of provisions determining the duration of a legal entity's (applicant's) foreign trade activity.

A restrictive interpretation of the Administrative Regulations, in combination with the provisions of Russian laws and regulatory acts of the Customs Union, may result in violations of the rights of good-faith legal entities that have successfully engaged in foreign trade activities for many years, as such an interpretation unreasonably excludes the foreign trade activities of a legal entity before its reorganization by means of transformation when the duration of such activity is estimated. Note, however, that such restrictions are not expressly indicated in the current Russian laws or regulatory acts of the Customs Union.

Recommendations

Introduce the following amendments to the Administrative Regulations of the Federal Customs Service On Rendering the State Service of Maintaining the Register of Authorized Economic Operators (approved by the Order No. 1877 of the Federal Customs Service of Russia, dated 14 September 2011):

1. Paragraph 12.16 should be added to the Administrative Regulations as follows:

"If a legal entity is reorganized by means of transformation before a written application is submitted for inclusion in the Register or before the Federal Customs Service of Russia takes one of the decisions indicated in Clause 23 of the Administrative Regulations, copies of customs documents must be attached, confirming that such legal entity was engaged in foreign trade activity prior to its reorganization by means of transformation, in order to confirm foreign trade activity."

2. Add paragraph 14.1. to the Administrative Regulations as follows:

"14.1. In the event of changes in the data indicated in clause 11 of the Administrative Regulations, the Applicant and/or its legal successor may make the respective changes to the application for inclusion in the Register in writing and attach supporting documents. Changes may be made to the application for inclusion in the Register from the time of application to the Federal Customs Service of Russia for inclusion in the Register until the Federal Customs Service of Russia takes one of the decisions indicated in clause 23 of the Administrative Regulations.

Changes relating to a legal entity's reorganization other than by means of transformation may not be made to an application for inclusion in the Register."

3. The following wording should be added to clause 30.2 of the Administrative Regulations after "…the Federal Customs Service of Russia…": *"including periods of foreign trade activity before a legal entity's reorganization by means of transformation;".*

4. Add paragraph 30.17 to the Administrative Regulations:

"If a legal entity is reorganized by means of transformation before a written application is submitted for inclusion in the Register or before the Federal Customs Service of Russia takes one of the decisions indicated in Clause 23 of the Administrative Regulations, foreign trade activity carried out by such legal entity prior to its reorganization by means of transformation must be taken into account in estimating the duration of foreign trade activity."

Issue 5. Key challenges in obtaining the status of Authorized Economic Operator (AEO) – additionally

1. There is uncertainty concerning the legal entities which, for storage, use external warehouses under the responsible storage agreement. The current wordings of the Customs Code of the Customs Union and Federal Law No. 311-FZ do not directly ban or permit the use of those warehouses as the authorized economic operator's areas for the simplifications set forth in Article 41 of the Customs Code of the Customs Union and Article 86 of Federal Law No. 311-FZ.

Recommendations

Introduce the following addition to Article 88.4.4 of Federal Law No. 311-FZ:

"4) premises, open-air areas and other territories which are owned or are under business management or operative management, or are rented or used as warehouse (responsible) storage at the external warehouse and which are intended for the temporary storage of foreign goods by the authorized economic

operator and which meet the requirements of Article 89 of that federal law - upon the authorized economic operator's application of the customs operation of temporary storage in accordance with Article 86.1.1 of the above-mentioned federal law.

2. Pursuant to Article 197.1.2 of the Customs Code of the Customs Union, when goods are released before the customs declaration is submitted, the declarer must present a "written commitment to submit a customs declaration and provide the necessary documents and data not later than the tenth of the month following the month of release of goods, wherein there is information on the purpose of the goods and on the customs procedure under which the goods are placed". Since the status of an authorized economic operator is granted only to verified companies, which as a guarantee for customs payments make a deposit of one million euro, and also since many commodities, in relation to which special simplifications are applied, are mass produced, the provision of such a commitment for each delivery by the authorized economic operator is unnecessary.

Recommendations

a. Add the following to Article 197.1.2 of the Customs Code of the Customs Union after the words "*under which the goods are placed*":

"*A written commitment is not required if the authorized economic operator applies special simplifications in accordance with Article 41.2 of this Code.*"

b. Exclude the following from clause 3.4 of the Appendix to Order No. 1914 of the Federal Customs Service of Russia of 20 September 2011: "*on the commitment to submit a customs declaration and provide the necessary documents and information not later than the tenth of the month following the month of release of goods on the purpose of the goods and on the customs procedure under which the goods are placed.*"

c. Clause 2.8 should be added to the Appendix to Order No. 1914 of the Federal Customs Service of 20 September 2011 as follows:

"if special simplifications are used, providing for the release of goods before a customs declaration is filed, and if a special simplification is applied, providing for customs operations (related to the release of goods stored indoors) in open-air facilities and other territories of the authorized economic operator, including the completion of the customs transit procedure, the AUTHORIZED ECONOMIC OPERATOR shall undertake to submit customs declarations and provide the necessary documents and information not later than the tenth of the month following the month of release of the goods, given that special simplifications are applied to the goods dispatched to the authorized economic operator's location."

3. There is uncertainty concerning the form of notification used by an authorized economic operator to inform the customs authority of the acceptance of goods from the carrier:

Pursuant to Article 87.2 of Federal Law 311-FZ "after such marks have been affixed, the authorized economic operator shall immediately submit to the customs authority a notification with an electronic digital signature specifying the time and date of acceptance of goods from the carrier".

In accordance with the Appendix to Order No. 1914 of the Federal Customs Service of 20 September 2011, communications between the authorized economic operator and the customs authority may be performed in writing by fax, in electronic form by e-mail or by phone.

Recommendations

1. In Article 87.2 of Federal Law 311-FZ, replace wording "After such marks have been affixed, the authorized economic operator shall immediately submit to the customs authority a notification with an electronic digital signature specifying the time and date of the acceptance of goods from the carrier." with *"After such marks have been affixed, the authorized economic operator shall immediately submit to the customs authority a notification specifying the time and date of acceptance of goods in writing or in electronic form by e-mail. "*
2. The following phrase should be removed from clauses 3.5 and 3.6 of the Appendix to Order No. 1914 of the Federal Customs Service of 20 September 2011: *"along with a notification by phone*".

Issue 6. Cancellation of a penalty charge on conditionally released deliveries

Under Article 188 of the Customs Code of the Customs Union, a declarer declaring goods must pay customs duties and/or cause them to be paid in accordance with the provisions of the Customs Code of the Customs Union.

At the time when goods are declared, the declarer should therefore have paid customs duties in full. Should the customs authority decide to check the declared customs value, the declarer must comply with Article 195.1.3 of the Customs Code of the Customs Union, which requires that the declarer **ensure payment of customs duties** (including by making advance payments under Article 73 of the Customs Code of the Customs Union).

If the customs authority makes a final adjustment to the declared customs value, it will issue a request for payment. Such request for payment will include the amount of additionally assessed customs payments as well as penalties. The declarer will be charged both a security deposit and penalties for late customs payments. In many cases, such decisions to adjust the customs value are canceled by higher-standing customs authorities and courts, and penalties are refunded.

Recommendations

Eliminate penalties for late customs payments if a security deposit covering the customs duties has been provided.

Issue 7. Remote clearance

FIAC members note the benefits of remote goods clearance, but certain remaining economic and technical problems prevent broader use of the remote clearance method.

The key problem is the requirement that goods be placed in temporary warehouses or adjacent customs control areas. Major difficulties are encountered when goods are shipped by rail, as not all permanent customs control areas at points of arrival are intended for storage, and the transportation of goods to temporary warehouses requires considerable time and additional expenses. Preliminary declaration helps to mitigate the problem, since there is no need for temporary storage after a goods declaration is filed; however, as previously mentioned, this option offers no benefits in the case of rail transport.

Different customs authorities have different working hours, which inevitably results in idle vehicles and increased expenses for entities engaged in foreign economic activities.

Recommendations

1. Change the remote clearance procedure so that, when a preliminary goods declaration is submitted, the internal customs authority registers the declaration and performs the required document control, including debiting amounts payable, while the external customs authority checks a declaration that is ready for clearance. The external customs authority controls the arrival of goods declared in a declaration. Upon their arrival, it reconciles the declared data with the data in shipping and commercial documents. If no discrepancies are identified, it clears the declaration.

2. Perform actual and secondary phyto-control without the involvement of the participant in foreign trade which is using remote declaration of goods.

3. Remove restrictions attaching internal customs authorities to specific checkpoints.

4. When using remote customs clearance of exported goods, allow the railways to accept railcars for transport without customs declarations.

Issue 8. Additional payment for vehicles with a total weight of over 12 tons on federal roads

Pursuant to Article 31.1 of Federal Law No. 257-FZ of 8 November 2007, *On Motor Roads and Road Activities in the Russian Federation and on Amendments to Certain Legislative Acts of the Russian Federation* (hereinafter, the "Federal Law"), the Russian Ministry of Transport has drafted government decrees (hereinafter, the "Drafts") regulating the amount of fee to cover damage done to roads by vehicles with a maximum permitted weight of over 12 tonnes and the procedure for collecting such payments. The Drafts are currently posted for public discussion on the website of the Ministry of Transport.

1. The lack of an alternative to these payments is a serious concern, since in most cases and on most routes there are simply no roads to which this regulation does not apply. It is essentially an abuse of the state's monopoly as the owner of federal public roads. This is a key difference between the proposed regulation and the use of toll roads in other countries. The European Union's highly developed road network, for example, offers carriers a choice between fast delivery on high-quality, high-speed toll roads and slower, more complicated delivery on free roads.

2. Experts estimate that the proposed rate of 3.5 rubles per kilometer will result in a 5% to 20% increase in the cost of road transport, which will mean hundreds of millions of dollars in additional costs for business. Given that over 200,000 trucks registered in the Russian Federation will be affected by this law and also that the average mileage of such vehicles is at least 100,000 kilometers per year, even the most moderate estimate of the additional financial burden is around 70 billion rubles a year. Moreover, Federal Law No. 68-FZ of 6 April 2011 has already considerably increased the rate of excise duty on diesel fuel, whose primary consumers are the same large trucks. This additional expense affecting the cost of transport will ultimately lead to growth in consumer prices and put additional inflationary pressure on the economy.

   It is important to note that the greatest burden will fall on low-cost socially significant goods, since in this case the amount of payment will be greatest in relation to the cost of goods. Similar problems will affect the cost of delivery in Siberia and the Russian Far East; the far greater distances and correspondingly higher payments will result in higher prices for goods in these regions.

3. The new payment is to be introduced in addition to the current regional transport tax. There is also a practice of introducing seasonal restrictions related to the collection of payments for damage to regional public roads. The new payment is yet another levy – essentially an indirect taxation that significantly increases additional expenses in connection with road transport. So, the significant number of documents that govern essentially the same area of the economy and the related payments make the administration of road transport in Russia considerably more complex and expensive.

4. The proposed time limits and method of collecting payments are a concern. The requirements of Article 31.1 of the Federal Law will enter into force on 1 January 2013. It is also obvious that the creation of the required infrastructure is itself a lengthy and complex process in terms of equipping checkpoints, equipping all vehicles with GLONASS and creating an IT infrastructure to track payments. As a result, there is a serious risk that underdeveloped and/or unavailable infrastructure will substantially reduce the capacity of federal roads, including even full stoppage of traffic on the busiest road sections, especially where traffic merges onto federal roads.

5. The Drafts propose a concession mechanism of collecting fees. The document reads that there would be one concessionaire. The concession provider (the state) is to be paid a maximum of 10 billion rubles in fee, but the payment procedure and time limits are not specified. Essentially, then, a private company is to receive the monopoly right to perform the state function of collecting a tax, and the amount of the state's fee is limited in advance.

Recommendations

1. Postpone the entry into force of Article 31.1 of Federal Law No. 257-FZ of 8 November 2007, *On Motor Roads and Road Activities in the Russian Federation and on Amendments to Certain Legislative Acts of the Russian Federation* until the methods of implementing these requirements and ensuring the necessary infrastructure are elaborated.

2. Take into account all additional costs relating to payments for large trucks, and consider the possibility of partially eliminating or revising them – for example, charges related to seasonal restrictions.

3.2. Technical Regulations and Elimination of Administrative Barriers

Issue 1. Developing the technical regulation system of the Customs Union, eliminating administrative barriers to the entry and circulation of products on the market

a) **On verifying (evaluating) the compliance of foodstuffs and manufactures in Russia and the Customs Union**

In developing a system of technical regulation in Russia and the Customs Union, several systemic issues that represent significant administrative barriers to the development of business must be resolved.

The think tank actively supported the transition from the mandatory certification procedure to the mandatory declaration of compliance of foodstuffs as well as perfumes and cosmetics in 2010, which was ensured by Decree No. 982 of the Government of the Russian Federation of 2 December 2009. That was the first step to the effective market system of commodity regulation on the market based on the presumption of the producer's innocence.

However, the simplification of procedures, declared in 2010 whereby the confirmation of compliance with certification was replaced by declaration, practically did not change anything for producers, since both procedures require that identical packages of documents be physically presented and that the declaration of compliance be physically registered with an authorized body. In other words, the procedure still remains permissive and requires much time and money. As a result, the possibility of reducing administrative pressure and the barriers to entrepreneurial activity largely remained untapped.

The issue of such a need was raised by the Think Tank at a meeting with Igor Shuvalov, the First Deputy Prime Minister, in August 2010. The issue was entered in the list of assignments for federal executive bodies No. ISh-P16-6397 (clause 7) in the following form: "ensure the notifying registration of the declarations of conformity in electronic form in a unified register of the declarations of conformity." Performed by the Federal Agency for Technical Regulation and Metrology (until 1 January 2011).

The process, however, substantially slowed down as the accrediting system began to be reformed, the Federal Accrediting Agency was established, and the powers of the Federal Agency for Technical Regulation and Metrology in this field were transferred to the Ministry for Economic Development and the Federal Accrediting Agency. However, Order No. 76 of the Russian Ministry for Economic Development of 21 February 2012 *Concerning approval of the procedure for registering declarations of conformity, preparing and maintaining a single register of declarations of conformity, and providing data contained in the register* entered into force on 1 June 2012. The Order implements the norm of Article 24 of Federal Law No. 184-FZ of 27 December 2002 *Concerning Technical Regulation* on the registration of the declaration of conformity in electronic form in the unified register of the declarations of conformity according to the notification procedure within three days from the day on which it was adopted. The procedure established by the Order is for all the producers who declare conformity of their products to the technical regulations currently effective in Russia. To implement the notifying procedure, the Order excludes all grounds for refusing to register the declarations of conformity. Consequently, the persons accepting the declarations bear far greater responsibility. At the same time, the Order envisages the introduction of an alternative regime for registering the declarations of conformity, i.e., in electronic form, as of 1 January 2013. The relevant transition period is envisaged in order to enable the Federal Accrediting Agency to perform its function in registering the declarations of conformity.

When elaborating the Customs Union's regulatory and legal basis for certain types of products, such as food, perfumes and cosmetics, account was taken of the "one product, one document" principle, which excludes the duplication of the premarket control procedures. However, when adopting it in relation to some consumer goods (foodstuffs, household chemicals, perfumes, cosmetics), the system of duplicating the procedures for the mandatory confirmation (evaluation) of conformity remained. For instance, food,

perfumes and cosmetics, which are subject to state registration with the issuance of documents on the assessment of conformity, must go through an additional mandatory procedure for confirming conformity in the form of declaration, certification or veterinary certification.

The think tank deems it necessary to continue the step-by-step incorporation of the "one product, one document" principle into technical regulations and national regulatory acts that are being drafted. One of the most pressing matters at hand is to formalize the need to obtain veterinary certificates for processed animal products (dairy products, sausages, canned goods, etc.), which are subject to mandatory verification of their conformity with the requirements and the exclusion of duplication of the procedures for confirming the conformity of perfumes and cosmetics.

Eliminating the redundant permission procedures will allow market oversight to be reoriented from multiple permission documents to a check of the safety of each product on the shelf, will allow control/oversight bodies to have more resources for their job, and will save time and money for businesses introducing new products on the market.

Recommendations

- Apply the “one product, one document” principle when elaborating the regulatory legal basis of the Customs Union, thus eliminating the redundant forms of evaluation (verification) of compliance involving the issuance/processing of documents when products are released into circulation: a product, depending on its classification, should be subject to only one form of compliance evaluation/state registration – declaration, certification, or veterinary certification.
- As for products subject to state registration, eliminate the need for additional verification of compliance in the form of a declaration of compliance or certification. To this end, the Russian Ministry of Industry and Trade, together with the Ministry of Health and the Ministry for Economic Development, should draw up proposals for amendments to:
- **The Unified List of Products That Must Be Declared and Certified under Government Decrees No. 982 of 1 December 2009 and No. 906 of 13 November 2010;**
- By 2013, allow the electronic declaration mechanisms to be used not only in Russia, but also in the Customs Union (CU) when, among other things, goods are subject to customs procedures and turnover between the CU member-states, as has been implemented in the CU sanitary legislation. The provision on the procedure for registering a declaration on the compliance of products with the requirements of the CU technical regulations does not fully reflect the innovatory aspects of Order No. 76 of the Ministry for Economic Development;
- In the Unified List of Products Whose Compliance Must Be Evaluated (Verified) Within the Customs Union and for Which Unified Documents Are to Be Issued (Appendix No. 6 to Decision No. 319 of the Customs Union Commission of 18 June 2010 *Concerning Technical Regulation in the Customs Union*):
    - by including the following paragraph in the notes to the table in Appendix No. 6: *13 The unified list does not apply to products that have undergone state registration in accordance with the requirements of the Customs Union, been entered in the Register of State Registration Certificates and been approved for production, sale and use in the Customs Union”.*
    - by specifying the sections (clauses, subclauses) of regulatory acts and/or technical regulatory acts and regulatory documents listed in column 3 with which compliance is verified. The heading of column 3 should be reworded as follows: "Regulatory acts (indicating sections, clauses, subclauses) with which compliance is verified."

b) establishment of adequate and justified transitional provisions (periods) in the regulatory acts being developed to regulate the production, output and circulation of products on the market.

As a rule, legislative changes (even positive changes, as was the case, for example, with the transition from certification to declaration of foodstuffs) that affect the regulation of production and sales entail:

- A change in production technology/product formula
- Changes in labeling/packaging
- The issuance/reissuance of permission documents (state registration certificates, declarations and certificates of compliance) for products to be released on the market
- Implementation of these points in combination.

Depending on a product's classification and the complexity and scale of production, business incurs substantial costs in terms of time and money in adapting to new regulatory requirements. The current practice of adopting regulatory acts in Russia and the Customs Union shows that industry often has to adopt new requirements in a hurry, and transitional provisions, if there are any, are inadequate as a result of being neglected by those drafting regulatory acts.

So that legislative changes will not give rise to artificial administrative barriers, unduly increasing expenses and product cost and artificially restricting competition by giving important advantages to some over others, there should be adequate and effective transitional provisions (periods) for the incremental implementation of legislative changes. The standard transitional period in the European Union is at least two years after a regulatory act is adopted and enters into force.

A system of transitional provisions (periods) for the regulation of products and related production processes should include the following main elements:

Recommendations

- The Ministry of Economic Development, in assessing the regulatory impact of regulatory acts that are subject to such evaluation, and also those drafting such documents should evaluate the adequacy and completeness of transitional provisions (periods), ensuring a smooth transition to new requirements for market players. This issue should be taken into account in developing proposals for regulatory impact assessments by state bodies drafting regulatory acts.
- If the requirements for products have not changed, a simplified procedure (automatic replacement) for issuing/processing documents on the evaluation of compliance with technical regulations of the Customs Union should be developed and adopted by a decision of the Customs Union Commission.

c) Law-enforcement practice with regard to the CU technical regulations entering into force

On 1 July 2012, the Customs Union's technical regulations *Concerning the Safety of Packaging* came into force. Decision No. 769 of the Customs Union Commission of 16 August 2011 on the adoption of the regulations contained detailed provisions for transition to the new regulations, which provided businesses at least 18 months to fully conform to the requirements of the new technical regulations. In accordance with the transition provisions, the documents on the evaluation (verification) of conformity of the products that are covered by the technical regulations remain in force. For various types of packaging, these documents are the state registration certificate and the declaration of conformity. If available, these documents allow their holder to conform to the "old" regulations, effective through 15 February 2014, when manufacturing products and releasing them into circulation.

However, since 1 July 2012, while importing and clearing their packaging, some importers have been facing a different law-enforcement practice whereby Russian customs bodies would refuse to clear the packaging against a valid certificate of state registration of packaging presented by the declarer as they would not recognize a CSR as a conformity evaluation document. The import of this type of packaging is only allowed until 1 January 2013.

The upshot of this situation is that the transition period for many types of imported packaging, which is designed primarily for food, has in fact been reduced from 18 to six months, which may result in considerable extra costs for businesses and additional problems during customs clearance of packaging after 1 January 2012.

What with the transition provisions having identical phrasing in both the technical regulations that have been adopted and those that are being adopted, this problem has acquired a systemic nature, and the crux of the problem lies in the lack of formal recognition of the status of state registration certificates as conformity evaluation documents, notwithstanding the respective Government instruction issued in 2010 (clause 6 of Instruction No. ISh-P16-6397 of 17 September 2010; implementation date: 1 January 2011).

Recommendations

Use the technical regulations *Concerning the Safety of Packaging* as an example:

- To assist the related agencies in identifying their position on this matter and confirm that the product state registration certificate belongs to the category of documents on evaluation (verification) of

conformity as understood in the sense of clause 3.2 of Decision No. 769 of the Customs Union Commission;

- Allow through 15 February 2014 the import of packaging in accordance with the transition provisions of Decision No. 769 of the Customs Union Commission against a valid state registration certificate when the packaging is released into circulation (imported) during the transition periods
- EEC - prepare the relevant clarification.

Issue 2. Optimizing control and permissive functions in obtaining construction permits and in building and commissioning industrial facilities

Inefficient and nontransparent control practices applied by Russian government agencies in granting permits for the construction of industrial facilities, at the stages of their construction and commissioning have been a major administrative barrier to the growth of the production sector in Russia. It runs counter to the Russian Government's drive for the modernization and diversification of the national economy, wherein medium-sized business is the primary vehicle for upgrading Russia's production and technology sector. According to a study conducted by *Delovaya Rossia,* the objectives of modernization can be achieved without axing jobs by starting around thirty new industrial enterprises in Russia every day (around 10,000 enterprises a year).

For the nation's production and technology sector to grow fast, the current construction and industrial safety legislation should be overhauled. Since administrative barriers in construction and commissioning of industrial facilities have an adverse effect on the investment climate in Russia, FIAC proposes to use the recommendations below to draw up an action plan to improve the control/oversight and permissive functions and optimize state services in granting permits for the construction of industrial facilities and in their construction and commissioning, and submit the plan to the Government for approval.

Recommendations

To see to it that the following activities are made part of the Action Plan to Improve the Control/Oversight and Permissive Functions and Optimize State Services in Granting Permits for the Construction of Industrial Facilities and in their Construction and Commissioning.

2.1. Initial permits to be prepared for the expert examination of project documentation

- Identifying a closed list of documents that may be required in the process of obtaining project documentation approvals by eliminating any reference rules to the "initial permits" (subparagraph 12, paragraph 12, clause 48 of the Urban Development Code of the Russian Federation).

For reference: *Duplication of control and permit procedures and the need to verify compliance with numerous by-laws has made it between one to two years (400 to 700 days) to complete all the administrative procedures to get a construction permit. The reason for this is often the poorly formulated rules and procedures. In particular, current legislation allows an unlimited number of "initial permits" to be demanded during an expert examination of project documentation. It enables any regulatory authority to become a party to the approval process by making references to the requirements outlined in its own by-laws.*

- Conducting a comprehensive revision of the list of initial permits (certificates, due diligence reports, expert opinions) required during the state or non-state examination of project documentation in order to shorten the list. Setting a new reduced timescale for the said documentation approval procedures.

2.2. Sanitation and epidemiological expert examinations and sanitary protection zones

- Reducing the number of conformity assessment procedures in relation to sanitary-epidemiological legislation during the construction / reconstruction of industrial facilities; In particular, there is a need to optimize the collection of initial industrial construction permits and reduce to 30 days the timescale for the collection and examination of initial permits by the Federal Service for Customer Rights Protection ("Rospotrebnadzor"). Also, it is proposed to reduce the number of documents required by Rospotrebnadzor and the Federal Center for Hygiene and Epidemiology to one document, namely, the comprehensive sanitation and epidemiological examination report. Another proposal is to entitle the companies operating low- and medium-hazard facilities to use the notification procedure for getting

clearance from Rospotrebnadzor, but to leave open the oversight possibilities once the facility starts to operate.

For reference: There are numerous duplicating sanitation and epidemiological supervision procedures – during the examination of project documentation, the delimitation of the sanitary protection zone, and during the operation of the industrial facility. *In every 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 Rospotrebnadzor and the Federal Center for Hygiene and Epidemiology. Practically every certificate or document must be executed within 30 days.*

- Optimizing the procedure for approving the delimitation of sanitary protection zones of detached facilities and facilities located within industrial parks. There is a need to reduce to 3 months the timescale for coordinating the limits of sanitary protection zones by drafting and introducing the Rospotrebnadzor administrative procedure for approving the limits of sanitary protection zones of industrial facilities;

2.3. Industrial safety and new classification of hazardous production facilities (HPF)

- Changing the hazard classification for industrial facilities to differentiate the state control functions depending on the hazard level of the facility. In particular, enabling the companies operating low- and medium-hazard industrial facilities to retain their internal industrial controls and mandatory insurance of hazardous industrial facilities as their main regulatory tool.
- The list of activities requiring a license due to the explosion and fire hazard should be reduced.
- It is proposed to substantially reduce administrative barriers in the state regulation of industrial safety of the facilities of Hazard Classes III and IV. Specifically, introduce a notification procedure for commissioning HPS in Hazard Class IV; discontinue the practice of routine checks for HPF in Hazard Class IV, and differentiate the industrial safety management system depending on the HPF Hazard Class.

For reference: *Some of FIAC's proposals have been included in the draft amendments to Federal Law No. 116-FZ, On Industrial Safety of Hazardous Production Facilities; the proposals concerned the introduction of a notification procedure for commissioning HPF in Hazard Class IV; discontinuation of the practice of routine checks for HPF in Hazard Class IV; and differentiation of the industrial safety management system depending on the HPF Hazard Class. The proposals that have not been included in the draft amendments to FZ-116 have been included in the ASI's Roadmaps for Improving the Climate of Entrepreneurship in Construction and for Improving the Regulatory Environment for Business.*

- Discontinue the issuance of permits for the use of technical devices at HFS as a redundant provision of Federal Law No. 184-FZ *On Technical Regulation;* align the industrial safety regulations with the licensing regulations.

For reference: *Some of FIAC's proposals on the reduction of administrative barriers in industrial safety have been included in the amendments to Federal Law No. 116-FZ, On Industrial Safety of Hazardous Production Facilities, drafted by Rostekhnadzor (Federal Service for Environmental, Technical and Nuclear Supervision). The proposals that have not been included in the draft amendments to FZ-116 have been introduced in the ASI's Roadmaps for Improving the Climate of Entrepreneurship in Construction and for Improving the Regulatory Environment for Business.*

- - Introducing (in the medium term) the notification-based procedure for commencing construction of industrial and other capital construction facilities associated with small- and medium-sized business, commissioning them and launching production, providing the facility owner undertakes the full responsibility (voluntary insurance) for technical, ecological and industrial safety of the facility. Enterprises classified as especially hazardous in terms of environmental, industrial or sanitary/epidemiological safety may be an exception. A permission procedure should be retained for the construction and commissioning of such enterprises.

For reference: *the category of highly hazardous industrial facilities covers the facilities mentioned in Article 48.1 of the Urban Development Code of the Russian Federation (for example, the nuclear energy facilities, water development facilities, etc.). FIAC's proposal on introducing a notification procedure for starting construction of industrial facilities has been included in the ASI's Roadmap for Improving the Climate of Entrepreneurship in Construction.*

2.4. Other matters (connection to energy supply, commissioning, land categorization)

- Optimizing the procedures for connecting industrial companies to energy supply networks and autonomous energy supply installations; settling the matters related to the right of property on the energy infrastructure built by investors (power grids and substations). The said proposal has been included in the ASI's Roadmap designed with the involvement of experts from the ASI's Think Tank on Enhanced Access to Energy Infrastructure.
- Considerably simplifying the procedures for obtaining technical specifications for connecting industrial companies to energy and utilities infrastructure;
- Commissioning facilities without mandatory inspections by and clearance from the watchdog authorities, providing that the facility owner has entered into an insurance agreement and assumed direct responsibility for the facility, and the essential provisions of such insurance have been approved. Approval of the closed list of the types of facilities that qualify to be commissioned under the simplified procedure, excluding highly hazardous facilities, first-category facilities according to the classification of EMERCOM of Russia and Rostekhnadzor, sensitive facilities and infrastructure facilities. The said proposal has been included in the ASI's Roadmap designed with the involvement of experts from the ASI's Think Tank on Enhanced Access to the Energy Infrastructure.

For reference: *Acceptance of facilities and authorization of their start-up by a state commission or a state supervisory authority is obsolete practice. The company providing insurance coverage for an industrial facility is universally recognized to be the most demanding watchdog. Acting in its interests, the insurer engages the services of the most competent independent engineering advisors.*

- Considering to discontinue the practice of land categorization or to greatly simplify the transfer of lands from agricultural use to industrial construction.

Issue 3. Improving the efficiency of the executive bodies of the constituent entities of the Russian Federation in eliminating administrative barriers to investments and entrepreneurship

Foreign investors have a big presence in Russia with production facilities operating in dozens of regions of the country. Building good relationships with local executive bodies is often vital for success in business.

Russian local executive bodies are doing their utmost to attract foreign investors to the country. Sometimes, however, their actions do little to stimulate investment in the real sector in spite of the favorable trends and great business growth opportunities.

In some Russian regions, large international companies have to meet additional expenses, cut back on their investment input or turn down projects altogether.

The use of loopholes in the federal legislation and the creation of artificial administrative barriers by some Russian local executive bodies have a dramatic effect on the investment appeal **of the Russian economy** as a whole.

In this respect FIAC member companies fully support Dmitry Medvedev's initiative to introduce the institution of investment ombudsman at the federal and local levels, and suggest introducing additional benchmarks for assessing the efficiency of Russian local executive bodies to improve the regional investment appeal for foreign and Russian business.

Following the State Council meeting on 27 July 2012, the President gave instructions to enhance the system of comprehensive evaluation of the efficiency of the executive bodies of the constituent entities of the Russian Federation.

Recommendations

Amend the List of indicators used to assess the efficiency of the local executive bodies of the constituent entities of the Russian Federation (Decree No. 825 of the President of the Russian Federation of 28 June 2007) by adding the following points:

- Satisfaction of investors (members of the resident business communities) with the work of the local executive bodies of the respective Russian regions, their information openness and their efforts to eliminate excessive administrative barriers (survey-based opinion, measured in percent);

- Declared capacity that was never met because it was technically impossible to connect the facilities to the gas supply grids;
- Declared capacity that was never met because it was technically impossible to connect the facilities to water supply, water disposal and sewage networks;
- Timescale and cost of connection to electric power grids;
- Per-capita volume of direct private (non-government) investments in the production (non-raw-material) sector of the economy, including (separate line) the per-capita volume of direct foreign investments in the production (non-raw-material) sector of the economy;
- Timescale for implementing a project of construction of an industrial facility (from the time when the investors submit their investment project application or sign a memorandum of understanding / protocol of intent with the regional administration to the time when the facility is commissioned);
- To create an objective picture of the social and economic situation in a given region, to order regional administrations to submit annual information to the Ministry for Economic Development and the Ministry of Regional Development of Russia on the number of the industrial companies opened (commissioned) and closed (bankrupt, liquidated or transferred to another region or country) over the reporting period (previous year) and on the number of jobs created (at new production facilities) and cut (at closed companies).

Note: FIAC's proposals have been sent to the Ministry for Economic Development in the form of an official letter (Incoming No. 61255 dated 22 June 2011). FIAC's initiative is now under consideration at the Investment Policy and Public-Private Partnership Department of the Ministry for Economic Development. *In September 2012, Russian President Vladimir Putin signed the Decree "On the Assessment of the Efficient Activity of the Heads of the Federal Executive Bodies and Higher Officials (Heads of the Higher Executive Bodies of the State) of the Constituent Entities of the Russian Federation in Creating Favorable Conditions for Carrying on Entrepreneurial Activity".*

3.1. Entitling Russian regional authorities to establish preferential income tax rates (regional part) for the resident companies investing in infrastructural development

Further social and economic development of the Russian Federating requires large-scale investment to step up the renewal of the existing infrastructure and the construction of new facilities. But the local executive authorities are far too short of budgetary resources to implement infrastructural projects.

In this situation, one of the sources of investment may be the local large industrial companies whose development depends on the condition of the local infrastructure.

Such companies are sometimes willing to invest their equity (or loans) in infrastructural projects with the subsequent transfer of the respective facilities to the balance sheet of the regional/municipal administrations/unitary enterprises.

When investing in a publicly accessible infrastructure, it is important to compensate for the funds invested.

One of the ways to make this compensation is by cutting the regional part of the income tax during a specified period.

Today, Russian regions are entitled to reduce the regional part of income tax to 13.5% (a 4.5% reduction in the base rate). It is proposed to reduce the rate to 8% (a 10% reduction in the base rate).

Recommendations

1. Amend the current version of Article 284 of the Tax Code of the Russian Federation by authorizing local administrations to reduce the rate of the tax payable to the budgets of the constituent entities of the Russian Federation down to 8% for certain categories of taxpayers who invest in the infrastructure of the constituent entities of the Russian Federation (according to the approved list);

2. Approve the list of properties assigned to the items of infrastructural investment whereby the taxpayers will be entitled to the preferential income tax rate.

Issue 4. Regulating relations between employers, employment agencies and job-seekers within the employee leasing arrangements (Draft Federal Law No. 451173-5)

On 20 May 2011, the State Duma of the Russian Federal Assembly (hereinafter, the “State Duma”) adopted, in the first reading, Draft Federal Law No. 451173-5 “On Amendments to Certain Legislative Acts of the Russian Federation (Measures to Prevent Employers from Avoiding Employment Contracts by Unjustifiably Concluding Civil-law Contracts and Using Loaned Staff Arrangements or Other Means)” (hereinafter, the “Draft Law”).

While generally supporting the state’s goal of regulating relations between employers and employment agencies, FIAC member companies are concerned about the proposal in the draft law to directly prohibit the use of loaned staff arrangements. FIAC assessed the growth of operating expenses for employers as well as the potential social impact of the reduction of guarantees for “loaned” employees.

On the whole, FIAC supports the amendments developed by the Government and the Russian Union of Industrialists and Entrepreneurs as being balanced and generally reflecting the position of FIAC member companies, but a number of comments have not been taken into account, and this creates additional risks for business.

In particular, additional costs may result from a prohibition of employee loan arrangements for:

- work at hazardous production facilities (risk for the oil industry);
- work requiring special permits or licenses (drivers, including drivers of forklifts, electricians, health-care specialists, etc.).

It should also be noted that the regulation of “foreign secondment” is a crucial issue for foreign investors.

A new think tank has been set up to revise the concept of the Draft Law, taking into consideration the comments of FIAC and other industrial platforms (the revision deadline is 1 October). FIAC's proposals have been supported by the head of the parliamentary group "United Russia," A. Vorobyov, during one of the group's meetings.

Recommendations

To the Government, the Ministry for Economic Development and the Ministry of Labor and Social Security that they should help communicate to the Duma Deputies-initiators FIAC's position to the following effect:

- to **permit** employers to continue hiring employees on the basis of loaned staff, *inter alia*, for work requiring special permits or licenses;
- to regulate "foreign secondment";
- to **establish** a regulatory framework for the activities of recruitment agencies.

Amendments to Draft Federal Law No. 451173-5 “Concerning Amendments to Certain Legislative Acts of the Russian Federation,” Submitted by State Duma Deputies A. K. Isayev, M. V. Tarasenko and Others and Adopted by the State Duma in the First Reading on 20 May 2011

1. The draft law shall be renamed as follows:

“Concerning Amendments to the Labor Code of the Russian Federation”

2. Article 1 of the draft law shall be deleted.

3. Article 2 of the draft law shall be deleted.

4. Article 3 of the draft law shall become Article 1 and shall be reworded as follows:

“The Labor Code of the Russian Federation (Collected Legislation of the Russian Federation, 2002, No. 1, Article 3; 2004, No. 35, Article 3607; 2006, No. 27, Article 2878; 2008, No. 9, Article 812; No. 30, Article 3613; 2010, No. 52, Article 7002; 2011, No. 1, Article 49; 2012, No. 14, Article 1553) shall be amended as follows:

1) the following paragraph shall be added to part two of Article 227:

“workers leased by an employer (lessor) to a legal entity (lessee) to engage in production, manage production or perform other functions in connection with production and/or sales, as specified in an agreement between the lessor and lessee”;

2) the following Article 351^2 shall be added to Chapter 55:

"Article 351^2. Regulation of the labor of workers leased by an employer to a legal entity (lessee) to engage in production, manage production or perform other functions in connection with production and/or sales.

An employer (lessor) may lease workers to a legal entity (lessee) to engage in production, manage production or perform other functions in connection with production and/or sales, as specified in an agreement between the lessor and lessee.

For the purposes of this article, employers (lessors) may be:

1) Organizations whose primary activities include hiring and recruiting personnel to be leased to a legal entity (lessee) to engage in production, manage production or perform other functions in connection with production and/or sales, as specified in an agreement between the employer (lessor) and the legal entity (lessee), provided that such organizations are accredited as prescribed by the federal executive body responsible for formulating and implementing state labor policy and labor regulation;

2) Legal entities, including foreign legal entities, if the lessor and lessee are affiliates under Russian law, provided that leasing workers is not the lessor's primary activity.

The federal executive body responsible for formulating and implementing state labor policy and labor regulation shall develop and approve the pro forma employment contract (addendum to an employment contract) between a worker and an employer that leases workers to a legal entity. The lessee shall be responsible, as envisaged by Article 212 of this Code, for ensuring safe working conditions and job safety in the place where workers are sent, with the exception of responsibility for informing workers of working conditions and job safety, risks of injury to health, and compensation and personal protective gear with which workers are to be provided as well as for ensuring that workers have compulsory insurance against job-related accidents and occupational illnesses, which shall be assumed by the lessor.

A worker shall be taken off the job (not allowed to work) by a lessee in cases stipulated in part 1 of Article 76 of this Code. A lessee must notify the lessor of cases in which a worker is taken off the job (not allowed to work).

A lessee shall be responsible for providing workers with equipment, tools, technical documentation and other means essential for their work as well as accurate information on the lessee's working conditions and job safety.

The level of guarantees and compensation for leased workers may not be reduced below the level of guarantees and compensation stipulated by laws on labor and job safety.

An employer (lessor) may not conclude employment contracts with workers for the purpose of leasing them to legal entities to engage in production, manage production or perform other functions in connection with production and/or sales, as specified in an agreement between the lessor and lessee, if such workers are leased:

- to replace workers of the lessee who are on strike;
- to perform work during a temporary stoppage due to an idle period experienced by the lessee, bankruptcy proceedings or part-time work introduced to preserve jobs when the lessee's workers are threatened with large-scale dismissals;
- to replace workers of the lessee who have temporarily stopped work in accordance with the established procedure due to a salary payment that is more than fifteen days overdue;
- to perform work at sites that Russian law classifies as hazardous production sites, as indicated in a list approved as prescribed by the Government of the Russian Federation; or to perform work requiring licenses or special permits if the workers lack such licenses or permits.

By agreement between the parties, the employment contract of a worker leased by an employer to another legal entity may be concluded for a fixed period.

The distribution of work and rest and the procedure for compensating a worker leased by an employer to a legal entity shall be determined in the employment contract between the worker and the employer.

In addition to the grounds envisaged by this Code, an employment contract with a worker leased by an employer to a legal entity may be terminated on grounds envisaged by the employment contract.".

5. Article 4 of the draft law shall be deleted.

6. Article 5 of the draft law shall be deleted.

7. The following Article 2 shall be added to the draft law:

"Federal Law No. 125-FZ of 24 July 1998 "Concerning Compulsory Social Insurance against Job-Related Accidents and Occupational Illnesses" (Collected Legislation of the Russian Federation, 1998, No. 31 Article 3803; 2000, No. 2, Article 131; 2001, No. 44, Article 4152; 2002, No. 1 (Part I), Article 2; 2002, No. 7, Article 628; 2002, No. 48, Article 4737; 2003, No. 6, Article 508; 2003, No. 17, Article 1554; 2003, No. 28, Article 2887; 2003, No. 43, Article 4108; 2003, No. 50, Article 4852; 2003, No. 52 (Part I), Article 5037; 2004, No. 35, Article 3607; 2004, No. 49, Article 4851; 2005, No. 1 (Part I), Article 28, 2005, No. 52 (Part I), Article 5593; 2007, No. 1 (Part I), Article 22; 2008, No. 30 (Part II), Article 3616; 2009, No. 30 Article 3739; 2009, No. 48, Article 5745; 2010, No. 21, Article 2528; 2010, No. 31, Article 4195; 2010, No. 49, Article 6409; 2010, No. 50, Article 6606; 2010, No. 50, Article 6608; 2011, No. 45, Article 6330; 2011, No. 49 (Part V), Article 7061; 2012, No. 10 Article 1164) shall be amended as follows:

The following paragraph shall be added to part three of Article 22:

"For insurance payers that lease their workers to legal entities (lessees) to engage in production, manage production or perform other functions in connection with production and/or sales by and on the terms of Article 351^2 of the Labor Code of the Russian Federation, professional risk classes and other terms of compulsory accident insurance that are stipulated by this Law shall be determined in accordance with the type of economic activity, job certification based on working conditions and other factors that apply to the lessee."

8. The following Article 3 shall be added to the draft law:

"Article 3

This federal law shall enter into force six months after its official publication date."

Issue 5. Limiting growth in tariffs for electricity (and other energy resources) for industrial enterprises

Recently, foreign companies in the consumer sector with production facilities in Russia have been increasingly affected by the growth in energy tariffs. Today the cost of energy may be as high as 10% of the total production and operating costs of finished products. As a rule, electricity accounts for 60%, gas for 30% and water for 10% of the overall cost of energy resources for industrial enterprises.

It should be noted that the share of energy in the product cost is a key determinant of a country's investment appeal and its position in the international division of labor. Foreign companies are thus extremely concerned about the rapid and uncontrolled growth of Russian energy tariffs.

Until recently, comparatively cheap electricity was one of the few advantages that Russia had in competing for investments in the real sector with such newly industrialized countries as China, Malaysia, Thailand, Vietnam, India and Turkey. Over the last two decades, Russia has acquired virtually none of the competitive advantages that have allowed these countries to join the ranks of states with developed, science-driven economies: cheap labor, high productivity and quality of work, low payroll taxes, aggressive government tax incentives for investments in high-tech industries and fast, effective and transparent administrative procedures for approving the construction and commissioning of industrial enterprises.

As regards electricity costs, Russia is already on the same level as (and in some regions far outstrips) newly industrialized countries, while it lags behind them in terms of all other parameters of competitiveness. In such circumstances, it becomes more profitable for investors to open new production facilities in countries with low energy costs and to import products into the Russian market. Even now, nearly all goods of wide-scale demand sold in the Russian Federation (with the exception of foodstuffs and household chemicals) are produced in China. Even the above-mentioned goods of Russian origin are produced (assembled, packaged) primarily using imported raw and other materials and parts, since high financial and administrative costs prevent the development of Russia's element base and allied processing sectors.

The more complex is a product's production cycle, the greater are the energy costs. For instance, such costs are higher for Unilever, which produces perfumes, cosmetics and household chemicals, than for companies producing foodstuffs (see the table). In the last three years, all the companies that provided information have witnessed a steady growth of energy expenses in the product cost. All of these companies have been very active in using energy-saving technologies.

In view of Russia's accession to the WTO and the elimination of import duties on certain categories of finished products and due to the even longer border with China following the formation of the Customs Union, the problem of high energy costs and low competitiveness as compared with newly industrialized countries is becoming even more pressing for Russia.

Company statistics

Share of electric energy in the cost of products	2011 Q1	2010	2009 compared with 2010 (%)	2009	2008 compared with 2009 (%)	2008
Renault (Moscow)	5.51%	4.59%	31.75%	3.49%	-20.36%	4.38%
Kraft Foods (the city of Moscow; and Vladimir, Leningrad and Novgorod regions)	3.00%	2.20%	37.50%	1.60%	15.94%	1.38%
BAT (Moscow, Saratov, St. Petersburg)	4.80%	3.60%	5.88%	3.40%	0.00%	3.40%
PepsiCo (Kashira, Azov)	1.26%	1.01%	14.77%	0.88%	2.32%	0.86%
PepsiCo (Russia, WBD)	1.04%	0.99%	19.28%	0.83%	20.29%	0.69%
Unilever (Russia)	13.00%	13.00%	0.00%	13.00%	44.40%	9.00%
Unilever (Poland)		15% - 17%		15% - 17%		
Unilever (China, Malaysia)		10% - 15%		10% - 15%		
Nestle (Russia)	1.12%	1.01%	9.78%	0.92%	3.37%	0.89%
Average (Russia)	**4.2%**	**3.8%**	**17%**	**3.44%**	**15.24%**	**2.94%**

Recommendations

Set the annual growth of the final rate at the level which is not higher than inflation (maximum 10%).

Issue 6. Disposal of packaging waste in the context of drafting the Federal Law On the Introduction of Amendments to the Federal Law On Production and Consumption Wastes Concerning the Economic Stimulation of Activity in Waste Disposal (jointly with the Consumer Market Development WG).

The creation of a sustainable system of consumption waste treatment is central for FIAC member-companies, which for a number of years have been developing a scheme of market incentives for the Russian market, in particular, for the collection of packaging waste and its subsequent recycling using the best international practices and the most efficient approaches. Effective EU legislation in this area provides for the introduction of target indicators – standards for waste collection and recycling over a specified period of time whereby the waste collection system would be aligned with the development of the waste recycling capacities.

Russia's Ministry of Natural Resources drafted Federal Law No. 584399-5 "On the Introduction of Amendments to the Federal Law 'On Production and Consumption Wastes' and other Legislation of the Russian Federation (as Regards Economic Incentives in Waste Treatment)" and submitted it to the State Duma on 7 October 2011; it (hereinafter, the "Draft") was adopted by the State Duma in its first reading.

Amendments to the Draft have been received from subjects with the right of legislative initiative, deputies and senators. Cooperating with other associations and unions, FIAC drew up the amendments to the Draft Law and sent them; they were subsequently entered in the official amendments made by the members of the Federation Council.

Currently, several versions of the draft law are being considered. The second reading is scheduled for the autumn session of 2012.

FIAC members support the text of the draft law for the second reading, placed for RIA on 5 September 2012. We especially underscore the current formulation of Article 24.2 "Responsibility of Producers (Importers)" Principle, which reflects FIAC's position. It is noteworthy that the market participants are given the opportunity to fulfill their responsibility: by independently arranging the collection and utilization of wastes or paying a special levy.

It is especially important to use the economic model of managing packaging waste, which is harmonized with the models used in the EU countries and with the European Parliament and Council Directive 94/62/EC on Packaging and Packaging Waste. This model requires certain target indicators of the collection of packaging waste for utilization purposes (norms of use in relation to materials) as well as the free choice of the method of utilizing the waste (*inter alia,* in cooperation with other producers; by establishing specialized self-regulating organizations and/or companies which arrange utilization, and by engaging operators of the special waste disposal system). It should be noted that waste disposal regulations should differ, depending on the industry: the automotive industry, tire production, the production of household equipment and consumer electronics, and packaged consumer goods.

At the same time, we believe that Draft still has some "white spots" which worry the market participants. For instance, there are no clarifications of the requirements for organizations which import packaging and packaged goods to Russia from other countries of the Customs Union, as they are neither local producers nor importers, and also for Russian entities which fully or partially export packaged goods or packaging. In addition, the text does not clearly show whether the products indicated in the draft lost their consumer properties either in the process of production, storage or sale (defective goods) or in the process of consumption. On the whole, it is unclear what is meant by "products which lost their consumer properties".

Recommendations

Set the formulation of Article 24.2 "Responsibility of Producers (Importers)" Principle

- Further ensure the direct participation of business in the work on Draft Federal Law No. 584399-5 and all the by-laws.
- Propose the following basic points for all the by-laws concerning Draft Federal Law No. 584399-5:
    - Establish target disposal indicators for producers (importers) (e.g., as a share of goods/packaging entered into circulation and subject to disposal);
    - Apply an industry-specific approach providing for different categories of finished products to be governed by separate by-laws which would establish respective waste treatment methods;
    - Establish a transitional period (at least four years);
    - Provide producers (importers) with the option to use alternative disposal methods organized, for example, by: a) the producers (importers) themselves; b) in cooperation with other producers (by establishing, for instance, specialized self-regulating organizations) and/or other legal entities; c) specialized operators of the waste disposal sector (accredited organizations);
    - Harmonize the principles of introducing extended responsibility of producers in all the member-states of unified economic space, thereby minimizing the risks of creating unsubstantiated competitive advantages for producers in the member-states.

Amendments to draft Federal Law No. 584399-5 "On the Introduction of Amendments to the Federal Law 'On Production and Consumption Waste' and Other Legislative Acts of the Russian Federation (as Regards the Economic Incentives for Waste Management)".

№	The number and text of the article	The contents of the amendment	The text of the draft Law amended as proposed	The reasoning behind the amendment
1.	Article 1 8) shall be amended by Article 24 to read as follows: "Article 24. State regulation of the utilization, deactivation and burial of finished products and goods (packaging) that have lost their consumer properties. 1. Manufacturers (importers) of finished products and goods (packaging) that have lost their consumer properties shall be responsible for their utilization, deactivation and/or burial in accordance with environmental, sanitary and other requirements established by the Russian Federation's laws governing environment protection and the Russian Federation's laws governing the sanitary and epidemiological well-being of the population. 2. Rules for the utilization, deactivation and burial of finished products and goods (packaging) that have lost their consumer properties shall be set by the Government of the Russian Federation. 3. Legal entities and individual entrepreneurs that manufacture and sell reusable containers (products in containers, such as reusable glass and plastic bottles and jars) shall be responsible for collecting containers that are returned for multi-use and refunding container deposits on	Part 8) of Article 1 shall be amended to read as follows: 8) shall be amended by Article 24 to read as follows: "Article 24. State regulation of the **collection**, utilization, **recycling**, deactivation and burial of finished products and goods that have lost their consumer properties. 1. Manufacturers (importers) of finished products and goods that have lost their consumer properties shall be responsible for their **collection**, utilization, **recycling**, deactivation and/or burial in accordance with environmental, sanitary and other requirements established by the Russian Federation's laws governing environment protection and the Russian Federation's laws governing the sanitary and epidemiological well-being of the population. 2. Rules for the **collection**, utilization, **recycling**, deactivation and burial of finished products and goods that have lost their consumer properties, **as well as standards for collection, utilization, recycling, deactivation and burial** shall be set by the Government of the Russian Federation **as required by Part 3 of this Article.**	Part 8) of Article 1 shall be amended to read as follows: 8) shall be amended by Article 24 to read as follows: "Article 24. State regulation of the **collection**, utilization, **recycling**, deactivation and burial of finished products and goods that have lost their consumer properties. 1. Manufacturers (importers) of finished products and goods that have lost their consumer properties shall be responsible for their **collection**, utilization, **recycling**, deactivation and/or burial in accordance with environmental, sanitary and other requirements established by the Russian Federation's laws governing environment protection and the Russian Federation's laws governing the sanitary and epidemiological well-being of the population. 2. Rules for the **collection**, utilization, **recycling**, deactivation and burial of finished products and goods that have lost their consumer properties, **as well as standards for collection, utilization, recycling, deactivation and burial** shall be set by the Government of the Russian Federation **as required by Part 3 of this Article.**	The proposed terms "collection" and "recycling" supplement and specify the list of waste management activities that are subject to state regulation. The amendment removes the word "packaging" in the phrase "manufacturers (importers) of finished products and goods (packaging)" from the draft for the purpose of eliminating the ambiguity as to what business entities shall be responsible for the collection, utilization, recycling, deactivation and burial of packaging waste (containers).

№	The number and text of the article	The contents of the amendment	The text of the draft Law amended as proposed	The reasoning behind the amendment
	the territory of the constituent entity of the Russian Federation where they operate in accordance with requirements established by the executive body of the respective constituent entity of the Russian Federation."	**3. Rules for the collection, utilization, recycling, deactivation and burial of finished products and goods that have lost their consumer properties shall be based on the following principles:** **a) the manufacturer (importer) of finished products and goods shall perform the obligations defined by Part 1 of this Article by running its own system, or by contracting an organization specializing exclusively in waste management and recycling, or by making required payments to a special fund that may be established in pursuance of a regulation of the Government of the Russian Federation;** **b) the manufacturer (importer) of finished products and goods shall have the right to found or cofound a specialized organization, and the manufacturer (importer) of finished products and goods shall be jointly liable together with the specialized organization for the performance of the obligations defined by Part 1 of this Article, and** **c) the obligations of**	**3. Rules for the collection, utilization, recycling, deactivation and burial of finished products and goods that have lost their consumer properties shall be based on the following principles:** **a) the manufacturer (importer) of finished products and goods shall perform the obligations defined by Part 1 of this Article by running its own system, or by contracting an organization specializing exclusively in waste management and recycling, or by making required payments to a special fund that may be established in pursuance of a regulation of the Government of the Russian Federation;** **b) the manufacturer (importer) of finished products and goods shall have the right to found or cofound a specialized organization, and the manufacturer (importer) of finished products and goods shall be jointly liable together with the specialized organization for the performance of the obligations defined by Part 1 of this Article, and**	The amendment introduces a provision for the establishment of collection, utilization, recycling, deactivation and burial standards, which would help set relevant requirements for manufacturers (importers) of products and goods depending on the capabilities of the waste management industry and the life cycle of the respective product groups. New Article 3 outlines the main principles of the Rules for the collection, utilization , recycling, deactivation and burial of finished products and goods that have lost their consumer properties, which are aimed at protecting the interests of manufacturers (importers) of finished products and goods. For the purpose of providing economic incentives for waste management activities, business entities should be given the right to choose how to

№	The number and text of the article	The contents of the amendment	The text of the draft Law amended as proposed	The reasoning behind the amendment
		the manufacturer (importer) of finished products and goods defined by Part 1 of this Article shall apply only to goods manufactured after the entry into force of this Law;	**c) the obligations of the manufacture (importer) of finished products and goods defined by Part 1 of this Article shall apply only to goods manufactured after the entry into force of this Law;**	perform the obligations defined by Part 1. Giving them the choice will ensure the maximum possible flexibility and efficiency of waste management mechanisms that are being developed in accordance with requirements of EU waste management directives.
		d) the obligations of the manufacturer (importer) of finished products and goods may be performed anywhere on the territory of the Russian Federation irrespective of what constituent entity of the Russian Federation the manufacturer (importer) operates in;	**d) the obligations of the manufacture (importer) of finished products and goods may be performed anywhere on the territory of the Russian Federation irrespective of what constituent entity of the Russian Federation the manufacturer (importer) operates in;**	The provision set forth in Paragraph b) is designed to protect the interests of the state if the manufacturer (importer) of finished products and goods is simultaneously founder or cofounder of a specialized organization.
		e) Rules for the collection, utilization, recycling, deactivation and burial of finished products and goods that have lost their consumer properties, which are set in accordance with Part 2 of this Article shall apply only to packaging (containers) during the first two years after the date of entry into force of this Law.	**e) Rules for the collection, utilization, recycling, deactivation and burial of finished products and goods that have lost their consumer properties, which are set in accordance with Part 2 of this Article shall apply only to packaging (containers) during the first two years after the date of entry into force of this Law.**	The provision set forth in Paragraph c) allows the manufacturer (importer) to choose how to perform its obligations and develop internal procedures required for the performance of the obligations implied by Part 1 of this Article.
		4. Legal entities and individual entrepreneurs that manufacture and sell **packaging intended by the manufacturer for multi-use** (products in containers, such as	**4**. Legal entities and individual entrepreneurs that manufacture and sell **packaging intended by the manufacturer for multi-use** (products in containers, such as	

№	The number and text of the article	The contents of the amendment	The text of the draft Law amended as proposed	The reasoning behind the amendment
		reusable glass and plastic bottles and jars) shall be responsible for collecting containers that are returned for multi-use and refunding container deposits on the territory of the constituent entity of the Russian Federation where they operate in accordance with requirements established by the executive body of the respective constituent entity of the Russian Federation."	reusable glass and plastic bottles and jars) shall be responsible for collecting containers that are returned for multi-use and refunding container deposits on the territory of the constituent entity of the Russian Federation where they operate in accordance with requirements established by the executive body of the respective constituent entity of the Russian Federation."	The paragraph entitles the manufacturer to perform the obligations irrespective of where it operates in the Russian Federation, which means that no excessive administrative barriers would be established. Given the need to develop an adequate system of state regulation and control and the need to develop a system as such for the performance by manufacturers (importers) of the obligations, the paragraph proposes a two-year transition period during which the rules would apply only to packaging (containers), as almost all manufactures are responsible for the production of this type of waste. The transition period would give time to develop the appropriate mechanisms and review emerging business practices. The paragraph corrects a stylistic mistake.

№	The number and text of the article	The contents of the amendment	The text of the draft Law amended as proposed	The reasoning behind the amendment
2.	New Paragraph 9) of Article 1	Article 1 of the draft Law shall be amended by adding Part 9) that shall read as follows: **9) Part 1 of Article 24 shall be amended by adding the following paragraph:** **"reduction in the rate of value-added tax on finished products and goods (packaging) in which the proportion of secondary material resources is at or in excess of applicable levels**	**9) Part 1 of Article 24 shall be amended by adding the following paragraph:** **"reduction in the rate of value-added tax on finished products and goods (packaging) in which the proportion of secondary material resources is at or in excess of applicable levels**	The paragraph introduces an economic incentive mechanism that would allow companies to direct part of funds (earmarked for R&D) toward the development of more environmentally friendly products that make the man-made impact on the environment lower.
3.	Article 7 This Federal Law enters into force on January 1, 2012.	Article 7 shall be amended to read as follows: **This Federal Law enters into force on January 1, 2013**	Article 7. **This Federal Law enters into force on January 1, 2013**	It is necessary to develop bylaws and create a system of state control for the purpose of the Law. Given the time that the consideration of the bill will take, it appears to be more feasible to set the date of its entry into force for January 1, 2013.

Issue 7. Improvement in legislation regulating the procedure for allocating and paying compensation to employees working in harmful and hazardous conditions

Under Decree No. 870 of Government of the Russian Federation of 20 November 2008, employees working in harmful and hazardous conditions are to receive the following benefits:

- reduced working hours (a maximum of 36 hours per week);
- additional annual paid vacation (at last 7 calendar days);
- increased pay (at least 4% of the base rate or wage).

The wording of the Decree does not make it clear whether the listed benefits are to be provided at the same time to all employees working in harmful conditions or whether the benefits depend on the specific parameters of each individual job.

Pursuant to Article 423 of the Russian Labor Code and instructions of the Russian Ministry of Health and Social Development (Letter No. 22-2-15/4 of 9 April 2009), pending the ministry's adoption of an act regulating the criteria for providing such benefits to employees, the laws of the former USSR remain in effect (Decree No. 1115 of the Central Committee of the Communist Party of the Soviet Union of 17 September 1986, Decree No. 387/22-78 of the State Labor Committee of the USSR of 3 October 1986, Decree No. 273/P-20 of the State Labor Committee of the USSR of 21 November 1975 and Decree No. 298/P-22 of the State Labor Committee of the USSR of 25 October 1974).

The issue became more urgent after the Supreme Court of the Russian Federation handed down determinations No. GKPI10-673 of 25 August 2010 and No. AKPI12-317 (of 4 April 2012), annulling the aforementioned acts of the former USSR.

This legal inconsistency opens the Decree to various interpretations and exposes business to risks of unwarranted costs and negative consequences. To take just one example, allowing the majority of employees to work a reduced week entails large-scale reorganization of the work process as well as costs for introducing additional shifts.

Recommendations

1. Amend Decree No. 870 of the Government of the Russian Federation of 20 November 2008 to determine the criteria for compensating employees working in harmful conditions, depending on the degree to which harmful factors affect the health and working capacity of employees in each specific job (differentiated approach).

2. Eliminate the ambiguity in Part 1 of the decree about providing the entire list of benefits to employees whose jobs involve a minimum degree of harm (Class 3.1.).

Foreign Investment Advisory Council

3.3. Financial Institutions & 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. Formation of the infrastructure of the Russian financial market and legislative activity in the sphere of its regulation

Recommendations: improvement of legislation (adoption and amendment of laws):

- "On organized trades"

- “On Bankruptcy of Natural Persons“

- “On Economic Insolvency“

- Development of legislation in the sphere of legalization of money transfers

- Preparation of a regulatory framework in the sphere of issue of foreign bonds in Russia/Russian Depositary Receipts

- Introduction of the "foreign nominal holder" institution into the regulatory framework

a) Improvement of derivatives regulation

In the period since the last Plenary Session of the Foreign Investment Advisory Council ("FIAC") the derivatives market in Russia continued to develop actively, in particular, the following federal laws have been adopted: amendments to the bankruptcy law (in a part of introduction of close-out netting)”, Federal Law on “The amendments to chapters 21 and 25 of Part Two of the Tax Code” (in a part of improvement of legal regulation of financial instruments taxation), Federal Law “On clearing”. However, we still expect the Federal Financial Market Service to adopt several regulations necessary to implement the close-out netting provisions of the law.

At the same time market participants, professional organizations and regulators continue working on amending and supplementing the Standard Documentation on Derivatives on the Russian Financial Market (the “Standard Documentation”), which was presented in June 2009 and which the participants of financial market have been successfully using for some time already.

Recommendations

To improve the legal framework, it is necessary to continue working on regulations implementing the close-out netting. Also market participants together with the regulators should develop an infrastructure for registration of derivatives transactions for the purpose of close-out netting. Further, the Russian legal framework for security of financial transactions should be further developed so that collateral for derivative transactions would be in line with current international business practices applicable to derivatives transactions.

- Continue to develop and adopt regulations implementing the legislation on close-out netting, in particular the procedure for registration of OTC derivative transactions, repo transactions and other transactions entered into on the basis of framework agreements. This is a particularly important element of the legislation for the derivatives market. Today, when the amendments to the bankruptcy legislation on close-out netting have come into force it is important to set out a clear and effective procedure for registering derivative transactions as soon as possible. In this procedure we should balance the interests of regulators and market participant especially with respect to volumes of information to be submitted to the register so that the registration of derivative transactions would not become a new obstacle for development of the Russian financial market.
- Accelerate elaboration and enactment of Russian law provisions regarding collateral, i.e., in order to introduce into Russian law escrow accounts, to allow pledge of rights (claims) against a bank arising out of a bank account agreement. For this purposes, a set of amendments to Russian laws including the Civil Code and the Law on Pledge should be streamlined and possibility of new laws like laws designating procedure for notification of pledge over movable property.

- • Develop an infrastructure for registration of OTC derivative transactions, repo transactions and other transactions entered into on the basis of framework agreements, including setting up repositories (i.e. organizations responsible for registering transactions) and developing necessary software for prompt and efficient online reporting of the transactions.
- Form a Derivatives Council which will take the lead in promoting up-to-date business practices in the Russian derivatives market (including further development of the Standard Documentation) and will represent common interest of its participants in this area before state authorities.
- Further develop the Standard Documentation to cover new types of underlying assets such as commodities, credit risks etc.

b) Pledge law

The Ministry for Economic Development of Russia, acting in close cooperation with the European Bank for Reconstruction and Development, in accordance with Clause 66 of the Anti-Crisis Plan works on reforming the legislation on pledges. The reform is intended to address the most serious problems encountered by market participants in using pledge. The increase of the market participants' confidence in reliability and effectiveness of pledge as a type of security should entail the increase in the volumes of financing under more favorable terms and, correspondingly, allow satisfying the capital demands of the market more adequately.

In the context of an extensive reform of the civil legislation the Council for Codification and Improvement of the Civil Legislation under the Russian President has prepared the draft of a revised Civil Code, which touches, among others, on the provisions on pledges (Chapter 23, paragraph 3) which was published in February 2012.

It is necessary to note that the pledge provisions of the draft Civil Code, if adopted in their current version, would not allow to fully meet those goals of the pledge law reform. Therefore, it is important that the key directions of the reform be reflected in the Civil Code.

The following key directions that the pledge law reform should achieve may be pointed out:

- Liberalize the statutory contents of a pledge agreement

At present, and as provided in the draft Civil Code, a pledge agreement must contain the subject of pledge and its value, the substance, amount and term of the obligation secured by the pledge. However, the business practice very often requires more flexibility and the possibility to describe the subject of pledge and the secured obligations in very general terms so as to fit with the particular circumstances and needs of the pledge. This may be of particular importance for pledging future assets, or all or some group of the pledge’s assets (which may fluctuate in time). That is why it is important to allow the parties to describe the subject of pledge as they deem appropriate for their transaction, provided such a description allows the identifying of the subject of pledge at the time of levying execution. The pledge over goods in circulation (which remains in the draft) is symptomatic of the lack of flexibility imposed upon parties.

Moreover, the requirement on indicating the value of the subject of pledge is also superfluous: such value should not affect the realization price (including the price at which the creditor keeps the pledged property for itself) because the realization normally takes place upon passage of significant time after the pledge agreement is executed and, as a result, the initial value does not correspond to the market conditions.

The draft Civil Code already contains some attempt towards a more liberal approach: it allows describing the secured obligation in any way, allowing to define it as an obligation secured by pledge at the time of enforcement. However, the requirement to indicate the maximum secured amount to a certain extent impairs the freedom being granted.

The liberalization of requirements to the contents of a pledge agreement will allow: to expand the scope of assets that the creditors may use as security, and the scope of transactions that may be secured; increase the creditors' confidence in reliability of security provided to them (for example, the risk of declaring a pledge agreement as "unconcluded" based on a formal ground of an insufficiently precise description of the subject of pledge, that is now significantly high for creditors, will be considerably decreased); decrease transaction costs related to the granting of secured financing (for example, in case of changes in the subject of pledge the amendment of a pledge agreement should not be necessary when the initial general description has allowed for such change).

Meanwhile this regulation may be provided only for transactions involving legal entities and individual entrepreneurs, because it is recognised that specific description of the subject of pledge may provide protection for consumers, who are less financially savvy.

- Ensure the certainty of creditors as to their priority over the pledged assets

The value of pledge as a security (and, hence, its effect on the terms of financing) strongly depends on the creditor's confidence in the priority of its pledge against third parties. Russian creditors (including banks) strongly complain of the uncertainty they suffer under the current system. A priority system which is based on the date of execution by the parties of the pledge agreement is fundamentally flawed because it does not provide third parties with the means to become aware of such pledge. Similarly, experience in Russia of registration of pledges into pledge books has proved to be ineffective.

The draft Civil Code offers the rule, under which if the law provides for some pledges to be recorded, the pledgeholder shall be entitled to make reference to his rights to the pledged property in relations with third parties only from the time of recording the pledge.

However, it appears important to add a clarification stating that the priority for the satisfaction of the pledgeholders' claims does depend on the time of recording of pledge (where such recording is required by law), as well as to add special rules allowing to precisely define which pledge is of higher priority depending on the way in which the pledge entered into force for third parties (in particular, it is necessary to directly envisage that a recorded pledge has priority over a non-recorded pledge).

- Strengthen the provisions governing pledges of specific objects (in particular, claims (rights) and bank accounts)

The provisions on pledge of rights must take into account the international recommendations in the area of assignment and pledge of rights.

According to the draft, a mandatory notice of pledge to the debtor is required and pledge of rights under agreements with consumers is valid provided there is consent of the debtor. These requirements create severe difficulties and costs specifically for pledge of numerous (pools of) rights under agreements with consumers, which is of particular importance for modern techniques of financing (for example, securitization) and provide no benefit to the debtor. In addition, it is important that a creditor could have an opportunity to levy execution on the pledged rights in a simple way, i.e. by receiving funds directly from the pledgor's debtor (and not only by way of an assignment by the pledgor (transfer of rights onto the pledgeholder) as it is provided in the draft Civil Code).

As to the pledge of rights under a bank account, it is necessary to refuse from the concept of special pledge accounts, proposed by the draft Civil Code, and introduce the possibility of using the rights with respect to any bank account as security. In addition, such pledge should be subject to the general rules on the establishment of priority through registration in a publicly accessible register of notices on pledge (whereas the draft Civil Code provides for the effectiveness of such pledge against third parties as of the moment of recording a pledge agreement by a particular bank). The pledgeholder should have certainty that he will be able to seize the account rights under which are pledged in accordance with the pledge agreement, and not only in case of non-performance of a secured obligation by the debtor, as provided by the draft Civil Code.

- Further simplify and liberalise the procedure of levy of execution to meet market's expectations

The quality and effectiveness of rules on levying execution is one of the factors strongly affecting the value of pledge as a type of security. Therefore, the procedure for levying execution should be as much as possible clear, predictable, quick and cost effective. Russian law has made tremendous progress in this respect. However, those progressive changes may be impaired by certain provisions of the draft Civil Code: in particular, the draft Civil Code provides that an agreement on out-of-court enforcement of pledge granted by an individual, as well as with respect to mortgaged immovable property may be concluded after the grounds for enforcement arise and must be notarised. This is a step back from previous liberalisation (see Federal Law No. 306-FZ dated 30 December 2008). In addition, it is necessary to remove provisions allowing the pledgor to postpone realization of a subject of pledge for up to one year and other provisions which strongly weaken enforcement (such as a period of one month before realization can take place).

Recommendations

FIAC wholly supports the above key recommendations prepared by the EBRD for the Ministry of Economic Development (MED) and stands ready to actively participate to discussions around draft legal provisions and other materials. Currently it is necessary to concentrate efforts so that, in close cooperation with the MED, continue work on improving the rules on pledge in the draft Civil Code (while taking into account that the draft has been already submitted to the State Duma).

It is also necessary to set up a modern, comprehensive, transparent and efficient system for registration of all kinds of pledges.

Eventually, reforming of pledge legislation with due account of the market participants' needs would play an important role in promoting Russian economic growth.

c) Development of payment system

There is a need to increase the efficiency and security of the national payment system and promote its further integration into the global payment systems.

In June 2011 Federal laws "On National Payment System" and "On the Introduction of Amendments to Certain Legislative Acts of the Russian Federation Following the Adoption of the Federal Law "On National Payment System" were signed by President of Russia and approved by the Russian Federation Council. The Working Group's recommendations regarding the ban on the cross-border exchange of data were incorporated into these federal laws.

Non-Profit Partnership "The National Payments Council" (NPC) was established by decision of February 8, 2012. Among the founders of the NPC includes major Russian and international companies, including the coordinator of the working group FIAC in the banking sector - Deutsche Bank Ltd.

Recommendations

- In connection to the creation of the National Payments Council, it is necessary to further coordinate the efforts of NPC members for technological development of the industry, creation of the Strategic Plan to Develop a National Payment System, elaboration of common industrial standards in the sphere of cashless payments, using the international experience.
- Continued assistance by the Working Group headed by Deutsche Bank is necessary to promote the exchange of experience between the Bank of Russia and central banks of Europe.
- To further develop the payment system legislation to ensure its smooth functioning. The Central Bank of the Russian Federation will prepare legislative acts on the national payment system including the rules for the registration of payment systems.
- It is essential to include the relevant infrastructure into the Strategic Plan to Develop a National Payment System. To ensure:
    - New payment format aligned with SWIFT/SEPA standards and formats
    - Online processing of all internal payments, discontinuation of route payments
    - Permission to use the English language
    - Payee identification – standardization of payment purposes, introduction of code words instead of freeform phrases
    - Liberalization of currency controls
    - Simplification of tax payments (10 types) – alignment with SWIFT standards and formats
- Activisation of the activity of the Payment Card Subcommittee of the "Financial Operations Standards" Technical Standardisation Committee (TC 122). It has been planned to start developing, together with Rosstandard, the Russian standard "Terms and Definitions in the Financial Sphere".

Issue 2. Attractiveness of the Russian financial market for foreign investors

a) Pension system reform

If compared to other similar pension reforms in Central Europe, the Russian pension reforms which began in 2002 have only had limited success. Under the pension reforms in for example Slovakia, Poland and Hungary private operators were quickly able to build up considerable assets under management by selling their products to a large proportion of the active working population. In Russia however, despite some commendable efforts such as the recent co-financing initiative, the pension reforms introduced in 2002 were to date not able to mobilize sufficient interest and active participation by the general public. As a result the assets accumulated through the 2nd pillar reforms remains very small, especially in relation to Russia's total GDP.

In terms of regional comparison, due to its pension reforms introduced in 1998, Poland now has 2 pension funds amongst the top 100 European Pension Fund, primarily because the sector was of great interest to investors when the reforms were introduced. Russia has no fund in the top 100.

As of 31 December 2011, only 15.4 million Russian citizens (20.7% of the total number of citizens whose pension accumulations comprise a funded component) have agreed to join the non-government pension system and have "privatized" the management of the funded component of their labor pension.

Total obligatory pension savings, which have been placed in the hands of private pension funds as a result of the national pension reform, amount to 340.4 billion rubles ($11.4 billion). By comparison, total pension assets in management of AVIVA OFE BPH, the largest pension fund in Poland, are $17.2 billion.(as of 30 September 2011)

Over the recent years, there has been ongoing discussion with the participation of ministries and departments concerned about the need for a new pension reform. There is much criticism of the cumulative part of the retirement pension and non-State pension funds, which ostensibly fail to appropriately manage pension savings. The major reason for concern is a growing deficit of the RF Pension Fund and the need to fill gaps in its budget. Apparently, the RF Pension Fund deficit arose not due to the introduction of cumulative components, but resulted from the effect of mechanisms that were built into the system back in Soviet times.

It appears to local market operators and potential foreign investors that the Russian state is not clear about what it wants to achieve. Does it want to privatize the pension system and attract investment into the sector or does it want to retain the oversight and control of the majority of pension assets via the state pension fund and VEB? The implication of this issue for Russia in general and Moscow as a financial center in particular are obvious. Due to this halfhearted approach to the Russian pension reform, much needed long-term non-speculator funding is currently not properly channeled into the local capital market.

If the Russian government is serious about its intentions to make Moscow a global financial center, it needs to make a clear commitment to genuinely privatizing the Russian 2nd pillar system and launch a second wave of pension reforms to stimulate local and foreign investment into the sector. This would result in a much higher level of outsourcing of individuals accounts from the state pension fund to private operators and would help to create a “savings culture” in Russia.

Also, there exists an objective reason, namely: an untested application confirmation mechanism.

We recommend the following steps:

- Not only preserve, but also develop the cumulative part of the RF pension system. Specifically, one should expand the pension co-financing program through organizational upgrades, for many people cannot be directly involved in this program due to the failed mechanism of application confirmation.
- Urgent review of the legal status of non-state pension funds, i.e. making them commercial entities. If necessary one should consider the creation of two separate classes of pension funds: 1.) captive pension funds that are allowed to operate under the existing regulations and as non-commercial entities, 2.) open, free market funds that will operate under a new regulatory set-up and as profit-maximizing commercial entities.

  A more significant problem is the lack of transparency created by the two-tier system of management fees (charged both by the NPF and by the AMC). Our preference would be for transparency in the levying of fees, therefore we would advocate the establishment of an AMC for all fee collections, with clear guidelines on disclosure of fees to clients put in place and monitored by the regulator.
- Revise requirements for the pension savings investment process. Propose efficient and transparent tools for long-term investment for the pension savings market.

  Clarify the issue of guarantees required to be provided by both non-state pension funds and by asset managers in terms of mandatory and voluntary pension assets. We suggest that it should be clearly established and articulated in the relevant legislation that the investment risk lies with the owner of the asset, i.e. the individual pension account holder. Any investment risk should lie with the ultimate beneficiary of the pension account, and returns should be a function of the risk they take.
- Urgent review of the current business model for OPS operators. The tariffs that operators can charge for the management of OPS assets should be changed. Rather than being related to annual investment income, fees should be a % of total assets under management charged annually or should be charged as a % of contributions received. The current fee structure does not allow for proper business planning, given the very volatile local capital market. Also having income dependent directly on investment return might push some funds towards more risky investment strategies, which is not in the client’s interest.

  Fees which are a % of total assets under management or % of contributions received - this is more stable for asset managers and more attractive for investors.
- Establish a pension agents licensing institute so as to eliminate fraud related to inappropriate agent activity practices. Currently, there is no nationwide system for monitoring/registration/licensing of agents and cases of fraud relating to inappropriate agent activity practices are fairly common. Non-

State pension funds do everything they can to post-evaluate the operations of all the agents involved, yet it is not an easy job now that no nationwide system is in place. One should address issues in connection with the determination of any minimum standards / licensing / formulation of requirements / professional training of agents. Possibly, this issue will have to be considered in the future; hopefully, there will be an appropriate system for a regulator to do licensing/management/supervision.

- Expand a list of securities for funds to invest pension assets. Once this is done, it will promote the development of both pension funds and securities and derivatives market. The idea to improve a system for the regulator to decide what securities may be added to the list does not seem quite consistent.
- Boost public interest in the reforms. There is still little interest and understanding amongst the general population about how OPS works and how they can participate. While we commend the recent advertising initiatives in this area, we recommend a make a much more focused investment in educating the general public.

b) Regulation of insurance business in Russia

Insurance business is one of the key pillars of the financial market and the economy in general.

The most important issues to be solved are:

- Procurement of insurance services for public and municipal needs as well as the needs of legal entities (Federal Law No. 223-FZ)

  When reforming the system of procurement for state and municipal needs as well as the needs of natural monopolies, state corporations, state unitary enterprises, municipal unitary enterprises and other business entities with over 50% state interest in charter capital and when setting up a new two-tier procurement system (Federal Contract System and Federal Law No. 223-FZ), it is necessary to ensure more transparent procedures for the procurement of insurance services. To this end, it is recommended to prohibit electronic tenders for the obligatory types of insurance based on fixed rates, since prices cannot be reduced when the rates are equal for all suppliers, to develop the minimum requirements for an insurance service in respect of the customers in question, and to eliminate the restrictive requirements for the participation of foreign companies in the supply of goods and services for the above-mentioned customers. That will include the customer's responsibility, when introducing the requirement for a license for access to state secrets, to clearly state in the bidding documents that the information related to a state secret will be provided to the supplier of goods/services under a state contract with an indication of the contract implementation stage when such information will/may be provided, and to ensure that the bidding documents allow the supplier of goods/services to use the alternative methods of state secret protection in addition to the licenses for access to state secrets, issued by the Federal Security Service of Russia and the Foreign Intelligence Service, if the supplier of goods/services will be obliged to obtain state secret information when fulfilling a state/municipal order.
- Improving the insurance legislation in the light of international practice with regard to improving the professionalism of all market participants and regulatory environment.
- Creating a tool to improve consumer protection insurance, including the insurance ombudsmen institute.

c) Obligatory economic ratio

On July 1, 2012 Direction of the Bank of Russia dated 28.04.2012 No. 2808-U on Making Changes in the Bank of Russia Instruction dated 16.01.2004 No. 110-I on Obligatory Banking Standards came into force, which Direction specifies grounds for applying higher risk-benefit ratios for the calculation of bank capital adequacy standards.

The banking community, however, believes that the current version of Instruction No. 110-I contains specific requirements that run counter to Basel III initiatives, say, the one for applying a higher risk-benefit ratio with respect to investments in corporate stock in the amount of less than 20% of the authorised capital.

Issue 3. Banking Reform and Banking Sector Development Strategy.

Progress in the banking sphere is hampered by a range of unresolved issues:

- Russian legislation imposes a series of restrictions on information (data on transactions of clients and correspondents) which shall be transferred to parent credit organizations of banking groups and parent organizations (management companies) of banking holdings of credit organizations, which are members of these groups and holdings. The main aim is to draw up consolidated statements. Such information acquires special value during drawing up of a consolidated statement in case parent and

branch organizations are located in the territory of different states. The specified provision prevents the development of consolidated supervision and expansion of cooperation of the Bank of Russia with the authorized supervisors in the country and abroad.

- Management condition in credit organizations is considered unsatisfactory in some cases, including corporate and risk management, due to service-oriented approach of the credit organizations to business owners.
- At present the possibilities to tackle thorny issues in banks based on market principles are restricted and depend most of all on a bona fide approach, corporate behavior and financial opportunities of the main bank owners. The Bank of Russia is not authorized enough to facilitate restructurization of troubled banks as a way of financial rehabilitation performed with removal of former owners.

In order to regulate the specified problems the Ministry of Finance of Russia and the Bank of Russia elaborated a draft of Federal Law on Introduction of Amendments to Federal Laws on Banks and Banking activities and on the Central Bank of the Russian Federation (the Bank of Russia) (hereinafter referred to as the draft law). The draft law stipulates specification of the main provisions of consolidated supervision and requirements for disclosure by credit organizations, banking groups and banking holdings of information on their activities to interested users, and authorization of the Bank of Russia of defining risk and capital management for credit organizations.

The draft law was adopted by the State Duma of the Federal Assembly of the Russian Federation in the first reading in May, 2011.

Within the framework of the draft law preparation for consideration by the State Duma of the Federal Assembly of the Russian Federation in the second reading the Bank of Russia (letter No. 09-15-3/5158 as of December 9, 2011 to the Ministry of Finance of Russia) prepared proposals for introduction of amendments also concerning issues of information exchange among parent credit organizations of banking groups, parent organizations of banking holdings and members of the specified association of legal entities, and also among the Bank of Russia and other Russian or foreign supervisors.

The amendments proposed by the Bank of Russia refer to specification of provisions, compliance with these provisions enable to exchange information constituting bank secret:

members of banking groups and banking holdings are entitled to provide their parent organizations located in the territory of foreign states with information constituting bank secret in case the recipients ensure its safety in accordance with the applicable legislation of the Russian Federation;

The Bank of Russia is entitled to present to the foreign supervisors information constituting bank secret in case they ensure safety stipulated by the legislation of the Russian Federation, and in case they do not disclose the specified information to third parties, including law enforcement bodies, without a prior written consent of the Bank of Russia except where required by the courts of session. At that the information received by the Bank of Russia from the foreign supervisors can be presented to third parties, including law enforcement bodies, only upon consent of the respective foreign supervisor that provided such information, or to the court on the basis of the court decision rendered during proceedings of the criminal case.

The Bank of Russia presented to the Ministry of Finance of Russia proposals for implementation of Clauses 17, 20 of the Plan of actions for implementation of the Banking Sector Development Strategy of the Russian Federation for the period till 2015 (hereinafter referred to as the Plan). These proposals have the following aims:

- granting to the Bank of Russia of rights to set for credit organizations, if required, individual threshold values of obligatory standards and additional requirements for credit organizations applying intra-bank methods (models) of risk assessment within Basel II framework;
- granting to the Bank of Russia of rights to set obligatory requirements for the systems of risk and capital management of credit organizations, perform quality assessment of these systems based on the methods established by the normative acts of the Bank of Russia;
- granting to the Bank of Russia of rights to assess the system of labor remuneration of credit organizations and require its compliance with the character, scope of the settled transactions, results of activities, level and combination of the acquired risks;
- granting to the Bank of Russia of rights to set the order of measures to be taken towards credit organizations during discovery of drawbacks in their activities, and specification of a list of measures to be taken in accordance with the international approaches;

- defining of specific features of the competence and organization of activities of the board of directors (supervisory board) of the credit organization, including with respect to recommendations of the Basel Committee on Banking Supervision (hereinafter referred to as the BCBS) for improvement of corporate management.

Recommendations

Solution of the specified issues is stipulated in the Banking Sector Development Strategy of the Russian Federation for the period till 2015, adopted by the Government of the Russian Federation and the Bank of Russia on April 5, 2011. Read the recommendations below:

- The Government of the Russian Federation should assist early adoption of the Federal Law on Introduction of Amendments to the Federal Laws on Banks and Banking Activities and on the Central Bank of the Russian Federation (the Bank of Russia) which ensures legal conditions for organization of the consolidated banking supervision and bringing of its implementation approaches to conformity to the world's best practices in this sphere, including the issues of information exchange among the members of the banking groups (banking holdings), and among the Bank of Russia and other, including foreign, supervisors (Clause 18 of the Plan).
- The Government of the Russian Federation and the Bank of Russia should take the following actions:
  - form legal framework for implementation of recommendations of the Basel Committee on Banking Supervision, including granting to the Bank of Russia of the right to set rules of risk and capital management for credit organizations, application rules of intra-bank methods of risk assessment, and defining of responsibilities of the members of executive agencies and the board of directors (supervisory board) concerning activities of the credit organizations, including the sphere of risk management (Clause 20 of the Plan);
  - improve the Russian legislation with regard to expansion of the authorities of the Bank of Russia to take measures towards the credit organizations for the discovered drawbacks in the systems of corporate management, to take measures towards directors and owners of the credit organizations, including measures recommended by the BCBS (Clause 17 of the Plan).
  - It is recommended to expand the authorities of the Bank of Russia in work with troubled banks, to form a regulatory framework consolidating international approaches in Russian supervisory practice, which are primarily set by the Basel Committee on Banking Supervision (Clause 26 of the Plan).

Issue 4. Efficiency of the banking sector (*as of September 2011*)

General:

- To further enhance the efficiency of the Russian banking system, continued efforts should be made to optimize the existing legislative framework regulating document flow processes, specifically those involving hard-copy statutory reporting.

- It is also suggested proposing amendments to the existing laws and legislative acts to provide banks with a right to unilaterally terminate an account should any suspicious activity be revealed.

Today there are very few reasons why a bank may rightfully refuse to sign a bank account / deposit agreement or suspend a transaction, even when the bank has many reasons to suspect a shady transaction.

The Central Bank has been studying a draft federal law No 230471-5 "On amending article 7 of Federal anti-money laundering and anti-terror finance law and part 2 of the Russian Civil Code".

Among other things, the project is expected to expand list of reasons why a credit institution may rightfully refuse to sign a bank account / deposit agreement with an individual or a legal entity, and is also expected to supplement article 7 of Federal anti-money laundering and anti-terror finance law with a list of reasons why a credit institution may rightfully and at its sole discretion refuse to perform under a bank account / deposit agreement with a customer.

The project is now in preparation, to be raised for discussion at the Russian State Duma. New version of the law 115-ФЗ does not give any additional power and reasons for account closure

Expected results:

- Expansion of foreign bank presence in the working groups organized by the Bank of Russia for the development of the banking sector's regulatory framework.

- Benchmarking analysis of the existing regulatory framework covering hard-copy statutory reporting and document flow in the banking sector of Russia and other jurisdictions.

- Proposals to optimize the existing regulatory base of the banking sector to allow transition from hard-copy statutory reporting towards an expanded use of advanced information technologies of electronic and automated document flow, data archiving and transfer.

These efforts would require amendments to the following regulatory documents:

Regulations Nos. 302-P and 318-P of the Bank of Russia

Directive No. 1375U of the Bank of Russia

Directive No. 2332U of the Bank of Russia

Directive No. 2346U of the bank of Russia

- Proposals to amend the existing laws and legislative acts to allow unilateral termination of accounts by banks in the event that any suspicious activity have been revealed (enhancement of anti-money laundering legislation).

It is planned to propose amendments to the following laws and regulations:

The Civil Code of Russia, Federal Law No. 115-FZ

- Assistance in testing and practical application of the proposed changes; assistance in implementing new regulatory practices.

Issue 5. Russian taxation rules for cost sharing and profit sharing in multinational groups

Currently, the Russian law does not provide any guidance to cost/profit sharing generated by business activities of multinational groups. However, multinational groups intensively apply mechanism where profits /costs are allocated in proportion to participation of each legal entity or a branch (hereinafter together determined as “branch”) in consumption of expenses and generation of profits. Cost/profit sharing arises where physical settlements, accounting and legal clearance of such costs and profits are centralised by a particular entity of the group and further distributed to branches participating in related business.

The absence in Russian Federation of legalized mechanisms and taxation rules for such allocations leads to their replacement with consulting agreements, etc. At the same time, the replacement (a) does not work as universal solution, thus leading to incomplete recognition of costs and profits by Russian branches of multinational groups and inadequacy of tax impact vs economic effect, and (b) creates risks of taxable presence for foreign group companies as a result of unclear rules for calculation of allocated amounts for Russian tax purposes.

Russian branches of multinational companies and banks are experiencing severe contriety from tax authorities these days regarding recognition of allocated costs in profits tax calculation. Justification of such costs can be achieved through multi-level court proceedings. After thorough investigation of business structures and submitted documentation, courts rule in favor of taxpayers, and, in general, these facts prove that the costs are reasonable.

From 2012, profit sharing has been implemented as one of five methods for transfer pricing tax control of transactions with affiliated parties. However, application of this method is subject to reasonable rejection of other 4 methods that makes profit sharing quite risky for implementation, especially given absence of practice in formulating such reasons. On the other side, implementation of transfer pricing regulation does not remove the issue with documentation and economic justification of profit / loss sharing. Absence of legitimate profit allocation mechanisms and taxation rules generates persisting Russian tax risks for headquarters, even when actual profit allocation follows European transfer pricing guidelines, because such amounts may be recognized by the Russian tax authorities to be insufficient.

Recommendations

Advice Ministry of Finance to discuss with the tax force the bill on Tax Code amendment for tax regulation of profits and cost sharing, submitted in July 2011, and jointly determine acceptable solutions for further improvement of this draft law and its approval.

3.4. Improvement of Tax Law

Issue 1. Unification of procedure for using adjustment invoices for all transactions requiring an adjustment of VAT liabilities

Under the Russian Tax Code, sellers were not required to issue adjustment invoices prior to 1 October 2011 (adjustment invoices were not processed before 1 October 2011).

Federal Law No. 24-FZ introduced the concept of adjustment invoices. Under Article 168.3 of the Russian Tax Code, the seller is required to issue such invoices "in the event of a change in the value of goods shipped (work performed, services rendered) or property rights transferred, including a change in the price (rate) and/or quantity (volume) of goods shipped (work performed, services rendered) or property rights transferred." Such adjustment invoices show both the new value of goods (work, services, property rights) and the change in value.

The seller must notify the buyer of any change in the value of shipped goods before issuing an adjustment invoice. The buyer's consent or the fact that the buyer was notified of a change in value may be verified by an agreement or contract as well as by any primary document. The seller or the buyer may deduct VAT on the basis of an adjustment invoice only if such a supporting document is available (Article 171.13 and Article 172.10 of the Russian Tax Code).

All corrective invoices are to be chronologically registered in a single Register, whether they are issued in hard copy or in electronic form.

If taxpayers have a large number of VATable transactions that need to be adjusted in the tax period, a single ("combined") adjustment invoice must be issued. In addition, taxpayers may create registers containing the required details of adjustment invoices and amounts to be adjusted in order to unify the procedure for issuing a large number of adjustment invoices.

The issue remains unsettled in current tax law, and there are no recommendations on using this approach in issuing adjustment invoices.

Recommendations

We propose that consideration be given to amending Decree No. 1137 of the Government of the Russian Federation of 26 December 2011 in connection with:

- "combined" invoices used by taxpayers in a number of cases.
- the issuance by taxpayers of a register of adjustment invoices, which can be created if taxpayers have software enabling them to identify the changes made.

Issue 2. VAT treatment of bonuses (premiums) received by buyers

Pursuant to Article 162.1.2 of the Russian Tax Code, the VAT base is increased by amounts related to payment for goods, works or services sold. Before the Supreme Arbitration Court (SAC) passed a precedent ruling on the Leroy Merlin Vostok case (Ruling No. 11637/11 of the Presidium of the SAC of 7 February 2012), the Article’s provisions were not applied to premiums (bonuses) received by buyers of goods from sellers for a purchase volume that exceeded a certain amount under contract.

According to the SAC, if premiums are directly related to deliveries of goods, they represent, along with other discounts, a form of trade discount off the value of goods that affect the VAT base. However, this ruling of the SAC, although in favor of the taxpayer, nevertheless implied a negative determination for the classification of bonuses paid by sellers.

When non-food products are sold, a premium (bonus) which is related to deliveries of goods and paid for a certain volume of goods, is not related to payments for goods that have already been purchased or to the buyer’s obligation to provide additional services to the seller. Thus, premiums paid for reaching certain

sales volumes do not require the buyer to take any specific actions and, consequently, neither change the price of goods nor increase the VAT base.

Recommendations

- We recommend that consideration be given to clarifying provisions on the application of Articles 154 and 170 of the Russian Tax Code to premiums (bonuses) provided to buyers for fulfilling the terms of a contract.
- We recommend that the amendments to Article 154 of the Tax Code be extended to legal relations arising on or after 1 January 2009.
- We recommend that the amendments to Article 170 of the Tax Code be extended to legal relations arising on or after 1 October 2011.

Proposed amendments to Chapter 21 of the Russian Tax Code

1) Add the following second paragraph to clause 1 of Article 154:

"For the purposes of Chapter 21 of this Code, a premium (or other incentive payment) that a seller pays (provides) to a purchaser for fulfilling certain contractual terms, including the attainment of a certain purchase volume, does not reduce the cost of goods shipped (work performed, services rendered) or property rights transferred, except where a contract (agreement) between the parties expressly states that the cost of goods shipped (work performed, services rendered) or property rights transferred is to be reduced by the amount of a premium paid (provided)."

2) Reword clause 3.4 of Article 170 as follows:

"4) a downward adjustment is made in the cost of goods shipped (work performed, services rendered) or property rights transferred, including in the case of a reduction in the price (tariff) and/or quantity (volume) of goods shipped (work performed, services rendered) or property rights transferred.

Tax must be restored in the amount of the difference between tax calculated on the basis of the cost of goods shipped (work performed, services rendered) or property rights obtained before and after such downward adjustment.

Tax is to be restored by the purchaser in the tax period in which the earlier of the following dates falls:

- the date on which the purchaser receives primary documents pertaining to a downward adjustment of the cost of goods acquired (work performed, services rendered) or property rights obtained, **if the seller has indicated amounts of tax in such documents;**

- the date on which the purchaser receives an adjustment invoice issued by the seller in connection with a downward adjustment of the cost of goods shipped (work performed, services rendered) or property rights obtained;"

Transitional provisions

Extend clause 1 of Article 154 of Part Two of the Russian Tax Code (as amended by this federal law) to legal relations arising on or after 1 January 2009.

Extend clause 3.4 of Article 170 of Part Two of the Russian Tax Code (as amended by this federal law) to legal relations arising on or after 1 October 2011.

3.5. Trade and Consumer Sector

Issue 1. Disposal of packaging waste in the context of draft Federal Law No. 584399-5 On the Introduction of Amendments to the Federal Law on Production and Consumption Wastes and other legislation of the Russian Federation (concerning the economic incentives for waste treatment) (jointly with the think tank on technical regulation and elimination of administrative barriers).

Establishment of a sustainable system of consumption waste treatment is being focused on by FIAC members, which have been developing for a number of years a scheme of market incentives for the Russian market, in particular for paying waste collection and subsequent recycling using international best practices and the most efficient approaches.

Effective EU legislation in this area provides for introducing target indicators – standards for waste collection and recycling over a specified period of time which would allow aligning the waste collection system with the development of waste recycling capacities.

Russia's Ministry of Natural Resources developed Draft Federal Law No. 584399-5 “On the Introduction of Amendments to the Federal Law ‘On Production and Consumption Wastes’ and other Legislation of the Russian Federation (as regards Economic Incentives in Waste Treatment)” and submitted it to the State Duma. On 7 October 2011, Draft Federal Law No. 584399-5 (hereinafter the "Draft") was passed by the State Duma in its first reading.

FIAC members are concerned with the wording of Draft Article 24.1 on establishing responsibilities of manufacturers (importers) for arranging in any location across Russia the utilization (disposal), disinfection and/or dumping of manufactured (imported) products (goods), which have lost consumer properties. This might lead to an unreasonable financial burden on the food industry and market due to the ambiguity of this provision's interpretation and the lack of clarifications in respect of the responsibility implementation procedure.

Based on the text of the draft, it is impossible to determine whether the said products lost their consumer properties in the process of production, storage, sale (defective goods) or in the process of consumption. It is also unclear, what is meant by "products which have lost their consumer properties".

The draft does not contain clear definitions regarding waste disposal obligations and implementation mechanisms. Moreover, there is no clarity with regard to volumes of produced goods in question and arrangements on collection of wastes related to products put on the market to provide for their subsequent utilization.

It is important that the Draft Federal Law is not harmonized with the existing EU legislation, which in particular determines specific standards for utilization/disposal of particular wastes based on material instead of vague responsibilities of manufacturers (importers) and also determines options for settling obligations to treat packaging waste.

As a common economic space is being created, no clarifications are provided regarding requirements for organizations which import packaging and packaged goods to Russia from other countries of the Customs Union, as they are neither producers, nor importers. No requirements are clarified for entities which fully or partially export packaged goods or packaging.

We believe that the obligation stipulated in Article 24-1 does not resolve the problem of establishing an efficient consumer waste collection and disposal system in Russia or provide economic incentives for recycling waste.

The draft law was twice assessed for regulatory impact, once before submission to the State Duma and once – after submission but before its adoption in the first reading. Based on the results of public consultations within the framework of regulatory impact assessment in respect of the Draft, a number of FIAC proposals were taken into consideration and reflected in the feedback of the Ministry of Economic Development. However, the primary concerns of foreign investors and the comments of the Ministry of Economic Development presented in the Conclusion on the Regulatory Impact Assessment were left without notice.

At present, the Draft is being prepared for the second reading. Amendments to the Draft have been received from subjects with the right of legislative initiative, deputies and senators. Some of the amendments contain proposals to transfer a fixed percentage to specialized reserve funds under self-regulating organizations in the waste management sector. The declared purpose of such amendments is to provide the financial base and economic environment for the establishment of a waste treatment industry in Russia.

FIAC members emphasize that the establishment of an effective and sustainable European consumer waste treatment market, including packaging wastes, and an efficient waste recycling industry were made possible due to the fact that the producers themselves can control the collection of packaging wastes and the standards for waste collection are provided in legislation. It should be noted that waste treatment regulations differ depending on the industry: car manufacturing, tire production, production of household equipment and consumer electronics, or packaged consumer goods.

In addition, FIAC joined forces with other associations and unions (RusBrand, RATEK, Ruspek, and others) on designing amendments to the Draft Law which were subsequently approved as part of the official amendments by members of the Council of Federation.

Experts are now studying the possibility of posting the Draft Law on the Government's recently-launched Open Government online platform to encourage a wider response from the expert community.

At this moment the State Duma is examining several versions of the draft law. The second reading is scheduled for the autumn session of 2012.

Recommendations

- Enable the business community to participate directly in preparing Draft Federal Law No. 584399-5 for the second reading.
- Propose amendments to Draft Federal Law No. 584399-5 based on the following main principles:
    - Abandon fiscal approaches to resolving this issue;
    - Establish target disposal indicators for manufacturers (importers) (e.g., as a share of goods/packaging entered into circulation and subject to disposal);
    - Apply an industry-specific approach providing for different categories of finished products to be governed by separate by-laws which would establish respective waste treatment methods;
    - Establish a transitional period (at least four years);
    - Provide manufacturers (importers) with the option to use alternative disposal methods organized, for example, by: a) the manufacturers (importers) themselves; b) in cooperation with other manufacturers (including through the establishment of specialized self-regulating organizations) and/or other legal entities; c) specialized operators of the waste treatment sector (accredited organizations);
    - Rely on EU experience, including with regard to establishing a common market of CES and EurAsEC member countries.

It is also noteworthy that within the Common Economic Space (CES) extended manufacturer responsibility should be harmonized across the CES to minimize potential risks of creating unreasonable competitive advantages for manufacturers in CES partner states.

Issue 2. Applying the Customs Union's customs regulations 005/2011 "On Packaging Safety"

On 1 July 2012, the Customs Union's technical regulations On the Safety of Packing came into force, but the document should be improved with regard to the application of the technical regulations by the entities engaged in foreign economic activities.

In particular, there are difficulties in interpreting certain provisions.

The items covered by the technical regulations are not clearly determined, and ultimately the list of products subject to regulation are groundlessly expanded by the state authorities. This applies to films, labels and paper in rolls which are not used explicitly for packaging, but are employed for making packages (packets, bags).

The transition period indicated in the document is until 1 January 2013, during which the packaging produced in compliance with the current legislation can be used until the Technical Regulations enter into force. Since there are actually no certifying bodies and test laboratories which are authorized to conduct surveys and assess compliance with the requirements of the Technical Regulations which entered into force, the packaging producers physically cannot produce the packaging with the documents confirming its conformity from 1 January 2013.

The specifics of the methods of labeling a package are not clearly defined (the way small products should be labeled, "numbers available" for denoting package materials, etc.).

In addition, some difficulties are related to the confirmation (declaration) of compliance of packaging (packing) with the requirements of the Customs Union's technical regulations *On Packaging Safety*.

Solution:

Make a detailed list of the items covered by the Technical Regulations with an indication of the item numbers of the Commodity Classifier for Foreign Economic Activities of the Customs Union so that the packaging would not be covered by the Technical Regulations.

Establish a transition period until 1 January 2014 for products which are covered by the Technical Regulations and whose compliance is not to be necessarily assessed (confirmed) until the day when the Technical Regulations come into force in accordance with the legislation of the Customs Union's member-states or its regulatory legal acts, and which have no documents confirming their compliance.

Receive clarifications from the EEC concerning the labeling specifics.

Status: Not resolved. A transition period of 18 months (until 1 January 2014) should be established. Determine a detailed list of the items covered by the Technical Regulations.

Recommendations

- It would be expedient to specify the items covered by the Technical Regulations with an indication of the item numbers of the Commodity Classifier for Foreign Economic Activities of the Customs Union, excluding from the items the materials for subsequently making the packaging.
- In drawing a parallel with the Technical Regulations adopted for other types of products, we believe that the transition period for the said document should be 18 months, i.e., until 1 January 2014.
- Certain labeling requirements should be added to the supporting documentation

Issue 3. Markups on prices of baby food sold in various constituent entities of the Russian Federation

Pursuant to Article 4 of Federal Law No. 381-FZ On the Fundamental Principles of State Regulation of Trade in the Russian Federation of 28 December 2009 (hereinafter, the Trade Law), trade is regulated by the state by setting the requirements for trade and its arrangement, and by anti-monopoly regulation, information support and state control. Other methods of the state regulation of trade are not permitted, unless provided otherwise in federal laws.

At the same time, **Russian Government Decree No. 239 On Measures to Improve the State Regulation of Prices (Tariffs), dated 7 March 1995** *(hereinafter, Decree No. 239), adopted in pursuance of Russian Presidential Edict No. 221 On Measures to Improve the State Regulation of Prices (Tariffs), dated 28 February 1995, sets the lists of production and consumer goods and the services rendered by transport, procurement and distribution companies and trade organizations, in relation to which the Russian local executive bodies have the right to establish the state regulation of tariffs and markups.*

But there are no provisions in the federal law for the state regulation of tariffs and markups with regard to a number of goods and services listed in Decree No. 239.

Decree No. 239 creates prerequisites for the intervention of the executive bodies of the constituent entities of the Russian Federation in pricing; in some regions, therefore, FIAC members face administrative penalties and litigation concerning regional legislation enacted on the basis of Decree 239 with regard to the sale prices of children products. Children products, in particular, comprise baby food (including food concentrates), products (goods) sold in schools, colleges, secondary educational establishments and higher institutions (catering); products (goods) sold in the Far North and equivalent areas with limited delivery periods.

Status: *Not resolved. The department for competition of the Russian Ministry for Economic Development requested entities engaged in foreign economic activities to re-send documents that were previously sent to the Russian Ministry of Health and Social Development (letter No. KC KC-0906-12 Ab, dated 9 June 2012, ref.No. 24-4/535 dated 8 June 2012)*

Recommendations

Introduce amendments to Decree No. 239 to exclude baby food from its coverage to ensure compliance with Federal Law No. 381-FZ On the Fundamental Principles of State Regulation of Trade in the Russian Federation

Issue 4. Problems with obtaining veterinary certificates in Russia (Order of the Russian Ministry of Agriculture No. 422 dated 16 November 2006)

There is no clear guidance in Order No. 422 of the Russian Ministry of Agriculture “Concerning Approval of the Procedure for Issuing Veterinary Certificates” of 16 November 2006 as to how veterinary certificates should be issued and what the cost of such services should be. Certain provisions of this document are in conflict with current Russian legislation and technical regulations of the Customs Union. This results in non-transparent procedures, excessive costs and major operating difficulties for foreign investors.

According to a 2010 report of the Ministry for Economic Development “On the Condition of State Control (Oversight) and Municipal Control in the Russian Federation”, veterinary control/oversight in Russia is redundant at the federal and regional levels, the system of payment for veterinary documents is not transparent, there is an excessive number of products to be assessed for compliance with requirements set by the agency responsible for veterinary safety as well as a great number of supporting documents.

The document perpetuates the aforementioned problems with veterinary control/oversight, introducing redundant (non-transparent) requirements with respect to veterinary documents in terms of the number of documents and the range of products subject to control, which unreasonably complicates trade relations and results in substantial financial costs for businesses.

Order No. 422 contains veterinary certificate forms that apply only to a certain area (a district, region or the Russian Federation as a whole), which unreasonably restricts the free movement of controllable goods.

In addition, the document contains ambiguous requirements for the issuance of veterinary documents for the movement of products in the Russian Federation.

***Status*:** Not resolved. FIAC stance in assessing the regulatory impact was made known to the Russian Ministry for Economic Development and an opinion on the expert review of Order No. 422 was sent by the Russian Ministry for Economic Development to the Russian Ministry of Agriculture in letter No.13145-ОФ/Д26и, dated 2 July 2012. In issue is in progress.

In additions, in response to our request (КС-1503-12-ЕВ, dated 15 March 2012) the FAS of Russia reported that the ambiguous legal status (powers) of state veterinary entities in regard to finished goods results in administrative barriers. As a result, case No. 1 15/20-12 on inaction of the Russian Ministry of Agriculture regarding its regulatory acts was initiated. At the same time, on 23 April 2012, the Commission of the FAS of Russia stated that the Russian Ministry of Agriculture violated Part 1 of Article 15 of Federal Law No. 135-FZ, On Protection of Competition, dated 26 July 2006, and issued a direction ЦА/14199 of 05 May 2012 to rectify the violation of the anti-monopoly law (decision of the FAS of Russia No. ЦА/14198, dated 5 May 2012).

Recommendations

- Align the procedure for issuing veterinary certificates with the requirements of Russian legislation (Decree No. 1009 of the Russian Government, dated 14 December 2009, Concerning the Shared Responsibilities of the Russian Ministry of Health and Social Development and the Russian Ministry of Agriculture as they Act as Regulators in the Area of Food Quality and Safety Control and Arrange such Control) and the technical regulations adopted by the Customs Union.
- Provide in the Order for electronic veterinary certificates for controllable cargoes circulating in Russia (using the facilities of the existing information system Mercury

Foreign Investment Advisory Council

3.5. Trade and Consumer Sector

Issue 1. Disposal of packaging waste in the context of draft Federal Law No. 584399-5 On the Introduction of Amendments to the Federal Law on Production and Consumption Wastes and other legislation of the Russian Federation (concerning the economic incentives for waste treatment) (jointly with the think tank on technical regulation and elimination of administrative barriers).

Establishment of a sustainable system of consumption waste treatment is being focused on by FIAC members, which have been developing for a number of years a scheme of market incentives for the Russian market, in particular for packaging waste collection and subsequent recycling using international best practices and the most efficient approaches.

Effective EU legislation in this area provides for introducing target indicators – standards for waste collection and recycling over a specified period of time which would allow aligning the waste collection system with the development of waste recycling capacities.

Russia's Ministry of Natural Resources developed Draft Federal Law No. 584399-5 “On the Introduction of Amendments to the Federal Law ‘On Production and Consumption Wastes’ and other Legislation of the Russian Federation (as regards Economic Incentives in Waste Treatment)” and submitted it to the State Duma. On 7 October 2011, Draft Federal Law No. 584399-5 (hereinafter the "Draft") was passed by the State Duma in its first reading.

FIAC members are concerned with the wording of Draft Article 24.1 on establishing responsibilities of manufacturers (importers) for arranging in any location across Russia the utilization (disposal), disinfection and/or dumping of manufactured (imported) products (goods), which have lost consumer properties. This might lead to an unreasonable financial burden on the food industry and market due to the ambiguity of this provision's interpretation and the lack of clarifications in respect of the responsibility implementation procedure.

Based on the text of the draft, it is impossible to determine whether the said products lost their consumer properties in the process of production, storage, sale (defective goods) or in the process of consumption. It is also unclear, what is meant by "products which have lost their consumer properties".

The draft does not contain clear definitions regarding waste disposal obligations and implementation mechanisms. Moreover, there is no clarity with regard to volumes of produced goods in question and arrangements on collection of wastes related to products put on the market to provide for their subsequent utilization.

It is important that the Draft Federal Law is not harmonized with the existing EU legislation, which in particular determines specific standards for utilization/disposal of particular wastes based on material instead of vague responsibilities of manufacturers (importers) and also determines options for settling obligations to treat packaging waste.

As a common economic space is being created, no clarifications are provided regarding requirements for organizations which import packaging and packaged goods to Russia from other countries of the Customs Union, as they are neither producers, nor importers. No requirements are clarified for entities which fully or partially export packaged goods or packaging.

We believe that the obligation stipulated in Article 24-1 does not resolve the problem of establishing an efficient consumer waste collection and disposal system in Russia or provide economic incentives for recycling waste.

The draft law was twice assessed for regulatory impact, once before submission to the State Duma and once – after submission but before its adoption in the first reading. Based on the results of public consultations within the framework of regulatory impact assessment in respect of the Draft, a number of FIAC proposals were taken into consideration and reflected in the feedback of the Ministry of Economic Development. However, the primary concerns of foreign investors and the comments of the Ministry of Economic Development presented in the Conclusion on the Regulatory Impact Assessment were left without notice.

At present, the Draft is being prepared for the second reading. Amendments to the Draft have been received from subjects with the right of legislative initiative, deputies and senators. Some of the amendments contain proposals to transfer a fixed percentage to specialized reserve funds under self-regulating organizations in the waste management sector. The declared purpose of such amendments is to provide the financial base and economic environment for the establishment of a waste treatment industry in Russia.

FIAC members emphasize that the establishment of an effective and sustainable European consumer waste treatment market, including packaging wastes, and an efficient waste recycling industry were made possible due to the fact that the producers themselves can control the collection of packaging wastes and the standards for waste collection are provided in legislation. It should be noted that waste treatment regulations differ depending on the industry: car manufacturing, tire production, production of household equipment and consumer electronics, or packaged consumer goods.

In addition, FIAC joined forces with other associations and unions (RusBrand, RATEK, Ruspek, and others) on designing amendments to the Draft Law which were subsequently approved as part of the official amendments by members of the Council of Federation.

Experts are now studying the possibility of posting the Draft Law on the Government's recently-launched Open Government online platform to encourage a wider response from the expert community.

At this moment the State Duma is examining several versions of the draft law. The second reading is scheduled for the autumn session of 2012.

Recommendations

- Enable the business community to participate directly in preparing Draft Federal Law No. 584399-5 for the second reading.
- Propose amendments to Draft Federal Law No. 584399-5 based on the following main principles:
    - Abandon fiscal approaches to resolving this issue;
    - Establish target disposal indicators for manufacturers (importers) (e.g., as a share of goods/packaging entered into circulation and subject to disposal);
    - Apply an industry-specific approach providing for different categories of finished products to be governed by separate by-laws which would establish respective waste treatment methods;
    - Establish a transitional period (at least four years);
    - Provide manufacturers (importers) with the option to use alternative disposal methods organized, for example, by: a) the manufacturers (importers) themselves; b) in cooperation with other manufacturers (including through the establishment of specialized self-regulating organizations) and/or other legal entities; c) specialized operators of the waste treatment sector (accredited organizations);
    - Rely on EU experience, including with regard to establishing a common market of CES and EurAsEC member countries.

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The document perpetuates the aforementioned problems with veterinary control/oversight, introducing redundant (non-transparent) requirements with respect to veterinary documents in terms of the number of documents and the range of products subject to control, which unreasonably complicates trade relations and results in substantial financial costs for businesses.

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Recommendations

- Align the procedure for issuing veterinary certificates with the requirements of Russian legislation (Decree No. 1009 of the Russian Government, dated 14 December 2009, Concerning the Shared Responsibilities of the Russian Ministry of Health and Social Development and the Russian Ministry of Agriculture as they Act as Regulators in the Area of Food Quality and Safety Control and Arrange such Control) and the technical regulations adopted by the Customs Union.
- Provide in the Order for electronic veterinary certificates for controllable cargoes circulating in Russia (using the facilities of the existing information system Mercury

Foreign Investment Advisory Council

3.6. Efficient use of natural resources in Russia

Issue 1. Developing a new taxation system for oil and gas projects on the Russian continental shelf

Oil and gas projects on the Russian continental shelf lack appeal in the eyes of both domestic and foreign investors due to the existing taxation regime. Key changes should include: developing a special taxation regime for continental shelf projects which would be uniformly applicable to all entities.

Recommendations

1. Amend the Tax Code of the Russian Federation by introducing a special new chapter in Section VIII.1. SPECIAL TAX REGIMES, which (similar to PSA) would establish a special regime for continental shelf projects with uniform rules for all potential participants.
2. Establish that the following is not applicable to continental shelf project participants (taxpayers):
    - Export duties on hydrocarbon exports
    - MET
    - Property tax
    - Import duties on imports of technological equipment
    - VAT on imports of equipment and materials

The following is applicable to project participants:

- Royalty starting from commencement of production (the rate is significantly lower than MET, to ensure a minimum return for the government, say 6-10% of revenue)
- Excess profit tax at the rate of 18-26%, to be determined in this chapter, or a similarly increased income tax rate.

3. Provide for the following specifics when determining the income tax base:
    - ✓ Allow deducting expenses related to infrastructure development (e.g. roads, power stations, settlements, hospitals, schools, kindergartens, etc.).
    - ✓ Consider introducing an uplift (possibility to write off certain expenses in an amount exceeding 100%); accelerated depreciation (reduced depreciation period) and bonus depreciation (possibility to deduct most expenses in the first year).
    - ✓ Consider the possibility of 100% depreciation of costs when incurred for income tax purposes (as in the UK for North Sea projects).
    - ✓ Deduction of liquidation expenses. Consider the possibility of carrying back losses (to earlier periods), for example, to the three previous years. (As a basic option). Alternatively, provide for the option of establishing a reserve liquidation fund with deductible contributions for income tax purposes.
    - ✓ Extend the tax carry-forward period to 15 years at least or completely lift all time limitations.
    - ✓ Due to the complexity of offshore projects, provide for the possibility to deduct R&D expenses (both successful and unsuccessful efforts, with a 2.0 ratio and without any limitations)
    - ✓ Allow offshore project participants to deduct exploration expenses for income tax purposes, even if they have no licenses.
    - ✓ Allow taking exploration costs to deductible expenses when incurred (this provision is viable only subject to extending/lifting time limitations on loss carry-forwards).
    - ✓ Consider the possibility of consolidating offshore projects - i.e., one company operates several projects and must consolidate all income and expenses in one basket for income tax and excess profit tax purposes.
4. Amend transfer pricing control regulations

Acknowledge the fact that compensation received by a project participant holding no production license consists of several components rather than being just payment for services. These components are: reimbursement for costs incurred, compensation related to mineral extraction, and risk premium. In view of the above, regulations regarding provision of services should not be applicable in such cases.

Issue 2. Changing the regime of licensing the export of geological information

The need to receive a license for "exporting" geological data is a serious issue for foreign investors.

On 27 November 2009, the Customs Union Commission adopted Resolution No. 132 Concerning Unified Non-Tariff Regulation of the Customs Union of the Republic of Belarus, Republic of Kazakhstan and the Russian Federation which approved the Unified List of goods subject to bans or restrictions applicable to exports/imports between Customs Union member states within the Eurasian Economic Community and third parties (hereinafter referred to as the "Unified List"), and the Guidelines on Application of Restrictions. The name of the Unified List clearly states that it is a list of ***goods***. However, it includes section 2.23. Subsurface data restricted from being exported across the customs border of the Customs Union. There seems to be no internal logic in this approach. An analysis of the concept of data contained in Article 2 of Federal Law No. 149-FZ of 27 July 2006 on Data, Information Technologies and Data Protection allows without doubt to conclude that data cannot be classified as goods. This conclusion is confirmed by studying the text of Federal Law No. 164-FZ of 8 December 2003 on Fundamental Principles of the State Regulation of Foreign Economic Activities. According to Article 2.26 of the above Federal Law, goods are defined as "movable *property*, aircraft, sea and river vessels, mixed navigation (river – sea) vessels and spacecraft classified as immovable *property*, as well as electric *energy* and other types of *energy* which are subjects of foreign economic activities". Evidently, data is not covered by this definition, this being confirmed by the absence of a direct code in the Unified Foreign Trade Commodity Classification which could be applicable to data. The list of subsurface data restricted from being exported across the customs border of the Customs Union contained in the above Resolution of the Customs Union Commission is not exhaustive. The words "may be" before listing the positions classified as geological data leave lots of possibilities to extend the list voluntarily. Point 5 of the List includes geological data on electronic and magnetic media. Sending such data by email may be interpreted as exports. The "export" of not only primary, but secondary geological data is subject to licensing. This means that a license must be obtained to export (transfer) analytical results and interpretations of primary geological data even when such data is exported (transferred) by the author of the analysis himself.

Licensing the export of geological data seriously hampers implementation of joint projects on the geological exploration and development of subsurface resources of the Russian Federation, and makes working on a modern technical level impossible. The use of current transacting "techniques", such as electronic access to the partner's documents (Electronic Due Diligence Room), breaks the law. In order to analyze geological data using the opportunities provided by foreign data analysis centers, the company has to obtain a license. As a result, work often has to be suspended for a long period of time.

Recommendations

We consider that restrictions on exporting geological data which does not constitute a state secret, and which was obtained by subsurface users at their own expense or which was transferred to the subsurface user according to laws and regulations of the Russian Federation, seriously hampers the preparation of new subsurface development projects in Russia with the participation of foreign companies. Therefore, we believe such restrictions should be abolished.

Issue 3. Propose amendments and supplements to the effective legislation for the purpose of improving the investment climate

(Federal Law No. 2395-I of 21 February 1992, on Subsurface, Federal Law No. 57-FZ of 29 April 2008, Concerning the Procedure for Foreign Investment in Commercial Organizations of Strategic Importance for the Defense of the Country and National Security of the State)

Proposals regarding the Law on Subsurface

Exploration and production

Foreign investors may participate in developing subsurface areas of federal significance located on the continental shelf only as junior partners of companies controlled by the Russian Federation. To develop other subsurface areas of federal significance, foreign companies need a special permit issued on a case-to-case basis. It appears that in practice such permits will also be issued only to joint ventures incorporated under the laws of the Russian Federation, where both Russian and foreign companies participate. Actually, such practice is widespread in many oil producing countries and is acceptable for major international petroleum companies. In general, foreign investors are prepared to cooperate with

Russian companies on a mutually beneficial efficient basis in developing Russian subsurface resources under new regulations; however, practical aspects of such cooperation are hindered by certain specific provisions of the effective legislation.

The business scheme of international petroleum companies assumes developing deposits of natural resources in the capacity of both investors and project operators. Interest (even a minority share) in the entity which holds the license for developing the respective subsurface area is a prerequisite. Most of the current major oil and gas field development projects are implemented through special purpose vehicles, being companies established by project participants with the express purpose of implementing such projects. Such companies are generally newly incorporated legal entities.

In view of the above, supplementing the Law on Subsurface by a provision requiring that developers of subsurface areas of federal significance located on the continental shelf have at least five years of experience in developing resources of the continental shelf of the Russian Federation makes it impossible to implement such projects through special purpose vehicles, as a newly incorporated joint venture established by Russian companies under control of the government with the participation of foreign investors will be a new legal entity established with the express purpose of implementing the project and cannot have the required experience by definition. A possible solution can be to take into account the offshore experience possessed by the founders of such joint ventures and/or their subsidiaries. Experience in developing the Russian continental shelf, as well as experience obtained elsewhere in the world, may be taken into account.

Recommendations

1. Amend the Federal Law on Subsurface to the following effect: the mandatory five-year experience in developing the continental shelf of the Russian Federation that a legal entity – user of subsurface resources of the Russian continental shelf must have may include the experience in developing the Russian and foreign continental shelf obtained by the founders of this legal entity or by their subsidiaries;

2. Introduce amendments to the Federal Law on Subsurface clarifying what is meant under development of subsurface areas of the continental shelf, and what types of subsurface use or activities on the continental shelf of the Russian Federation will be taken into account when determining the required experience.

Geological exploration of subsurface resources

Russian authorities may decide to terminate the right of legal entities with foreign participation or of foreign investors to use the subsurface areas where deposits of federal significance have been discovered. This is very de-motivating for foreign investors and makes them unwilling to invest in geological exploration in Russia.

The mechanism of reimbursing expenses related to exploration for and evaluation of discovered deposits doesn't seem to work as the level of compensation will not cover expenses related to other projects in the event that efforts on locating new deposits were unsuccessful (dry wells, for example). Oil & gas and mining companies invest in exploration activities in several subsurface areas which may be located in different regions and even in different countries and commercial mineral reserves may be discovered only in some areas under exploration. Major companies have extensive investment programs covering a significant number of areas. These investments are by definition risky from a purely geological point of view, and their exposure to additional risks related to possible termination of rights to develop the subsurface areas where mineral deposits were discovered, makes the risk excessive. Moreover, the incentive for international oil & gas and mining companies to invest in exploration is always the prospect of participating in the development of newly discovered deposits.

If Federal Law No. 57-FZ of 29 April 2008, Concerning the Procedure for Foreign Investment in Commercial Organizations of Strategic Importance for the Defense of the Country and National Security of the State which was passed at the same time as the above amendments to the law on subsurface resources, defines the term "foreign investor", the new version of the Law on Subsurface does not clarify what is meant by the term "subsurface user which is a legal entity with the participation of foreign investors".

If the first law implies "control", the Law on Subsurface uses the term "participation". If the law defines the notion of control and formulates "control" criteria, it holds no definition either of "participation", or of any participation criteria. Therefore, participation may be interpreted even as holding only one share, while neither the law itself, nor the by-laws determine and threshold of such "participation" (once again, unlike Federal Law No. 57-FZ of 29 April 2008).

Recommendations

1. Supplement the Law on Subsurface by a provision excluding the possibility to refuse granting rights to develop a discovered deposit of federal significance or terminate such rights on grounds of a potential threat to the national security and defense of Russia to subsurface users, including those with foreign participation, which are controlled either directly by the Russian Government, or by companies controlled by the Russian Government. Such a provision would be similar to the exception provided for government-controlled companies by Federal Law No. 57-FZ of 29 April 2008, Concerning the Procedure for Foreign Investment in Commercial Organizations of Strategic Importance for the Defense of the Country and National Security of the State.

2. Supplement the Law on Subsurface by a provision to the following effect: prior to announcing a tender or auction for the right to geological exploration of subsurface resources, including under a combined license for exploration and production, the Government of the Russian Federation or an agency authorized by it should investigate and issue a conclusion about the absence or availability of threat to the national security or defense of Russia if the subsurface user is a company with foreign capital and if as a result of geological exploration such a company discovers a deposit of mineral resources that would meet the criteria stipulated in part three of Article 2.1 of the Law on Subsurface. A respective conclusion of the Government of the Russian Federation or an agency authorized by it should be published as part of the official announcement on holding a tender or auction for subsurface use. In the event that at the time of the tender or auction the Government of the Russian Federation or an agency authorized by it have concluded that there is no threat to the national security or defense of Russia in the above case, and the respective information has been published as part of the tender or auction announcement, the Government of the Russian Federation may no longer refuse to grant a subsurface user with foreign capital the right to use the subsurface area for exploration and mineral production, nor may it terminate the right for subsurface use under combined licenses.

Other options for guaranteeing the participation of foreign investors in the joint venture established for the development of newly discovered mineral deposits may also be considered.
Proposals regarding amendments to Federal Law No. 57-FZ of 29 April 2008, Concerning the Procedure for Foreign Investment in Commercial Organizations of Strategic Importance for the Defense of the Country and National Security of the State

Article 2, part 7, of Federal Law No. 57-FZ establishes two criteria, each of which makes the provisions of the law not applicable to legal relations associated with foreign investment in legal entities controlled by the Russian Federation. We believe that the first criterion is a particular case of the second one and as such is therefore superfluous and can be excluded from the text. Excluding the first criterion will simplify the wording and contribute to a clear interpretation of the provision.

Article 4.4 of the above Law states that transactions with shares (interest) of a commercial organization of strategic importance are not subject to prior approval if the foreign investor or group already controlled over 50% of such commercial organization before entering into the above transactions. We believe this provision to be fair and reasonable. However, we believe the clause "with the exception of commercial organizations of strategic importance using subsurface areas of federal significance" to complicate unreasonably transactions with shares of such entities. This provision can be interpreted in such a way as to require prior approval for the purchase and sale of shares (interest) within one group of entities controlling over 50% of a Russian entity of strategic importance using subsurface areas of federal significance. We believe that approving the transfer of shares from one group member to another is unreasonable.

Geological exploration of subsurface resources is classified as a strategic activity. This complicates comprehensive geological exploration of Russian subsurface areas, including the Russian continental shelf. We believe this to be unreasonable, especially with regard to recent proposals on reinstating geological exploration of subsurface resources as a separate type of subsurface use on the continental shelf and on providing opportunities to obtain licenses for this type of subsurface use to all stakeholders, including foreign entities. Excluding geological exploration of subsurface resources from the list of strategic activities would stimulate geological (including multi-client) surveys, in particular on the continental shelf, conducted jointly by Russian and foreign companies, and would respectively stimulate the transfer of state-of-the-art geological techniques to Russian companies.

According to Article 6.2 of Federal Law No. 57-FZ, "work resulting in an active impact on geophysical processes and occurrences" is classified as an activity of strategic importance for the defense of the country and national security of the state. We consider that geological exploration of subsurface resources does not meet this definition; however, for the avoidance of any doubt, this provision has to be clarified. If

for reasons of volume it is impossible to clarify precisely in the Law itself what is meant by the above definition, we recommend supplementing this clause by a reference to a respective by-law.

Recommendations

1. Amend Article 2.7 of the Law as follows: 7. The provisions of the Federal Law which govern relations associated with foreign investment in commercial organizations of strategic importance for the defense of the country and national security of the state which are engaged in using subsurface areas of federal significance, with the exception of provisions of part 3 hereof, shall not be applicable to relations associated with foreign investment in commercial organizations of strategic importance for the defense of the country and national security of the state which are engaged in using subsurface areas of federal significance if the Russian Federation holds directly or indirectly over fifty percent of the total votes attributable to the voting shares (interest) composing the share capital of such commercial organizations."

2. Exclude the words "(with the exception of commercial organizations of strategic importance using subsurface areas of federal significance)" from Article 4.4.
3. Amend Article 6.2 as follows: "2) performance of work resulting in an active impact on geophysical processes and occurrences *which is included in the list determined by the Government of the Russian Federation*;"

4. We recommend amending Article 6.39 as follows: "exploration and production of mineral resources in subsurface areas of federal significance".
The proposed amendments will help foreign investors assess their risks correctly. In turn, this will significantly raise the investment appeal of the natural resources sector, and in particular the Russian fuel and energy industry.

Classification of deposits of federal significance

At present, the solid minerals resource base is characterized by the following trends:

- the reserve of easily discoverable deposits is practically exhausted;

- depleted and decommissioned deposits of free-milling ores are replaced by deposits of lean complex ores;

- geological exploration is shifted to remote areas with difficult mining and geological conditions, severe climate and underdeveloped infrastructure.

In view of the above, it is necessary to provide incentives for subsurface users to explore new major deposits which would be developed on the ground of being economically attractive. This will not only inject real investment into the Russian economy and contribute to creating jobs in remote regions of the country, but will also be accompanied by the introduction of new sophisticated technologies at enterprises of the industry.

At the same time, the effective legislation contains certain provisions which hamper growth of investment in geological exploration and prevent it from becoming more efficient. In particular, as a result of adopting Federal Law Concerning the Procedure for Foreign Investment in Commercial Organizations of Strategic Importance for the Defense of the Country and National Security of the State, the Federal Law on Subsurface established criteria for classifying subsurface areas as subsurface areas of federal significance. Currently, subsurface areas of federal significance include subsurface areas containing 50 tonnes or more of vein gold, 500,000 tonnes or more of copper; there are also certain solid minerals the mere occurrence of which gives the subsurface area the status of a federally significant one. In view of the above characteristic of the mineral resources base and due to the increasingly lower content of precious metals in ore, the potential of such subsurface areas is too low for their independent economically efficient development. The existing legal framework neither stimulates companies to discover medium-sized and large deposits, nor to conduct their follow-up exploration, which negatively affects the Russian mineral resources base.

In view of the above, it would be reasonable to propose revising the parameters of subsurface areas of federal significance so that they really reflect how strategically important the asset is to the state, at the same time promoting investment in geological exploration.

Recommendations

1. Amend Article 2.1.2 as follows: "2) located within a constituent entity of the Russian Federation or within constituent entities of the Russian Federation and according to the state's balance sheet of reserves of commercial minerals starting from 1 January 2006 containing:

- recoverable oil reserves - 70 million tonnes and more;

- gas reserves - 50 billion cubic meters and more;

- vein gold reserves - 250 tonnes and more;

- copper reserves - 7 million tonnes and more;"

Issue 4. Enhance the approval procedure for field facilities development projects
At present, field facilities are approved pursuant to subsurface resources law (Russian Law on Subsurface No. 2395-I, dated 21 February 1992) and urban development law (Urban Development Code, No. 190-FZ). This results in increased time to get all required approvals, duplication of certain functions, and sets requirements that cannot be applied (fulfilled) to design documentation of field facilities as to capital construction facilities (without taking into account specific features of field facilities).
Recommendations

- develop and approve the regulations governing the content of and requirements for well construction design documentation based on the existing industry documents; due to their specifics, well construction projects do not fall within the scope of the Urban Development Code and Government Decree No. 87;
- provide that a review of the design documentation's industrial safety shall be sufficient to obtain a construction permit; currently, well construction projects are regarded on the same plane with other construction projects requiring an approval by Glavgosekspertiza (construction of residential buildings, plants and factories).
- differentiate the term "technical design" (as defined in Article 23.2 of the Law on Subsurface) that covers field development and is approved by Rosnedra's special commission, and the term "design, design documentation" (as defined in the Urban Development Code) that is subject to state examination and is necessary for facilities constructions. At present, similar terminology and lack of definition of these terms in law may result in ambiguous interpretation of the requirements to these documents (and their approval);
- develop and approve Administrative regulations for state authorities responsible for issuing permits for putting field facilities into operation. At present, Rosnedra, that has already issued a permit for well construction, does not issue permits for putting wells into operation due to lack of such regulations. However, pursuant to the Urban Development Code, a permit for putting into operation shall be issued by the same authority that issued a permit for construction.

Issue 5. Proposals on draft laws concerning prevention and clean-up of oil and petroleum product spills on the continental shelf and in inland sea waters

1) The Draft Law on Introducing Amendments to Federal Laws on the Continental Shelf of the Russian Federation and on Inland Sea Waters, Territorial Waters and Contiguous Zone of the Russian Federation introduced by the Russian Government and passed by the State Duma in its first reading on 20 September 2011 provides that the operating company ("operating entity") must have a number of financial instruments to guarantee the prevention and cleanup of oil and petroleum product spills in marine waters, full settlement for environmental damages associated with such spills, and reimbursement of cleanup costs. It is difficult to assess adequately beforehand the amount of funds required to be available with the operator to guarantee full settlement for environmental damages associated with such spills and reimbursement of cleanup costs. The proposed types of financial guarantees do not take into account joint ventures between local and foreign oil and gas companies, a contractual arrangement quite common in Russia. In the case of a joint venture, its obligations could be secured by assets (guarantees) of the shareholders.
Another major issue is the proposed transfer of the responsibility for an oil spill from a license holder to an operator ("operating entity"), which, to some extent, counters the logic of the Law on Subsurface and, considering the lack of clarity of the term "operating entity", could make external contractors engaged in offshore operations responsible for providing financial guarantees.
The draft law also requires that oil spill cleanup plans be subject to state environmental examination. Apart from being pointless (as any oil spill cleanup plan, along with other objectives, is essentially aimed at protecting the environment), this requirement creates an additional administrative barrier, thus making the existing onerous and lengthy approval process even more complicated.

Recommendations

1. Provide for an integrated approach when planning oil spill clean-up activities: mechanical cleaning, combustion, dispersion. Such activities should take into consideration the experience of

international oil and gas companies. An activity should be chosen based on environmental benefit assessment.

2. Remove administrative and customs barriers to ensure access of foreign technical experts who are able to assist in oil spill clean-up in a prompt and efficient manner. Remove customs barriers to import additional equipment and dispersion agents.

3. Provide for the option of using the assets of shareholders of the "operating entity" as financial guarantees for the prevention and cleanup of oil and petroleum product spills, etc.

4. Clarify in the Draft Law itself the methodology for assessing the amount of such financial guarantees and where necessary establish the maximum amount of financial guarantees to be provided by the "operating entity" in each specific case (an alternative could be to establish a common insurance fund which could be used to clean up oil and petroleum product spills in marine waters and to compensate for respective damages).

5. Clarify the concept of "operating entity" envisaging that it can be either the license holder, or the owner of respective infrastructure, but not the contractor engaged in offshore operations.

6. Stipulate that the respective license holder shall bear primary responsibility for oil and petroleum product spills. In the event that the owner of the respective infrastructure is the "operating entity" and not the license holder, such "operating entity" shall be jointly liable.

7. Remove from the draft law the provision that oil spill cleanup plans be subject to state environmental examination.

2) The Ministry of Natural Resources also initiated a new draft law (on Amending Article 8 of the Federal Law on the Continental Shelf of the Russian Federation and Article 20 of the Federal Law on Inland Sea Waters, Territorial Waters and Contiguous Zone of the Russian Federation), requiring that the appropriate measures to clean up oil spilled under the ice be made part of the technical documentation. The draft law received negative feedback from the Ministry of Economic Development (see attachment).

Recommendations

1. Reject the proposed draft law.

3) The Russian Emergency Ministry prepared a draft decree of the Russian Government (on the Prevention and Cleanup of Oil and Petroleum Product Spills
in the Russian Federation, on the Continental Shelf and in the Exclusive Economic Zone of the Russian Federation) which, in particular, provides for replacing the mandatory approval of oil spill cleanup plans with a notification procedure, whereby operators will only have to notify the responsible agencies of their respective plans, once the same have been approved and adopted. This may be viewed as a positive step towards lifting administrative barriers and improving the business environment. At the same time, the decree requires that oil spill response teams and cleanup equipment be made permanently available (not available on a daily basis). This requirement may not only prove quite costly for operators, but also be unfeasible in remote areas.

Recommendations

Expedite the adoption of the draft decree of the Russian Government prepared by the Emergency Ministry to replace the mandatory approval procedure of oil spill cleanup plans with a notification procedure (provided that the words "permanently available" are replaced with the words "available on a daily basis"). The proposed amendments will help foreign investors assess their risks correctly. In turn, this will significantly raise the investment appeal of the natural resources sector, and in particular the Russian fuel and energy industry.

Foreign Investment Advisory Council

3.7. Development of Far East and Siberia

Issue 1. Report on the activities of the working group in 2012 and plans for 2013

Promote foreign investment in the Far East and Siberia; guide foreign investors by demonstrating successful and positive investment experience of FIAC member companies

1) Drafting the first Investment Guide for all nine regions of the Far Eastern Federal District “Russian Far East” with greetings to FIAC members from all regional governors of the Far East and information on all the regions and priority investment projects.

2) Holding Investment Sessions in 2012 with representatives of the regional authorities of the Far East and Siberia as well as the administrative staffs of presidential envoys to the Far Eastern and Siberian federal districts. In 2012, FIAC members heard speeches by representatives of the regional authorities of Yakutia, Amur Region, Tuva, Buryatia, Chukotka, Kamchatka and the administrative staffs of presidential envoys to the Far Eastern and Siberian federal districts.

3) Stimulating major corporations, banks and organizations that are not currently FIAC members to participate in the working group’s Investment Sessions and get involved in FIAC (possibly with subsequent membership). Several major global corporations, organizations and banks that have gained rich investment experience throughout the world are poorly informed about FIAC’s activities and its effectiveness. The involvement of such companies and organizations will stimulate FIAC’s work. This issue should always be closely coordinated with the Ministry for Economic Development of Russia.

4) Cooperating with the new state-owned corporation being established for the development of the Far East and Siberia.

5) The working group’s cooperation with the Foreign Investment Advisory Council, chaired by V. I. Ishayev, Presidential Envoy to the Far Eastern Federal District.

6) Cooperating with the organizing committees of forums in the Far East and Siberia (the Baikal Economic Forum in Irkutsk, the Pacific Economic Congress in Vladivostok, and the Economic Forum in Yakutsk and Khabarovsk).

3. STATUS OF ISSUES ON THE AGENDA OF FIAC THINK TANKS AND INDUSTRIAL GROUPS

Foreign Investment Advisory Council in Russia

Think tanks and industrial working groups plan of activities for 2012

(as of the 3rd and 4th quarters)

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
Technical Regulation and Elimination of Administrative Barriers					
1. Resolve the issue of establishing extended manufacturer responsibility by creating a legal framework for the implementation of the effective system for packaging waste recycling in the Russian Federation (jointly with FIAC WG on trade and consumer sector development)	- Harmonization of the proposed regulation with the existing EU legislation meaning: - Creating effective economic incentives to develop consumption waste recycling; - Replacing the proposed "deposits", quasi-taxes and other fiscal instruments with obligatory standards for utilization / disposal of certain waste types; - Retaining options of settling liabilities related to utilization/disposal.	Reflect the opinion of FIAC members in the final version of Draft Federal Law No. 584399-5 *on Amendments to the Federal Law on Production and Consumption Wastes*, cancel "deposits", quasi-taxes and other fiscal instruments used as economic incentives to promote consumption waste recycling as the law is prepared for the second reading.	Initiating a discussion of the draft law on the "Open Government" platform, involving a wide circle of experts	Russian Ministry of Natural Resources, Russian Ministry of Economic Development, State Duma, Administration of the Russian President	Second reading of draft Federal Law No. 584399-5 *on Amendments to the Federal Law On Production and Consumption Wastes* has been rescheduled for the autumn session of the State Duma. Amendments have been officially sent on behalf of the Council of Federation
	- Drafting Rules for the Disposal of Container and Package Wastes in the form of a bylaw.				Q3 2012
2. Develop the technical	- Establishing adequate and reasonable transitional	Envisage that the resolutions adopted by the Regulatory	Closer interaction with the institutions of the Eurasian Economic Community	Russian Ministry of Economic	Interact, on a routine basis, with the Russian

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
regulation system of the Customs Union, eliminate administrative barriers to entry and circulation of products on the market.	provisions (periods) in regulatory acts being developed to govern the overall business practices.	Impact Assessment (RIA) Council require that adequate and reasonable transitional provisions (periods) be included in any proposed regulatory acts.	that are authorized to decide upon major issues	Development	Ministry of Economic Development (RIA Department), participate in the work of the RIA Council. **Status:** unfulfilled; it is not always that adequate and reasonable transitional periods are included in proposed regulatory acts
	- Introducing a notification procedure for registering declarations of conformity, including electronic registration; introduce a procedure for maintaining a single register of declarations of conformity.	Adopt the Order of the Russian Ministry of Economic Development, *Concerning approval of the procedure for registering declarations of conformity, preparing and maintaining a single register of declarations of conformity, providing data contained in the register*		Russian Ministry of Economic Development, Federal Accreditation Service	In February 2012, the WG's position was communicated to the Russian Ministry of Economic Development, the Federal Accreditations Service and was noted by the law-makers. **Status:** The order has been adopted in respect to the declarations of conformity with the requirements of the technical regulations
	- Developing and implementing plans to apply technical regulations of the Customs	Continued support by the Russian Ministry of Economic Development of the "one		Russian Ministry of Industry and Trade, Russian Ministry of	In April 2012, the WG formulated and communicated its policy

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
	Union.	product, one document" principle in its plans for implementing technical regulations for food products.		Economic Development, Russian Ministry of Health, Russian Ministry of Agriculture, Council/Panel of the Eurasian Economic Commission	stance to the Ministry of Economic Development on a routine basis. **Status:** in progress; technical regulations for food products are being adopted
	- Ongoing application of the "one product, one document" principle, eliminating redundant procedures for compliance evaluation (verification).	The Russian Ministry of Economic Development to solicit the "one product, one document principle" in regulatory acts and other rules adopted at the CU level.		Russian Ministry of Economic Development, Russian Ministry of Industry and Trade, Russian Ministry of Health, Russian Ministry of Agriculture	The WG's position was communicated to the Russian Ministry of Economic Development as part of the work on the draft Federal Law *On Veterinary Medicine*. The WG's position was not fully taken into account by the Russian Ministry of Agriculture in the draft law submitted to the Government. **Status:** in progress; this principle has not been duly reflected in the draft Federal Law *On Veterinary Medicine*
	- Harmonizing the procedures for the development and adoption of mandatory	Include FIAC in the Working Group formed by the Russian Ministry of Health for the		Russian Ministry of Health	FIAC WG to participate in meetings of the Working Group formed

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
	requirements concerning products and procedures to introduce them on the market, inter alia for the purpose of their harmonization with international requirements and the WTO standards.	purposes of harmonizing sanitation and epidemiological requirements with international requirements.			by the Russian Ministry of Health and Social Development and contribute to the development of the relevant mechanism. **Status:** in progress; WG member companies participate in the work carried out by the Ministry of Health in this area. The work has not been resumed following the agency's reform.
	- Adoption of the new Government Decree *On Sanitary and Epidemiological Standardization*.	Take into consideration the FIAC opinion in the adopted Government Decree.		Russian Ministry of Health, Russian Ministry of Economic Development	Present the WG's position to the responsible agencies. Q3 2012 **Status:** Draft Decree is currently open to public debate/under the RIA.
	- Developing annual plans to amend Russian Sanitary Rules and Norms and the CU Unified Sanitary Epidemiological and Hygienic Requirements with input and recommendations from the business community.	FIAC input to be taken into account when planning for changes and amendments to Russian Sanitary Rules and Norms and the CU Unified Sanitary Epidemiological and Hygienic Requirements.		Russian Ministry of Health, Russian Ministry of Economic Development	FIAC proposals were sent to the Russian Ministry of Health in January 2012. **Status:** the plans have not been adopted – reform of the Ministry of Health and the EEC

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
	- Ensuring that resolutions of the Eurasian Economic Commission contain a provision to the effect that national standards shall not apply to any matters that are regulated by technical standards adopted at the CU level.	The Eurasian Economic Commission to prepare and adopt the relevant resolution.		Russian Ministry of Industry and Trade, Russian Ministry of Economic Development, Russian Ministry of Health, Russian Ministry of Agriculture, Council/Panel of the Eurasian Economic Commission	**Status:** FIAC proposals pertaining to the resolution to be adopted by the Eurasian Economic Commission were submitted to the Russian Ministry of Health in 2011. The EEC's decisions do not include such a provision.
	- Analyzing required legislative amendments in view of Russia's WTO accession	FIAC to be involved in discussions with the WTO on the Russian side to resolve major controversies between Russia and the WTO (tariffs on sugar, tropical oils).		WG members, Russian Ministry of Economic Development	First half of 2012 **Status:** consideration of this matter has been rescheduled for the next quarter
3. Optimize control/permission functions related to the construction, commissioning and security of industrial facilities (including containing growth in prices for electricity (and other energy) for			Continue to work with ASI and the newly established Government Agency for Construction and Residential and Utilities Services (Rosstroy)		

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
industrial enterprises and providing industrial enterprises with uninterrupted access to energy infrastructure					
3.1. Introduce a classification of hazardous industrial facilities by degree of hazard in order to differentiate regulatory impact measures and minimize control and permit procedures for low-risk facilities. Exclude small and medium industrial enterprises and enterprises with different OKVED classifications, irrespective of their size, from the main scope of the Federal Law *On Industrial Safety* (except for risk	The draft amendments to Federal Law No. 116-FZ, *On Industrial Safety at Hazardous Production Facilities,* includes provisions that contribute to the reduction of administrative barriers in construction, such as: introduce a notification procedure for commissioning hazardous facilities in Hazard Class IV; discontinue the practice of routine checks for hazardous facilities in Hazard Class IV; and differentiate the industrial safety management system depending on a hazardous facility's Hazard Class. At the same time, some of the proposals were not included in the Draft Law, particularly, those introducing a notification-based method of registration of hazardous facilities in Hazard Classes III	Discuss the concept of excluding particular industry sectors from the scope of the Federal Law *On Industrial Safety*. Coordinate the relevant proposals with Rostekhnadzor. Develop a draft federal law and amendments to other bylaws of Rostekhnadzor.		Russian Ministry of Economic Development, Rostekhnadzor	1) Meetings at the Ministry of Economic Development (11 April) and the Government of the Russian Federation (9 August 2012) held with Rostekhnadzor, Rosprirodnadzor, Gosglavekspertiza, Stroynadzor, Ministry of Economic Development, Ministry of Regional Development and FIAC members to discuss proposals and amendments drafted by FIAC. 2) FIAC WG members are active members of a number of industrial safety working groups. In particular, BAT

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
insurance standards).	and IV; introducing a notification-based method of commissioning of hazardous facilities in Hazard Class III; discontinuing the procedure for issuing permits allowing the use of technical devices at hazardous facilities as it duplicates the provisions set forth in Federal Law No. 184-FZ, *On Technical Regulation*; bringing the industrial safety laws in full conformity with the licensing regulations.				Russia participates in the working group responsible for designing amendments to Federal Law No. 116, which is led by the Minster of the Open Government of the Russian Federation, Mikhail Abyzov; BAT Russia, BASF and P&G participate in designing the Roadmap for Improving the Regulatory Environment for Business. **Status:** this matter is being elaborated; a number of WG proposals have been included in the draft amendments to Federal Law No. 116-FZ, *On Industrial Safety at Production Facilities*; the draft law has undergone the RIA procedure and is currently being finalized by its designer

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
3.2. Introduce a notification procedure for commissioning of low-hazard industrial facilities.	There is a need for reducing the timescale for commissioning industrial enterprises.	Consider introducing a notification procedure for commissioning industrial facilities, propose changes to the relevant regulatory documents.		Russian Ministry of Economic Development, Rostekhnadzor	Q1-Q3 2012 Work actively with the ASI WG on simplifying the procedures for obtaining building permits and improving the regulatory environment for business. **Status:** the draft amendments to Federal Law No. 116-FZ, *On Industrial Safety at Production Facilities,* provide a notification-based procedure for commissioning hazardous facilitates in Hazard Class IV
3.3 Consider FIAC proposals when preparing an action plan for improving the control/oversight and permit functions of Rosprirodnadzor.	The excessive number of preliminary permits and numerous control procedures by oversight bodies are a major administrative barrier to construction and operation of industrial facilities.	FIAC proposals to be included in the amendments to Federal Law No. 116-FZ		Russian Ministry of Economic Development, Federal Service for the Oversight of Natural Resources (Rosprirodnadzor)	FIAC proposals have been included in the Action Plan; the matter has been finalized.
3.4 Shorten the list of documentation approval procedures for industrial facilities	Numerous documents required by Gosglavekspertiza are a major barrier to investment in industrial construction projects.	FIAC proposals to be included in the Roadmap of the Agency for Strategic Initiatives (ASI), changes to be introduced in the relevant regulatory		Russian Ministry of Economic Development, Russian Ministry of Regional	Develop the WG's position; hold a working group meeting with Rospotrebnadzor

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
and reduce the timescale for obtaining initial industrial construction permits.		documents.		Development	officials. Q2-Q3 2012 **Status:** a number of proposals have been included in the draft amendments to Federal Law No. 116-FZ, *On Industrial Safety at Production Facilities*; other proposals are being included in the ASI roadmap for industrial safety and improvement of the regulatory environment. Consideration of this matter has been postponed until Q3-Q4. **Status:** the proposals are being included in the ASI Roadmap for Improving the Regulatory Environment for Business.
3.5 Reduce the timescale for approving sanitary protection zones of industrial facilities, reduce the number	It often takes years to obtain the required approvals for sanitary protection zones (e.g. a company engaged in the processing of vegetable raw materials had to wait more than	FIAC proposals to be taken into account, changes to the corresponding regulatory documents to be introduced		Russian Ministry of Economic Development, Federal Service for Customer Rights Protection and	The issue is under consideration; it will be included in the industrial safety roadmap of the Agency for Strategic Initiatives

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
of measurements and shorten the list of documents required for obtaining approvals for sanitary protection zones	5 years before it could obtain the approval).			Human Welfare (Rospotrebnadzor)	(ASI) and was partially included in the ASI roadmap for improving the regulatory environment for business.
3.6. Develop proposals to restrain energy tariff growth and conduct regular monitoring of tariff growth in Russian regions	Uncontrolled tariff growth in some regions leads to growth in prices of finished goods and makes a number of regions less attractive for investments.	FIAC proposals have been taken into account in ASI roadmaps. FIAC proposals to be taken into account in developing regulatory documents for energy tariffs		Russian Ministry of Energy, Russian Ministry of Economic Development, Russian Federal Antimonopoly Service	Q2-Q4 2012 Continue to work with the ASI Task Force on Enhanced Access to Energy Infrastructure **Status:** FIAC proposals have been included in the ASI roadmap.
3.7. Develop proposals to streamline the technological connection procedure	A tedious and highly expensive procedure of connection to power grids.	The proposal was included in the ASI Roadmap for Improving the Regulatory Environment for Business. FIAC proposals were taken into account in developing regulatory documents for the technological connection procedure.		Russian Ministry of Energy, Russian Ministry of Economic Development, Russian Federal Antimonopoly Service	Q2-Q4 2012 Continue to work with the ASI Task Force on Enhanced Access to Energy Infrastructure **Status:** FIAC proposals have been included in the ASI roadmap
4. Improve the investment climate in Russian regions (in particular, increase the effectiveness of executive bodies			Work more closely with ASI and the program for implementing the Performance Standard for regional executive bodies to ensure a favorable investment climate. Meet with A. Pirozhenko, Director for		

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
of constituent entities of the Russian Federation in eliminating administrative barriers to entrepreneurial and investment activity and in the context of transfer of powers from the federal center)			Development of the ASI Partnership Network.		
	Officially approve the criteria to assess the performance of regional executive bodies.	Amend the List of Indicators used to assess the performance of executive bodies of constituent entities of the Russian Federation (Edict No. 825 of the President of the Russian Federation of 28 June 2007). Incorporate new clauses into the document in accordance with FIAC proposals (ref. 61255 of 22 June 2011).		Russian Ministry of Regional Development, Russian Ministry of Economic Development	Following its meeting of 27 July 2012, the State Council officially issued an instruction of the President to improve the criteria for assessing the performance of executive bodies of constituent entities of the Russian Federation. **Status:** discussion of the issue will continue in Q3-Q4.
	Transfer certain functions to constituent entities of the Russian Federation in	Consider FIAC recommendations in transferring certain powers to		Russian Ministry of Economic Development	Analyze decisions on transferring powers to regions, work out

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
	accordance with the Directive of Russian President Dmitry Medvedev, *On preparing proposals on redistribution of authorities between federal executive bodies, executive bodies of constituent entities of the Russian Federation and local authorities*, dated 27 June 2011	the regions			positions on the respective issues During 2012
	Assess the regulatory impact of regional regulations	Engage in the work of the Regional Interaction WG of the RIA Council, develop recommendations and proposals		Russian Ministry of Economic Development, Russian Ministry of Regional Development, Russian Ministry of Energy	During 2012
	FIAC cooperation with regional investment ombudsmen	Hold meetings with investment ombudsmen in federal districts		Russian Ministry of Economic Development, Administration of the Russian President	During 2012
	Rate federal districts in their investment appeal in terms of regional authority performance	Prepare a presentation of survey findings for the Ministry of Economic Development		Russian Ministry of Economic Development	Conduct a survey among FIAC member companies During 2012 (April 2012 – second stage)

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
					Status: The report for Q2 has been prepared. September-October 2012 – second stage
5. Efficient workforce regulation (including migration law; regulation of secondment arrangements; amendment of laws on collective dispute settlement; regulation of compensations for harmful labor conditions)	- Continue work on draft Federal Law No. 451173-5, *On Amendments to Certain Legislative Acts of the Russian Federation*, and on introducing amendments to other documents aimed to promote "workforce borrowing" arrangements. The draft law proposes prohibiting the use of employee lending arrangements and the employment of highly qualified foreign personnel on a secondment basis.	Reflect and support FIAC proposals in the text of the draft law	Ensure that the Ministry of Economic Development, the Ministry of Labor and the Main Legal Department of the Administration of the Russian President are more actively involved in resolving the issue of the draft law prohibiting the use of secondment arrangements.	Russian Ministry of Economic Development, Russian Ministry of Labor, State Duma, Russian Union of Industrialists and Entrepreneurs (RSPP), Administration of the Russian President	Maintain liaison with responsible authorities and agencies Q3-Q4 2012 Provide joint input into the law making process as the State Duma proceeds with the Draft Federal Law (second reading – after October 2012) **Status:** the new version of the draft law should be developed until 1 October 2012, the issue will be dealt with in Q3-Q4
	- Initiate the updating of the regulatory framework for labor safety (workplace assessment, noise exposure limits, etc.) as part of the process of harmonizing national legislation in the area of sanitary and epidemiological well-being of people with international	Revise and improve the existing system of workplace assessment		Russian Ministry of Labor, Russian Ministry of Economic Development	Provide input in the revision process of Order No. 342n of the Ministry of Health and Social Development dated 26 April 2011, *Concerning the Approval of the Procedure for*

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
	standards, and introduce the mechanisms of retrospective assessment of regulatory impact				*Workplace Assessment with respect to Working Conditions* Q2-Q3 2012 The work on the document has been completed.
		Develop an up-to-date regulatory framework for remote workers			Q3-Q4 2012 - FIAC proposals to be introduced **Status:** comments on the draft law on remote workers have been developed and submitted
		Develop clear criteria for compensations and payments to employees exposed to harmful and hazardous working conditions			Contribute to drafting amendments to the Labor Code Q3-Q4 2012
Improvement of customs law					
1. Filing deadlines for documents specified in Order No. 1996 of the Federal Customs Service of 30 September 2011.	Companies encounter particular difficulties when implementing Government Decree No. 502 related to the transfer of phytosanitary control functions to the customs bodies. Notably, the deadlines for filing the	Simplify the phytosanitary import control procedures (by the end of 2012).	1. Increase the time limit for submitting the original documents specified in paragraph 25 of the Instruction to fourteen days. 2. Envisage the possibility of extending this deadline.	Federal Customs Service of Russia, Federal Service for Veterinary and Phytosanitary Surveillance	In progress The matter was discussed with the Federal Customs Service – April 2012 Tripartite meeting -

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	documents, specified in Order No. 1996 of the Federal Customs Service for the purposes of implementing the Government Decree, may not be met in practice; this results in delays with customs clearance.				October/November 2012.
2. Electronic document flow. Abolish the practice of requiring documents in hard copies for customs and related procedures.	The transition to electronic declarations and electronic document flow is hampered by the persisting requirement to use documents in hard copies. This is primarily about documents submitted or requested by other state authorities (other than the Federal Customs Service). In the course of customs clearance, entities engaged in foreign economic activities are required to submit hard copies of permission documents issued by state or certified authorities, in particular: • certificates of compliance, declarations of conformity, certificate of compliance with fire safety regulations, INLAN opinions, and such other documents or formalized versions thereof.	Reduce the time required for import customs procedures. (by the end of 2012).	1. Cancel the requirement to apply customs stamps and seals to shipping and commercial documents. 2. Provide systemic support for all principal documents required for customs clearance. 3. Cancel the requirement to present formalized shipping documents. 4. Create an electronic database for documents issued by the authorized bodies and agencies. 5. Provide that entities engaged in foreign economic activities should submit their incorporation documents (articles of association, registration certificate, TIN, etc.) to the customs body only once, and such information may be used in the future for electronic declaration purposes. 6. Amend documents of the Unified Economic Space that regulate the requirements for presenting permission documents. Allow	Russian Ministry of Economic Development, Federal Tax Service of Russia, Russian Ministry of Finance, Russian Ministry of Transport, Russian Federal Agency for Technical Regulating and Metrology, Federal Service for Customer Rights Protection and Human Welfare (Rospotrebnadzor)	In progress FIAC Executive Committee – September 2012. Multilateral meeting with the involved bodies – October-November 2012.

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	In addition: • A hard copy of the cargo customs declaration bearing a mark of a customs inspector is required for the purposes of transport border inspection and foreign exchange control. • Hard copies of the cargo customs declaration certified by the customs bodies at the cross-border point must be submitted to the tax authorities to apply the VAT benefit. Should a customs risk arise (in terms of price, commodity code, etc.), electronic declarations are converted to hard copy. Thus, even in the event of electronic declaration, entities engaged in foreign economic activities must submit hard copies of documents to customs inspectors and print out declarations for purposes of currency and tax control. At the same time, we should note the positive experience that has already been achieved in the Customs Union in terms of the electronic exchange and control of information on the state registration of products		references to documents in electronic databases. This option has already been implemented in the rules of sanitation and epidemiological control in the Customs Union, and new changes may be made in the same way.		

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	during sanitation epidemiological control on the border.				
3. Remote clearance.	There are a number of economic and technical problems that make it impossible to extend the application of the remote clearance method. The key problem is the requirement that goods be placed in temporary warehouses or adjacent customs control areas. Major difficulties are encountered when goods are shipped by rail, as not all permanent customs control areas at points of arrival are intended for storage, and the transportation of goods to temporary warehouses requires considerable time and additional expenses. Preliminary declaration helps to mitigate the problem, since there is no need for temporary storage after a goods declaration is filed; however, as previously mentioned, this option offers no benefits in the case of rail transport. Different customs authorities have different working hours, which inevitably results in idle	Reduce the time required for import customs procedures by 1 to 2 days.	1. Change the remote clearance procedure so that, when a preliminary goods declaration is submitted, the internal customs authority registers the declaration and performs the required document control, including debiting amounts payable, while the external customs authority checks a declaration that is ready for clearance. The external customs authority controls the arrival of goods declared in a declaration. Upon their arrival, it reconciles the declared data with that contained in the shipping and commercial documents. If no discrepancies are identified, it clears the declaration. 2. Perform actual and secondary phyto-control without the participation of the entity engaged in foreign economic activities which is using remote declaration of goods. 3. Remove restrictions attaching internal customs authorities to specific checkpoints. 4. When using remote customs clearance of exported goods, allow the railways to accept railcars for transport without customs	Federal Customs Service of Russia Russian Railways (RZD)	In progress The matter was discussed with the Federal Customs Service – April 2012

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	vehicles and increased expenses for entities engaged in foreign economic activities.		declarations.		
4. Additional fee for use of federal roads	Pursuant to Article 31.1 of Federal Law No. 257-FZ of 8 November 2007, *On Motor Roads and Road Activities in the Russian Federation and on Amendments to Certain Legislative Acts of the Russian Federation* (hereinafter, the "Federal Law"), the Russian government has drafted decrees (hereinafter, the "Drafts") regulating the amount of fee to cover damage done to roads by vehicles with a maximum permitted weight of over 12 tonnes and the procedure for collecting such payments. The Drafts are currently posted for public discussion on the website of the Ministry of Transport. This document gives an analysis of the Drafts, assesses their potential economic impact and proposes steps to avoid adverse consequences. The lack of an alternative to these payments is a serious concern, since in most cases and on most routes there are simply no roads to which this regulation does not apply. It is	Avoid an increase in the cost of road transport by 8% to 10%.	1. Postpone the entry into force of Article 31.1 of Federal Law No. 257-FZ of 8 November 2007, *On Motor Roads and Road Activities in the Russian Federation and on Amendments to Certain Legislative Acts of the Russian Federation* until the methods of implementing these requirements and ensuring the necessary infrastructure are elaborated. 2. Take into account all additional costs relating to payments for large trucks, and consider the possibility of partially eliminating or revising them – for example, charges relating to seasonal restrictions.	Ministry of Transport of Russia	New issue FIAC Executive Committee – September 2012

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	essentially an abuse of the state's monopoly as the owner of federal public roads. This is a key difference between the proposed regulation and the use of toll roads in other countries. The European Union's highly developed road network, for example, offers carriers a choice between fast delivery on high-quality, high-speed toll roads and slower, more complicated delivery on free roads. 1. Experts estimate that the proposed rate of 3.5 rubles per kilometer will result in a 5% to 20% increase in the cost of road transport, depending of the type of cargo, which will mean hundreds of millions of dollars in additional costs for businesses. Given that over 200,000 trucks registered in the Russian Federation will be affected by this law and also that the average mileage of such vehicles is at least 100,000 kilometers per year, even the most moderate estimate of the additional financial burden is around 70 billion rubles a year. Moreover, Federal Law No. 68-FZ of 6 April 2011 has already considerably				

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	increased the rate of excise duty on diesel fuel, whose primary consumers are the same large trucks. This additional expense affecting the cost of transport will ultimately lead to growth in consumer prices and put additional inflationary pressure on the economy. It is important to note that the greatest burden will fall on low-cost socially significant goods, since in this case the amount of payment will be greatest in relation to the cost of goods. Similar problems will affect the cost of delivery in Siberia and the Russian Far East; the far greater distances and correspondingly higher payments will result in higher prices for goods in these regions. 2. The new payment is to be introduced in addition to the current regional transport tax. There is also a practice of introducing seasonal restrictions related to the collection of payments for damage to regional public roads. The new payment is yet another levy – essentially indirect tax that significantly increases additional expenses in connection with road transport. So, the significant				

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	number of regulations that govern essentially the same area of the economy and the related payments make the administration of road transport in Russia considerably more complex and expensive. 3. The proposed time limits and method of collecting payments are a concern. The requirements of Article 31.1 of the Federal Law will enter into force on 1 January 2013. It is also obvious that the creation of the required infrastructure is itself a lengthy and complex process in terms of equipping checkpoints, equipping all vehicles with GLONASS and creating an IT infrastructure to track payments. As a result, there is a serious risk that underdeveloped and/or unavailable infrastructure will substantially reduce the capacity of federal roads, including even full stoppage of traffic on the busiest road sections, especially where traffic merges onto federal roads. 4. The Drafts propose a concession mechanism of collecting fees. The document reads that there would be one concessionaire. The concession provider (the				

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	state) is to be paid a maximum of 10 billion rubles in fee, but the payment procedure and time limits are not specified. Essentially, then, a private company is to receive the monopoly right to perform the state function of collecting a tax, and the amount of the state's fee is limited in advance.				
5. Key challenges in obtaining an AEO status	There is a problem involving the ambiguous legal status of entities that were reorganized by means of transformation less than twelve months before (or immediately after) applying to the Federal Customs Service of Russia for registration in the Register of Authorized Economic Operators; the Federal Customs Service's current Administrative Regulations on the State Service of Maintaining the Register of Authorized Economic Operators (approved by Order No. 1877 of the Federal Customs Service of Russia on 14 September 2011) allow an ambiguous interpretation of provisions determining the duration of a legal entity's (applicant's) foreign	Extend the application of AEO (October 2012)	Make the following amendments to the Federal Customs Service's Administrative Regulations on the State Service of Maintaining the Register of Authorized Economic Operators (approved by Order No. 1877 of the Federal Customs Service of Russia on 14 September 2011): 1. Paragraph 12.16 should be added to the Administrative Regulations as follows: *"If a legal entity is reorganized by means of transformation before a written application is submitted for inclusion in the Register or before the Federal Customs Service of Russia takes one of the decisions indicated in Clause 23 of the Administrative Regulations, to prove foreign trade activity, copies of customs documents must be attached, evidencing that such legal entity was engaged in foreign trade activity prior to its reorganization by*	Federal Customs Service of Russia	In progress The matter was discussed with the Federal Customs Service – April 2012

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	trade activity. A restrictive interpretation of the Administrative Regulations, in combination with the provisions of Russian laws and regulatory acts of the Customs Union, may result in violations of the rights of good-faith legal entities that have successfully engaged in foreign trade activities for many years, as such an interpretation unreasonably excludes the foreign trade activities of a legal entity before its reorganization by means of transformation when the duration of such activity is estimated. Note, however, that such restrictions are not expressly indicated in current Russian laws or regulatory acts of the Customs Union.		*means of transformation."* 2. Add paragraph 14.1. to the Administrative Regulations as follows: *"14.1. In the event of changes in the data indicated in clause 11 of the Administrative Regulations, the Applicant and/or its legal successor may make the respective changes to the application for inclusion in the Register in writing and attach supporting documents. Changes may be made to the application for inclusion in the Register from the time of application to the Federal Customs Service of Russia for inclusion in the Register until the Federal Customs Service of Russia takes one of the decisions indicated in clause 23 of the Administrative Regulations.* *Changes relating to a legal entity's reorganization other than by means of transformation may not be made to an application for inclusion in the Register."* 3. The following wording should be added to clause 30.2 of the Administrative Regulations after "…*the Federal Customs Service of Russia*…": *"including periods of foreign trade activity before a legal entity's reorganization by means of transformation;"* 4. Add paragraph 30.17 to the Administrative Regulations:		

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			"If a legal entity is reorganized by means of transformation before a written application is submitted for inclusion in the Register or before the Federal Customs Service of Russia takes one of the decisions indicated in Clause 23 of the Administrative Regulations, foreign trade activity carried out by such legal entity prior to its reorganization by means of transformation must be taken into account in estimating the duration of foreign trade activity."		
6. Cancellation of a penalty charge on conditionally released deliveries	Under Article 188 of the Customs Code of the Customs Union, a declarer declaring goods must pay customs duties and/or cause them to be paid in accordance with the provisions of the Customs Code of the Customs Union. At the time when goods are declared, the declarer should therefore have paid customs duties in full. Should the customs authority decide to check the declared customs value, the declarer must comply with Article 195.1.3 of the Customs Code of the Customs Union, which requires that the declarer **ensure payment of customs duties**	Reduce the costs incurred by entities involved in foreign trade activity (by the end of 2012)	Eliminate penalties for late customs payments if a security deposit covering the customs duties has been provided.	Federal Customs Service of Russia	In progress The matter was discussed with the Federal Customs Service – April 2012

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	(including by making advance payments under Article 73 of the Customs Code of the Customs Union). If the customs authority makes a final adjustment to the declared customs value, it will issue a request for payment. Such request for payment will include the amount of additionally assessed customs payments as well as penalties. The declarer will be charged both a security deposit and penalties for late customs payments. In many cases, such decisions to adjust the customs value are cancelled by higher-standing customs authorities and courts, and penalties are refunded.				
7. Imports and exports of equipment for tests or production in the Russian Federation.	1. Import and export problems Current regulatory procedures, including for imports and exports of high-tech equipment, negatively impact the development of an innovation-based economy in Russia, reduce Russia's appeal for international companies that carry out research and development activities in Russia and adversely affect the	1. Reduce the time required for customs procedures for imports of high-tech equipment to 1 to 2 days. 2. Uniform requirements based on the specific nature of sample circulation	4. Based on existing customs procedures, introduce a simplified procedure of importing/exporting samples for testing, and have the procedure approved by an order of the Federal Customs Service of Russia. 5. Introduce a notification-based (electronic) procedure for obtaining permission to import/export samples for testing. 6. Review current provisions of customs law to identify inconsistent requirements, and	Federal Customs Service of Russia, Ministry of Economic Development, Ministry of Industry and Trade, Ministry of Communications, Federal Security Service, Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass	New issue FIAC Executive Committee – September 2012

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	competitiveness of Russian companies. The lack of a favorable regulatory climate may result in projects being moved to countries with more favorable regimes. In practice, for example, the process of importing and exporting test engineering platforms can take over two months, while the life cycle of these platforms can be only several weeks after they leave the factory, making it impossible to commit to timely testing or engineering work. This problem is characteristic of all industries and hinders the development of research centers in Russia for major international corporations as well as limiting the ability of Russian companies to export the software they develop. As a result, Russia becomes less attractive as a location for high-tech research and development; penetration and adaptation of innovations are hampered; and ultimately the development of the high-tech industry in Russia slows down.		eliminate varying interpretations.	Communications (Roskomnadzor)	

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	2. Problems with the consistent interpretation of existing procedures When setting up new facilities in Russia to manufacture technological products or when delivering to a Russian customer any equipment not previously manufactured in Russia or imported for testing, companies face varying interpretations of current procedures as well as a variety of customs requirements in connection with imports/exports of sample equipment. This discourages customs procedures other than import/export, conflicts with current international practice of supplying equipment samples for testing and entails additional expenses for companies. Similar problems arise for sample equipment that has undergone testing and contains testing/research findings and that is exported so that products can be manufactured for Russian customers on the basis of those samples. We emphasize that such equipment is not transported for purposes of being sold or released into				

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	free circulation in Russia; it is rendered unusable during testing.				
Improvement of tax law					
1. VAT treatment of bonuses (rewards) received by buyers.	Pursuant to Article 162.1.2 of the Russian Tax Code, the VAT base is increased by the amounts related to payment for goods, works or services sold. Before the Supreme Arbitration Court (SAC) passed a precedent ruling on the Leroy Merlin Vostok case (Ruling of the Presidium of the SAC No. 11637/11 of 07 February 2012), the provisions of the Article did not apply to rewards (bonuses) received by buyers of non-food goods (pharmaceuticals) from sellers if contractual purchases exceeded a certain amount. According to SAC, if rewards are directly related to deliveries of goods, they represent, along with other discounts, a form of trade discounts off the value of goods that affect the VAT base. However, this ruling of SAC although passed in favor of the taxpayer nevertheless implied a negative determination for the	Introduce amendments to Article 146.2 of the current version of the Russian Tax Code	We propose clarifying the text related to applying the provisions of Article 162.1.2 of the Russian Tax Code for rewards (bonuses) provided if buyers meet contractually specified sales targets. We propose introducing amendments to Article 146.2 of the current version of the Russian Tax Code to include transactions involving the payment of rewards (bonuses) for reaching a certain sales volume.	Russian Ministry of Finance, Russian Ministry of Economic Development	The issue became urgent after the Supreme Arbitration Court passed its precedent ruling on 7 February 2012. Prompt action is required.

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	classification of bonuses paid by sellers. When non-food goods are sold, payment of a reward (bonus), which is related to deliveries of goods and made for the purchase of a certain volume of goods, is not related to payments for goods that have already been purchased or to the buyer's obligation to provide additional services to the seller. Thus, rewards paid for reaching certain sales volumes do not require the buyer to perform any specific actions and, consequently, neither change the price of goods nor increase the VAT base.				
2. Application of thin capitalization rules.	If interpreted literally, it appears from the provisions of Article 269.2 of the Tax Code that thin capitalization rules apply to a Russian subsidiary of a Russian parent with more than 20 percent foreign ownership in the event that such parent raised a loan from a local bank against its own assets and then transferred the same to its Russian subsidiary, even though no loans or guarantees were provided by foreign	Introduce the proposed changes to the current amendment of Article 269 of the Tax Code.	Amendments should be made to the law to clearly determine that when a Russian borrowing organization has outstanding indebtedness to another Russian lending organization, the thin capitalization rules will be applied to that borrower when three instead of two (according to the current amendment of Article 269) requirements are met, i.e.: - over 20% of the charter (pooled) capital (fund) of the lender directly or indirectly belongs to a foreign	Russian Ministry of Finance, Federal Tax Service of Russia, Russian Ministry of Economic Development	The issue was first raised in 2007. Until 2010, neither courts nor tax authorities ruled against taxpayers. Currently, there are many such cases. Prompt action is required.

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	shareholders. Note, however, that if a Russian parent had no foreign shareholders, the provisions of Article 269 would not be applicable to its Russian subsidiaries under the same circumstances. Hence, Article 269 of the Tax Code literally suggests that in reality taxpayers are discriminated by virtue of foreign participation in the capital of their parent companies. Recent court practice shows that courts always tend to side with tax authorities on this matter (as was the case with UK BMZ, Integra-Geofizika and Omsk Polypropylene Plant). For instance, the appellate court dismissed the taxpayer's appeal in the Naryanmarneftegaz Case by ruling that the provisions of Articles 269.2-269.4 of the Tax Code must apply to interest paid to the foreign affiliate not participating, directly or indirectly, in the taxpayer's capital. In this respect, the court actually reclassified the loan from a foreign "sister" company into a loan from a foreign shareholder in order to apply the thin capitalization rules:		organization; - the lender is an affiliate of such a foreign organization; - The Russian lending organization has, in turn, an outstanding debt to that foreign organization. This addition should be applied also to the situation involving guarantees when one Russian company guarantees or otherwise ensures the fulfillment of the obligations concerning a loan granted to another Russian company. We request that the Ministry of Finance take the initiative in introducing the proposed amendments to the current version of Article 269 of the Tax Code.		

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3. Unification of the use of corrective VAT invoices for all transactions requiring the adjustment of VAT obligations.	According to the Russian Tax Code, sellers were not required to issue corrective invoices prior to 1 October 2011 (corrective invoices were not issued before 1 October 2011). Federal Law No. 24-FZ introduced the concept of corrective invoices. Pursuant to Article 168.3 of the Russian Tax Code, the seller is required to issue such invoices "***upon changes in the value*** of goods shipped (work performed, services rendered) or property rights transferred, in particular, upon changes in the price (tariff) and (or) changes in the quantity (volume) of goods shipped (work performed, services rendered) or property rights transferred", with such corrective invoices showing both the new value of goods (works, services, property rights) and the change in value. The seller must notify the buyer of any change in the value of goods shipped before issuing a corrective invoice. The buyer's consent or the fact that the buyer was notified of the change in value may be supported by an agreement or contract, as well	Introduce amendments to effective Decree No. 1137 of the Government of the Russian Federation dated 26 December 2011.	We propose introducing amendments to Decree No. 1137 of the Government of the Russian Federation dated 26 December 2011, which are related to: - "combined" invoices used by taxpayers in a number of cases. - The issue by taxpayers of a register of corrective invoices, which is created if taxpayers have software that enables identification of such changes.	Russian Ministry of Finance, Federal Tax Service of Russia, Russian Ministry of Economic Development	Decree No. 1137 of the Government of the Russian Federation dated 26 December 2011 became effective only in Q2 2012. The issue must be addressed.

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	as by any source document. The seller or the buyer may deduct VAT on the basis of a corrective invoice only if such a supporting document is available (Article 171.13 and Article 172.10 of the Russian Tax Code). All corrective invoices are to be chronologically registered in a single Register, whether they are issued in hard copy or in electronic form. If taxpayers have a large volume of VAT -able transactions that need to be adjusted in the tax period, there is a need to issue a single ("combined") corrective invoice. In addition, taxpayers may create registers containing the required details of corrective invoices and amounts that need to be adjusted to unify the procedures for issuing a large number of corrective invoices. The issue remains unsettled under the applicable tax law, and there are now no recommendations for the application of the said approach in issuing corrective invoices.				

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Financial institutions and capital markets					
1. Develop further the Russian payment system in line with international standards.	1. Now that the National Payment Council (NPC) has been established, NPC members should work closely to develop the national payment system, provide their input in developing a strategic plan for and standards of the national payment system in line with international best practices. 2. It is critical to ensure the continuous improvement of the legislative framework that creates an enabling environment for the efficient implementation of the Federal Law, *On the National Payment System*, particularly in what concerns the fault-free operation of the payment system. 3. It is essential that the Strategic Plan for the Development of the National Payment System should provide for the creation of the required infrastructure. To ensure: • New payment format aligned with SWIFT/SEPA standards and formats • Online processing of all internal payments, discontinuation of route	A stable, mature and highly efficient national payment infrastructure A growing percentage of non-cash payments in the total volume of payments A strategy of the national payment system development, aligned with international standards; enhanced legislation on the national payment system Advanced technologies in the national payment system that meet the highest security standards A common view of market players on how the national payment system should be developed		CBR, Russian Ministry of Economic Development	Non-profit Partnership National Payment Council (NPC) was established by a resolution passed on 8 February 2012 and was registered in the Uniform State Register of Legal Entities on 12 March 2012. Among its founders are major Russian and international companies, including Deutsche Bank Ltd. (coordinator of FIAC Financial Institutions and Capital Markets WG). Meetings between NPC members and market regulators are planned to develop joint roadmaps. The CBR will draw up new regulatory acts due to the adoption of the law on the national payment system, including the rules for

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	payments • Permission to use the English language • Payee identification – standardization of payment purposes, introduction of code words instead of freeform phrases • Liberalization of currency controls • Facilitation of tax payments (10 types) – alignment with SWIFT standards and formats				registration of payment systems. Appropriate meetings are planned between WG members and CBR officials and within CBR. Further assistance from the Deutsche Bank-led working group for the program of information exchange between the CBR and the central banks of Europe. Intensification of the activities of the payment cards subcommittee of the Technical Standardization Committee "Financial Operations Standards" (TC 122). FIAC plans to team up with the Federal Agency on Technical Regulating and Metrology (Rosstandart of Russia) to start designing the Russian standard "Financial Terms and Definitions."

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					Further work of the CBR on the strategic development plan of the National Payment System. Consultations with WG members.
2. Reform the pledge legislation.	Continue to try to achieve the adoption of the necessary amendments to legislation, particularly to the Civil Code. The Ministry of Economic Development has, in collaboration with the EBRD, prepared a set of reform-related amendments and documents, including proposals for amendments in the Civil Code. Over the past two years, various essential meetings, sessions and workshops took place, including consultations with market players. However, the final version of the amendments to Chapter 23 of the Civil Code, which is now being considered in the Duma, still does not contain all the necessary amendments (although some headway was made, particularly in relation to the legitimacy and feasibility of syndicated lending and the charge over securities)	Introduction of all proposed amendments to the Civil Code (Chapter 23).	The top priority is to communicate to the State Duma that all such essential amendments in the Civil Code are necessary.	Russian Ministry of Economic Development, Administration of the Russian President, Codification Committee, Russian Ministry of Justice	The working group for the development of pledge legislation led by the European Bank for Reconstruction and Development presented the amendments to the Russian Civil Code on 15 May. The presentation on the status of the system for registration of pledges in Russia as compared with global trends took place on 1 June. Refer to the appendix for the core elements of the pledge legislation reform.

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	The main issues which still must be resolved are: 1. Liberalization of the statutory content of a pledge agreement 2. Taking account of the requirements for syndicated lending and security issues 3. The certainty of lenders concerning their priority in relation to pledged assets 4. Improvement of the provisions governing pledges of specific assets (in particular, rights of claim and bank account rights) 5. Further simplification and liberalization of the procedure of foreclosure to meet the market's expectations In addition, a modern, comprehensive, transparent and effective system for registration of all types of pledges should be created.				
3. Initiative for the development of the securities market in Russia.	Under the current laws for the debt financial markets of Russia, the Federal Financial Markets Service and the CBR are responsible for regulating and overseeing the debt financial markets. A significant	Improved and transparent financial market infrastructure. A central body for stock exchange operations; an approved instruction concerning the application of the legislation on insiders;		FFMS, CBR, Moscow International Financial Center (MIFC), Russian National Association of Securities Market	In collaboration with the MIFC working group: Clarify the existing instructions for creating a transparent infrastructure for the sound operation of

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	number of legislative acts have been adopted to make sure the system is efficient, including the acts regulating certain organizations and areas. 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 financing. In addition, the agreements on the replacement of debentures with shares were permitted and the repo transaction concept was introduced. Therefore, certain progress has been made in respect of the legislative reform in this area, but some issues are still to be resolved.	international practices of dealing in debt instruments are applied.		Participants (NAUFOR)	financial markets. In addition, consideration of offering documents could be made more efficient. Also, it is possible to specify the rules for foreign placements. Introduce international practices for debt instruments. To attract investment, Russian rules and instructions can be aligned with international market practices. One of the recommendations, for instance, is to introduce credit ratings, legal opinions, meetings of bondholders, etc. Improve the financial markets infrastructure (establish a central body for stock exchange operations, among other steps), design and approve the instructions concerning the application of insider legislation. Deadline: 2012.
4. Develop syndicated lending under	**1. Create standard documents for syndicated lending under Russian law.** The Association	Involvement of regulators in discussion and drafting of standard documents for		CBR, Russian Ministry of Finance, Russian Ministry of	Meetings in Q3 2012

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Russian law.	of Regional Banks of Russia has proposed to create a Russian standard documentation analogue of the LMA (Loan Market Association). The purpose of this initiative is to create, and coordinate with market players, the standard documents for syndicated lending under Russian law. The Association has set up a legal expert council whose members are now discussing the issues related to the creation of such documents. It also set up a special Fund whose coordination council will comprise financial organizations sponsoring the creation of such documents. This is a step required to hold a tender for creating such documents. It is necessary to engage the relevant ministries and agencies in the discussion of this initiative in order to address the potential issues and problems that may arise in the relations with the regulating bodies during the preparation of the documents. To make the work and collaboration more efficient, we suggest that the bodies	syndicated lending under Russian law.		Economic Development, Supreme Arbitration Court of the Russian Federation	

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	concerned should delegate a representative authorized to deal with these issues and to work with the expert group and the Fund.				
	2. Syndicated loan fees. An arranger of a syndicated loan is interested in such an arrangement mostly because it receives an additional fee for this service from the borrower. In September 2011, the Presidium of the Supreme Arbitration Court of the Russian Federation published the Overview of Judicial Practice (Information Letter No. 147 dated 13 September 2011). According to Clause 4 of the Overview, banks are entitled to special compensation (fee) for providing special services to their clients. There is ambiguity surrounding the legitimacy of collection of syndicated loan fees.	Lenders are entitled by law to charge the fees set forth in the loan agreements with the borrowers		Russian Ministry of Economic Development, CBR, Supreme Arbitration Court of the Russian Federation	Meetings in Q3 2012
	3. Accounting and ratios. There is a need to improve the accounting practices and ratios applied in syndicated loan arrangements	Such issues relating to syndicated loan arrangements are resolved		CBR, Russian Ministry of Finance	Meetings in Q3 2012

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	4. Taxation. There is a need to improve tax regulations applied in syndicated loan arrangements	Such issues relating to syndicated loan arrangements are resolved		CBR, Russian Ministry of Finance	Meetings in Q3 2012
5. Improve capital adequacy regulation in the banking sector in the spirit of the Basel Accords.	Currently, the capital adequacy calculation in the banking sector is governed by the rules set forth in Instruction No. 110-I (with clarifications introduced by Regulation 2613-U). These rules have introduced higher capital adequacy ratios for certain types of assets. This project partly conforms to the most recent Basel III initiatives. However, some of the requirements of the CBR make the requirements for credit institutions excessively stringent (for example, in individual cases the use of modern liquidity management practices is regarded as "non-transparency of company operations"). This results in potential regulatory arbitration, which affects the prospects of banking practices in Russia.	Set out a roadmap for amending the CBR instructions that are not consistent with the Basel Accords.		CBR	Submit proposals to the CBR. Meet with the CBR.
6. Use awareness building and marketing activities as additional tools in	In recent years, the task of establishing an International Financial Center in Russia has been high on the agenda of the	Work jointly with regulators to include IFC marketing issues in the list of tasks and actions required to move forward with		CBR, Russian Ministry of Economic Development	Meeting with the Ministry of Economic Development to design the procedures for

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the development of the International Financial Center (IFC) in the Russian Federation.	Russian Government. The first and most important stage in this process is to improve the local financial infrastructure by passing essential legislative acts and embracing due regulatory practices. Despite the work done, there is still a considerable outflow of capital (in 2010 it was in excess of USD 80 billion), and the number of issues of securities by foreign issuers (three cases in recent years) is significantly lower than the number of cases of flotation of Russian securities abroad. This is a clear signal that the Russian financial market is way 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 fairly regularly. That being said, it seems that the IFC organizers have overlooked a whole class of financial market players, foreign issuers. This group is	the MICEX-RTS development strategy.			organizing regular overseas marketing campaigns to promote Russia's International Financial Center. Meeting with MICEX-RTS to explore the possibilities of MICEX-RTS conducting overseas marketing campaigns on a regular basis to promote Russia's International Financial Center – April 2012. MICEX approved its own development strategy having a clause according to which it plans to attract foreign issuers. The stock exchange focuses on providing Russian issuers with access to trading floors.

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	responsible for generating a considerable amount of revenue in the financial sector. Such transactions can not only enhance the skills of local market players and create prerequisites for the professional development of IFC members but also lay the foundation for reducing the dependence of the Russian financial system on external country risk factors. One of the reasons underlying this problem is a lack of awareness on the part of the potential issuers of the opportunities of placing securities in the Russian market.				
7. Further improvements to the legislation regulating the accounting infrastructure for the securities market.	1. There is a need to develop bylaws related to the Law *On the Central Securities Depositary* and amendments to Law 39-FZ *On Securities Market*.	Effective, transparent and globally accepted accounting infrastructure for the securities market		FFMS, Russian Ministry of Finance	1. FFMS is currently drafting bylaws and is working on new Terms and Conditions regulating depository operations. Market participants: custodian banks and representatives of the MICEX group will be invited to attend a meeting with the regulator to discuss these documents.

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					2. MICEX lawyers provided comments on the document. Letters criticizing the document were sent to Mr Voloshin by FFMS, the MICEX group and custodian banks. Respective consultations and meetings will be held between FFMS and the working group until April-May 2012. FFMS continues to work on the documents. Deutsche Bank continues to actively work with FFMS together with other market participants. Most documents to govern the activities of the proposed Central Depository (CD) have already been issued. On 25 July, the National Settlement Depository (NSD) submitted an application for assigning the status of

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					CD to NSD. Latest estimates show that NSD will become CD in October 2012.
Improvements of customs regulations and practices designed to enhance competitiveness when providing customs-related services, such as Green Corridor payment services and the inclusion of Banks in the Register of banks and insurance companies authorized to issue bank guarantees to secure customs duty payments.	The Federal Customs Service of Russia suspended the acceptance of Green Corridor cards, thus restricting the rights of the entities engaged in foreign economic activities to pay customs duties by using the cards. This situation has created great inconveniences for importers. Therefore, it is extremely necessary for competition to be established in the sphere of customs payment services with the on-line use of microprocessor cards. FIAC member companies are very interested in the acceptance of Green Corridor cards again. The alternative methods of customs duty payments are very inefficient due to the need for large amounts of cash to be withdrawn from the cash-to-cash cycle and to the considerable time required for making the payments. Currently, there are virtually no alternatives for				

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	Green Corridor cards in Russia, except for another coordinator of the issue of customs cards, namely, OOO "Tamozhennaya Karta". This situation seriously undermines our economic interest and the image of Russia's government bodies in general. Necessary steps: - Urgently restore the possibility for FIAC member companies to pay customs duties using a convenient and familiar tool, Green Corridor cards; - Consider the possibility of adoption of a special decree by the Government of the Russian Federation which would set forth general rules for issuing and using microprocessor customs cards and provide for the existence at the same time of several coordinators of the customs cards issue, thereby ensuring competition and the transparency of operations of those coordinating the issue of microprocessor customs cards.				

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9. Development of the insurance system.	**Procurement of insurance services for public and municipal needs as well as the needs of legal entities (Federal Law No. 223-FZ)** When reforming the system of procurement for state and municipal needs as well as the needs of natural monopolies, state corporations, state unitary enterprises, municipal unitary enterprises and other business entities with over 50% state interest in charter capital and when setting up a new two-tier procurement system (Federal Contract System and Federal Law No. 223-FZ), it is necessary to ensure more transparent procedures for the procurement of insurance services: - prohibit electronic tenders for the obligatory types of insurance based on fixed rates, since prices cannot be reduced when the same rates are used by all suppliers; - develop the minimum requirements for an insurance service in respect of the customers in question, and eliminate the restrictive	Transparent procedures for the procurement of insurance services	Introduce amendments to Federal Law No. 223-FZ and incorporate relevant changes to draft Federal Law, *On Federal Contract System*, and other regulatory acts	Russian Federal Financial Markets Service (FFMS), Russian Ministry of Economic Development, CBR	Consultations and meetings with representatives of FFMS, the Ministry of Economic Development and the CBR. Deadline: April 2012. A letter dated 25 June 2012 was sent to A.R. Belousov, Minister, as agreed during the meeting of FIAC Executive Committee with E.S. Nabiullina (took place on 24 April 2012), where the issue was raised.

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	requirements for the participation of foreign companies in the supply of goods and services for the above-mentioned customers. That will include the customer's responsibility, when introducing the requirement for a license for access to state secrets, to clearly state in the bidding documents that the information related to a state secret will be provided to the supplier of goods/services under a state contract with an indication of the contract implementation stage when such information will/may be provided, and to ensure that the bidding documents allow the supplier of goods/services to use the alternative methods of state secret protection in addition to the licenses for access to state secrets, issued by the Federal Security Service of Russia and the Foreign Intelligence Service, if the supplier of goods/services will be obliged to obtain state secret information when fulfilling a state/municipal order.				

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10. Leasing in Russia.	1. According to the court practice, fraudulent lessees (under finance leases): a) Derive profit from using leased asset; b) Use leasing tax advantages; c) Delay and cease payments under finance leases; and d) Request the lessor to reimburse a buy-out price that was allegedly included into lease payments after returning the leased asset with increased wear. This court practice is based on Ruling No. 17389/10 of the Presidium of the Supreme Arbitration Court of the Russian Federation (SAC of Russia), dated 12 July 2011 (as was the case with Meta-Leasing). Pursuant to the Ruling, lease payments comprise: (i) lease payment for using leased asset; (ii) buy-out price for ownership transfer to be reimbursed upon termination of the lease agreement.				During the meeting with E.S. Nabiullina, Joerg Bongartz reported on issues related to leasing in Russia that were taken into account.

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	2. In economic sense, it is not fair that the lessee requests the lessor to reimburse a buy-out price, because the lessee has already received it through the cost of services rendered to third parties. Foreign investors are concerned about the situation. Eventually, this may result in significant loss to the lessor and, consequently, in bankruptcy and exit of companies with foreign investments from the market. 3. We consider necessary to apply to SAC of Russia to give directions to courts in regard to the following issues: a) determination of buy-out price (e.g., in the form of an Information letter summarizing court practice); b) the necessity to consider specific features of agreements and actual facts of the case during settlement of disputes related to determination of a buy-out price.				

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Trade and consumer sector					
1. Disposal of packaging waste in the context of draft Federal Law No. 584399-5 On the Introduction of Amendments to the Federal Law on Production and Consumption Waste and other legislation of the Russian Federation (concerning the economic stimulation of activity in waste disposal). **(together with the think tank on technical regulation and elimination of administrative barriers).**	- Harmonization of the proposed regulation with the existing EU legislation meaning: - Creating effective economic incentives to develop consumption waste recycling; - Replacing the proposed "deposits", quasi-taxes and other fiscal instruments with obligatory standards for utilization / disposal of certain waste types; - Retaining options of settling liabilities related to utilization/disposal. Drafting Rules for the Disposal of Container and Package Wastes in the form of a bylaw.	In preparation for the second reading, reflect the opinion of FIAC member-companies in the final version of Draft Federal Law No. 584399-5 "On Production and Consumption Wastes", cancel "deposits", quasi-taxes and other fiscal instruments, create economic incentives to develop consumption waste recycling.	Initiating a discussion of the bill on the "Open Government" platform, involving a wide circle of experts	Russian Ministry of Natural Resources, State Duma, Russian Ministry of Economic Development, Administration of the Russian President	In progress Second reading of draft Federal Law No. 584399-5 *On Introducing Amendments to the Federal Law On Production and Consumption Waste* has been postponed for the autumn session of the State Duma. Amendments have been officially sent on behalf of the Council of Federation
2. Implementing the Customs Union's applicable customs regulations 005/2011 "On the Safety of Packing"	The Customs Union's regulations "On the Safety of Packing" became effective on 1 July 2012. Issues related to customs clearance and the existing law-enforcement practice require consolidation of	Exclusion of packaging materials that are covered by the technical regulations from the Unified Sanitary Requirements (taking into account draft amendments).	Develop the list of items covered by the Customs Union's regulations "On the Safety of Packing", resolve issues related to customs clearance, as well as issues related to the excessive and unobvious requirement for marking.	Russian Ministry of Economic Development, Russian Ministry of Industry and Trade, Russian Ministry of Health, Federal	New issue FIAC Executive Committee – September 2012

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	the positions of FMCG companies There are a number of risks related to the effectiveness of the regulations and a number of issues to be clarified by regulating authorities where there is no unambiguous understanding in regard to packaging materials covered by these technical regulations and in regard to the necessity to confirm compliance of packing/packaging materials in the given circumstances.			Customs Service of Russia, Eurasian Economic Commission	
3. Markups on prices of baby food sold in various constituent entities of the Russian Federation.	Decree No. 239 does not provide for the basis (recognized by federal law) to perform state regulation of tariffs and surcharges for baby food (including food concentrates) that results in excessive government intervention in pricing and creates excessive burden on business.	Introduce amendments to Decree No. 239 to exclude baby food from its coverage to ensure compliance with Federal Law No. 381-FZ, *On Fundamental Principles of State Regulation of Trade in the Russian Federation*	This issue is being reviewed by federal executive government bodies concerned	Russian Ministry of Economic Development, Russian Ministry of Health, Government of the Russian Federation	New issue FIAC Executive Committee – September 2012
4. Draft Federal Law, *On Veterinary Medicine*, which is still being developed.	At the moment, revision of the document may increase current risks (a certain approach to veterinary regulation in the document that may result in poorer efficiency of state	Development of a unified veterinary control system for Russian manufacturers.	Russian Ministry of Economic Development is preparing conclusion on the document as part of the regulatory impact analysis	Russian Ministry of Agriculture, Russian Ministry of Economic Development	In progress

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	regulation and in deterioration of business environment in the market (import of controlled goods will increase), as well as in deterioration of episodic situation in the country).				
5. Transfer to new Customs Union veterinary certificates starting from 1 January 2013 pursuant to the Customs Union Commission's Decision No. 892, *On Amendments to the Forms of the Uniform Veterinary Certificates for Controlled Goods Imported into the Customs Territory of the Customs Union from Third Countries*, that came into force on 15 January 2012.	Pursuant to Decision No. 892 of the Customs Union Commission, dated 5 December 2011, effective 1 January 2013, all forms of veterinary certificates for controlled goods from third countries shall comply with the form of uniform veterinary certificates approved by Customs Union Commission's Decision No. 607, dated 7 April 2011, with all subsequent amendments. The business community may face the situation when the Customs Union will not be able to translate new veterinary certificates into all required languages upon the completion of the transition period. This may result in partial cessation of supplies of raw materials and finished goods.	Obtaining clarification on the current status of preparation to the period of transition to new Customs Union veterinary certificates (translation of veterinary certificates into all required languages) and confirmation of the readiness of veterinary services to transfer to new veterinary certificates for controlled goods imported to the territory of the Customs Union from third countries. Effective 1 January 2013, all certificates for controlled goods imported to the territory of the Customs Union from third countries will comply with the form of the uniform veterinary certificates.	Request EEC to inform all parties concerned (EU Directorate of Health and Consumer Protection) and to translate new veterinary certificates into all required languages.	Rosselkhoznadzor, Eurasian Economic Commission	In progress

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6. Imports into the Customs Union of sample food products (raw materials) for the purposes of laboratory testing	While the legislation of the Customs Union and Russia does not provide for a simplified procedure for importing veterinary and phytosanitary samples for the purposes of internal or external laboratory testing, food processing companies have to import such samples following the same procedure as for commercial lots. This procedure greatly complicates the development of new food products in Russia, undermines efforts to maintain high standards of product quality and has a generally negative impact on innovative development of the Russian food industry.	Approve the proposals in regard to a simplified procedure of importing in Russia samples of food products (raw materials) for laboratory testing, research and other non-commercial purposes in the light of the Government's intention to encourage advanced scientific research and to stimulate national production.	With the support of the Russian Ministry of Economic Development, hold consultations with the Russian Ministry of Agriculture, Rosselkhoznadzor, the Russian Ministry of Health and the Federal Customs Service of Russia, to propose amendments to the Russian legislation and the legislation of the Customs Union (EEC) in order to simplify the procedure for importing samples of products (raw materials) for laboratory testing, research and other non-commercial purposes by entities engaged in economic activities , without releasing such products to free circulation. The Russian party to make relevant proposals for incorporation in resolutions adopted by the Customs Union Commission /Eurasian Economic Commission.	Rosselkhoznadzor, Russian Ministry of Agriculture, Russian Ministry of Economic Development, Russian Ministry of Health, Customs Union Commission / Eurasian Economic Commission Federal Customs Service of Russia	In progress
7. Problems with obtaining veterinary certificates in Russia (Order of the Russian Ministry of Agriculture No. 422 dated 16 November 2006).	There is no clear guidance in Order of the Russian Ministry of Agriculture Concerning the Approval of the Procedure for Issuing Veterinary Certificates (No. 422, dated 16 November 2006) as to how the process of issuing veterinary certificates should be organized and what the cost of such services should be. Certain provisions of this	Align the procedure for issuing veterinary certificates with Russian legislation (Decree No. 1009 of the Russian Government, dated 14 December 2009, Concerning the Shared Regulatory Functions of the Russian Ministry of Health and Social Development and the Russian Ministry of Agriculture in the	This issue is being reviewed by the Russian Ministry of Agriculture (an opinion on the expert review of Order No. 422 was sent to the Russian Ministry of Agriculture with letter No.13145-ОФ/Д26и, dated 2 July 2012, of the Russian Ministry of Economic Development).	Russian Ministry of Economic Development, Russian Ministry of Agriculture, Rosselkhoznadzor	In progress FIAC Executive Committee – September 2012

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	document are in conflict with current Russian law and technical regulations of the Customs Union. This results in non-transparent procedures, excessive costs and major operating difficulties for foreign investors.	Area of Food Quality and Safety Control) and the technical regulations adopted by the Customs Union. Provide in the Order for a possibility of issuing electronic veterinary certificates for cargo that is subject to veterinary checks in the Russian Federation (using the facilities of the existing information system Mercury)			
8. Quarantine phytosanitary examination	As part of its regulatory initiative in the area of phytosanitary control, the Russian Ministry of Agriculture has developed the draft order, Concerning the Approval of Plant Quarantine Rules Governing Import, Storage, Movement, Transportation, Processing and Usage of Quarantinable Goods in the Russian Federation. The document contains a number of provisions that restrain entrepreneurial and investment activities.	Prepare proposals under the document aimed at the lowering of administrative barriers as related to import of quarantinable goods in the Russian Federation.	An opinion of the Russian Ministry of Economic Development in regard to the regulatory impact analysis of draft order No. 3777-ОФ/Д26и, dated 5 March 2012, was obtained. The opinion states that the document provides for excessive administrative barriers and liabilities of business entities, as well as for additional expenses.	Russian Ministry of Economic Development, Russian Ministry of Agriculture, Rosselkhoznadzor	Suspended
9. Sanitary Rules and Norms (SanPin) 1078 01, Health Standards Related to Safety and Nutritional	The effective version of SanPin 2.3.2.1078 contains many provisions which are in conflict both with those of the Russian legislation and the regulatory documents of the Customs	Pursuant to par. 3.3 of Decree of the Russian Government No. 633, dated 29 July 2011, the Russian Ministry of Economic Development performed an expert review of			Suspended

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Value of Food Products	Union. This gives rise to inconsistent law enforcement practices in Russia and creates unnecessary administrative barriers to circulation of food products.	the above mentioned document, which identified a number of provisions that unreasonably restrain entrepreneurial and investment activities. Speed up the review, proposals to implement changes to the above mentioned SanPin were submitted to the State Commission for Administrative Reform.			
10. Codex Alimentarius – policy-planning at the supranational level					TO BE MONITORED
Energy Efficiency					
1. Create a system for coordinating the activities of FIAC working bodies under the Chairman of the Russian Government on the part of federal executive bodies concerned.			Measures taken by the Government of the Russian Federation resulted in certain changes in legislation on efficient power consumption. However, there are still problems with their implementation at the broader level (not only at the level of a number of energy efficient goods), as well as with application of the best global integrated design solutions, as this requires development of transparent and efficient mechanisms and relevant changes in regulatory		

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			documents. Special attention should be paid to the implementation of actual market mechanisms. This will give an impetus to more extensive participation of private companies, including foreign ones. In particular, it is necessary to immediately resolve issues related to tariffs in the utilities sector to ensure that the actual power consumption cost is properly reflected, as well as to resolve issues related to installation of power meters to identify actual losses in transmission and distribution lines from the manufacturer to end users, production upgrade, power distribution and transmission, implementation of penalties and incentives system. It is also important to pay closer attention to the improvement of the power consumption culture to ensure energy efficiency similar to other countries worldwide. The society should realize that enhancing energy efficiency and efficient use of natural resources are the key conditions for modernization in Russia, not just tag lines; otherwise Russia will be far behind the leading countries. The issue related to the usage of best international practices for providing incentives for RES development through subsidy		

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			assistance and connection to networks is of crucial importance. A number of institutions are responsible for the issues related to efficient power consumption, e.g. some ministries at governmental level, specifically established functions in regional administrations, etc. However, there is no unified coordinating authority with respective juridical competences responsible for performance of the set objectives and development of regulatory acts in an efficient manner. Enhancing efficiency and ensuring coordination of the activities of the state institutions dealing with efficient power consumption. We need a unified government agency similar to those that were established in most European countries. At the moment, there are problems related to the funding of modernization projects aimed at improvements in efficient power consumption due to the fact that it is impossible to identify collateral value of credited assets. One of the key objectives of such agency should be integrated support to private companies implementing pilot projects in the area of efficient power consumption. Solutions in this sphere could be effectively implemented, if		

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			changes are introduced into the Law on Government Procurement providing for tenders based on the cost of the whole life cycle of goods and projects and considering environmental impact. These procedures and approaches are widely used in all leading countries, and FIAC members have relevant experience that may be used to adapt this approach in Russia. It is impossible to achieve the goals set by the state without changing the mentality of society. The society should realize that the future of the country depends on efficient power consumption and preservation of resources for future generations. Based on the above, it is necessary to develop and implement (through mass media) awareness campaigns for all levels of population (from school training programs through special training courses for management personnel of enterprises and organizations).		
Efficient use of natural resources in Russia.					
1. Developing a new taxation system for oil and gas projects on the Russian	Oil and gas projects on the Russian continental shelf lack appeal in the eyes of investors due to the existing taxation	Key amendments should be as follows: exemption from export duties, the zero rate of MET and introduction of additional	Cooperation with ministries to obtain an expert opinion and recommendations based on previous projects	Russian Ministry of Finance, Russian Ministry of Energy, Russian Ministry of	In progress

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continental shelf.	regime.	income tax.		Economic Development	
2. Changing the regime of licensing the export of geological information.	Subsurface users who obtained subsurface data at their own expense may not use such data at their discretion (i.e. are not allowed to export such data). This complicates the implementation of joint development projects. Such restrictions must be abolished.	Exclude the subsurface data that was obtained by investors at their own expense from (i) the Unified List of goods subject to bans or restrictions applicable to exports/imports between CU member states and third countries, and (ii) the Guidelines on Application of Restrictions.		Russian Ministry of Natural Resources, Russian Ministry of Industry and Trade, Customs Union Commission	In progress
3. Propose amendments and supplements to the effective legislation for the purpose of improving the investment climate.	Certain amendments are required to the Law on Foreign Investments and the Law on Subsurface: - increase further the threshold for investing in companies engaged in developing subsurface areas of federal importance similarly to other strategically important sectors; - remove the mandatory requirement for subsurface users to have at least five years prior offshore experience in Russia, or, if the former is not possible, allow the issuance of offshore exploration and production licenses to local subsidiaries of Russian state	An established process providing a possibility to invest freely in exploration projects and offering certainty as to the exploration and production rights following the discovery (including discoveries made within subsurface areas of federal importance). A possibility to perform an adequate prior assessment of risks inherent in the development of subsurface areas of federal importance. Exclude the risk of license revocation under part 6, clause 21 of the Law on Subsurface. Allow for deals to be structured with a view of booking		Russian Ministry of Natural Resources, Russian Ministry of Economic Development	In progress

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	companies so that such subsidiaries may be used in the future as a joint venture vehicle between Russian state companies and foreign investors; - make it possible to issue licenses for geological study of subsurface areas; - exclude the geological study of the continental shelf from the list of strategic activities; - a company with foreign participation or a foreign company holding an exploration and production license should be allowed to obtain the approval of the Russian Government to continue exploration and production activities following the discovery of a deposit within the licensed area, provided that it had applied for such an approval before it was established that the discovered deposit meets the criteria of a subsurface area of federal importance; - clarify the criteria for classifying deposits as subsurface areas of federal importance, including the revision of the existing	reserves in accordance with internationally accepted practices. Raise the threshold amount of solid minerals at which the subsurface area is classified as an area of federal importance (Article 2.1. of the Law on Subsurface)			

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	restrictions on the volume of minerals contained in strategic mineral deposits; - establish clear reasons for termination, suspension or limitation of subsurface rights.				
4. Enhance the approval procedure for field facilities development projects and clarify the requirements for project documentation	Certain amendments are required to the legislation and bylaws governing the design and construction of field facilities: - reduce the number of approvals and expert reviews (including those duplicating each other) required for oil and gas development projects; - develop and approve the regulations governing the content of and requirements for well construction projects based on the existing industry documents; due to their specifics, well construction projects do not fall within the scope of the Urban Development Code and Government Decree No. 87; - provide that a review of the project's industrial safety shall be sufficient to obtain a construction permit; currently,	Reduce construction permit turnaround times for field facilities development projects, eliminate excessive and duplicate approvals and reviews.	Certain amendments are required to the legislation and bylaws governing the design and construction of field facilities.	Russian Ministry of Natural Resources, Russian Ministry of Economic Development	In progress

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	well construction projects are regarded on the same plane with other construction projects requiring an approval by Glavgosekspertiza (construction of residential buildings, plants and factories). Consider the possibility to recognize expenses (depreciation) on capital construction facilities that require state registration upon putting into operation. - Introduce respective changes into Article 258.11 of the Tax Code of the Russian Federation (with the support of the think tank on improvement of tax law)				
5. Draft laws concerning oil spill prevention on the continental shelf and in inland sea waters.	The Ministry of Natural Resources prepared a draft law that passed its first reading in the State Duma's Committee for Natural Resources and Environmental Protection. The law requires that oil spill clean-up plans be subject to state environmental examination. Apart from being pointless (as any oil spill clean-up plan, along with other objectives, is essentially aimed at protecting the environment), this requirement imposes an	Minimize the negative effects of the adoption of the draft laws with respect to: 1) unjustifiably high offshore drilling costs resulting in substantial impairment of the economics of the respective projects; 2) creating additional administrative barriers for drilling activities on the continental shelf and in inland sea waters. Minimize the negative effects of the adoption of the draft laws with respect to: 1) unjustifiably high	Expedite the adoption of the draft decree of the Russian Government prepared by the Emergency Ministry to replace the mandatory approval procedure of oil spill clean-up plans with a notification procedure (provided that the words "permanently available" be replaced with the words "available on a daily basis").	Russian Ministry of Natural Resources	In progress

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	additional administrative burden, thus making the existing onerous and lengthy approval process even more complicated. An additional examination would create an additional barrier in a multi-stage and time-consuming process of approval of oil spill clean-up plans. It is also provided in the draft law that an operator must have a number of financial instruments to guarantee the prevention and cleanup of oil and petroleum product spills in marine waters, full settlement for natural resource damages associated with such spills, and reimbursement of cleanup costs. Note, however, that the draft law does not provide for a mechanism to adequately assess the amount of funds required to be available with the operator to guarantee full settlement for natural resource damages associated with such spills and reimbursement of cleanup costs (a corresponding methodology should be approved by the Russian Government only after the draft has been adopted into law). If,	offshore drilling costs resulting in substantial impairment of the economics of the respective projects; 2) creating additional administrative barriers for drilling activities on the continental shelf and in inland sea waters. Expedite the adoption of the draft decree of the Russian Government prepared by the Emergency Ministry to replace the mandatory approval procedure of oil spill clean-up plans with a notification procedure (provided that the words "permanently available" be replaced with the words "available on a daily basis").			

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	under such a methodology, operators are required to maintain billions, or sometimes tens of billions, of US dollars to guarantee performance of their environmental obligations, the drilling costs will surge and the overall economics of offshore projects will be substantially impaired. The proposed types of financial guarantees do not take into account joint ventures between local and foreign oil and gas companies, a contractual arrangement quite common in Russia. In the case of a joint venture, its obligations could be secured by assets (guarantees) of the shareholders. Another major issue is the proposed transfer of the responsibility for an oil spill from a license holder to an operator ("operating entity"), which, to some extent, counters the logic of the Law On Subsurface and, considering the lack of clarity of the term "operating entity", could make external contractors engaged in offshore operations responsible for providing financial guarantees.				

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
	In an attempt to amend the existing legislation, the Ministry of Natural Resources came up with another draft law requiring that the appropriate measures to clean up oil spilled under the ice be made part of the technical documentation. The draft law received negative feedback from the Ministry of Economic Development. The Russian Emergency Ministry prepared a draft decree of the Russian Government to replace the mandatory approval of oil spill clean-up plans with a notification procedure, whereby operators will only have to notify the responsible agencies of their respective plans, once the same have been approved and adopted. This may be viewed as a positive step towards lifting administrative barriers and improving the business environment. At the same time, the decree requires that oil spill response teams and cleanup equipment be made permanently available. This requirement may not only prove quite costly for operators, but also be unfeasible in remote				

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
	areas. We propose considering an integrated approach when planning oil spill clean-up activities: mechanical cleaning, combustion, dispersion. An activity should be chosen based on environmental benefit assessment. Remove administrative and customs barriers to ensure access of foreign technical experts who are able to assist in oil spill clean-up in a prompt and efficient manner; to remove customs barriers to import additional equipment and dispersion agents.				
Development of Far East and Eastern Siberia					
1) Drafting and publishing "Far East of Russia" (the first Investment Guide for the regions of the Far Eastern Federal District) with welcome words of all regional governors of the Far East to FIAC	There is insufficient information on attractive investment projects, advantages and opportunities in the Far Eastern region. It is necessary to enhance the interaction / dialogue between foreign investors and regional authorities in resolving economic issues.	The first Investment Guide "Far East of Russia" will be published at the end of September or at the beginning of October 2012, and will be presented to FIAC members at the FIAC Plenary Session that will take place on 15 October 2012.	The Investment Guide will provide potential foreign investors with a clear understanding of the economic priorities of the regional authorities and will give a signal for investing in the Far East.	Russian Ministry of Economic Development, Ministry of Development of Far East, Russian Ministry of Regional Development, Russian Ministry of Industry and Trade, Russian Ministry of	Cooperation with regional authorities on approval of the texts including texts translated into English.

Issue/Task	Problem description	Expected outcome (specify dates)	Recommendations on how to resolve the problem	Responsible ministries and agencies	Status
members, a brief reference concerning regional economy and a list of priority investment projects in the regions including contact details.				Agriculture, Russian Ministry of Transport, Administration of Presidential Plenipotentiary Envoy in the Far East, regional authorities.	

ATTACHMENTS

First Quarter Marked by Political Uncertainty

Quarter in Brief: After 12 years of relative certainty over who was in charge in the Kremlin, political risk returned to Russia. Protests grew in response to Parliamentary elections in December, 2011, and worry carried over to the March presidential elections in 2012, likely having some impact on investment flows and raising concerns over the integrity of the business climate to withstand personnel changes.

Quarterly Highlights

On the eve of the first quarter, the OECD released an economic survey of the Russian Federation citing a poor business environment as a key factor constraining Russia's growth given the country's rich natural resource endowments and population's skill level. According to this report, policy makers should focus on energy efficiency and improving productivity across sectors rather than focusing on high-tech development.

After 18 years of negotiations, an agreement was finally reached at the end of 2011 for Russia's entry into the World Trade Organization. Membership will require Russia to reduce certain tariff and non-tariff barriers granting greater access to domestic markets in exchange for access to foreign markets. Membership is expected to provide an important stimulus for much needed business climate reforms that will improve efficiency, enhance the country's ability to attract investments, improve trade flows and ultimately stimulate higher levels of GDP growth.

In early 2012, Russia's Central Bank estimated that net capital outflows for 2011 reached $84 billion, up 150% from 2010's $33.6 billion. Further, in the fourth quarter alone net capital outflows were estimated at $36 billion. Although the country has typically experienced net capital outflows during the past two decades, the possibility that both international and domestic investors might be choosing to place investments elsewhere due to political risk associated with the December Parliamentary elections and the then upcoming presidential elections indicates a lack of integrity in business climate reforms; who's in power might matter more than the system they are in charge of. The Bank's estimate for Q1, 2012, is a net outflow of $35 billion indicating that political uncertainty will not likely be resolved until government appointments are announced and first steps are taken.

The World Economic Forum's (WEF) most recent Global Competitiveness Report for 2011-2012 ranked Russia 66 out of 142 countries in terms of competitiveness. While Russia performed relatively well in terms of market size, infrastructure and education and training, it performed worse in terms of institutions and goods and financial market efficiency. The WEF in late January highlighted Russia's need to further modernize and diversify, ease administrative barriers while also strengthening state institutions.

The fifth consecutive Russia Forum took place in Moscow from January 30 to February 4. This forum provides a platform for an economic dialogue for individuals who can play an influential role in Russia's future. Highlights included Russia's potential to provide a counterbalance to a lack of growth in developed economies due to the current crisis and that despite relatively high growth rates forecast for the next few years, Russia could be performing even better given its natural resources and skilled labor supply if it addresses weak private sector performance due to a poor business climate.

The March 4th Presidential election returned Vladimir Putin to the presidency, having served two terms from 2000 to 2008 and then as Prime Minister for the past four years. If his speech at the Russia Forum, held only a month prior to the election, is an indication of what is on his agenda, Russia's Business Climate should improve. Putin said Russia's current rank in 120th place on the World

Bank's *Ease of Doing Business Survey* was unacceptable as he announced an ambitious goal of climbing 100 places. In later speeches, he clarified that this would probably take 8 years.

Business Climate Indicators

BCDM quarterly's ***indicators*** **aim to provide a brief look at statistics related to investment activity that can reflect changes in the quality of Russia's business climate from one quarter to the next that could be overlooked in less frequent or more aggregate reports.**

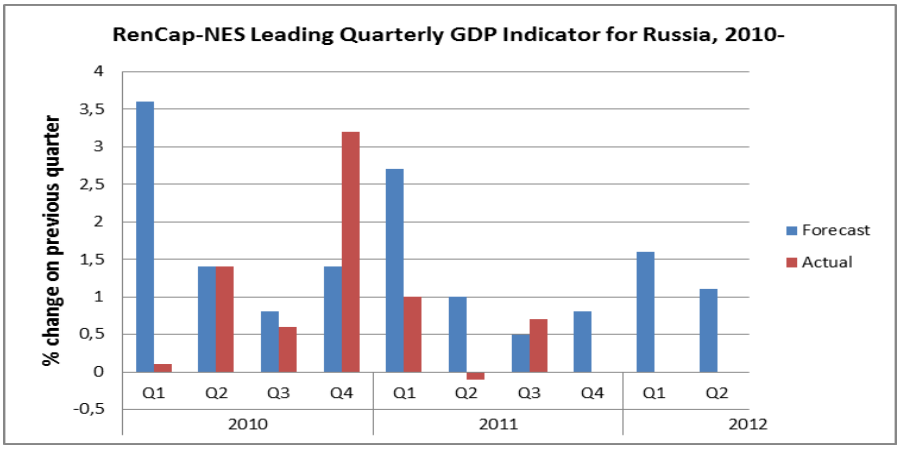
Russia's Growth Outlook in the Near Term

Since 1999, Russia's GDP has grown on average at an annual compound rate of 5.1%. Forecasts of GDP growth in 2012 as of Q1 generally range from a low of 3.2% to a high of 4.2%. Despite the fact that these forecasts are high relative to many other economies suffering from a global economic downturn, there is reason to believe that Russia could and should be doing even better.

Given the country's rich natural resource endowments, namely energy and agricultural land at a time when demand conditions are forecast to grow further for both, coupled with growing retail markets and a skilled population, Russia is achieving these rates while ranking 120 out of 183 in the World Bank's Ease of Doing Business Index and 66 out of 142 in the WEF's Global Competitiveness Index. Improving the Business Climate should further improve the country's ability to attract investments, reduce inefficiencies, and boost GDP growth even further.

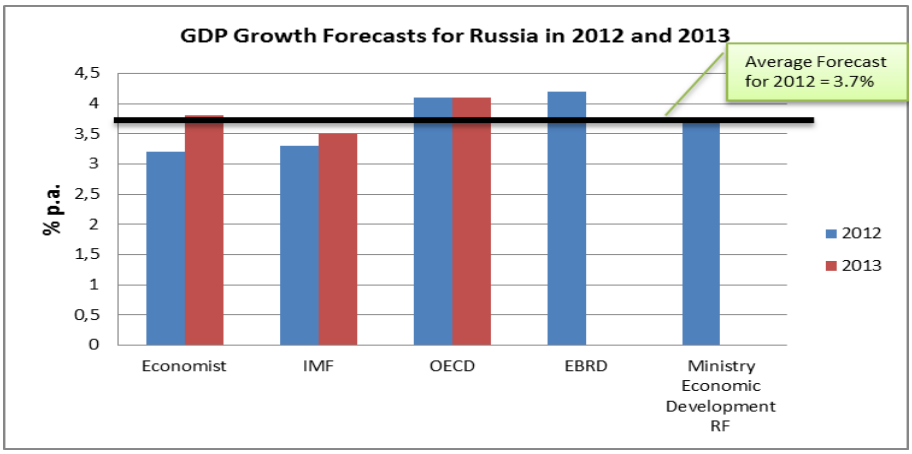
- The following figure shows RenCap-NES's quarter-on-quarter actual and forecast GDP growth figures starting from Q1, 2010. It is important to note that Russian state statistics, Rosstat, revised its methodology at the end of 2010 which partially accounts for changes in the accuracy of RenCap-NES's forecasts.

- GDP is expected to grow by 1.6% in the first quarter of 2012, up from the estimate of 0.8% in the last quarter of 2011, before slowing to 1.1% in the second quarter.



- The next figure shows forecasts of Russia's growth in 2012 and 2013 (where available) across different organizations. Estimates for 2012 range from 3.2% by the Economist to 4.2% by the EBRD, and are on average 3.7%. Forecasts for 2013 range from 3.5 to 4.1%.

- As of going to print, Russia's Ministry of Economic Development reduced their forecast for 2012 from 3.7 to 3.4% due to weaker than anticipated investment activity.

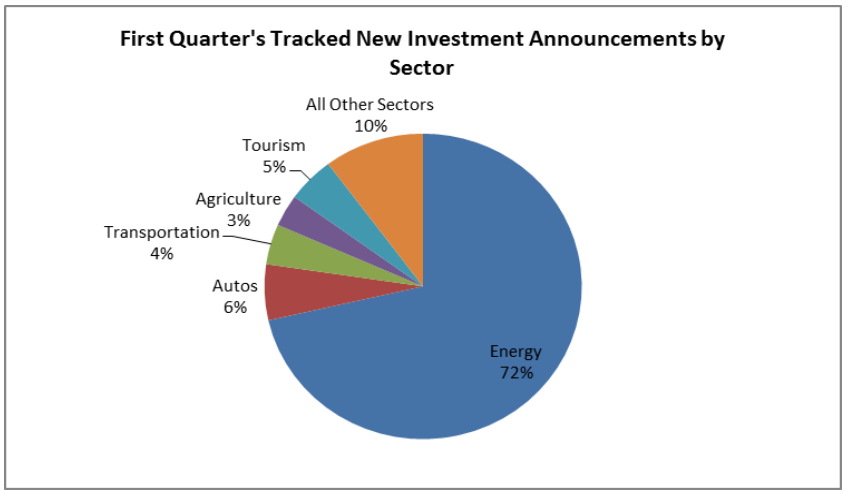


New Investment Announcements

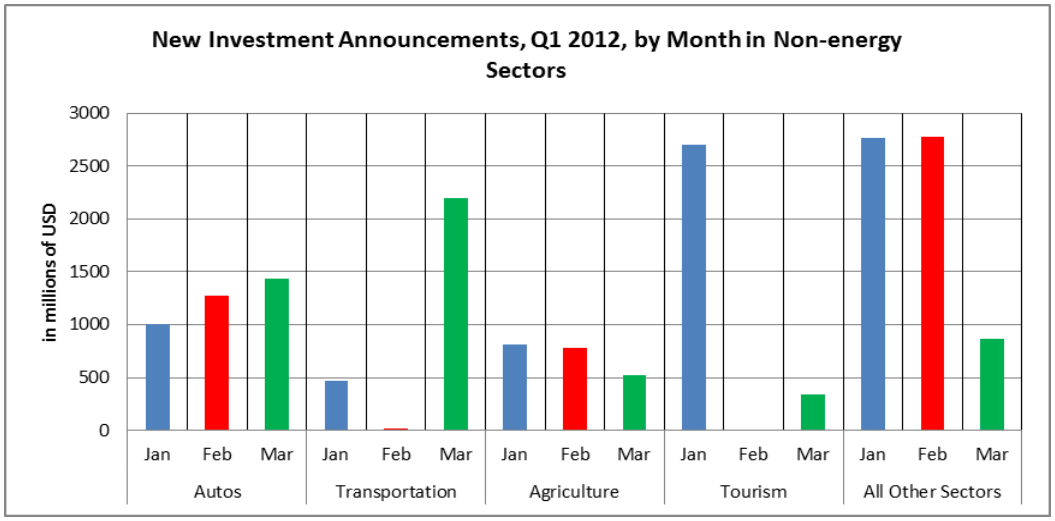
BCDM tracks new investment announcements monthly. A new investment announcement usually reflects an intention to follow through with an investment in a particular activity over a future period and does not reflect an actual investment expenditure made. Tracked announcements monthly can help identify important changes and trends that reflect, in part, changes in the quality of the Business Climate in the short term that may be missed or overlooked in less frequent or more aggregate reports.

During the first quarter of 2012, tracked new investment announcements were concentrated in terms of value in the energy sector while there was also a noted increase in activity associated with investments in retail expansion.

- During the first quarter of 2012, tracked new investment announcements for which there was an investment figure disclosed totaled **$62.9 billion**.
- The overwhelming majority of these announcements, 72%, were in the energy sector. This not only reflects in part the relative importance of energy production in Russia's economy, but also that many investments in this sector are by their nature large-scale and over a longer number of years than in other sectors. Adding to this relative difference even further is the fact that many retail investment announcements included in "All Other Sectors" did not disclose investment figures, were excluded from the data as a result, and therefore relatively underrepresented.



- During the first quarter, investment announcements broken down by month indicate stable and growing activity in the auto sector, increased activity in March in transportation, and relatively stable activity in agriculture. Larger tourism related investments were announced in January while other other sectors, dominated primarily by retail, dropped in March largely due to lack of disclosure of investment sums rather than a lack of announcements overall.

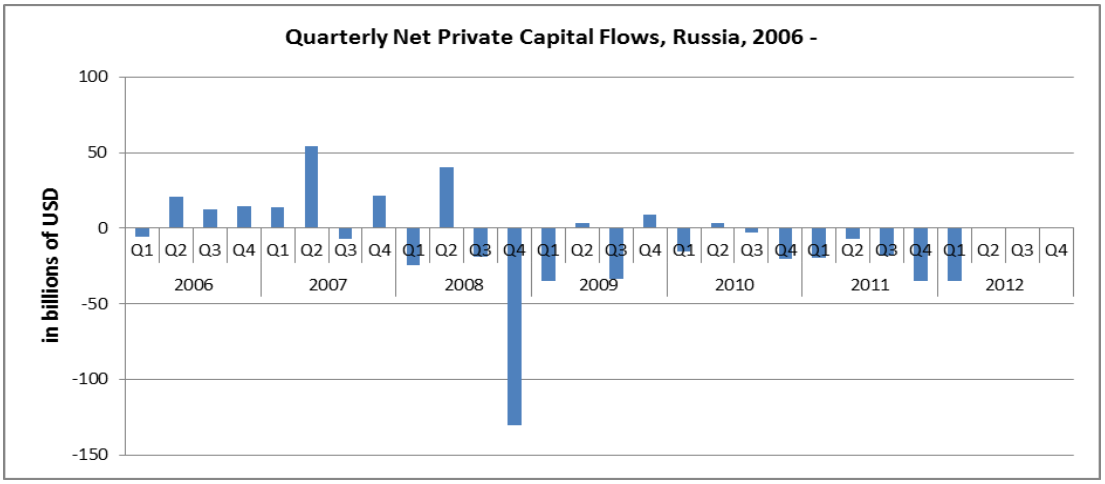


Note on Data *: New investment announcements are tracked monthly and totaled in USD only for those announcements for which figures were disclosed. The monthly edition of the BCDM discloses both announcements for which figures were and were not disclosed, but neverthless tracked. Disclosed sums in other currencies were converted for each month using European Central Bank figures for the last day of the month of the announcement. New investment announcements do not capture all investment intentions nor do they represent actual investment expenditures made.They represent only the total amount disclosed in the month of the announcement.*

Capital Flows and FDI

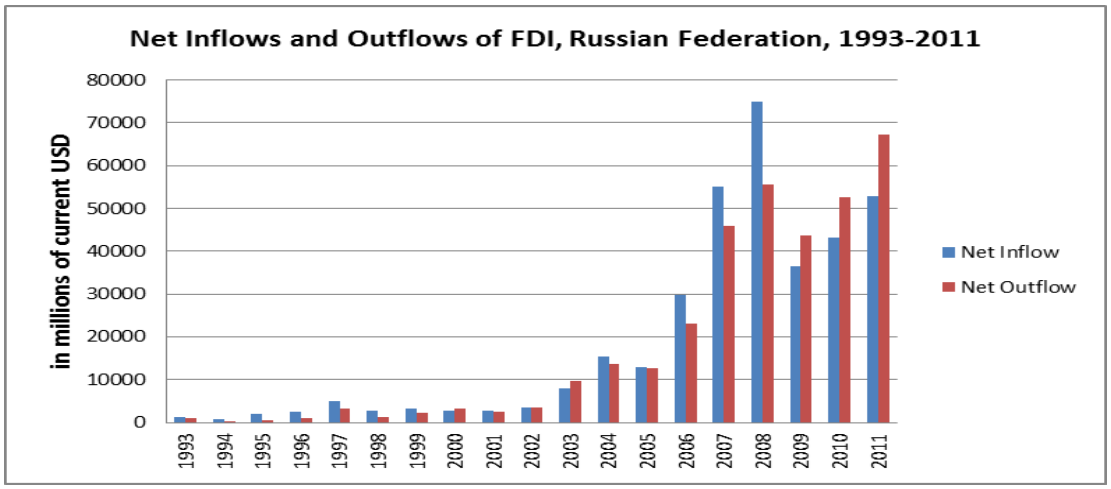
Estimates of net private capital flows for the fourth quarter of 2011 and the first quarter of 2012 indicate that significantly more capital continues to leave Russia than enter. Net inflows of Foreign Direct Investment for 2011 recently revealed that net inflows were up over 2010. At the same time, Russia continues to directly invest abroad in greater volume.

- The following figure provides quarterly figures on private net capital flows for Russia beginning in Q1, 2006. Both 2006 and 2007 were exceptional years when Russia had net capital inflows rather than net outflows. More recently, net private outflows began to grow again after Q2 in 2011 and reached $35 billion in Q4 and continued at this level in Q1, 2012.



Source: Bank of Russia

- The following figure shows both net inflows and outflows of FDI since 1993. Starting in the late 1990s, both flows grew rapidly and Russia's stocks of FDI doubled worldwide growth rates. Since the onset of the global crisis in 2008, both flows have grown each year with net outflows generally higher than inflows as Russia acquired more direct assets abroad.



Source: FDI figures are from Russia's Central Bank and were cross checked with those available from UNCTAD up to 2010. Figures for 2011 are solely based on estimates from the Bank of Russia.

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In order to provide relevant information to its readers on Business Climate issues in future editions, BCDM quarterly would like to invite its readers to submit questions and comments. Questions should address an issue concerning the quality of the business climate, current changes or challenges, which are important but all too often left out of large annual reports that cannot address specific issues in detail.

Contact Email: bcdm@nes.ru

Political Uncertainty Pushed to the Background – For Now

<u>Quarter in Brief</u>: Political uncertainty returned to Russia late last year with large scale protests following the Parliamentary elections in December and leading up to the Presidential election in 2012. With the appointment of a new government with a clear agenda, the political uncertainty appears to have faded into the background during the second quarter, although it remains in principle unresolved for the longer term.

Quarterly Highlights

At the beginning of the second quarter, Russia's Ministry of Economic Development lowered its growth forecast for 2012 from 3.7% to 3.4% citing a downgrade in expected investment growth for the year from 7.8% to 6.6%. This not only highlights the important role attracting investments will play in securing the country's economic performance, but also the influence the global financial crisis and political risk have recently had on investment levels in Russia. By the end of the second quarter the Ministry had revised upwards 2012's growth forecast to a range of 3.7 to 4%.

In early April, *Bloomberg's Best Countries for Business* ranked Russia within its top 50 coming in 48th place out of 160 countries covered. The ranking focused on conditions for attracting more foreign investment and the results stand in stark contrast to the World Bank's *Doing Business* ranking of 120th out of 183.

On May 7, President Putin was sworn into office and immediately signed 11 decrees outlining ambitious social, economic and military policy goals and priorities for his third term as President. Many of the economic goals focused on growth and efficiency such as by expanding privatization and aiming to improve the business climate by climbing from 120th in the World Bank's *Doing Business Survey* to 20th place within six years.

The World Bank produced its second subnational *Doing Business in Russia* report providing rankings for 30 cities across Russia in four dimensions of operating a business: starting a business, property registration, dealing with construction permits, and accessing electricity. Although the average start-up cost of 2.3% of income per capita is relatively low and puts Russia among the 30 lowest cost economies to start a business, the report highlights that the ease of business operations varies within the country and helps identify some of the specific challenges some cities face to attract and retain business activities. During the preconstruction phase, for example, Moscow has 21 requirements that need to be fulfilled compared to 6 in Murmansk.

New investment announcements increased by 400% (by 23% excluding one large scale multi-year announcement by Rosneft) in terms of value in June and 77% in terms of number since May. Rather the indicating new investments moving forward, part of this increase in value and number was likely due to investors holding off investment decisions until after the political dust settled in May and a new government and its agenda were announced. Although political risk seems to be lower in the aftermath of the elections and announcements, political risk remains an issue that will need to be addressed to improve Russia's business climate in the long term.

The 16th St Petersburg International Economic Forum took place from June 21 to 23 bringing together over 5000 people from 87 countries to discuss key challenges facing Russia's economy, emerging markets and the rest of the world as well as facilitating a dialogue on frameworks to deal with these challenges. One month after taking office, President Putin used this opportunity to restate a commitment to improve Russia's business climate by announcing a new business ombudsman, state withdraw from a variety of industries and assets, a privatization scheme that would be open to competition, fair and equitable as well as avoiding the errors of the 1990s schemes, and that no new restrictions on investment flows would be introduced.

Business Climate Indicators

BCDM quarterly's *indicators* aim to provide a brief look at statistics related to investment activity that can reflect changes in the quality of Russia's business climate from one quarter to the next that could be overlooked in less frequent or more aggregate reports.

Russia's Growth Outlook in the Near Term – Q2

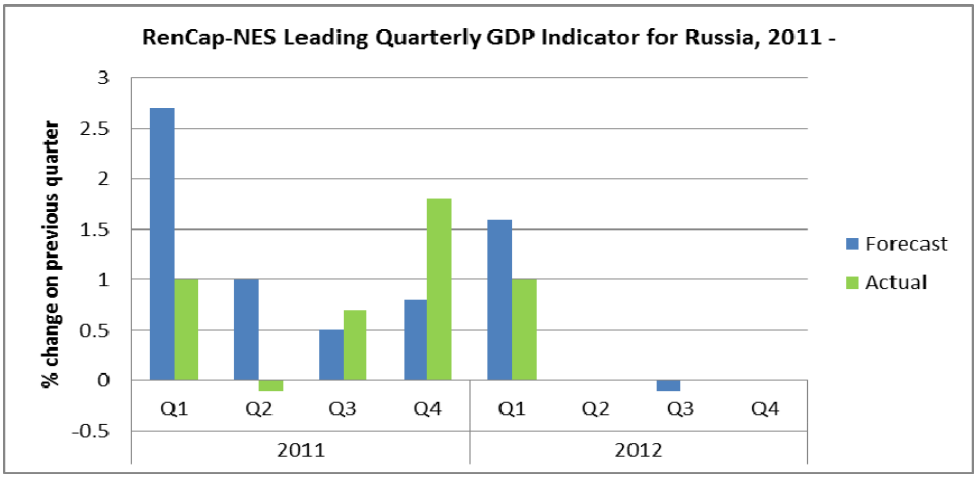
Russia's GDP has grown at an average annual compound rate of 5.1% during the last 12 years. Growth forecasts for 2012 during the first quarter were on average 3.5% across a sample of organizations cited below and ranged from a low of 2.3% to a high of 4.2%. By the end of the second quarter, however, most forecasts have been revised upwards for 2012 to an average of 3.8% and ranging from 3 % to 4.5%.

The second quarter was marked by concern that annual forecasts might need to be revised downwards, primarily due to weaker than expected investment levels. Since last summer, net capital outflows had continued to grow reaching -$ 35 bln by Q4 in 2011 and continuing apace at an estimated -$ 35.1 bln during Q1 in 2012 (recently revised downwards to -$ 33.9 bln). Citing a downgrade in expected investment growth from 7.8% to 6.6% for 2012, Russia's Ministry of Economic Development lowered its GDP growth forecast from 3.7% to 3.4% earlier in the quarter before raising it to an even higher range of 3.7 to 4%. Further, new investment announcements appeared sluggish until June, and RenCap-NES's quarterly growth forecasts have been lowered for Q2 and Q3. Some, such as the OECD, have cited, however, higher oil prices and an easing of Euro tensions in their upward revisions for the year.

- The following figure shows RenCap-NES's quarter-on-quarter forecast and actual GDP growth figures starting from Q1, 2011. It is important to note that Russian state statistics, Rosstat, revised its methodology at the end of 2010 which partially accounts for changes in the accuracy of RenCap-NES's forecasts.

- Actual growth estimated for the first quarter of 2012 was lower at 1% versus the 1.6% originally estimated.

- Forecasts for growth for Q2 and Q3 have been lowered since the first quarter from 1.1 and 1% to 0 and -0.1% respectively. According to these quarterly forecasts, it is expected that the economy slowed down during the first quarter and plateaued during the second and will contract slightly during the third.



- The quarterly forecast above stands in contrast with more optimistic revisions upward of annual forecasts shown below. The following figure shows the annual growth rate forecast for Russia in 2012 by a sample of organizations and compares their forecasts made in the first quarter with their revised forecasts in the second quarter.

- The average forecast for this year's growth rose from 3.5% to 3.8% since the last quarter and in general, each organization has revised their forecast upwards for Russia. After revising its forecast downwards at the beginning of the second quarter citing a downgrade in expected investment levels in 2012, by the end of the second quarter, the Ministry of Economic Development has also revised its forecast upwards to a range of 3.7 to 4% (not reflected in the figure).

Although there are indications in the short term (quarterly growth) forecasts that Russia might be experiencing a slowdown since Q1, there has also been a revision upwards of annual forecast growth since the first quarter citing a variety of factors, such as greater political certainty, higher resource prices, and an easing of Eurozone tensions.

New Investment Announcements

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With the exception of several large multi-year investment announcements in the energy sector in April, the number and value of investment announcements appeared to slow down at the beginning of the second quarter before picking up significantly in June.

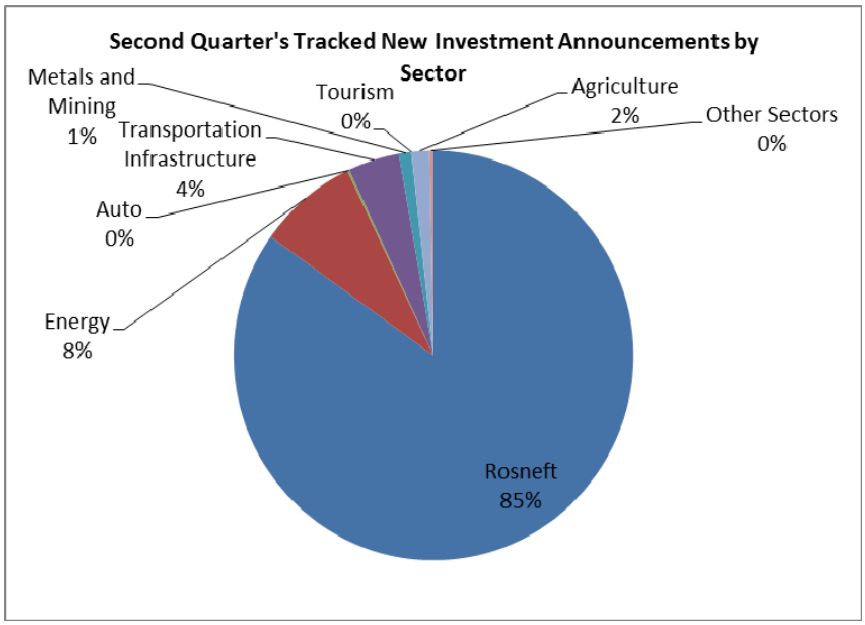
- Tracked new investment announcements (excluding outward), for which there were investment figures disclosed, totaled **$848.6 bln** during **Q2**. This was up significantly from $60.7 bln[1] during Q1, primarily due to three large multi-year investment announcements

[1] This figure has been revised since the first quarterly report to exclude tracked outward investment announcements. Similarly, adjustments have been made in the graphs presented throughout the Q2 report to allow for consistent comparisons.

made in April and June in energy exploration by **Rosneft-Exxon** and **Rosneft-Eni**, accounting for $720 bln.

- A clear trend that emerges from the data on new investment announcements is a strong dominance by energy sector announcements. The following figure shows that the energy sector accounted for 93% (Energy, 8%, + Rosneft, 85%) of new investment announcements during Q2, up from 72% in Q1. This is primarily due to three large scale investment announcements, two in April ($600 bln) and one in June ($120 bln) by Rosneft and its investment partners and these three alone account for 85% of the value of all new investment announcements for which figures were disclosed.

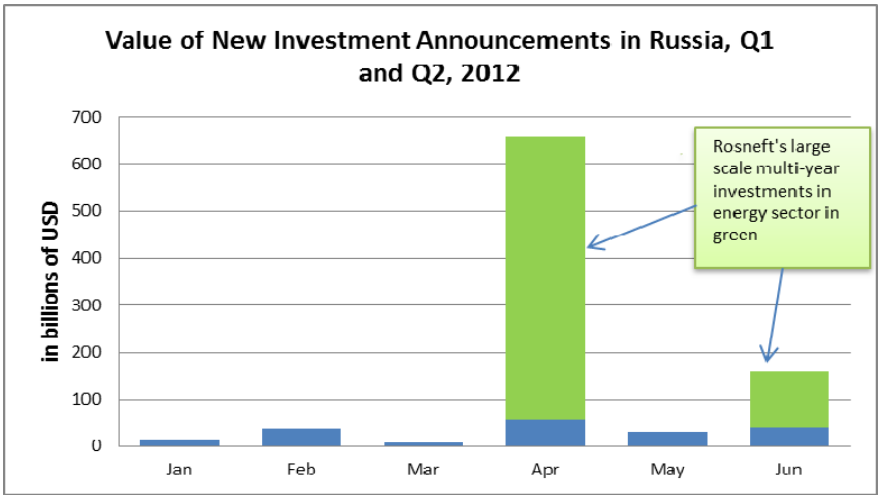
- A small number of multi-year large scale investment commitments in energy sector activities, such as exploration and related energy infrastructure construction, tend to overshadow activities in other sectors as a result. Additionally, many smaller investment announcements do not disclose investment figures. As a result, it is necessary to make adjustments in the value of new investment announcements for large scale activities to identify underlying trends as well as track the number of announcements since many smaller scale investments do not disclose the value of the investments.



- Adjusting for these three large scale investments, there was still a noted increase in Q2 primarily due to an upswing in investment announcements in April and June. The following figure below shows the value of new investment announcements by month and quarter. The values for the three large energy deals by Rosneft and its investment partners are shown in April and June in light green to show primarily by how much three such deals can distort the general trend.

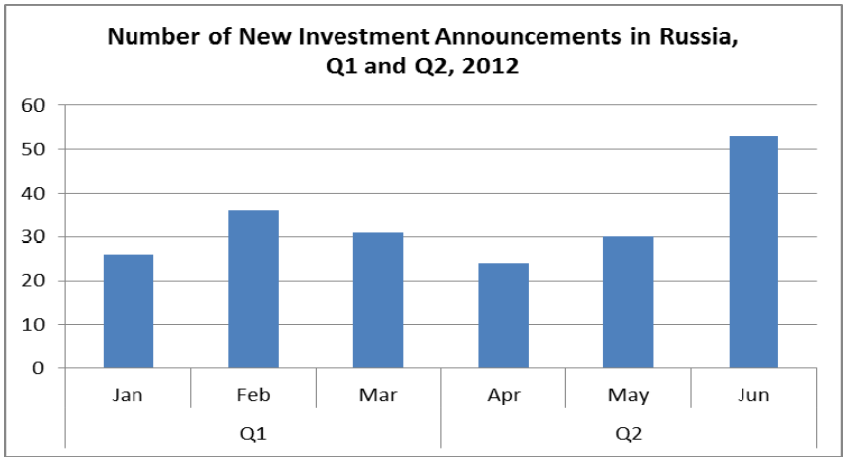
- The increase in new investment announcements June was 400% over May. Most of this substantial increase was accounted for by one large investment deal by Rosneft alone. However, excluding this deal new investment announcements still increased by 23% in June since May and both April's and June's other new investment announcement activity was higher than in the beginning of the year.

- June's increase is likely in part due to delayed investment commitments during the past year. Due to political uncertainty, many investors likely held off making investment commitments until the political dust settled in May with the inauguration of Putin, government appointments, and greater clarity over the new government's agenda with a strong focus on improving Russia's business climate during the next several years.



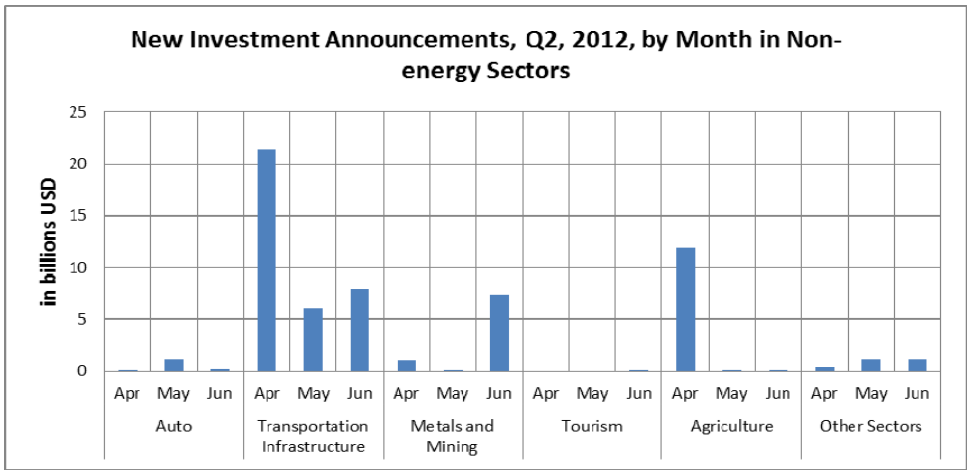
- This is more clear by examining the number of investment announcements. The following figure shows the number of investment announcements by month and quarter (regardless of value) and indicates a low and generally declining trend leading up to June. June's number was the highest all year, and even higher than April's. Many investment announcements do not disclose the investment amount and this serves to underestimate, potentially, the upward trend in activity in June.

This trend is consistent with the scenario that many investors may have decided to wait until after the new government was formed in May before announcing or making investment commitments publicly.



- The following figure shows the value of new investment announcements by month in Q2 in non-energy sectors. This provides further detail on some of the activities overshadowed by the scale of energy sector investment activity. During the second quarter, there was generally a lot of activity in **Transportation and Infrastructure** followed by **Agriculture** and **Metals and Mining**. The **Auto**, **Tourism** and **Other** sectors' announcements were less active

than in Q1 although there was a noted increase in retail activity (Other Sector) in May and June.



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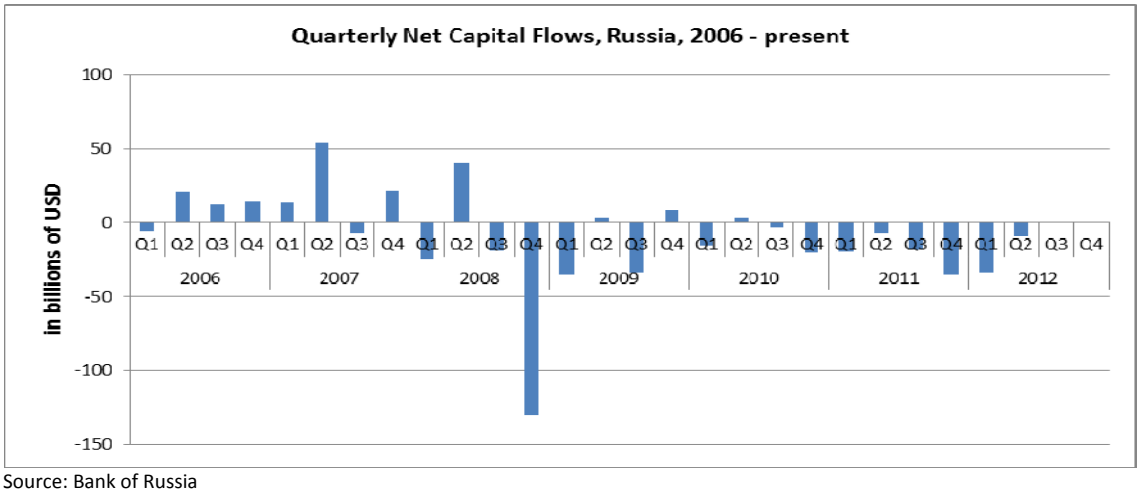
Capital Flows and FDI

Estimates of net private capital flows for the fourth quarter of 2011 and the first two quarters of 2012 indicate that significantly more capital continues to leave Russia than enter. Net inflows of Foreign Direct Investment for 2011 indicate that net inflows were up over 2010. At the same time, Russia continues to directly invest abroad in greater volume.

- The following figure shows net capital flows for Russia by quarter since Q1, 2006, to the latest quarter for which data was available, Q2, 2012. The estimate of net capital outflows was reduced for Q1, 2012, from -$ 35.1 bln to -$ 33.9 bln since the last Quarterly Report. The latest estimate for Q2, 2012, is that net capital outflows slowed down to -$ 9.5 bln.

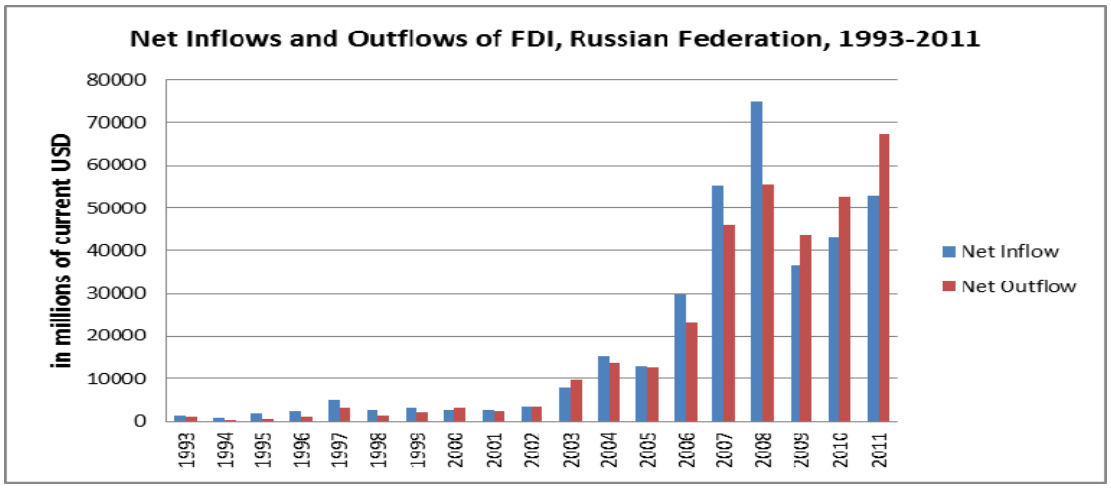


Source: Bank of Russia

- The following figure shows both net inflows and outflows of FDI since 1993. Starting in the late 1990s, both flows grew rapidly and Russia's stocks of FDI were double worldwide grow rates. Since the onset of the global financial crisis in 2008, both flows have grown each year with net outflows generally higher than inflows as Russia acquired more assets abroad.

- This graph remains unchanged since the first quarter since not further estimates of FDI have become available.

It remains to be seen, however, what impact the financial crisis will have on further FDI in Russia in 2012 coupled with the outcome of political uncertainty during the past year and how much progress is made in the near future in terms of improving Russia's business climate.



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Russia's Business Climate Immune to Global Warming

In September, the World Economic Forum released its latest *Global Competitiveness Report 2012-2013* ranking Russia in 67th place, just one spot below Iran (66th) and slightly ahead of Ukraine (73rd) and Georgia (77th) out of 144 economies, and down one spot from 66th last year.

Monthly Overview

According to conventional economic theory, the kind students learn in most university courses, a firm's ability to compete depends on how well it is able to combine its resources (land, labor and capital) to produce a good or service for market. Firms that are more productive, more efficient in using their resources, are able to produce at lower real costs than firms that are less productive and this allows them to compete more effectively for customers by being able to sell at lower prices.

Modern day economics along with Business Climate, Investment Climate, and Competitiveness Indexes go well beyond this simple theory. They recognize that location matters. The same firm with the exact same resources would perform differently depending on where it happens to conduct its operations. In other words, conditions outside the firm can have an important impact on firms' real costs of operations and thus affect how well it can compete in markets. Conditions like access to a well-educated, responsive and adaptable, population with relevant skills, a well-designed low cost infrastructure that operates regularly and predictably along with transparent government legislation, taxes, and a range of other conditions in the broader business climate affect a firm's costs of operations.

This also means that the state has an important role to play since the type of business climate it creates through its policy environment can impact production costs. Improving the climate is broadly more desirable since it helps attract and retain investments, it supports growth and development as well as opening more opportunities for firms as well as employees; it's about a better place for people to produce, work and live.

Although these concepts might appear simple and appealing, measuring and ranking the quality of a business environment is a complicated task and there is little agreement on what the correct approach should be. Despite this drawback, tracking Russia in the various rankings remains an important task. It provides people with a signal as to whether the country it concerned about its rankings and attempting to improve its environment. It also provides an important stimulus to government bodies to identify where improvements can be made as well as recognizing and monitoring progress where and when it happens.

Although Russia has only fallen one place in terms of rank in the Forum's 2012-2013 *Global Competitiveness Index* (GCI), to 67th place from 66th, Russia consistently ranks low across various Indexes (see the *Indicators*) and surprisingly low when compared to poorer transition economies and, more importantly, the potential the country has in terms of an educated labor force, domestic consumer population with growing incomes and abundant natural resources. According to the GCI, Russia ranks highly in terms of its market size (7th) and macroeconomic environment (22nd), but very low in terms of institutions (133rd), goods market efficiency (134th), financial markets development (130th) and business sophistication (119th).

Monthly Highlights

BCDM's highlights aim to provide a brief summary of announcements related to new investment activity that can reflect changes in the quality of Russia's business climate from one month to the next that could be overlooked in less frequent or more aggregate reports.

New Investment Announcement Activity remained noticeably stable in September from August, but with fewer retail expansion announcements and none related to tourism.

Energy

- *Exploration and Development:* **TNK-BP** plan to invest RUR 1 bln to carry out a seismic survey of its deposits in the Orenburg and Samara Regions in 2012 while **Rosneft** and **Gazprom** plan to jointly invest up to RUR 500 bln into the development of a seashelf by 2015;
- Liquified Natural Gas: **Alltech Group**, a Russian investment and construction company, plans to launch an LNG plant in the Nenets Autonomous District in late 2018 involving an estimated investment between $ 6 bln and $ 11 bln;
- Upgrades: **Rosneft** plans to invest RUR 108 bln to upgrade the Komsomolsk Refinery in the Khabarovsk Region by 2016 aiming to improve the quality of motor fuel and raise the output of light oil products by about 40% to 6.3 m t;
- Although investment sums have yet to be specified, **Transneft** and **Development Corporation** plan to invest in creating comprehensive infrastructure facilities for the Zapolarye-Purpe oil pipeline in the Yamalo-Nenetsk Autonomous District;
- **Rosneft** plans to invest in the construction of a 685-MW gas power plant in the Primorsky Region to supply the Eastern Petrochemical Company's petrochemical complex and citizens of the neighboring Nakhodka settlements;
- **Gazprom** plans to invest in constructing a plant to produce methane worth RUR 14 bln in the Tambov Region with a total capacity eventually reaching 1 m t annually and an additional RUR 4 bln over the next three years to organize gas supplies in the constituent Republic of Altai;
- **Lukoil** plans to invest an estimated RUR 90 bln to launch a hydrocracking facility in the Nizhni Novgorod Region allowing liquid fuels to be produced from bitumen with an expected launch in 2018;
- **Air Liquide** plans to invest RUR 1.8 bln to construct a technical gases plant in Kstovo in the Nizhni Novgorod Region to be commissioned in August, 2013;
- **Transneft** plans to increase its 2013 investments by 2.23% more year-on-year to RUR 110 bln and will invest RUR 97 bln on the construction of a 703 km long pipeline connecting Eastern Siberian oilfields with the Eastern Siberia-Pacific Ocean trunk pipeline between 2012-2016;
- **Ust-Luga** plans to invest in building an oil refinery worth $ 10 bln in the Ust-Luga industrial zone ;
- **Gazprom Neft** intends to invest an estimated RUR 51 bln in its refining facilities in 2012 with the aim to reaching a refining capacity of 70m t of oil (40 m t in Russia and 30 from its facilities abroad) by 2020;

Autos and Aviation

- *Production Capacity Increase*: **GM-Avtovaz** will invest an estimated $ 200 mln to construct a new press, body shops and developing engineering supporting facilities to expand its production capacity by 25% to 120 000 cars by 2015;
- *Additional Airline Connection*: The UK's **Easyjet** carrier is planning to enter the Russian market with hope of launching its first flights from St Petersburg's Pulkovo airport to London next summer pending permission with regulating bodies to perform flights from Russia to the UK and Switzerland;

- **Volvo Group** will invest RUR 3.25 bln in Kaluga to construct a truck cab plant scheduled to be launched in 2014;
- Auto-compomnents: After signing agreements with the government of Nizhni Novgorod, **Boryszew Plastic Rus**, **Matador Automotive Rus**, and **Magna Technoplast** will build three plants in the region for auto-components for GAZ and Volkswagen to be launched in 2013 requiring investments of RUR 600 mln and RUR 1.7 bln each respectively, while France's **Plasit Omnium** is planning to build a third plant in St Petersburg for auto components to be commissioned in 2013.

Metals, Minerals and Mining

- Russia's **Donelectrostal** plans to invest RUR 2.4 bln to build a rolling mill to be launched in 2015 in the Rostov Region with an expected annual capacity of 500 000 tons of unalloyed semi-finished steel products and 350 000 tons of rolled stock;
- **EuroChem** plans to invest $ 100 mln annually in its Kovdorsky ore mining and processing works unit to increase output by 10 to 15% and ensure sustainable operations until 2040;
- **Norilsk Nickel** plans to invest RUR 11.35 bln in the development of its Taimyrgaz unit;
- Russia's **FGC UES** and the Russian-Belgian JV **Sim-Ross-Lamifil** have agreed to invest in the creation and development of localized production of energy efficient cables in Russia;
- After reaching an agreement with the Tula Regional government, **KNAUF USG Systems** plans to invest an estimated RUR 1 bln to construct a cement panel production facility there;
- Russia's **Eurocement Group** intends to invest RUR 15 bln to build a cement plant in the Stavropol region with an annual capacity of 1.3 mln tons.

Transportation and Infrastructure

- The **Federal Passenger Company** (FPC), a subsidiary of Russian Railways (RZhD), expects passenger turnover to increase by 10% to 112.2 mln by 2030 and plans to invest RUR 774.5 bln in development in the interim, which includes acquiring 16 500 new railway cars along with hopes that **RZhD** will transfer over the Sapsan and Ellegro high speed trains to the company;
- *Railway Components*: **OJSC Kirovsky Plant** and Italy's **Euro Group** plan to invest several millions of Euros in Russia to construct a plant that will produce components for the high speed Lastochka train;
- **Summa Group** will invest an estimated $ 1 bln in Russia's Far East over the next 3 to 4 years to construct a grain terminal jointly with the United Grain Company, construction of a coal terminal, and development of FESCO (the country's largest private intermodal transportation group) capacities, with roughly 1/3 going into each of these projects.

Agriculture

- *Sugar Production*: Russia's **International Sugar Corporation** and France's **Sucden Paris** plan to invest RUR 10.14 bln to build a plant in the Rostov Region within 30 months with a processing capacity of 12 000 tons of sugar beets per day while **LLC Buturlinovsky Sugar** plans to invest RUR 1.6 bln to construct a sugar plant in the Voronezh Region to be commissioned by Q3, 2013, and Lithuania's **ARVI ir Ko** plans to invest RUR 5 bln to build a sugar production complex over the next three years in the Kaliningrad Region;
- *Fertilizer:* **East Group** is planning to invest an estimated $ 1 bln to construct a fertilizer plant in the Leningrad Region;

- **Agro-Belogorye Group** will invest RUR 457 mln to build a waste products and meat production plant in the Belgorod Region to be launched in 2013;
- Russia's **Agro-Art Group** will invest RUR 1 bln to construct a vegetable production facility in the Kolomensk Ditrict;
- Although financial details are not yet known, **Rusagro** intends to create an agricultural cluster in the Amur Region which will have an oil-extracting plant and a pig factory.

Other Non-energy Sector Investment Activity

- *Pharmaceuticals*: Russia's **PharmSintez** plans to invest RUR 3.1 bln to construct new plants with intentions to launch a new production line in Irkutsk, commission a new facility in Bratsk and build a new plant in St Petersburg by the end of 2014 and **R-Pharm** and **ChimRar** plan to invest an estimated RUR 1 bln to construct a pharmaceutical production facility in the Yaroslav Region;
- *Electronics Cluster*: A unit of Russian Technologies, **Russian Electronics**, plans to invest an estimated RUR 2 bln to create an electronics and production cluster in Novosibirsk by 2014 based on its three existing production facilities: Vostok, NZPP OCB and Novosibirsk radiocomponents plant Oxide;
- *Timber Processing and Storage*: After investing RUR 2 bln into timber processing in the Tomsk Region, **AVIC Forestry** plans to invest an additional RUR 3 bln by the end of 2012 while Russia's **Tomlesdrev** plans to invest RUR 4 bln to construct a production plant with a capacity of 296 000 m3 of particleboard per year by 2015, Ulyanovsk Region-based **Lesnaya Niva** plans to invest over RUR 7.6 bln with Germany's **VanBetra Pojekt** and Swiss **Global Project Management** to construct a wooden panels plant to be launched in 2014 and **Kronospan Group** will invest an estimated RUR 410 mln to create a chain of five storehouses for its products in the Rostov Region;
- *R & D:* **Lukoil** intends to invest in the creation of a research center in Skolkovo focusing on the fields of energy and energy efficiency, nuclear, space, biomedical and computer technologies: no sums have been disclosed*;*
- *Paint*: **Jotun**, a Norwegian group, plans to invest RUR 1.7 bln to build a paint coating plant in the Leningrad Region to be completed by mid-2014 with an annual production of 12 metric tons of liquid paints and 3 600 tons of powder coatings while Finnish **Teknos** plans to invest EUR 15 mln to construct a paint and varnish plant in St Petersburg to be launched in 2014;
- *Remote Telecommunications*: **MTS** intends to invest RUR 3.5 bln to develop telecommunications facilities in the Far East aiming to expand its GSM and 3G coverage in remote areas of the region and to increase data transfer speed;
- *Float Glass*: **SP Glass Holdings** intends to invest an estimated RUR 7 bln by 2015 to build a float glass plant in the Ulyanovsk Region while **Salavatglass** plans to invest RUR 6.6 bln to construct a float glass plant in the Rostov Region;
- Pending obtaining exclusive negotiating rights and reaching a successful agreement with Angara Paper, Japan's **Marubeni Corp**. intends to design, build and procure equipment to build one of the world's largest pulp and paper plants in Russia involving an estimated investment of $ 3.5 bln aiming to be in full operation in late 2017;
- Russian Footwear Company **Obuv Rossii** plans to invest RUR 1.4 bln into a footwear factory in the Karachayevo-Cherkessia Republic producing 1 mln pairs of shoes per year;
- *A number of investment plans in consumer retail were announced*:

- **X5 Retail Group** plans to invest RUR 1 bln to open 40 to 50 stores in the Tula Region by the end of 2014 and a Karusel hypermarket in the region by the end of 2012;
- Russia's **Azbuka Vkusa** plans to increase its chain from the current 50 to 130 stores by the end of 2017 concentrated in the Moscow, Moscow Region and St Petersburg and Leningrad Region;
- **Billa**, a food retailer that currently operates 87 supermarkets in Russia, plans to invest in opening at least 10 to 15 stores annually in the country;
- After opening the franchise Fasol in Rostov-on-Don**, Metro Cash & Carry,** plans to invest in opening five more Fasol stores in the city**;**
- **Gazpromneft** plans to invest in developing a chain of cafes for its fueling stations under the Drive Café brand.

Outward New Investment Announcements

There was a noted increase in outward announcements in September, particularly in non-energy related activities such as insurance, aviation and autos

- *Activities in Indonesia*: Russian Railways, **RZhD**, is planning to invest an estimated $ 2.4 bln in constructing a railway line in East Kalimantan to support coal delivery to begin operations in 2017, **Norilsk Nickel** is considering investing up to $ 2 bln to build a copper smelter and non-ferrous metal smelter, and **Russky Aluminiy** is considering investing in setting up a bauxite and other non-ferrous metals refinery with supporting infrastructure such as power plants, with local partners;
- *Exploration:* **Rosneft** has agreed to establish a joint venture with **CVP**, a subsidiary of Venzualan PDVSA, to develop the Carabobo- 2 block in the Orinoco Oil Belt and plans to invest $ 16 mln into its exploration of the block;
- A company owned by Russian businessman **Mikhail Gutseriev** along with the participation of **Sberbank** plan to invest an estimated $ 1.5 bln in the construction of a potassium fertilizer plant in Belarus;
- Russia's **Uralvagonzavod** (UVZ) is planning to invest in the construction of a railway car-building and repairs plant in Latvia for an unspecified amount;
- **Gazprom** plans to invest $ 14 bln to construct a natural gas terminal after signing an accord with the Japanese government;
- **Oboronprom**, the parent company of Russian Helicopters, and **Denel Aviation**, South Africa's largest defense equipment manufacturer, plan to invest in creating a servicing hub for Russian made commercial and military helicopters covering the Sub Saharan region, no financial details have been disclosed;
- **AvtoVAZ** and Kazakhstan's **Asia Auto** have reached an agreement and intend to invest in constructing an auto plant with a capacity of 60 000 cars per year in Kazakhstan, to be commissioned by 2014, that will supply markets in Middle Asia, Siberia and the Far East with AvtoVAZ cars;
- Russia's **Soglasiye** (Concord), an insurance company, is planning to invest in opening an office in Baku, Azerbaijan, to provide re-insurance services for Azeri insurance companies;
- **RusHydro** and Kyrgyzstan's **Electric Power Stations** plan to invest $ 410 to $ 425 mln to jointly construct four hydropower stations in the Kyrgyz Republic over the next 2.5 to 3 years with a capacity of 191 MW each with an annual generation of 1055 GWh;
- **Tatneft** intends to invest in constructing 30 fuelling stations in Belarus;

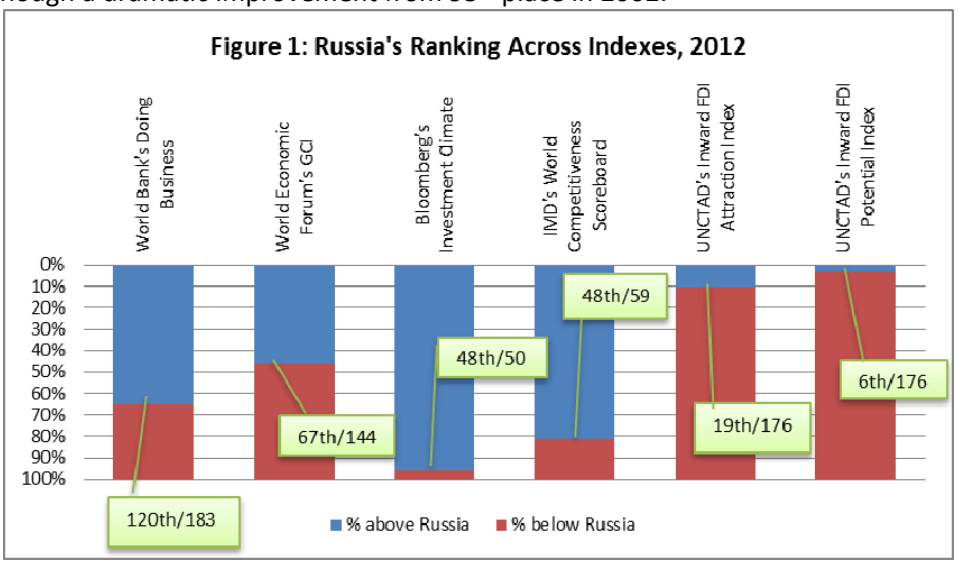
- **Lukoil** will invest $ 1.1 bln to construct a new complex at its NeftoChim Bourgas oil refinery in Bulgaria;

Business Climate Indicators

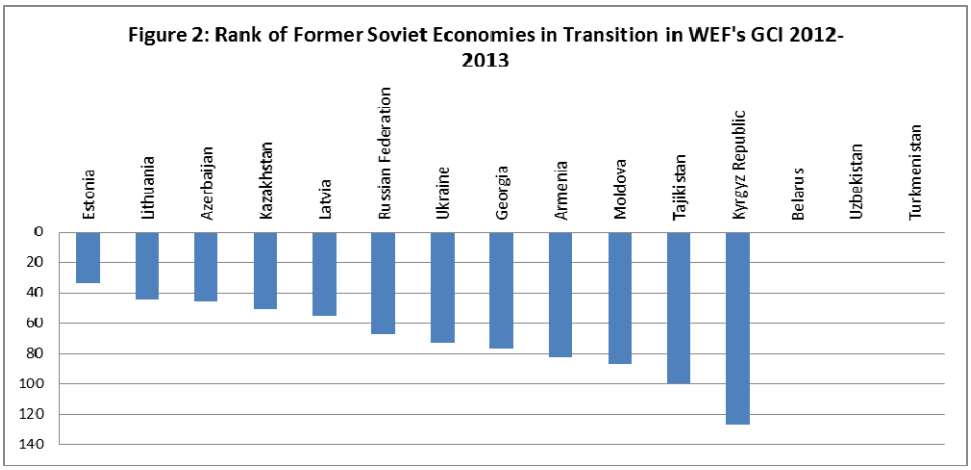
BCDM's indicators aim to provide a monthly snapshot reflecting important trends, challenges, and changes related to Russia's business climate.

Despite difficulties in measuring the quality of a Business Environment or Climate and different approaches in use by various organizations, Russia consistently ranks poorly across indexes relative to other transition economies and given its potential in terms of market size, labor resources and abundant natural resources.

- **Figure 1** provides a glance at how Russia ranks in terms of various indexes aiming to assess the quality of the production environment. To make it easier to compare, for each index the % of countries ranking higher than Russia and below Russia has been used. The actual rank out of the number of countries included in each index has been indicated in a bubble for each column.
- While the specific aims and approaches differ, as well as the coverage in terms of countries with which Russia is compared, Russia generally ranks low. According to the **World Bank's** *Doing Business Index*, Russia ranks 120th out of 183, in the **World Economic Forum's** *Global Competitiveness Index*, 67th out of 144, and the **Bloomberg** *Investment Climate Index*, 48th out of 50.
- **UNCTAD's** *Inward FDI Potential Index (2011)*, however, ranks Russia in 6th place out of 176 in terms of its potential to attract foreign domestic investment based on its market attractiveness, low cost skilled labor, enabling infrastructure and natural resources, but in 19th place in terms of its actual ability to attract FDI relative to the size of the economy; although a dramatic improvement from 95th place in 2002.



- **Figure 2** shows how Russia ranks relative to other Former Soviet economies included in the **World Economic Forum's** *Global Competitiveness Index 2012-2013*. Although Russia generally ranks higher than lower income economies also experiencing transition, it ranks lower than the Baltic countries, but more interestingly, also lower than other economies with natural resource endowments, such as Kazakhstan and Azerbaijan.



Although many of the Former Soviet economies continue to experience low rankings in terms of the quality of the production environment some 21 years into transition, Russia ranks very high in terms of its potential due to its sizable domestic market, educated population, infrastructure and natural resources. That other economies, such as Kazakhstan and Azerbaijan rank higher on this year's *GCI* suggests that despite the hardship involved in transition, Russia could be ranking higher. Ultimately, regardless of the Index and ranking, improving the production environment overall will make the country a better place to both produce and work.

Next Quarterly Issue

The BCDM's Third Quarterly Issue will come out later this month and provide further details on the specific areas where these indexes suggest Russia is performing well and poorly.