



Azerbaijan Legal News Preparing for changing landscape

Law on Implementation of Investment Projects on Construction and Infrastructure on the basis of Special Financing

Law on “Implementation of Investment Projects on Construction and Infrastructure on the basis of Special Financing” effective as of 21 April 2016 (“the Law”) stipulates the legal and economic grounds for execution of investment projects on construction and infrastructure objects on the basis of special financing. The Law outlines the provisions on newly adopted BOT (Build-Operate-Transfer) model. BOT is a form of project financing, wherein a private entity receives a concession from the private or public sector to finance, design, construct, and operate a facility stated in the concession contract.

Amendments to the Law on Investment Funds

The Amendments to the “Law on Investment Funds” effective as of 20 April 2016 (“the Amendments”) mainly concern the provisions on deals between the Stock Investment Fund (“the Fund”) and related persons. As per the Amendments, if the value of a deal comprises 5% or more of the total value of assets of the Fund, the deal may be concluded on the basis of

independent auditor's report and decision of general meeting by simple majority of shareholders' votes. Where the value of deal between the Fund and related persons is less than 5% of the total value of assets of the fund, the deal may be concluded on the basis of decision of either General Meeting, Supervisory Board or Executive Authority in compliance with the Charter of the Fund.

Amendments to the Law on Non-Bank Credit Institutions ("NBCI")

According to the Amendments to the "Law on Non-Bank Credit Institutions" effective as of 20 April 2016 ("the Law"), the definition of related persons and provisions on deals between the NBCI and related persons are now identified in accordance with the Civil Code ("the Code") of Azerbaijan. Referring to the Code, related persons include:

1. Chairman and members of the executive body and supervisory board of the legal entity;
2. Chairman of the structural unit of the legal entity (i.e. Branch, Representative Office etc.);
3. Spouse, parents, parents of spouse, grandparents, children, stepchildren, stepparents, siblings of the persons indicated in points 1 and 2;
4. Person directly or indirectly holding 10% of participation interest in the legal entity;
5. Legal entities where the persons indicated in points 1, 2 and 4 directly or indirectly possess participation interest;
6. Entities where the legal entity holds at least 20% of participation interests;
7. Persons holding 20% of participation interest in the legal entities indicated in points 4 and 6;
8. Chairman of the supervisory board and executive body of the legal entities indicated in points 4 and 6.

Moreover, conclusion of deals between the NBCI and related persons are subject to the following rules:

Where the value of the deal with the related person is 5% of total value of assets of the legal entity or more, the deal must be evaluated by the independent auditor and approved by a decision of the general meeting.

Where the value of the deal with the related person is less than 5% of total value of assets of the legal entity, the deal must be approved by the general meeting of participants, the supervisory board or the executive body in accordance with the charter of that legal entity.

Law on Licenses and Permissions

Law on Licenses and Permissions effective as of 20 April 2016 (“the Law”) introduces the legal, economic and organizational regulation of licensing and permission system for conduct of entrepreneurial activity (excluding activity in the area of financial markets).

The Law provides for the criteria, list and principles of state regulation of activities requiring licenses and special permissions, as well as for the rules on issuance, re-issuance, suspension, renewal and revocation of licenses (permissions).

The Law differentiates the meaning of license and permission, where the first grants the right to undertake the entrepreneurial activity as defined by the Law and the latter entitles to undertake certain actions related to entrepreneurial activity.

The Law applies to all legal entities, including representative offices and branches of the foreign legal entities, in the Republic of Azerbaijan, along with individual entrepreneurs.

Rules on Issuance of Confirmation Certificate on Import of Techniques, Technological Equipment and Installations to Legal Entities and Individual Entrepreneurs holding Investment Promotion Certificate

The Rules on Issuance of Confirmation Certificate on Import of Techniques, Technological Equipment and Installations to Legal Entities and Individual Entrepreneurs holding Investment Promotion Certificate (“the Rules”) were approved by the Presidential Decree of 20 April 2016.

By virtue of the Rules, the Confirmation Certificate (“Certificate”) on import of Techniques, Technological Equipment and Installations is issued to the legal entities and individual entrepreneurs having obtained the Investment Promotion Certificate.

The applicant shall file an application to the Ministry of Economy of the Republic of Azerbaijan following the requirements of the Rules which must be processed and resolved upon within seven working days. The form for Certificate is already approved under the Rules.

Approved criteria for Investment Projects

As per the Rules “On Issuance of Investment Promotion Certificate”, Investment Promotion Certificate is issued to the Legal Entities and Individual Entrepreneurs provided that they have presented investment projects which meet the following criteria (“Criteria”):

- Area of an economic activity where investment is carried out;
- Minimum amount in relation to the size of an investment project;
- Administrative-territorial units where investment project will be carried out.



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