# Special legal alert
# June 2018

Dear friends

In this issue we overview the Draft Law of the Republic of Kazakhstan "On Amendments and Additions to Certain Legislative Acts Concerning Risk (Venture) Financing"  (hereinafter, "Draft Law"), which was approved by Mazhilis deputies at a plenary session during the second reading.

The Draft Law was prepared in connection with a presidential message addressed in the beginning of 2018.

## Venture financing and its regulation

Venture financing covers investment in start-up ventures whose main activities are to develop new technology, innovative products or improve them.

In Kazakhstan, venture financing is underdeveloped and not regulated at the legislative level.

The Draft Law proposes to introduce the following definition of a venture financing to the Entrepreneurship Code of the Republic of Kazakhstan (hereinafter referred to as "EC RK"):

*- investment activities related to the financing of entities involved in industrial and innovative activities whose sole activity is innovation by investing in their share capital, purchasing financial instruments issued by them or providing debt financing to them.*

In this respect, the term *"innovative activities"* covers activities *(including scientific, research and technology, engineering, info-communication, organisational, financial and/or commercial activities) to create innovation, including by the commercialisation of technology, the results of scientific and/or research and technology activities.*

Furthermore, the Law of the Republic of Kazakhstan on Investment Funds will be renamed into the Law of the Republic of Kazakhstan on Investment and Venture Funds, and supplemented with a venture fund chapter to govern venture fund specifics, their charters, activities, participants and other issues.

According to global practices, venture financing is achieved through a number of mechanisms, such as:

- individual venture investors;
- crowdfunding (collective investment);
- venture funds.

The above mechanisms were also discussed in the initial version of the Draft Law (March 2018), but have been removed from the current version.

The Draft Law also provides for the possibility of conducting venture entrepreneurship both by creating a legal entity (in various organizational and legal forms, in addition to joint-stock companies), and without creation of legal entities, which can be attractive for potential investors.

## State stimulation

The concept of the Draft Law also stipulates the following measures and mechanisms for the state stimulation of venture financing:

- *Tax breaks*, which assume:
  - the removal of dividends payable by venture funds from aggregate annual income provided certain Tax Code conditions are met;
  - the deduction of investor expenses at all innovation project implementation stages from aggregate income from core business activities.

The current version of the Draft Law does not reflect the above measures stipulated by the concept.

- *Changes to civil law,* which assume:
  - the introduction of contractual instruments to civil law allowing the flexible regulation of relations between an investor and entrepreneur; certain contractual instruments will draw on English and Welsh contract law;
  - the removal of several requirements established by limited and additional liability partnership, joint stock company and securities market law (the possibility of converting a cash liability into a share capital contribution or share, and so forth).

**Deloitte Legal team will keep you up to date with further events related to this Draft Law.**

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Deloitte Legal will be glad to provide detailed advice on any questions you may have after reading this Special Legal Alert. The contact details of the main team members are shown below.

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