

Recent Amendments to the Russian Strategic Investments Law

December 2011

On 16 November 2011, Russian President Dmitry Medvedev signed Federal Law No. 322-FZ (the Law), which by enacting a set of amendments to the Foreign Strategic Investments Law* (the Strategic Investments Law) aims at liberalizing the rules applicable to foreign investments in Russian strategic companies (i.e. Russian legal entities conducting activities of strategic importance for national defence and security). The amendments will come into force on 18 December 2011.



The Law was devised in collaboration with the Federal Antimonopoly Service (FAS) and includes the following changes:

- Transactions of companies controlled by Russian beneficiaries (individuals or legal entities) are excluded from coverage by the Strategic Investments Law, as are international financial organizations (IFOs) created under international treaties with participation of the Russian Federation or IFOs having an international agreement with the Russian Federation. The list of such IFOs remains to be adopted by the government of the Russian Federation;
- The threshold used to define foreign control over strategic oil and gas and mining companies has been increased from 10 percent to 25 percent of voting shares; appointment of at least 25 percent of the members of a collective executive body; or appointment of at least 25 percent of the board of directors of these companies;
- Companies from the civil sector that do not have operations with sources of radiation (as a primary activity) are no longer subject to the regulation of the Strategic Investments Law;
- Data-encryption activities performed by banks having no capital subscription of the Russian Federation are excluded from the general regulation of the Strategic Investments Law. Before the adoption of the Law these banks' activities fell within the regulations of the Strategic Investments Law and the banks were

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obliged to hold encryption licenses; and

- The hearing on a motion procedure by the Government Commission for Control Over Foreign Investments in the Russian Federation in the event of preliminary approval of a transaction has been simplified.

The aforementioned regulatory changes comprise the "first set of amendments". They do not exclude infectious disease agents (IDAs) from the clearance of the Strategic Investments Law, contrary to what was planned. It is supposed that IDAs will be excluded by the "second set of amendments", which is currently being negotiated by the Federal Security Service of Russia. The date of its discussion by the State Duma remains undetermined.

If you would like to learn more about these new amendments or have any questions in relation to the regulation of foreign investment in Russia's strategic companies, please contact your primary Squire Sanders lawyer or one of the individuals listed in this Alert.

* Federal Law No. 57-FZ dated 29 January 2008 on Foreign Investments in Commercial Entities of Strategic Importance for National Defence and Security.

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