

January 16, 2009

Recent Modifications in the Legal Regime of Russian LLCs Client Alert (Part One): Amendments to the Russian Civil Code

On December 24, 2008, the Russian Duma (Parliament) adopted amendments to the corporate law governing the Limited Liability Companies (LLC) (*obschestvo s ogranichennoy otvetstvennostyu*, Russian abbreviation "O.O.O."). The new law is titled "*On the Introduction of Modifications to Part One of the Civil Code of the Russian Federation and to Certain Legislative Acts of the Russian Federation.*" (LLC Law).

Some new provisions were added to laws, some provisions were restated with minor corrections, and some were elevated from the level of specialized law to the higher authority law, the Civil Code of the Russian Federation.

The amendments enter into effect on July 1, 2009. At that time, the [newly introduced] provisions of the law will override those of the existing LLCs' Charters and relevant contracts. The Russian Unified State Register will maintain records of LLCs' shares and nominal value of the shares.

Charters and founders' agreements of the existing LLCs must be brought into compliance with the new law by January 1, 2010. The founders' agreements will lose the status of "foundation documents" as of July 1, 2009.

The following new and revised key provisions are now part of the Civil Code:

- A more detailed definition of an LLC, as well as shareholders' rights and limitation of liability;
- An LLC may be founded by a single person (or entity) and be owned by one person (entity), including as a result of either a formation anew, or a reorganization;
- An LLC can not be owned by a company that is owned by only one person;
- The Founders of an LLC must enter into a founders' agreement between them in writing;
- The Founders of an LLC are jointly and severally liable for obligations relevant to the LLC's formation assumed before the incorporation of the LLC. The LLC assumes such obligations only upon the Founders' consent expressed in a general meeting's resolution after the incorporation;
- The mandatory Foundation Document of an LLC is Charter; the Shareholders' agreement or the Founders' agreement are not part of the foundation documents of an LLC;
- Instead of "contributions made," the term "shares acquired" will be used;
- A shareholder can not be released from the duty to pay for the acquired share or to offset the payment;
- The Charter Capital of an LLC can be increased only after all shares are paid for; and
- Share transfer rules and shareholders' exit rules have been modified and re-stated.

In addition, changes have been made to the Civil Code rules governing the "Supplementary Liability Companies," to the "Russian Law on Notariat," and to the "LLC Law" (the Federal Law of the Russian Federation of February 8, 1998, No. 14-FZ "On Limited Liability Companies" as restated through 2008).

Analysis of the amendments introduced in the Russian Law on Notariat and the Russian LLC Law will follow in future client alerts.

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