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## I. State Governance

### Public Procurement

The new Law on Public Procurement, adopted by the Ukrainian Parliament at the end of 2015, finally has been signed by the President of Ukraine and will come into force on 1 April 2016 – for the central executive authorities and customers operating in certain areas (suppliers of utility and certain other services and products); and from 1 August 2016 – for all other customers.

The new law introduces an electronic procurement system for all public purchases of goods and services valued at UAH 200,000 (approx. US\$7,000) or more, and of works valued at UAH 1.5 million (approx. US\$50,000) or more. For purchases by customers operating in certain areas (suppliers of utility and certain other services and products), higher values apply.

Public procurement of such goods, services and works will have to be performed under one of three procedures: (1) an open tender, (2) a competitive dialogue or (3) negotiating the purchase procedure. Open tenders and competitive dialogues are competitive procedures, while the negotiating the purchase procedure is a non-competitive one.

## II. Anti-Monopoly Regulations

### Amended Rules for Calculating Penalties by Anti-Monopoly Committee

On 16 February 2016, Anti-Monopoly Committee of Ukraine (AMC) restated its recommendation regarding calculation of penalties for the violation of the legislation on economic competition (please see our Newsletter – September 2015).

The new recommendations keep the previous rules and also establish the following guidelines:

- i. Increase of the basic penalty:
  - in bid rigging cases – the base penalty will be equal to amount of the highest bid of the participants in such anti-competitive concerted actions;
  - in unauthorized concentration cases where the concentration did not lead to monopolization and significant impediment to competition on Ukrainian market the minimum base penalty is now 30,000 of non-taxable amount of income (that is UAH 510,000); if a respondent did not provide any information on the total revenue in the market where the concentration took place – the base penalty will be equal to the total turnover (revenue) received from sales of products (goods, services) by the respondent in all commodity markets of Ukraine.
- ii. Aggravating and extenuating circumstances increasing or reducing penalties for up to 50% for specific violations are defined. In particular, the following circumstances are considered to be aggravating:
  - failure to cooperate with the AMC;
  - initiating or directing actions or omissions, which are deemed violations;
  - impeding the investigation of cases on breach of competition law.

The extenuating circumstances include:

- cooperation with the AMC;
- termination of the violation;

- compensation of damages caused by the violation.

If the violation is repeated, the base penalty may be increased up to two times.

- iii. Specific penalties are established for non-provision/untimely provision of information pursuant to the AMC's request starting from UAH 13,600 and reaching UAH 136,000.

A new law signed by the President in January 2016 (please see our Newsletter – January 2016), according to which the rules for control over economic concentrations and thresholds are changed, will enter into force in May 2016.

### III. Regulatory

#### New Order on Suspension of Financial Operations

The Ministry of Finance of Ukraine issued a new order with respect to realization of some provisions of the Law of Ukraine on Prevention and Counteracting Legalization (Laundering) of Proceeds of Crime, Terrorist Financing and Financing of Proliferation of Mass Destruction Weapons.

The new order defines the procedure and grounds for suspension of financial operations, as well as the list of specific financial operations which can be stopped.

The State Service of Financial Monitoring may decide to suspend the following financial operations:

- those which are subject to financial monitoring according to articles 15 and 16 of the law;
- on crediting and debiting cash from illegal actions;
- where a participant or beneficiary is a person included on the list of persons connected with terrorism and in respect to which international sanctions apply;
- resulting in decrease of assets on the account of a client owning such assets, if there are beliefs that such financial operation or its participant is connected with money laundering, financing of terrorism or due to other actions for which international sanctions apply;
- subject to financial monitoring based on the request from the foreign state authorities.

The State Service of Financial Monitoring decides on suspension of financial operations to banks and other financial institutions in electronic or hard copies. Such decisions must be executed immediately upon their receipt by banks and other financial institutions. If as a result of financial monitoring no money laundering is discovered, then the suspension of financial operations is to be cancelled immediately and respective notices are to be sent to banks and other financial institutions.

### IV. Technical Regulations

#### Changes in Technical Regulations

On 10 February 2016, the new Law of Ukraine on Technical Regulations and Conformity Assessment in Ukraine entered into force.

The law is aimed at establishing the legal and organizational framework for the development, adoption and application of technical regulations and conformity assessment procedures in accordance with European standards and in line with the provisions of the WTO Technical Barriers to Trade Agreement. The law provides for determining the final date (from 2018) for abolition of compulsory product certification according to the Decree on Standardization and Certification, issued by the Cabinet of Ministers of Ukraine on 10 May 1993, No. 46-93 (Decree).

In the event of a technical regulation, the effect of which covers a certain kind of products subject to mandatory certification, as required by the Decree, the certification of this product in the state system of certification is carried out before the entry into force of the relevant Technical Regulations.

Based on the new law, the Ukrainian Government has started to adopt new technical regulations. For example, technical regulations for quantity control of packaged product were adopted. These regulations will enter into force on 5 August 2016 and will apply for packaged products from 5 gr to 10 kg and from 5 ml to 10 ml .

### V. Bank Regulations

#### Ukrainians May Receive Digital Money Online from Abroad

Effective from 13 February 2016, the National Bank of Ukraine has permitted Ukrainian individuals to receive digital (electronic) money, issued by non-residents, from non-residents while using the international online payment systems and turn such money into foreign currency to their current bank accounts .

### VI. Corporate Law

#### State Registration of Legal Entities and Individual Entrepreneurs

Following entry into force by the Law of Ukraine on State Registration of Legal Entities, Individual Entrepreneurs and Non-governmental Organizations, the Ministry of Justice of Ukraine approved a procedure of such registrations .

The most significant changes to the registration process include:

- online submission of registration documents will become possible after the state portal for e-services of legal entities, individual entrepreneurs and non-profit organizations not holding a corporate status (E-services portal) is launched. Following this, registration information can be found on E-services portal;
- it is possible to apply for state registration regardless the location of legal entity (except for non-profit organizations) or individual's residency;
- documents for registration may be submitted to notaries or registration authorities in hard or soft copies;
- in case of registration of increase in the company's share capital, the participant of which is non-resident, foreign state or legal entity holding not less than 10% of share capital or having impact on company's management, the state register must check if there are any personal sanctions.

## VII. Real Estate

### What's New about Land Auctions

A new law regulating the land auctions was passed by the Parliament. According to the law certain types of state and municipal land lots may now be granted for use/into ownership without land auctions. These lands include, among others:

- land plots to be granted to state and municipal companies;
- land plots for creation of landscaped territories;
- land plots for concessions;
- land plots for agricultural whole markets.

In addition, expenses incurred by the organizer and executor of land auctions are reimbursed by the winner of such auction.

The law also allows the companies and individuals licensed before the law enters into force to develop land allocation projects on granting of land or technical documents on land planning in relation to the land plots that fall under the above criteria, to receive the land plots without land auctions.

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