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Regulatory

NBU Interest Discount Rate Decrease

Effective 22 April 2016, the NBU interest discount rate is decreased from 22% to 19% per annum.¹

Corporate Governance

Changes to the Joint-Stock Companies Law Effective From 1 May 2016

On 1 May 2016, the law amending the legislation on joint-stock companies will come in to effect.²

1. The Supervisory Board

The law introduces that legal entities may no longer be members of a JSC's supervisory board. Therefore, only natural persons may be such members – these may be shareholders or shareholders' representatives and/or independent directors.

Supervisory boards of public JSCs must now have at least five members, including at least two independent directors whose role is to represent the interests of minority shareholders.

2. Dividends

Dividends may now be paid either directly to shareholders or through the JSC's custodian. Previously, dividends could only be paid through the custodian.

3. The Interested-Party Transaction

Interested-party transactions with a value of more than 100 minimal salaries (UAH145,000 or approx. US\$5,800) must be approved by the supervisory board of a JSC. The law allows the shareholders to establish lower thresholds for such approvals in the JSC's charter.

The law adds the following cases when interested-party transactions must be approved by the general shareholders meeting of a JSC:

- The supervisory board has not been established.
- All members of the supervisory board are interested in such transaction.
- The market value of the assets or services of the interested-party transaction exceeds 10% of the JSC's assets (as per the previous year's financial statements).

4. Shares Buyout

If a shareholder votes against approval of the interested-party transaction at the general shareholders meeting, the JSC must buy out that shareholder's shares.

5. Derivative Suits

In the event of management wrongdoing, derivative suits on recovery of damages caused to the JSC may be filed in a commercial court by shareholders having in total 10% or more of the JSC shares.

Wrongdoings which are subject to derivative suits include: abuse of powers, failure to follow approval procedures, submission of wrong information for approval of transactions, etc.

¹ Board Regulation of the National Bank of Ukraine "On Regulation of Monetary Market" dated 21 April 2016 No.278

² Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding Protection of Investors' Rights" dated 7 April 2015 No. 289-VIII

6. Special Terms for the Listed Public JSCs

From 1 May 2016, certain new requirements for JSCs (including those on the independent directors, mandatory listing at a stock exchange, mandatory shares buy-out in case of voting against an interested-party transaction) will apply only to listed public JSCs. These requirements will be applicable to all public JSCs from 1 January 2018.

Licensing Matters

New Terms for Construction Licensing

Starting from 15 April 2016, new terms for construction licensing and a reduced list of licensed works for buildings categorized as IV or V complexity (tower buildings with residential premises and offices) have come into effect.³

The new licensing terms stipulate an exhaustive list of requirements regarding management, personnel and technological matters for conducting construction works, as well as special requirements for the construction of utility and transport infrastructure.

Under the new terms, persons conducting design, engineering or construction works of buildings of I-III complexity categories (including private houses), no longer require a license..

New Terms for Licensing of Medical Practices

Effective 22 April 2016, new medical practice licensing terms have established requirements regarding management and personnel, material and technical facilities for medical practices. The new terms also establish a list of documents to be submitted for obtaining the license.⁴

The novelty of the new terms is that individual entrepreneurs without medical education are entitled to obtain a license if they employ persons with this education.

Industrial Regulation

Subsoil Use Permit

On 6 April 2016, the Ukrainian Cabinet of Ministers, by its Resolution No. 277⁵, approved amendments to the rules of obtaining subsoil use permits and holding auctions for subsoil use permits. The amendments are aimed to simplify the procedure and make it more transparent. The resolution came into effect on 12 April 2016.

Companies partly owned by the state lost their right to obtain a permit without holding an auction. Wholly owned state companies will lose such right from 1 April 2017.

The amended regulations also provide that legal entities and private entrepreneurs may now apply for a subsoil use permit in a specific area by auction, provided they have offered a respective work program for the area. Local authorities must respond to these offers within 90 days, and the Ministry of Ecology must reply within 30 days.

The resolution also sets forth:

- A more specific list of instances when permits can be granted without holding an auction, and where permit requirements can be canceled altogether.
- That a permit for exploration of significant local mineral resources may be extended only once.
 - The term allowed for making a decision on extensions to these permits has been reduced to 45 days by the State Service for Geology and Mineral Resources of Ukraine.
- The term for announcing an auction has been extended to 90 days.
- The term for application submission has been extended to 75 days.

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³ Regulation of the Cabinet of Ministers of Ukraine "Matters of Licensing for Construction of Objects of IV and V Categories of the Complexity", dated 30 March 2016, No.256

⁴ Regulation of the Cabinet of Ministers of Ukraine "On Approval of the Licensing Terms for Business Activity on the Medical Practice", dated 2 March 2016, No.285

⁵ Resolution of the Cabinet of Ministers of Ukraine "On Amendments to Procedures Approved by Regulations of the Cabinet of Ministers of Ukraine dated 30 May 2011, Nos. 594 and 615, and Invalidation of Certain Resolutions of the Cabinet of Ministers of Ukraine", dated 6 April 2016, No. 277