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1. Investments and Development of Business Environment

1.1. Investments Attraction

On 30 July 2019, the Decree of the Government of the RK ‘On the Further Attraction of Investments in the Republic of Kazakhstan’ has entered into legal effect¹. The document provides, inter alia, for the following activities of quasi-public sector and government authorities within the framework of the approved Investment Promotion Roadmap:

- Including recommended clauses regarding the Astana International Financial Centre (‘AIFC’) law as the governing law of the contracts and the arbitration clause of the International Arbitration Centre (IAC) or AIFC Court in the model contract for implementation of an investment project/model special investment contract;
- Addressing tax benefits unification within the AIFC, the International Technology Park of IT start-ups “Astana Hub”, National Company Astana EXPO-2017 JSC and Nazarbayev University JSC;
- Taking measures to immediately address the structural problems of the development of international air communications in the country and raise attractiveness of the capital city’s airport for air carriers;
- Approval of the Unified Republican Media Plan for the international promotion of ‘Invest in Kazakhstan’ brand and investment opportunities in Kazakhstan.

1.2. Special Economic and Industrial Zones

On 3 April 2019, the new Law No. 242-VI “On Special Economic and Industrial Zones” (“SEZ Law”) was signed. The SEZ Law stipulates the legal basis for SEZ and industrial zones’ functioning in the RK.

The SEZ Law, effective as from 16 April 2019, among other things, provides for:

¹ Decree of the Government of the RK dated 30 July 2019 No. 548 ‘On the Approval of the Roadmap for the Further Attraction of Investments in the Republic of Kazakhstan’.

- Special legal regime and functioning conditions for the zones, including taxation, customs regulation, public-private partnership and guarantees of legal protection;
- Creation of a single coordination center for the development, promotion and improvement of the investment attractiveness of the SEZ and industrial zones;
- State funding of management companies and responsibility matters. Funding will be provided only subject to the state's 100% ownership of the management company;
- New mechanism for granting the land plots to the participants of the SEZ and industrial zones. Land plots will be provided to the management company for temporary land use, which will then at its discretion further assign to the participants of the zones;
- Extension of the SEZ's operation term based on the Government's decision.

On 2 April 2019, the President of the RK signed the Law No. 243-VI² aimed at bringing the current legislation in accordance with the SEZ Law, and it came into force on 16 April 2019 similar to the SEZ Law.

We would like to note the following changes:

1) changes to the Land Code of the RK³ entitling the participants of the SEZ, industrial zones of republican and regional significance to buy out the land plots used for the purposes of such zones in the following cases:

- after the expiration of the SEZ's operation term, subject to the fulfillment of contractual commitments stipulated by the SEZ agreement;
- at any time, subject to commissioning of all objects outlined in the project of the participant of the industrial zone of republican or regional significance.

2) introduction of the "one stop shopping" concept for investors in the Business Code of the RK⁴, which offers a centralized form of assistance to investors by the National Company on Attracting Investments. It is intended that such type of assistance will minimize the investors' actual involvement in collection and preparation of documents and minimize their direct contact with government agencies.

1.3. Trade Activities

On 14 April 2019, the Law of the RK No. 241-VI dated 2 April 2019 "On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on the Development of the Business Environment and Regulation of Trade Activities" entered into force ("Law No. 241-VI")⁵.

Law No 241-VI provides for amendments to dozens of legal acts of the RK, including various codes and laws of the RK aimed at:

- Creating favorable conditions for entrepreneurship and investment flow in the trade sector;
- Improving tax and customs administration;
- Improving electronic and exchange trade, as well as trade in the field of agro-industrial complex;
- Strengthening the activity of the antimonopoly body and consumer protection;
- Improving relationship between business and government agencies, etc.

Legal Entities Liquidation Matters (novelties):

When selling a pledged property through a public auction as part of a legal entity's liquidation process, the high-ranked claims of the secured creditors are satisfied within the amount received from the sale of the pledged property. In case of insufficiency of the same, the remaining claims are satisfied as per the ranking of claims set forth by the Civil Code of the RK⁶.

If the pledged property is included in the property of the liquidated legal entity, the secured creditor is entitled to satisfy its claims by accepting the pledged property in kind. The liquidation commission undertakes an assessment of the property within 10 business days following the date of receipt from the secured creditor of the notice of acceptance of the pledged property in kind.

² "On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on Special Economic and Industrial Zones, Attracting Investments, Developing and Promoting Export, and Social Security"

³ Land Code of the RK № 442-II dated 20 June 2003

⁴ Code of the RK № 375-V dated 29 October 2015 "the Business Code of the Republic of Kazakhstan"

⁵ Entered into force on 14 April 2019 (save for certain exclusions)

⁶ Civil Code of the RK (General Part), adopted by the Supreme Soviet on 27 December 1994

If the estimated value of the pledged property minus the expenses incurred for valuation of the same exceeds the claims of the secured creditor, the difference must be returned by the secured creditor to the legal entity being liquidated.

If the estimated value of the pledged property minus the expenses incurred for valuation of the same is less than the claims of the secured creditor, the unsatisfied portion of the claims of the secured creditor shall be settled as per the ranking of claims set forth by the Civil Code of the RK.

Satisfying Creditor Claims (novelties):

Statutory provisions with respect to the third and fifth ranks of claims were changed. High-ranked claims which can be satisfied by means of public auction within the amount received from the sale of the pledged property and claims of the secured creditors that can be satisfied by accepting the pledged property in kind - are now excluded from the third rank. In addition to payments due to other creditors as per Kazakh laws, the fifth rank now covers the payments to the secured creditors whose claims are satisfied in the event the proceeds from the sale of the collateral are not sufficient, as well as when the estimated value of the pledged property minus the expenses incurred for valuation of the same is less than the creditor's claims.

Pledge of Goods in Circulation (novelties):

Subject to the parties' agreement, a pledge agreement may provide for that the total value of the pledged goods in circulation shall not become less than the value initially specified in the pledge agreement. The value of the pledged goods in circulation can be reduced proportionately as against the fulfilled secured obligations unless otherwise provided by the pledge agreement.

Electronic Judicial Proceedings (novelties):

The Civil Procedure Code of the RK⁷ is supplemented with a new chapter on e-justice. Civil proceedings are conducted in paper or electronically at the claimant's choice. Electronic proceedings result in an electronic civil case. Procedural acts and actions of the court, persons involved in the case, can be executed in the form of an electronic document certified by an electronic digital signature. These documents are equivalent to those in writing, except when Kazakh laws explicitly prohibit using an electronic document. The original of the judicial act is an electronic judicial act placed in the automated information system of the court.

Commodity Exchange (novelties):

As part of improving the legislation in the field of commodity exchange, a concept of market price was introduced. Market price is defined as a price formed as a result of pure competition and free access of business entities to exchange trading. Commodity exchange trading item is now detailed depending on the specific method of trade.

The classic auction as well as the licensing institute for brokers and dealers, are now all abolished. At the same time, liability of the business community is enhanced by keeping in place accreditation of brokers and dealers on stock exchanges and introducing voluntary professional self-regulation.

Marking (novelties):

In order to reduce the shadow economy and combat counterfeit products, special rules for marking and traceability of goods are not introduced. The list of goods subject to mandatory marking will be approved by the Government in coordination with business entities.

The Law of the RK No. 544-II dated 12 April 2004 "On Regulation of Trade Activity" was, among others, supplemented with the following new concepts:

- "Marked goods" - goods that are duly marked with identification means and which reliable information (including information on identification means and/or material medium with identification means) is placed in the national component of the product marking information system;
- "Single marking and traceability operator" - a legal entity established in accordance with Kazakh laws, which develops, administers and maintains an information system for marking and traceability of goods, including development, maintenance and update of the National Product

⁷ Code of the RK № 377-V dated 31 October 2015 "Civil Procedure Code of the Republic of Kazakhstan"

Catalog, as well as other functions determined by the Government of the RK and government agencies.

Domestic traders are required, among other things, to sell marked goods subject to marking in accordance with international agreements and (or) Kazakh laws in the manner determined by the government authority in the field of marking and traceability of goods.

1.4. Domestic Trade Rules

The following changes and additions were introduced to the domestic trade rules⁸:

- New definitions, such as 'information and advertising marketplace', 'specialized electronic marketplace', 'trade mark-up', 'e-commerce', 'electronic marketplace' were introduced;
- In e-commerce, protection of the rights and legitimate interests of consumers is ensured by at least the level of protection provided in other forms of trade;
- Before selling, an online store provides the consumer with information about the product (work, service), its cost, payment procedure, conditions and cost of delivery, warranty period (if any);
- Information on the product (work, service) name, cost and purchase conditions, as well as information on the main consumer properties of the product (work, service), on the nutritional, biological and energy value of the product, as well as information about contraindications for their use in certain diseases is communicated to the consumer in the Kazakh and/or Russian languages through the information and communication technologies;
- When selling products (works, services) through social media, the seller ensures meeting the statutory requirements on consumer protection and trade regulation;
- Sale of products (works, services) through social media is allowed subject to provision of the links to Internet sources, which contain information about the main consumer properties of the product (work, service), seller's name, legal address and telephone number registered with the mobile network operator of the RK;
- The components of the infrastructure of e-commerce on the electronic marketplace and the infrastructure of the information and advertising marketplace are now determined, such as the possibility of filing a complaint against the seller or his products, the possibility of making wire payments, etc.;
- Electronic marketplace, information and advertising marketplace in e-commerce cannot do the following:
 - Disclose the information contained in electronic documents;
 - Transmit electronic documents to third parties, including the information contained therein, unless otherwise provided by an agreement concluded with other e-commerce participants, or by Kazakh laws;
 - Change the content of electronic documents, unless otherwise provided by an agreement concluded with other e-commerce participants;
 - Place the information on products (works, services), which advertising is prohibited.
- The rules were supplemented by the procedure for sale of certain used non-food products.

2. New Currency Regime

From 1 July 2019, Kazakhstan has entered into a new currency regime⁹, providing for the following changes:

- Branch offices of foreign companies with a few exemptions, are recognized as Kazakhstan residents;
- Transfer of currency values into trust management and transfer of the said values as part of brokerage agreement are now also recognized, among others, as currency operations;
- Simplified procedures for collection of information on currency operations;
- Capital outflow control toughened;
- Non-bank foreign exchange offices are now entitled to purchase and sell mini gold bars issued by the National Bank.

⁸ Order of the Minister of Trade and Integration of the Republic of Kazakhstan No. 5/1 dated 19 July 2019 'On Amendments and Additions to the Order of the Acting Minister of the National Economy of the Republic of Kazakhstan No. 264 dated 27 March 2015 'On Approval of the Rules of Domestic Trade'. The order came into effect on 16 August 2019.

⁹ Law of the Republic of Kazakhstan 'On Currency Regulations and Currency Control' No. 167-VI dated 2 July 2018. The law came into effect on 1 July 2019.

For more detailed information on new currency regime please refer to our special edition at the following link:

<https://signumlaw.com/en/posts/7-klyuchevyh-novshestv-novogo-zakona-o-valyutnom-regulirovanii-i-kontrole>

3. Healthcare and Pharmaceuticals

3.1. Drugs/Medicines

On 28 December 2018, the Law of the RK No. 211-VI “On Introducing Amendments and Additions to Some Legislative Acts of the Republic of Kazakhstan on the Circulation of Drugs and Medical Products” (“Law No. 211-VI”) was signed. The Law No. 211-VI entered into force on 19 January 2019, save for certain provisions.

As from 9 April 2019, among others:

Government-regulated Prices for Drugs

The Law No. 211-VI introduced state regulation of prices for drugs or medical devices which covers the drugs registered and circulated in the RK in accordance with the rules for regulation of prices for drugs approved by the respective government agency. Once semi-annually no later than the 10th day of the month following the reporting half of the year the authorized body approves the maximum prices for the drug's trade name for retail sale and wholesale, indicating the method of their calculation, the data based on which the price was formed. All information on the maximum wholesale and retail prices will be posted on the website of the Ministry of Health of Kazakhstan.

Ethical Promotion of Drugs and Medical Devices

Ethical promotion of drugs and medical devices is defined as an activity carried out in the process of promoting safe, high-quality and effective medicines, and medical products from the developer and/or manufacturer of a medicinal product or a medical product to consumer use, based on fair competition and responsibility of all parties involved.

In order to exclude medical professionals' personal interests in receiving remuneration, they are now prohibited from advertising medicines and medical devices, as well as from recommending patients purchasing drugs from certain retail sellers.

Medical professionals must within their competence write prescriptions for medicines if there are appropriate medical indications under the international non-proprietary name, save for the cases of the patient's individual idiosyncrasy.

Medicines and medical devices retail sellers are required to offer a buyer (patient) the medicines that match the prescription, along with all other available drugs, their price and special warnings and precautions for use.

Representatives of manufacturers of medicines and medical devices and (or) distributors are prohibited from promoting medicines and medical devices in medical and educational organizations in the field of health care, save for the cases of routine medical conferences, scientific and practical conferences and (or) specialized seminars.

New concepts have been introduced into the Public Health and Health System Code of the RK ¹⁰:

- “Marginal price for a drug's trade name for retail sale” - the maximum price for retail sale of the trade name of the drug;
- “Drug marginal price” - the maximum price for drug sale;
- “Manufacturer of drugs” - an organization with a special manufacturing license engaged in the production of drugs;
- “Register of authorized persons of manufacturers of drugs” - an information resource of the government agency in the field of health care, containing information about authorized persons of manufacturers of medicinal products;

¹⁰ Code of the RK № 193-IV dated 18 September 2009 “On Public Health and Health System”

- “Rational use of medicines” - drug treatment, corresponding to clinical indications, in doses that meet the individual needs of the patient, for a sufficient period of time and at the lowest cost;
- “Web portal for purchase of drugs and medical devices” - an information system that provides a single access to electronic purchases of drugs and medical devices within the guaranteed volume of free medical care and in the system of mandatory social health insurance;
- “A single operator in the field of procurement of drugs and medical devices” - a legal entity as determined by the government agency in the field of health care in coordination with the government agency in the field of public procurement.

The Ministry of Health approved the lists of medicinal products which import and sales turnover are VAT exempt. The full list can be found at the following link <http://adilet.zan.kz/rus/docs/V1900018829>.

Retail and wholesale marginal prices for the trade names of medicinal products¹¹ have been updated. The list of prohibited for medical use narcotic drugs and psychotropic substances was approved. You can find the said lists at the following links:

☒ <http://adilet.zan.kz/rus/docs/V1900019037>

☒ <http://adilet.zan.kz/rus/docs/P1900000470>

3.2. Compulsory Social Health Insurance System Updates

Kazakhstan Government approved the medical assistance list¹¹ in the compulsory social health insurance system (“SHIS”), which will come into effect starting from 1 January 2020.

Medical assistance in the SHIS will include various medical services and drug assistance aimed at preserving and restoring the health of the population

The following medical assistance services will be provided as part of the SHIS:

- Consultative and diagnostic assistance referred to by a primary health care specialist (“PHCS”) and subject matter experts;
- Hospital-replacing assistance, save for treatment of diseases within the framework of guaranteed free medical care (“GFMC”), referred to by PHCS specialist or by a medical organization;
- Planned inpatient care, save for treatment of diseases within GFMC referred to by PHCS specialist or by a medical organization as part of the planned hospitalizations;
- Medical rehabilitation and rehabilitation treatment referred to by PHCS specialist or by a medical organization according to the list of diseases (conditions) approved by the authorized body;
- Pathoanatomical diagnosis of diseases not included in the GFMC.

4. Advertising

On 8 January 2019, the Law of the RK No. 215-VI “On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on Advertising” (“Law No. 215-VI”) was adopted. A number of important changes in this law came into force on 11 April 2019:

Violation of Kazakh laws in the sphere of advertising, committed in the form of:

- 1) unfair and unreliable advertising, save for certain cases specifically provided for by the Administrative Code¹²;
- 2) unethical and hidden advertising;
- 3) advertisements in the days of national mourning on television and radio channels;
- 4) advertising in the form of various events, including prize draws, lotteries, aimed at stimulating demand and interest in alcoholic beverages, tobacco and tobacco products;

¹¹ Decree of the Government of the Republic of Kazakhstan dated 20 June 2019 No. 421 “On the Approval of the Medical Assistance List in the Compulsory Social health Insurance System”. Will come into effect starting from 1 January 2020.

¹² Code of the Republic of Kazakhstan On Administrative Violations № 235-V dated 5 July 2014

5) interruptions by advertising, including by means of a running line, broadcasting official messages, speeches by candidates for the presidency of the RK and members of representative bodies, educational and religious television programs, as well as demonstrations of children's television programs, with the exception of advertising intended for children and adolescents;

6) interruption by advertising of film demonstration in film and video services, with the exception of breaks between series;

7) placing outdoor (visual) advertising on historical and cultural monuments and in their protection zones, on religious buildings (structures) and on the territory allotted to them and their fences, as well as on specially protected natural territories;

8) advertising of a residential house (residential building) under construction or commissioned that does not meet the classification requirements of residential house (residential buildings) set forth by the approved design documentation;

9) advertisements of religious associations and religious (religious) educational organizations that are not registered in accordance with Kazakh laws,

entail a penalty of 20 monthly calculated indices (MCI) on individuals, 70 MCI on officials, 100 MCI on small-sized businesses or non-profit organizations, 200 MCI for medium-sized businesses, 400 MCI for large businesses (MCI for 2019 is KZT 2,525).

When advertising a product (work, service) to be sold in the RK, the price (tariffs, rates) must be indicated in tenge.

Obtaining a permit is now required only for the advertising structure itself, the structure where the advertisement will hang. Notification is filed for the advertising picture. A permit must be obtained once, while a notification must be filed every time the advertising picture is changed.

5. Oil and Gas, Renewables

5.1. Commercial Gas Wholesale

Minister of Energy of the RK approved the limit prices on commercial gas wholesale in the domestic market of the RK for the period from 1 July 2019 to 30 June 2020¹³.

Prices can be viewed in the following link <http://adilet.zan.kz/rus/docs/V1900018684>.

5.2. Changes in Renewables (RES) Legislation

Minister of Energy of the RK signed the Decree¹⁴ amending the Rules for sale and purchase of electricity¹⁵:

- Auction scheme based power-purchase agreements may opt for the International Arbitration Center of the Astana International Financial Center as an arbitration venue subject to the preliminary consent of the authorized body;
- The right for one-year extension for commissioning of the RES facility under the fixed tariff scheme is granted. Such extension is subject to the proof of completion of at least 70% of the total scope of construction and installation works being provided before the expiration of the commissioning period, which is 36 months following the execution date of the power-purchase agreement.

¹³ Order of the Minister of Energy of the Republic of Kazakhstan No. 160 dated 13 May 2019 On Approval of Limit Prices on Commercial Gas Wholesale in the Domestic Market. Entered into force on 13 May 2019.

¹⁴ Order of the Minister of Energy of the Republic of Kazakhstan No. 224 dated 19 June 2019 On Amendments to the Order of the Minister of Energy of the Republic of Kazakhstan No. 164 dated 2 March 2015 "On Approval of the Rules for the centralized purchase and sale by the Financial Settlement Center of Electric Energy Produced by Renewable Energy Sources and Recalculation and Redistribution by the Financial Settlement Center of the Respective Share of Electric Energy for a Qualified Conditional Consumer According to the Calendar Year Results". Entered into force on 1 July 2019.

¹⁵ Order of the Minister of Energy of the Republic of Kazakhstan No. 164 dated 2 March 2015 "On Approval of the Rules for the Centralized Purchase and Sale by the Financial Settlement Center of Electric Energy Produced by Renewable Energy Sources and Recalculation and Redistribution by the Financial Settlement Center of the Respective Share of Electric Energy for a Qualified Conditional Consumer According to the Calendar Year Results".

5.3. Solid Minerals' Subsoil Plots Exploration or Production-related Auction

The Auction rules for solid minerals'¹⁶ subsoil plots for exploration or production are supplemented by the following provisions:

- The auction notice must contain, among others, information on a number of blocks, their code(s) that the exploration subsoil plot consists of, as well as geographic coordinates and size of the production subsoil plot;
- Bidders applying for several subsoil plots submit an application for each subsoil plot separately;
- The auction application form is accompanied by a document confirming the applicant's financial and professional capabilities to conduct exploration or production, as well as the certificate confirming absence of tax arrears exceeding 6 MCI¹⁷ and issued no earlier than 10 calendar days before the filing date.
- The rules determine deadlines for other procedures taking place following the announcement of the auction results:
 - An exploration license is issued within 10 business days following the auction announcement date;
 - A notice on coordination and examination of the mining plan and the liquidation plan is sent to the winner of the auction within 3 business days and posted on the web site of the competent authority within 2 business days following the auction results announcement date;
 - A production license is issued no later than 5 business days following the date of submission of positive conclusions of the state examinations.

5.4. Petroleum Products Supply Plan

Minister of Energy of the RK approved the Rules for the petroleum products supply plan formation¹⁸.

The petroleum products supply plan will be formed on a monthly basis to ensure that the needs of the domestic market in petroleum products are met. Petroleum products producers by 22nd day of the month preceding the reporting month must provide oil suppliers and the authorized body with the expected volume of production of petroleum products for the upcoming month. Petroleum products producers by 23 day of the month preceding the reporting month must file the petroleum products supply application with the authorized body.

Ministry of Energy approves the plan and publishes the respective information on its website based on the volume of petroleum products production for the planned month and applications of oil suppliers.

6. Financial Market Activities

In July 2019, the new law was enacted, which provides for the following novelties¹⁹:

- From 1 July 2020, individual entrepreneurs and legal entities are restricted from providing financial loans to citizens and such agreements will be null and void. The said restriction does not apply to the following cases:
 - bank loans or microloans;
 - employer's loan to its retired former employee;
 - loan by a legal entity to its founder (shareholder, participant);
 - contracts aimed at transferring funds or things ascertained by generic characteristics, providing for a loan, including in the form of an advance payment, prepayment, deferral and installment payment for goods (works and services).

¹⁶ Order of the Minister of Industry and Infrastructural Development of the Republic of Kazakhstan No. 465 dated 1 July 2019 'On Amendments and Additions to the Order of the Minister of Investment and Development of the Republic of Kazakhstan No. 315 dated 11 May 2018 'On Approval of the Rules for Conducting an Auction of Subsoil Plots for Solid Minerals Exploration or Production'. The order came into force on 20 July 2019.

¹⁷ MCI – Monthly Calculation Index. In 2019, one MCI equals KZT 2,525.

¹⁸ Order of the Minister of Energy of the Republic of Kazakhstan No. 201 dated 30 May 2019 "On the Approval of the Rules for the Formation of the Plan for the Supply of Petroleum Products". Entered into force on 13 June 2019.

¹⁹ Law of the Republic of Kazakhstan 'On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on the Regulation and Development of the Financial Market, Microfinance Activities and Taxation' No. 262-VI dated 3 July 2019. The law shall come into effect on 1 January 2020, save for certain provisions.

- The new agency for regulation and development of financial markets was established. The agency will carry out control and supervision as well as state regulation of financial market and financial organizations, in particular, over the activities of microfinance organizations.

The foregoing changes were introduced as part of strengthening control over microfinance organizations and solving the problems in the money lending business.

7. Intellectual Property

The following IP protection-related services standards²⁰ were approved:

- Registration of granting the right to use a trademark, selection achievement and industrial property;
- Registration of transfer of exclusive right for a trademark, selection achievement and industrial property;
- Trademark registration;
- Registration of the right to use the appellation of origin;
- Issuance of titles of protection in the field of industrial property;
- Issuance of title of protection for a selection achievement;
- Registration of integrated circuit topographies;
- Providing extracts from state registers of trademarks, appellations of origin.

Information contained in this Update is of general nature and cannot be used as legal advice or recommendation. Please note that Kazakhstan is an emerging economy, and its legislation and legal system are in constant development. Should you have any questions or want to discuss matters addressed in this Update, please contact us.

²⁰ Order of the Minister of Justice of the Republic of Kazakhstan No. 382 dated 5 July 2019 'On Amendments to the Order of the Minister of Justice of the Republic of Kazakhstan No. 1481 dated 11 October 2018 'On Approval of Standards of Public Services in the Field of Security and Protection of Intellectual Property Rights'. The Order came into effect on 2 August 2019.