

April 30, 2010

Clarifications on Limited Liability Companies Legislation

On March 30, 2010 the Presidium of the Supreme Arbitration Court of the Russian Federation issued Informational Letter No. 135¹ (the "**Informational letter**") clarifying some issues related to the application of Federal Law No. 312-FZ "On introduction of changes into the first part of the Civil Code of the Russian Federation and some other legislative acts of the Russian Federation," dated December 30, 2008 ("**Federal Law No. 312-FZ**"), which had significantly changed the legislation on limited liability companies.

According to the Informational Letter:

- failure to register the amendments to a charter according to Federal Law No. 312-FZ shall not automatically result in liquidation of a company pursuant to a claim of the registration authorities on gross violation of laws. However, if such company does not bring its charter into compliance with Federal Law No. 312-FZ on demand of the court within the allotted time, then the court may take a decision on liquidation of such company;
- failure to bring a charter in line with requirements of Federal Law No. 312-FZ does not affect the company's legal status or the right of the company's participants to transfer participatory interests in the charter capital of a company. It also cannot serve as a ground for invalidation of the company's transactions, refusal of a bank to open bank accounts, refusal of registration authorities to register rights to immovable property and transactions involving such property, refusal of registration authorities to amend information on a company contained in the register of legal entities (including information related to transfer or pledge of a participatory interest, liquidation of a company, etc.);
- No new amendments to a charter of a company should be registered until such charter has been brought in compliance with the Federal Law No. 312-FZ;
- Pledge agreements made in a simple written form prior to July 1, 2009 remain valid. Information on establishment of pledges of participatory interests under such agreements **may** be recorded in the register of legal entities pursuant to an application of the pledgor;
- Powers of attorneys authorizing entrance into a participatory interest transfer or pledge agreement are deemed to have been terminated on July 1, 2009 if such powers of attorney have been executed in a simple written form and not certified by a notary.

¹"On some issues related to the application of Article 5 of the Federal Law No. 312-FZ "On introduction of changes into the first part of the Civil Code of the Russian Federation and some other legislative acts of the Russian Federation (the "**Federal Law No. 312-FZ**")"

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