

SECURITIES MARKET LAW CAME INTO EFFECT

On 15 May 2015, the Law on *Securities Market* (the “**Securities Market Law**”), was enacted with effect of 15 July to regulate the issuance, state registration, and public offer of investment securities, issuance (emission) of securities and derivatives, to determine the principles of establishment, management, and deregistration of licensed persons (*as defined below*) and the central depository in the securities market, as well as to protect the rights and interests of investors. All of the above have previously been, to some extent, regulated by the Civil Code of the Republic of Azerbaijan and the regulations of the State Securities Committee of the Republic of Azerbaijan (“**SCS**”). The constant economic development and improvement of legal database necessitated, among others, the elaboration of the rules of issuance of securities, strengthening of the requirements for the establishment of licensed persons and issuance of licenses to such persons and improvement of the reporting requirements, which served as a ground for the enactment of the Securities Market Law.

The Securities Market Law introduces concepts, which were unknown under the Civil Code and regulations of the SCS. Among these are the *information memorandum* (substitute of prospectus in specified cases) and *basic emission prospectus*. The Law further introduces new market participants and abolishes the institutions of brokers and dealers.

An issuer of securities can draft an information memorandum instead of a prospectus when (1) securities are offered to and placed among the shareholders of merged entities; (2) securities are offered to and placed among the shareholders of divided entities; (3) the value of securities to be issued is below the value determined by the SCS; (4) the total nominal value of securities issued by an issuer within one calendar year does not exceed the value established by the SCS; and (5) an offer is made to institutional investors.

In addition to the above, the following grounds, among others, exempt the issuer from drafting a prospectus:

- issuance of securities by state or municipality, international organisations, of which the Republic of Azerbaijan is a member or the Central Bank of the Republic of Azerbaijan;
- issuance of securities guaranteed by state;
- conversion of securities;
- public offer of securities, which constitute only less than ten per cent of an issuer’s charter capital, within one calendar year;
- issuance of securities which serve as a substitution to the payment of dividends and which do not require any payments from shareholders.

A basic emission prospectus is drafted, when several issuances of securities (except for shares) within one calendar year is contemplated. The provisions of the Securities Market Law applicable to a prospectus also apply to the basic emission prospectus.

Previously, the broker and dealer activities, asset management, clearing, depositing, registration of securities owner and stock exchange were considered the types of professional activities in the securities market, and the legal entities involved in these activities were the professional participants of the securities market. Under the Securities Market Law, brokers and dealers have been substituted by investment agencies.

The Law establishes the investment agencies, stock exchanges, clearing agencies, depository of investment fund and central depository agency as the professional participants of the securities market (the licensed persons except for the central depository agency). The licensed persons are to be established in the form of a joint stock company, and hold a valid license to conduct operations with securities and derivatives. The only person which is allowed to conduct operations with securities and derivatives without a license is the Central Bank of the Republic of Azerbaijan.

Investment Agency

Investment agency is a legal entity established in the form of a joint stock company to conduct major (management of individual investor's portfolio, advising on investment, placement and underwriting of securities without undertaking any obligations, placement and underwriting of securities with undertaking obligations) and supplementary (management of client's securities accounts, issuance of credits to clients for concluding contracts in connection with securities and derivatives) investment operations.

Stock Exchange

Previously, the organisational form of a stock exchange has exclusively been limited to a closed joint stock company whilst, under the Securities Market Law, the stock exchange can be established as a joint stock company, *i.e.*, open or closed joint stock company.

Further, the Civil Code required the stock exchange to have its own internal regulations whilst it did not specify them. Under the Securities Market Law, the stock exchange must, *inter alia*, have the following internal regulations: trading regulations of securities and derivatives; terms and procedures of trading, trading halt and exclusion from trading of securities and derivatives; listing and delisting requirements; rules of entering into deeds and their termination at the stock exchange; rules of price determination of securities and derivatives at the stock exchange; rules of trading days and trading hours at the stock exchange and *etc.*

Stock exchange must at least have three members holding valid licenses. Previously, the members of the stock exchange were brokers and dealers, who have been substituted by the investment agencies according to the Securities Market Law. All existing stock exchanges must adjust their organisational forms and activities in accordance with the requirements of the Securities Market Law before 1 January 2016.

Clearing Agency

A clearing agency must be established in the form of a joint stock company and must possess a valid license. It must at least have three members. The members of the clearing agency are the investment agencies and banks.

Central Depository Agency

The central depository (National Depository Centre) is a non-commercial entity established by the SCS. The main obligations of the central depository include, but are not limited to, the maintenance and registration [recordation] of securities, recordation of accounts of security holders; registration of security holders, registration of any encumbrance of securities.

The Securities Market Law toughens the requirements for obtaining a license to act as professional participants of the securities market by establishing a two-step procedure for the license issuance: preliminary consideration of an application before an entity is registered and final consideration after the registration. Henceforth, unlike before, the issuance of license takes quite long, around six-seven months.

Another novation introduced by the Securities Market Law is the elimination of a five-year term of licences. Now, licences are issued for an indefinite term.

While, under the Civil Code, only stock exchanges were entitled to issue common shares, the Securities Market Law recognises the rights of investment agencies and clearing agencies to issue those.

ACCREDITATION RULES FOR OBTAINING ELECTRONIC VISAS PROMULGATED

On 29 June 2015, the Cabinet of Ministers of the Republic of Azerbaijan approved the Rules on *Accreditation of Tourism Agencies Operating in Republic of Azerbaijan for Obtaining Right to Issue Electronic Visas to Tourists* (the “**Rules**”).

Under the Rules, only the tourism agencies holding a valid license and operating in the tourism sector for more than one year can be accredited. To be accredited, a tourism agency must submit an application to the Ministry of Culture and Tourism of the Republic of Azerbaijan (the “**Ministry**”). The Ministry considers the application in ten business days.

The following serves as a ground to reject the accreditation:

- a failure to submit documents and/or information in full or partially; and
- discovery of errors in the submitted documents.

The accreditation lasts for the whole period of the licence of the agency. It loses the effect in the following circumstances:

- the tourism agency’s application;
- expiry of the term of the license issued to the agency;
- cancellation of the license issued to the agency.

PLEASE CONTACT US FOR ANY QUESTIONS AND FURTHER INFORMATION AT:

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