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State Committee for Investments initiates development of Investment Code

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On November 2, 2017, the Uzbek State Committee for Investments released its draft Proposal for a new Investment Code that is intended to significantly improve the investment environment within Uzbekistan and to replace three main investment laws along with the large amount of ancillary laws and by-laws related to investment activities. It is said that the Investment Code is drafted based on IMF, OECD and World Bank Group's recommendations as well as investment legislation of the EU, the USA, Japan, Morocco, Russia, etc.

It is declared that the new Code will create equally favourable conditions to both local and foreign investors; will streamline procedures for negotiating investment projects with the government, and will define and introduce new concepts and mechanisms of investment within Uzbekistan (mutual funds, investment tax credits and investment subsides, new types of governmental guarantees, etc.).

The following structure of the Code, covering the main aspects of investment activities, is proposed:

- Governmental support of investment activities (covering sources and types of the governmental support, including guarantees, centralised investments, investment loans, tax credits and subsidies; procedures for review of investment projects and conclusion of investment agreements with the state);
- Operation of free economic zones;
- Concession agreements;
- Production sharing agreements;
- Activities of foreign investors (legal regime for foreign investments, guarantees and benefits for foreign investors, local undertakings with foreign capital);
- Investments outside Uzbekistan;
- Responsibilities for infringements and disputes resolution (including compensation for nationalization, etc.).

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It is to note that the Proposal seems to rightly identify the most pressing problems of businesses making investments within the country, including:

- Frequent and unpredictable governmental interference by the way of, for example, imposition of additional investment obligations, occasional confiscations, monopolisation of upstream supplies, re-evaluation of privatisation transactions;
- Unclear system of law-making with by-laws (decrees of the President or the Cabinet Ministers) contradicting to and having prevailing force over Parliament's laws and codes;
- Lack of feasible administrative and judicial protection of investors' rights;
- Lack of guaranteed protection from changes in the legislation with investment projects being cancelled at the latest stages without proper compensation.

At this stage, it is yet difficult to assess substantiality of the proposed reforms as the draft Code has not yet been released. Although, consolidation of all laws related to investment activities for greater transparency are to be welcomed, it is doubtful that the Code will be able to regulate all investment-related issues in a sufficiently detailed manner. As with investment codes of other developing countries, the Uzbek Investment Code may, in many ways, be seen as a road map for foreign investors who consider investment into Uzbekistan.

It is further difficult to predict when the draft Code will be actually finalised and published. Ultimately, considering the complexity of issues that are going to be covered, we would not expect for the Code to be signed into law before 2018.