

## POLICY ALERT

### **THE NEW DRAFT LAW ON FOREIGN INVESTMENT IN RUSSIAN STRATEGIC SECTORS: AN UPDATE AFTER THE SECOND READING IN THE DUMA\***

*"...[We] remember the time when we had quite limited economic possibilities, to put it mildly, including in investment, and we were always being told by others that we should make our economy as open as possible and provide opportunities for foreign companies to invest. Now that we have economic possibilities of our own, other countries, our partners, are taking steps in the opposite direction and are effectively closing or creating conditions that close their markets to us, at least as far as investment is concerned. ... Of course, if things continue moving in this direction, we will be obliged to take steps to protect our own interests."*

— President Vladimir Putin, September 10, 2007

*"Foreign investors' interest in Russia's financial and stock markets is as high as ever and we welcome this kind of investment. ... I know that in the US and in Great Britain and in Switzerland they have had to take measures to nationalize companies because of the financial crisis. I spoke of this because in concrete situations the state should determine for itself what is necessary to keep and what needs to be freed and what should be returned so as to ensure economic stability."*

— President-elect Dmitry Medvedev, March 21, 2008

The Russian government has been discussing limitations on foreign investment in Russian strategic industries for several years, and many ministries and governmental institutions have contributed to the draft bill now before the newly elected State Duma. Foreign investors had been watching for signals from the presidential administration concerning what kind of additional restrictions would be placed on foreign participation in the Russian economy and on the ability of Russian private businesses to sell their assets to foreigners, and indeed, the second draft identified additional sectors as strategic. In addition, many other key questions were resolved during the second reading on March 21, 2008.

The purpose of the proposed legislation is threefold: 1) to identify sectors or industries considered "strategic" and thus subject to additional government regulation, 2) to clarify the

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\* A fully footnoted version of this paper is available on request.

rules for foreign investors interested in acquiring control over strategic entities or access to natural resource deposits considered strategic and 3) to create an institutional framework for vetting new proposals by foreign investors and for continually monitoring compliance with agreed-upon investment obligations.

This alert reviews Russia's existing laws governing foreign investment in the Russian economy, provides a snapshot of the federal draft law submitted for the Duma's second reading and covers recent developments in the policy debate over the growing role of state corporations.

## **EXISTING RESTRICTIONS ON FOREIGN PARTICIPATION**

The parliament of the Russian Federation has already passed a number of laws limiting foreign participation in Russian companies owned and/or controlled by the federal government, including joint-stock companies on the federal list of strategic entities.

The Russian government's federal list of strategic enterprises and strategic joint-stock companies was established by presidential decree on August 4, 2004, in large part to prevent some strategic entities from going into bankruptcy or being privatized. The initial list of Russian strategic companies included 514 state-owned enterprises and 549 joint-stock companies where the government had a controlling stake. Some companies/organizations have since been removed from the list, while others have been added. Modifications have been approved by the Russian president 48 times between August 4, 2004 and August 27, 2007. The federal list of Russia's strategic entities now includes a variety of defense-related enterprises, energy-related companies, aircraft construction companies, airports, ports, banks, insurance companies, TV channels with national coverage, industrial plants (chemical, non-ferrous and manufacturing) and R&D institutes.

The federal government has, in the past, used Russian antimonopoly legislation and other security considerations to block proposed foreign acquisitions that would result in foreign control of important Russian companies. For example, in 2004 and again in September 2007, the Russian Antimonopoly Service (FAS) disapproved Siemens' bid to buy a controlling stake in Power Machines. The first denial reflected government concern about both competition and security issues. According to the FAS, the purchase of a controlling stake would give Siemens a "dominant position" in the market and "might lead to limited competition." After Siemens' first bid was blocked, President Putin requested that the federal government prepare legislation clarifying rules for limiting foreign investment in strategic sectors of the economy. The Russian Ministry of Industry and Energy (MIE), the Ministry of Natural Resources (MNR), the Ministry of Economic Development and Trade (MEDT), the Experts' Directorate of the presidential administration and the Federal Security Service (FSB) participated in the drafting of the bill. The Ministry of Industry and Energy, in particular, has pushed to include in the proposed legislation "clear and transparent criteria for labeling organizations as strategic," as well as provisions that the law would not be applied retroactively.

## **NEW RUSSIAN DRAFT LAW ON FOREIGN INVESTMENT**

The Russian government's draft law on "Procedures for making foreign investment in Russian commercial organizations of strategic importance for national security of the Russian Federation" (#455348-4) was submitted to the Duma on July 17, 2007. On December 24, 2007, the draft law was assigned to the State Duma Committee for Construction and Land Policy, headed by Martin Shakkum. The second reading took place on March 21, 2008, and included consideration of the many new amendments proposed by the presidential administration since last September and endorsed by the State Duma Committee for Construction and Land Policy. The draft bill was overwhelmingly approved (355 votes for, three against and three abstained) after — according to the daily *Kommersant* — about six

minutes of deliberation on the bill. Shakkum noted during the debate that “Nowadays, nothing limits foreign investments to the Russian Federation and introduction of any regulation will not step them up. But they [foreigners] will not get where we do not need them.”

Provisions of the bill submitted for the second reading are analyzed below.

### ***Scope And Criteria***

The proposed legislation requires that any transactions between foreign investors and Russian commercial organizations (Russian companies) must be subject to preliminary government approval if the transaction meets two criteria simultaneously:

- The Russian company is engaged in *activity of strategic importance to the country's defense and national security* as defined by the law.
- The foreign investor's transaction will result in direct or indirect *control of a Russian strategic company* as defined by law or will allow ownership of a certain stake in a strategic company with rights to *natural resource deposits having federal importance*.<sup>1</sup>

However, transactions involving Russian state-controlled companies with rights to natural resource deposits having federal importance are exempt from the provisions of the proposed legislation, except when the foreign petitioner is a government-controlled entity or an international organization. (*Foreign governments, international organizations and other organizations under their control are barred from acquiring, either directly or indirectly, a controlling stake in a Russian strategic company and must seek government approval to acquire a minority stake.*)

Transactions covered include those involving equity acquisition or other agreements resulting in foreign control of a Russian strategic company. The bill defines control as the “capacity of a foreign investor (or a group of persons) to determine, directly or indirectly, decisions made by a commercial organization of strategic importance.”

The activities covered in the second draft of the law are broader than those in the first draft. There are now 15 broad sectors or industries included in the legislation (instead of eight), and 42 separate types of activity are now considered of strategic importance to national security (instead of the 39 in the original draft). In addition to defense, energy, aircraft and aerospace industries, and critical infrastructure — all of which have long been deemed as strategic — the draft law adds certain natural resource deposits, radio, television, publishing, printing and telecommunications.

The types of strategic activity can be grouped into 15 broad sectors or industries:

1. defense industries, including activities related to weapons and military machinery (except for the production of sidearms, civilian and service arms), ammunition and its components, and production and sale of explosives for industrial purposes

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<sup>1</sup> According to various reports, any field with (or with more than) 50 billion cubic meters of gas, 70 million tons of oil, 50 tons of gold or 500,000 tons of copper will qualify as strategic. (In December 2007 the ministry identified strategic fields in several sectors, including Stockman, Kovykta, a gas block of Sakhalin-3, the Udogan copper field and the Sukhoi Log gold field. Most of the strategic deposits on the government's list are located in the Sakha Republic.) Deposits containing uranium, nickel, diamonds, quartz, cobalt, tantalum, beryllium, lithium, niobium or metals of the platinum group will also qualify as strategic regardless of their size. The draft subsoil law will also include the development of natural resources as a strategic activity. The definition of “strategic” fields will be expanded to include oil and gas resources on the continental shelf.

2. cryptographic industry, including design, production and sale of cryptographic equipment and its maintenance, as well as cryptographic services
3. security activities concerning the “design, manufacturing, sales, and purchases for the purpose of selling” of eavesdropping devices
4. aerospace industry, including launch and management of flights; production and use of space machinery, materials, technologies and infrastructure; and “international cooperation of the Russian Federation in the study and use of space”
5. aviation industry, including activities related to securing aviation safety; design, production, repairs (with some exceptions) and tests of aviation machinery, including that for dual use
6. nuclear industry and R&D, including activities related to nuclear and radioactive materials and waste, production of minerals containing these materials and substances, places of storage, nuclear devices and expert review of documents substantiating nuclear and radiation issues
7. production and sales of goods and services related to natural monopolies (as identified in the federal law “On Natural Monopolies”) including pipeline delivery of oil, petroleum products or natural gas, power-station operations, railway transportation, ports and airports, except for delivery of heat power and/or transmission of electric power through distribution networks
8. geological research and/or exploration and extraction of natural resources in fields having federal importance
9. fishing industry (use of “water biological resources”)
10. production and sales of metals and alloys having special properties and used in manufacturing arms and military machinery, when a company has a “dominant position” in this market
11. television broadcasting covering a territory with viewers accounting for half or more of the total population of a particular administrative unit of the Russian Federation (e.g., Republic, Okrug, Krai, Oblast or a city of federal importance — Moscow and St. Petersburg)
12. radio broadcasting covering a territory with listeners accounting for half or more of the total population of the administrative unit
13. telecommunication services (excluding the Internet), where a company has a dominant position in the telecommunications market of the Russian Federation (or when a provider of fixed-line telephone services has a dominant position in the territory of five or more administrative units of the country) and is included in the registry in accordance with the federal law “On Protection of Competition”
14. publishing, when a single issue of the company’s printed publication exceeds one million copies
15. printing, when a company’s “capacity to print” exceeds 200 million sheet impressions per month.

The list also includes activities related to “the use of pathogens of infection diseases” and activities that fall under the jurisdiction of the Federal Service for Hydrometeorology and Environmental Monitoring.

### *National Security Review*

The law would apply to *all* transactions that would result in foreign control of a Russian strategic company. A foreign investor (or group of persons) is considered to be in control of a Russian strategic company if it meets any of the following criteria —

- the right to manage directly or indirectly: (a) “more than 50 percent of outstanding shares and voting rights comprising the registered capital of the controlled entity” or (b) less than 50 percent of outstanding shares and voting rights, but the ability “to determine decisions made by the controlled entity”
- the right, based on a contract or otherwise, “to determine decisions made by governing bodies of the controlled entity,” including how to direct business activity
- the right “to appoint the single executive body and/or more than 50 percent of the collegiate executive body of the controlled entity, and/or the ability to elect more than 50 percent of the board of directors (supervisory council)”
- exercise of “authority of the controlled entity’s managing company.”

*A foreign government-controlled entity* must seek government approval if the proposed transaction would result in —

- the right “to manage, directly or indirectly, more than 25 percent of outstanding shares and voting rights” in the strategic company (except for companies with rights to natural resource deposits having federal importance), or the ability to block decisions of its governing bodies (See earlier *Scope and Criteria* section for further clarification)
- the right “to manage directly more than 5 percent of outstanding shares and voting rights” in companies “engaged in geological research and/or exploration and extraction of natural resources in fields having federal importance.”

However, there is a different threshold for proposed transactions involving a Russian company (except for a state-controlled company) with rights to natural resource deposits having federal importance. In this case, a private foreign investor must seek government approval if the proposed transaction would result in control of the company — with “control” defined as —

- the right to manage, directly or indirectly, 10 percent or more of outstanding shares and voting rights
- the right, based on a contract or otherwise, “to determine decisions made by the controlled entity,” including how to direct business activity
- the right “to appoint the single executive body and/or 10 percent or more of the collegiate executive body of the controlled entity, and/or the ability to elect 10 percent or more of the board of directors (supervisory council)”
- exercise of “authority of the controlled entity’s managing company.”

If a foreign investor unintentionally acquired control of a strategic company through a merger, acquisition or redistribution of voting shares, the investor must seek government approval within three months from the moment of

acquiring such control. If approval is denied, then the investor must sell enough shares in the strategic company to give up control within three months from the day of issuance of a denial notice.

Upon enactment of this law, any foreign investor must notify the authorities within six months if the investor is in possession of a 5 percent or greater interest in a strategic company prior to enactment of the law.

An authorized body (Lead Agency) of the Russian government determines whether or not a Russian company is strategic and currently under foreign control or would be under such control as a result of a proposed transaction. The Lead Agency also determines whether the strategic company meets any of the criteria outlined in the law. These criteria include —

1. The company is licensed to have access to state secrets.
2. The company is licensed to export and/or import defense-related goods.
3. The company is licensed to trade in controlled goods and technologies.
4. The company has worked on a defense contract in the last five years prior to the year of filing a petition.
5. The company possesses exclusive rights to critical technologies<sup>2</sup>.
6. The company is in the registry of commercial entities in accordance with the federal law “On Natural Monopolies.”
7. The company “has the right to conduct geological research and/or exploration and extraction of natural resources in fields having federal importance.”
8. The company has the approval and an agreement with government authorities to engage in fishing.
9. The company has a dominant position in a particular market (goods or services) and is included in the federal registry of commercial entities in accordance with Article 23 of the federal law “On Protection of Competition.”
10. The company is licensed to provide services such as television and/or radio broadcasting, or has a contract with an organization that has such a license.
11. The company is licensed to conduct activities officially identified as strategic.

If a Russian strategic company meets any of these criteria, the foreign investor will then be required to assume certain obligations. A federal government committee (the Committee) determines the obligations required to mitigate security concerns.

### ***Process***

The process for purchasing Russian strategic assets outlined in the draft bill is complex and has undergone changes. As outlined in the March 2008 draft, the petition review period is three months from the day of registration of the petition

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<sup>2</sup> The list of technologies critical to national security has not yet been established by the Russian government. Exclusive rights given to a Russian strategic company by a foreign petitioner are exempt from this criterion.

to the day when the Lead Agency notifies the petitioner of the Committee's decision. This period includes the 30-day limit within which the Committee must issue its decision. The three-month review period may be extended in exceptional circumstances for three more months if the Committee deems it necessary. The Supreme Arbitration Court of the Russian Federation is identified as the body responsible for addressing questions from foreign investors concerning decisions of the Committee responsible for approving or denying acquisitions. Actions and/or decisions of the Lead Agency may also be questioned by the petitioner in court.

A foreign petitioner must file a package of documents, including a business plan for the development of the strategic company prepared in accordance with yet-to-be announced guidelines from the Lead Agency. A business plan is not required if the foreign investor, either private or government-controlled, is seeking approval of a transaction involving strategic natural resources.

Once the petitioner has provided all materials and information required under the law, the Lead Agency must review the petition and request a review of the transaction from a national security agency — and, if needed, from an interagency commission for protection of state secrets. If, during this review, the Lead Agency determines that there will be no foreign control resulting from the proposed transaction, the agency must send its conclusion to the petitioner within three days after establishing that fact and must also notify the Committee.

The Committee may impose a number of obligations on the proposed investment. These obligations are to be put in a formal agreement prepared by the Lead Agency. The agreement must be concluded prior to the Committee's decision to grant approval. Should a petitioner refuse to accept the terms and conditions of the agreement in full or in part, the Committee will deny the petition.

When a foreign investor is interested in increasing its position in a Russian strategic company and the issue of control is not clear, the petitioner may submit a shorter list of required documents to the Lead Agency. In this case, the agency must review the petitioner's inquiry with regard to the issue of control, respond to the petitioner and also notify the Committee within 30 days.

### ***Organization and Oversight***

The draft bill will assign two federal bodies responsibility for vetting foreign investment transactions involving strategic companies or organizations.

The Government Committee, headed by the prime minister, ultimately rules on the merits of petitions and decides whether to grant or deny approval of foreign investment transactions that could result in control of Russian strategic companies. According to Russian media reports, the standing Committee's staff will include representatives of MIE, MNR, MEDT, the Ministry of Defense, and the FSB. However, the composition of the Committee may change, depending on the profile of the organizations or companies under review.

The Lead Agency is in charge of the preliminary review of foreign investment transactions. The Lead Agency's regulatory and advisory functions include registration of the petition; screening and examining required documents and information; determining whether a Russian company falls into the category of strategic companies, as well as the presence or absence of control resulting from the proposed foreign acquisition; obtaining reviews from a national security agency (and an interagency commission for protection of state secrets, if needed); working out a supplementary agreement with a petitioner; preparing suggestions and submitting the required materials to the Committee if the fact of

control of a strategic company is established; and enforcing supplementary agreements concluded with foreign petitioners. The Lead Agency must provide a written response to the petitioner based on the Committee's decision.

The FSB will likely be a key participant in the work of the Committee and in the work of the Lead Agency, determining whether proposed transactions (or recent transactions) affect the country's defense and national security and submitting a report to the Lead Agency within 20 days from receipt of a request from the Lead Agency. Intelligence will be gathered in order to determine whether the foreign investor has control of a strategic company or if the foreign investor and third parties have coordinated efforts to establish such control.

### ***Additional Agreements***

The Committee will grant approval only if it is determined that the proposed transaction will not impair the defense and national security interests of the Russian Federation and if the petitioner is willing to assume certain obligations (as determined by the Committee) aimed at mitigating these security concerns and to assume penalties for violation of these obligations.

The types of obligations required can include —

- commitments to fulfill state defense orders related to production, deliveries, work and/or services
- maintenance of a "mobilization capacity"
- continuation of activity in accordance with the federal law "On Natural Monopolies," including payment of tariffs
- inclusion of Russian citizens with security clearance in management structures
- fulfillment of the business development plan submitted by the foreign petitioner
- elaboration of specific measures to be taken immediately in case "martial law or a state of emergency" is introduced in Russia or in the area where the strategic company is located
- commitments not to reduce the "average number of employees on staff" in the strategic company for a period of time to be determined by the Committee
- processing in Russia of natural resources that have been extracted from strategic fields.

The petitioner and the Lead Agency have 20 days, from the day when the Lead Agency receives a list of obligations from the Committee, to reach and sign an agreement outlining the petitioner's obligations and possible penalties. This agreement must be concluded prior to the Committee's decision on the petition.

These agreements continue in force for the entire period the company is under foreign control. However, the terms and conditions of the agreement may be changed if the Committee determines that "significant changes in circumstances" have occurred since the parties concluded the agreement. A foreign investor will lose the right to vote at the general meeting of shareholders if a court finds, based on the evidence of the Lead Agency, "gross and repeated breach" of the agreed-upon obligations by the foreign investor.



## ANALYSIS OF THE NEW DRAFT LAW

Foreign investors are not precluded from acquiring companies in Russia's strategic sectors. Indeed, government representatives have argued that passage of a law outlining procedures for such investment may make the acquisition process more transparent. However, the list of obligations attached to any form of foreign control — especially for companies having defense or national security ties, those possessing sensitive or competitive technologies or those having rights to natural resource deposits having federal importance — is long and the approval process may prove to be cumbersome.

If the bill is to serve its professed goal, some points still need to be clarified. For example, the draft bill does not list which technologies are “critical” to national security. Thus, it will be up to the Russian government to establish the list of such technologies (probably through an executive decree following the passage of the bill). At present, threats to national security are broadly defined in the federal legislation on national security. The interpretation of this term with respect to an economic transaction may thus be largely at the discretion of the FSB, which will likely play a major role in interpreting and implementing the legislation.

The draft bill also does not separate defense companies from civilian companies providing services to defense companies. For example, the draft bill could require Russian specialty steelmakers and high-tech companies that have had defense orders in the five years prior to filing a petition to meet the same obligations as large Russian defense contractors.

The Committee reviewing the transactions is to be headed by the prime minister, but two other points remain unclear: what role the president or presidential administration representatives will play in influencing the Committee's decisions and which agency will head the interagency review group. The Lead Agency's primary focus will be to examine the national security implications of the acquisition and monitor whatever additional obligations are attached to the transaction, but determinations about national security will hardly be taken without agreement among the country's top political leadership.

The March 2008 draft gives only a general description of conditions that may be imposed on the petitioner in order to receive approval of a transaction. It is not clear whether and in what way obligations such as “sustaining mobilization capacity” will be defined, for example, and the draft bill does not describe the mechanism for arriving at agreement on the terms of the various obligations that may be imposed.

In addition, the draft bill authorizes the government to extend the petition review period for an additional three months in “exceptional cases,” but the draft bill does not explain what would constitute an exceptional case. There is also a new requirement to report “information to the lead agency” every time a foreign company acquires a 5 percent or greater interest in Russian strategic companies, but no details on reporting procedures are provided.

## MORE STATE CORPORATIONS?

Another method of increasing state participation in the economy is the creation of state corporations. Arkady Dvorkovich, head of the Experts Directorate of the presidential administration and a member of the government-controlled Vneshtorgbank (VTB) Supervisory Board, recently spoke out against the proliferation of state corporations, but did not criticize existing ones. Russian Deputy Prime Minister Alexander Zhukov argued in an interview on December 22, 2007, that state corporations like the Development Bank and the Nanotechnology Corporation use

governmental funds and governmental investment to “stimulate private investment in those sectors where it would not otherwise go,” or “where private business refuses to invest and does so for various reasons.”

There are currently six state corporations, in addition to many government-controlled corporations.<sup>3</sup> Proposals were put forward recently to create a state-controlled pharmaceutical holding, a “united association” that would include at least two-thirds of the fishing industry producers, a state corporation for social investment projects, state-controlled holdings for defense-related goods, as well as a state roadbuilding corporation.

Both Vladimir Putin and Dmitry Medvedev have spoken in favor of increasing government support and control over a number of industries and sectors deemed vital to the country’s national interests. Others have argued that major Russian companies would not survive competition with foreign majors without the federal government’s resources, both political and financial. However, President Putin also said on December 11, 2007, that the federal government needs to “carefully watch the activities of these [state] corporations so that they would not stifle other businesses.” Dmitry Medvedev, at the February 2008 Krasnoyarsk Economic Forum, added that “there is no reason for the majority of state officials to sit on the boards of those firms.” He also stressed in his March 2008 interview with the *Financial Times* that Russia’s state corporations “have been created for a certain period of activity only and after this they should either be privatized or liquidated.”

During the past year, the state’s role in several important sectors has increased. On November 23, 2007, President Putin signed into law a bill to create the state corporation Rostekhnologii (Russian Technologies or Rostekh) and appointed Rosoboronexport Director Sergei Chemezov president of Rostekhnologii and Defense Minister Anatoly Serdyukov chairman of the Supervisory Board on November 26. Rosoboronexport, all its subsidiaries, as well as VSMPO-Avisma, are now under Rostekh, which will play a growing role in the industrial and high-tech sectors. Rostekh will focus on assisting Russian high-tech companies with R&D, participating in price setting for products for defense purposes, attracting investment into Russia’s industrial and defense sectors and monitoring finances of companies participating along with the corporation in the field of military-technical cooperation.

Rostekh will also acquire stakes in Russian and foreign companies engaged in the “development, production, and export of high-tech industrial products,” open representative offices abroad and send its representatives to work at Russian embassies, consulates and trade representation offices (but not as staff employees of these entities).

Another state corporation, Rosatom, was created in December 2007 on the basis of the Rosatom federal agency, incorporating the state-controlled holding Atomenergoprom, as well as “all civilian and military nuclear facilities and enterprises, research institutions and organizations working on nuclear and radioactive security.” Rosatom Director Kirienko announced in February 2008 that Rosatom would also include the Russian atomic icebreaking fleet and the federal enterprise Atomflot headquartered in Murmansk. Rosatom is set to expand its operations globally, with a growing interest in China and India. It is also set to expand through the building of nuclear power stations, selling of nuclear fuel and the provision of other related services.

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<sup>3</sup> There are currently six “state corporations” (Development Bank/Vneshekonombank, Rosatom, Rostekhnologii, Nanotekhnologii, Olympics Construction Corporation, Housing Reform Assistance Fund). These state corporations are not subject to bankruptcy. About \$20 billion have already been allocated to them and additional funding from the federal budget may be made available (*Kommersant*, December 24, 2007). There are also several state-controlled, open joint-stock holding companies, such as United Aircraft Corporation and United Shipbuilding Corporation (USC) in which the government currently holds 75 percent and 100 percent, respectively.

## CONCLUSION

Increased control over foreign investment reflects a general strengthening of the state's role in Russian political and economic life and a heightened sense of Russian nationalism. It is also, in part, a response to new legislation in the United States and elsewhere that would raise barriers to Russian and other foreign investments.<sup>4</sup> But foreign investors have also pressed for a new legal framework in the hope that it would provide more predictability and transparency for companies investing in Russia's strategic sectors or in those that require licensing, such as oil and gas extraction, mining, banking and telecommunications. More clearly written laws on foreign investment should leave less room for interpretation by government bureaucrats, and thus fewer opportunities for corruption and arbitrary decision making.

These new restrictions will prevent foreign investors from gaining control of lucrative assets, whether these assets are privately owned or not, without the federal government's approval. These same restrictions could also, however, limit the ability of Russian companies to sell their assets.

The new law, when finally passed, may clear up some present-day ambiguities. Much will depend on the Russian government's assessment of how important foreign investment is to continued economic growth and whether a more restrictive law is likely to result in reduced investment in the future. The impact of the new law will also depend on the scope of the law and how fairly and transparently its provisions are implemented.

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<sup>4</sup> First Deputy Prime Minister Sergei Ivanov said at the Valdai conference on September 12, 2007, that Russia's draft bill is "far more liberal than similar laws in countries with liberal economies." His comments followed President Putin's observation on September 10 that the inclusion of "executives of intelligence services" in the Committee on Foreign Investment in the United States (CFIUS) process "may lead to certain restrictions on investment activity" and this is "certainly backsliding from liberal economics." For information on the new U.S. legislation (the Foreign Investment and National Security Act of 2007) changing the procedures of the CFIUS, see "International Trade Alert: New CFIUS Reform Act Presents Challenges to Foreign Investment in the United States" by Akin Gump Strauss Hauer & Feld LLP, July 18, 2007.

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